



THE HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF ARMENIA



AD HOC PUBLIC REPORT

RESPONSIBILITY OF AZERBAIJAN FOR TORTURE AND INHUMAN TREATMENT OF ARMENIAN CAPTIVES: EVIDENCE-BASED ANALYSIS

(THE 2020 NAGORNO KARABAKH WAR)

YEREVAN

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Executive Summary

This report is published by the Human Rights Defender of Armenia and International and Comparative Law Center – Armenia with the support of the Washington DC-based Armenian Legal Center for Justice and Human Rights, based on witness statements collected from the repatriated individuals, who had fallen captive to the military forces of the Republic of Azerbaijan as a result of the 2020 Nagorno-Karabakh war. Fact-finding activities have been conducted regarding grave human rights and humanitarian violations committed by Azerbaijan against Armenian victims. Fact-finding has included medical evidence, study of video materials, and identification of persons within video materials. The report aims to give a holistic picture of the violations of international humanitarian law and breaches of international human rights law committed by the government of the Republic of Azerbaijan and its military forces towards the Armenian citizens.

From the onset of the war the Azerbaijani government established a mechanism for processing and maintaining incoming captives in a way that allowed abuse, beatings, torture, harassment, and intimidation to be the norm. The mistreatment would begin as soon as individuals fell into captivity—often being beaten, tortured, and humiliated by the military personnel who had taken them captive. Such treatment continued throughout their time in custody, as they were beaten and tortured during interrogations across various stages of captivity—from local camps to their time in Military Police and National Security confinement. Because the government of the Republic of Azerbaijan had not established the legally required POW camps, there was no safe space for captives to exercise their legal rights as POWs. Captives were transported between various penitentiary locations, all the while being arbitrarily subjected to physical and psychological torture. The conditions that the POWs were kept in were purposefully designed to cause them suffering. POWs were not provided for with sufficient food or water. The guards would make them chant derogatory statements and regularly disturb their sleep. Captives in need received minimal medical attention if any and insufficient items of hygiene, making it extremely difficult for them to maintain their physical health and human dignity.

In its treatment of captives, the Azerbaijani side did not distinguish between civilians who had not participated in military activities and Armenian military forces who became prisoners of war. In fact, in some cases, the conditions for civilians were worse, as they would be separated from their family members and subjected to inhuman treatment and suffering.

On occasions when captives were treated humanely, they were either isolated cases by individual members of the Azerbaijani army, or fabricated showcases that aimed to create a misleading public image to cover up the crimes committed by the Azerbaijani officials and military personnel. The aforementioned occasions involved the participation of high-level Azerbaijani government officials, further proving the systemic and intentional nature of the committed violations.

This report calls for the service of justice for those Armenians who fell into Azerbaijani captivity. Those who have repatriated have demonstrated enormous courage in testifying against the horrific injustices that took place during their time in captivity. There are still hundreds of individuals who remain in Azerbaijani custody. They must be identified, protected, and returned to their families and homes. Justice must be served for all, and perpetrators should be punished for the war crimes committed.

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I. INTRODUCTION

1. In the early hours on the morning of 27 September 2020, armed forces of the Republic of Azerbaijan, with the direct participation of Turkey and the deployment of mercenaries, launched a large-scale attack against the Republic of Artsakh (Nagorno-Karabakh) along the entire length of the contact line. This attack turned into a full-scale war, accompanied by Azerbaijan's gross violations of international humanitarian law and human rights law.

2. This war was of an unprecedented nature for the region due to the variety of the weapons of mass destruction used and their intensity, including the use of phosphorous munitions by Azerbaijan. The war was particularly exceptional due to the scope of violations of international law by the Republic of Azerbaijan with respect to prisoners of war.

3. In the months following the September attack, Armenia and Azerbaijan agreed to various humanitarian ceasefires with the help of international pressure. Nonetheless, Azerbaijan repeatedly violated the ceasefire agreements and refused in fact to comply with their terms, including the safe repatriation of prisoners of war. During this time, videos and photographs began to surface depicting the gross abuse and torture of Armenian prisoners held captive by Azerbaijan. Indeed, photos and videos of torture, fusillade, and beheading of Armenian soldiers and civilians (either captured by Azerbaijani soldiers or already dead) have emerged, proving Azerbaijani war crimes.

4. On 10 November 2020, military actions ceased upon the signature of a joint statement by Russian President Vladimir Putin, Armenian Prime Minister Nikol Pashinyan, and Azerbaijani President Ilham Aliyev. As a result, a complete ceasefire was achieved, and a peacekeeping contingent of the Russian Federation has been deployed in certain parts of Artsakh. Point 8 of the agreement stipulated the exchange of Prisoners of War (POWs) between the two states. However, as of today, Azerbaijan has yet to return all known prisoners of war kept under its captivity. Despite the war's end and explicit undertakings from both sides for the exchange of prisoners of war, other detained persons, and bodies of the dead, Azerbaijan refuses to comply. This is particularly alarming considering the increasingly hostile environment that promotes ethnic hatred, discrimination, and intolerance towards Armenians within Azerbaijan. So far, according to available information, there are a confirmed total of 41 POWs and 4 civilian captives remaining in Azerbaijani captivity, and there are many more who are still in custody and have not yet been accounted for by Azerbaijan. Currently, 106 captives from this war, as well as 6 captives abducted in border incidents prior to the war, have returned to Armenia. Subsequent investigations have identified that the captives have been primarily held in custody at Military Police confinements, the State Security Service (Investigative isolator and temporary detention facility, Baku), and a pre-trial detention facility in Baku (Baku Detention Center in Kurdakhany (Sizo Kurdakhany)).

5. This report details Azerbaijan's gross violations of the human rights of Armenian captives, including both civilians and soldiers. It focuses on the Geneva Conventions in establishing violations of international humanitarian law by Azerbaijan and is based on the

testimony of 50 repatriated individuals (40 prisoners of war and 10 civilians).¹ In the interest of safety, their identities are not disclosed.

6. The violations detailed below are particularly salient given that multiple captives are still being held in Azerbaijan. The evidence compiled here suggests that torture and other mistreatment of these captives is pervasive, structural, and ongoing. The return of the remaining Armenian captives of the Republic of Azerbaijan is thus urgent, and justice for the gross violations described below is all the more necessary.

II. METHODOLOGY

7. The information in this report is based on interviews with 50 repatriated individuals who fell captive to the military forces of the Republic of Azerbaijan during the period of hostilities between the Republic of Azerbaijan and the Nagorno-Karabakh Republic, which took place from 27 September 2020 to 9 November 2020.² Interviews of repatriated individuals include those conducted by Arman Tatoyan, the Human Rights Defender of Armenia, and his team of experts, as part of his fact-finding mission regarding human rights violations against Armenian captives.³ Interviews were also conducted by Siranush Sahakyan and Artak Zeynalyan, who formally represent repatriated and remaining Armenian captives of Azerbaijan before the European Court of Human Rights. They met with the victims they represent to gather their witness statements under confidential communications.

8. Interviews were collected between December 2020 and July 2021 and conducted in the native language (Armenian) of returned captives. At least two interviews were conducted with each victim: first when they initially returned, and then in later subsequent meetings. All interviews have been recorded. Patterns of conduct documented in this report are based on the individual statements of each returnee, which appear to be consistent with and have been corroborated by the overall body of credible information collected. International and Comparative Law Center analyzed the information it gathered and assessed the credibility of each witness' testimony in light of other available objective data. This data comes from a cooperative project with the Armenian Legal Center for Justice and Human Rights.

9. The presented cases highlight patterns of violations of humanitarian and human rights law by the Republic of Azerbaijan committed during and following their military aggression against the population of the Nagorno-Karabakh Republic and the Armenian military forces protecting it.

¹ The report is based on the interviews and information collected from the witness statements of 30 returned individuals. The information is going to be updated on a rolling basis. With more incoming statements, the subsequent information will be additionally presented on a rolling basis.

² Except for one individual, who had fallen captive prior to the war, but was repatriated together with those who had fallen captive during the war.

³ See the following examples: [“Ombudsman’s representatives visit Armenians who returned from Azerbaijani captivity.”](#) Panorama.am, 29 December 2020; [“Ombudsman’s representatives visit newly-repatriated Armenian troops.”](#) PanARMENIAN, 12 February 2021.

III. Legal Protection of Prisoners of War

10. The International Criminal Tribunal for the former Yugoslavia (ICTY) has held that violations on the rules of warfare under international law “entail individual criminal responsibility, regardless of whether they are committed in internal or international armed conflicts. Principles and rules of humanitarian law reflect “elementary considerations of humanity” widely recognized as the minimum for conduct in armed conflicts of any kind.⁴ Under Art. 3 of the 1907 Hague Convention IV and Art. 91 of Additional Protocol I to the Geneva Conventions of 1949, states bear responsibility for the correct application of international humanitarian law (IHL) and should be held liable for all the wrongful acts committed by their armed forces.

11. Among the principles of customary IHL, the International Committee of the Red Cross (ICRC) has identified the following, *inter alia*: prohibitions against violence to life, against torture and cruel, inhuman or degrading treatment, against both corporal and collective punishment, and against discrimination, as well as guarantees for the provision of humane treatment and for the respect for religion, family life, and the right to a fair trial. Many of these guarantees are codified in the Geneva Conventions (GC), to which the Republic of Azerbaijan is a Party. Relevant articles,⁵ *inter alia*, are included below, along with information on violations as attested to by the interviewed returned captives.

Geneva Conventions I and III

12. The First Geneva Convention (GC I) governs the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. The Third Geneva Convention (GC III) governs the Treatment of Prisoners of War (POWs). They both apply to the treatment of combatants, as opposed to civilian populations.

A. Relevant Articles of GC I

13. Article 12 of GC I, on the protection and care of the wounded and sick, requires that members of the armed forces “who are wounded or sick, shall be respected and protected in all circumstances. They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not be willfully left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.”

⁴ ICTY, *Prosecutor vs Tadic*, Decision on the Defense Motion for the Interlocutory Appeal on Jurisdiction, 2 October 1995, at. Para 129.

⁵ GC II, for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, is excluded.

14. Under Article 15, parties to a conflict “shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled.” Under Article 16, parties should also record information in respect of captives, including information regarding capture and “particulars concerning wounds or illness.” Under Article 18, military authorities “shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality.”

15. Grave breaches are defined in Article 50 as “those involving any of the following acts, if committed against persons or property protected by the Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.” Under Article 49, such breaches must be safeguarded by state parties.

B. Relevant Articles of GC III

16. Article 4 of GC III defines “prisoners of war” as individuals who have fallen into the power of the enemy. “Individuals” can be members of the armed forces, militias or volunteer corps who are fighting as a part of the armed forces of either of the Parties to the conflict.⁶ In addition, it can be other militias or members of other volunteer corps belonging to a Party to the conflict that are fighting outside their own territory as long as they adhere to the four criteria set in Article 4.2. Article 4.3 adds that “members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power” who fall into the power of the enemy must also be classified as POWs and their treatment by the Detaining Power must also adhere to the principles of the named convention.

17. Articles 12-16 provide for the general conditions of treatment of POWs by the Detaining Power. They state that prisoners should be treated in a humane manner throughout their time in captivity. Their honor and persons must be respected in all circumstances and in no case must they be subjected to violence, physical harm, reprisal, intimidation, or discrimination. With physical violence certainly having detrimental effects on mental health, prisoners must also be protected from acts or omissions which would impair their morale or degrade their dignity and sense of honor. Because POWs are vulnerable individuals who have suffered defeat from the hands of the enemy, it is especially important to maintain their sense of civil capacity.

18. In addition, Article 13, Para 2, states that preventing insults and exposure to public curiosity is a critical component of maintaining the moral integrity of prisoners. This implies a prohibition on the use of prisoners in propaganda materials, whether in person or via photo or video materials in which they are featured. Furthermore, under Article 15, the Detaining Power must provide for the free maintenance and medical care to POWs when

⁶ Geneva Convention of 1949, III, Article 4.

necessary, in order to satisfy their basic medical needs and safeguard their health.⁷ In essence, all these provisions provide for the physical and moral protection of individual POWs throughout the duration of their captivity.

19. Under Article 17, Para 1, prisoners are bound to give out basic identification information, such as their “surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.”⁸ However, the forceful collection of such information is prohibited in all circumstances.⁹ There are no provisions that prohibit interrogation on further matters and arguably, it would not be unreasonable for the Detaining Power to take advantage of the situation and inquire about the military dispositions of the enemy and other relevant information. In these circumstances, the interrogators are still bound by the Convention and its general regulations, namely that the captives are not to be insulted, degraded, subjected to physical or mental torture or any other form of disadvantageous treatment.¹⁰ In addition, questionings must be conducted in a language which the POWs understand.¹¹

20. Under Article 19, Para 1, there is an obligation for the captor power to transfer POWs to a permanent prisoner camp as soon as possible. Transfers should take place as soon as possible in order to protect them from the dangers of the conflict zone, but also to prevent them from mistreatment by frontline soldiers and avoid them becoming subjects of public curiosity. In cases when immediate evacuation is not possible, prisoners’ stay in temporary camps should be as brief as possible.¹²

21. Under Article 20, in terms of the necessary conditions that must be provided for POWs, the Detaining Power has a duty to treat captives in a humane manner,¹³ providing them with adequate food, water, clothing, and medical attention when necessary.¹⁴ It is required that the conditions for the evacuation of POWs must be similar to the conditions experienced by the forces of the Detaining Power.¹⁵ Their hands should not be tied, unless there is a direct risk of them escaping or destroying military information.¹⁶ In addition, Article 22, Para 1, provides for the prohibition of internment of POWs in penitentiaries, except for the cases justified by the personal interest of the prisoners.

22. Articles 25-31 set out the conditions of confinement for POWs regarding the provision of food, water, clothing, and hygiene. According to Article 25, Para 2, the arrangements and provisions for the prisoners of war should resemble those that are in place for the troops of the Detaining Power. The compounds must be adequately lighted and

⁷ In cases when the Detaining Power cannot provide these conditions by itself, it must allow for and facilitate humanitarian assistance. ICRC CIHL study, vol. 1, p. 431.

⁸ Article 17, Para 1, GC III.

⁹ Article 17, Para 4, GC III.

¹⁰ In the case of EECC, *POWs – Ethiopia*, Eritrea was found liable for permitting coerced interrogations. Despite their regular occurrence, torture and abusive treatment of POWs for the purpose of extracting information is systematically condemned by relevant international and national bodies, e.g. ECCC, *Prosecutors vs Kaing Guek Eav alias Duch*, Trial Chamber (responsibility for torturing Vietnamese POWs).

¹¹ Article 17, Para 6, GC III.

¹² Article 20, Para 3, GC III.

¹³ EECC, *POWs – Ethiopia*.

¹⁴ Article 20, Para 2, GC III.

¹⁵ Article 20, Para 1, GC III.

¹⁶ Fischer, “Protection of Prisoners of War” in D. Fleck (ed.) *Handbook of International Humanitarian Laws* (2nd ed., Oxford: OUP, 2008).

heated.¹⁷ The food and drinking water must be rationed in such a way as to prevent them from developing nutritional deficiencies and loss of weight, while the consumption of tobacco should not be prevented.¹⁸

IV. Violations Against Military Personnel

23. All 40 of the witness POWs attested to the severity and intensity of inhumane treatment and physical abuse during various stages of captivity. The incidents discussed below and derived from testimonies of repatriated prisoners of war demonstrate clear violations of the fundamental rights of POWs. All 40 returnees experienced inhumane and degrading treatment, accompanied by constant physical violence and severe abuse while in Azerbaijani captivity. Abuses were systematic and widespread, involving every single POW. They involved multiple perpetrators throughout all levels of military command and areas of service.

24. POWs were also discriminated against and the punishments they underwent often took place in the character of reprisals and revenge against the captive soldiers. The older soldiers who would have had the opportunity of partaking in previous wars over the disputed Nagorno-Karabakh territory were treated especially violently.

INTERNMENT AND TRANSFER

25. Based on the witness statements by returnees, it is evident that no permanent camps were established by the government of Azerbaijan for the purpose of detaining individuals who had fallen captive to their forces during the war. They were transported to Baku confinements and kept there without sufficient access to food or water. They were held at certain internment locations that resembled penitentiaries, being constantly transported from one place to another (between Military Police confinements, the State Security Service and detention center in Kurdakhany).¹⁹

26. In many cases, arbitrary beatings and mistreatments took place at the beginning of captivity due to the absence of procedural cohesion in the treatment of those fallen captive. POWs were severely beaten, tortured, abused, and generally mistreated because they would fall into the hands of lower-rank soldiers institutionally and systematically infused with hatred and discrimination towards Armenians.²⁰

¹⁷ Article 25, Para 3, GC III.

¹⁸ Article 26, Para 1 and 3, GC III.

¹⁹ [“Azerbaijan: Armenian POWs Abused in Custody.”](#) Human Rights Watch, 19 March 2021.

²⁰ *Makuchyan and Minasyan v. Azerbaijan and Hungary*, 17247/13, ECHR 2020. The Court established that Azerbaijan in effect granted R.S. impunity for the crimes committed against his Armenian victims and the measures taken by the Azerbaijani authorities in respect of R.S. were racially motivated.

27. Some exceptions to the abusive treatment of Armenian POWs by Azerbaijani forces have been noted: in one specific case, a captive was given basic medical attention by the Azerbaijani soldier who had found him wounded and in another, a higher-ranked soldier had protected some of the captives from mistreatment.

28. However, the general attitude and treatment of the prisoners by Azerbaijani forces had been abusive, violent and degrading; for instance, Azerbaijani soldiers constantly beat POWs with feet, hands and clubs and made chant degrading anti-Armenian slogans. That attitude had been established from the onset of captivity and was present throughout. If staff deviated from these practices, this did not go unpunished. The witness explained that he saw an argument happening between the guards that would give them food and the guards that would not, after which the former set of guards was replaced. "There was a shift of guards that treated us well. However, we had later found out that the staff had been replaced as punishment for treating us well."

29. Several captives discussed beatings that occurred between transfers to and from hospitals and confinement locations. One captive was severely beaten while he was in a vehicle being transferred to Baku. With his hands tied behind his back, unknown guard-soldiers burnt his right shoulder and all of the fingers on his left hand. He kept losing consciousness, but felt the guards constantly check his pulse to see if he was alive or not.

30. Azerbaijan failed to set up specific camps for POWs, instead sending them to various detention facilities without a cohesive process. Azerbaijani captors failed to treat Armenian POWs humanely in internment. The staff that did treat them humanely were removed from their posts. Arbitrary physical violence against Armenian POWs was a standard practice.

TERMS OF CAPTIVITY

31. The general conditions that the captives were held in were especially harsh: in no way did they resemble those that the Azerbaijani government had arranged for its own soldiers. POWs were not provided with adequate food, water, medical attention, or items of hygiene. Their sleeping arrangements purposefully inflicted physical and psychological suffering. Several POWs attested that they were kept with their hands tied to a radiator or heating rod for several days at a time as they were lying on the floor. Others were kept handcuffed and were not allowed to lay down or stand up and were forced to stand or stay sitting for days on end. Meanwhile, they had empty beds next to them. As a result, POWs were often sleep-deprived for days. Depending on the place of confinement, POWs often complained of their cells being too cold and either too dry or too humid. Several captives were also kept in solitary confinement for duration of up to 6 months.

32. Many prisoners were refused food and rarely given water when held at hospitals or in confinement. Some succeeded at getting help after begging their captors. When POWs

were given a chance to eat, the quality of the provided food and water were of inadequate standards. Some returnees described it as “tasteless” and “inedible.” One POW stated the guards would tease him with food and water as they dropped it on the floor in front of him and he was forced to eat food off the ground. A 55-year-old returnee stated that he would only be allowed to eat after announcing “Karabakh is Azerbaijan”. Several POWs were given 10 seconds to eat until their food was taken away and thrown in the trash in front of them as they remained hungry after not eating for days. A teenage draftee stated that the water that he was given “smelt like a swamp” and was often too hot to drink, so he had to wait for it to cool down. The water was so atrocious that it resulted in a severe rash on his skin that lasted until after he was repatriated.

33. Most captives also mentioned a lack of medical treatment. Even at hospitals, doctors would often ignore severe wounds incurred before or during captivity. One captive was sent to an unknown hospital after having previously been wounded from gunfire. During the 10 days that he had remained in the hospital, he was not given any food at all and water only irregularly—he would only receive water if he begged for it repeatedly. All of this took place while the Azerbaijani soldiers lying next to him kept spitting on him and filming it. Injured soldiers would beg for medical assistance because of agonizing pain, but were refused constantly. They were left to endure the pain of his injury during the entire duration of his captivity. There are several counts of this as many POWs were left in pain developing infections and other injuries because of the lack of medical attention they received.

34. During the freezing winter months, POWs would sleep on the cold floor with their hands tied to water pipes. When asked for water, guards would spill buckets of cold water on him. The guards would open the windows and make them lie down on the floor. They were forced to sleep with wet clothes on the floor in the freezing cold.

35. Items of personal hygiene were extremely difficult for captives to come by. Captives were rarely given any soap, and when they were, it was often of unworthy standards—dirty or previously used. One POW said that because they were not provided with adequate items of hygiene, sometimes he had no option other than to rip his own clothes and use them as toilet paper. Furthermore, some captives were not provided with toilets and were forced to go to the bathroom on themselves.

36. Based on the witness accounts of the returned POWs, on multiple occasions the captors’ treatment of them had changed either after they were visited by the Red Cross representatives or in the aftermath of the peace agreement signed between the governments of the Republic of Armenia and the Republic of Azerbaijan on 9th of November 2020. In addition, according to the witness statements, the general conditions of confinement were much better at the penitentiary location where they would be sent last (seemingly the pre-trial detention facility), where they would be fed regularly and given basic items of hygiene and medical care. However, one prisoner described that whenever the internment location was to be visited by external monitoring bodies (either the Russian military or the Red Cross) the guards would transport certain POWs into the basement or a different cell in the building where they were held, in order to conceal their existence and the conditions that the POWs were being kept in from the monitoring officials.

COERCED STATEMENTS

37. Captives were forced to provide military information. They were asked about other soldiers, where did they serve, guns and ammunitions used and serial numbers for each one, and where the weapons were used, commander positions military secrets.

They would electroshock, beat them with clubs, ropes with accusations on lie. Azerbaijani representatives would even collect personal information about family members, their jobs, addresses, phone numbers and more.

38. Captives were also forced to repeat particular statements under threat of reprisals and intimidation if they did not comply. They were humiliated, harassed, tortured, and beaten, before, during, and after interrogations. They were forced to make recorded false statements or sign unknown papers in a language they did not understand. Some returnees were asked to memorize statements in languages they did not speak and if they couldn't, they would be beaten and tortured. Several prisoners were forced to repeat the statement "Karabakh is Azerbaijan"; some with a gun to their head. If they refused, they were beaten or deprived of food and water. Similar abuse occurred during forced salutes made by the POWs towards their captors. One prisoner was forced to salute with a gun to his head and a knife to his throat, in the manner usually reserved for slaughtering cattle. Azerbaijani guards threatened POWs to sign unknown documents and admit to crimes under coercion and physical threats. Several prisoners were forced to sign statements written in the Azerbaijani language, which they did not understand, without being provided any translator or lawyer. Two of the prisoners had recognized that what they were forced to sign was an agreement statement that they would cooperate with the government of Azerbaijan and not disclose what happened to them during their time in custody. In addition, interrogators promised to give captive money if he continued to "cooperate" after his repatriation to Armenia—essentially offering him to engage in espionage. The majority of prisoners were also forced to sign statements of confidentiality, aimed at keeping the violations secret.

39. One of the prisoners was forced to make a video announcing that he was forced to volunteer for the military and then make disparaging statements against the Armenian government. Another was forced to make false statements on video that he had taken part in a previous war between Armenia and Azerbaijan, during which he had shot at civilians. Many captives were similarly forced to repeat unknown statements recorded on video.

40. Many captives were forced to call their families and inform them they were being treated well. Several returnees were asked to provide their social media passwords so their parents and relatives could be contacted, and their torture could be shared online. One returnee stated the guards informed him they called his home to tell his family he was okay but when he returned home his father confirmed he did not receive any call or update.

41. A young draftee was forced to sign four or five papers in Azerbaijani in an interrogation room while he was being threatened with a taser. In the following days, he was taken to court and prosecuted for taking part in military activities on the territory of the Republic of Azerbaijan. Although the prisoner was provided a legal defender at the court hearing, the trial was held in the Azerbaijani language. The prisoner was not provided an interpreter to explain the procedure to him. The legal defender tried to convince him to "be cooperative and quickly agree to everything." He was informed that the court verdict was to imprison him for 4 months. He was also informed that he would be kept in Azerbaijan

unless a POW-exchange occurred between the two countries. In the meantime, they would do to “whatever they wanted” to him.

42. Captive was forced to confess uncommitted crimes. One soldier was compelled to say on camera, “I went to a house in Zangelan and there was either a wedding or birthday happening there, I blew up a house with a grenade launcher and killed around 50 Azeris then the neighbor came out and I killed them too”. Meantime he was beaten with belts.

43. Several POWs stated once Azerbaijani guards would enter their cells, they were expected to say “Karabakh is Azerbaijan,” and if we did not, we would be beat and tortured by several guards at a time. Some returnees were threatened and forced to go on camera and make a video recorded statement that military commander ordered them to retreat, and he is the reason they fell captive. POWs were told they would not return home to Armenia if they didn’t make these statements. They would also make POWs praising Azerbaijani President Ilham Aliyev and begging for freedom. Those who didn’t comply were severely beat and some returnees were left permanently injured²¹.

HUMILIATION AND TORTURE

44. In addition to extensive coercion and illegal extraction of confessions, POWs were systematically subjected to humiliation and torture. Azerbaijani guards would use different objects such as belts, screwdrivers, gun butts, metal chains, and batons to beat the POWs all over their bodies leaving many with permanent injuries and leaving one returnee specifically blind in both eyes receiving no medical assistance during the duration of his captivity. Several were also subject to electroshock torture if they did not comply with guards’ orders. Azerbaijani soldiers beat POWs every day, sometimes multiple times a day. One POW stated at one point of his captivity, 3 Azerbaijani guards would come into his cell every 5 minutes to brutally beat and kick him until he would bleed and was no longer able to move. There are several accounts of POWs losing consciousness on multiple occasions from beatings.

45. An excerpt from a testimony of a repatriate discussing his time in captivity is as follows: *“In their military police area, we were connected to the heating radiators. We slept on the floor for the first few days. We did not get food or water for a few days. I asked them for water, and they splashed cold water on me from a bucket. All my clothes got wet, and they opened the window and made me lie down on the floor so that I would freeze in the cold. They beat us again. I lost consciousness 2 times. We became psychologically affected there, because they were beating [name hidden] in the cell right next to me and we could hear his torture.”*

46. While in custody of the State Security Service, repatriates reported torture and instances of severe physical abuse, including infliction of electric shocks, group beatings, sleep deprivation. Another excerpt from a testimony of a repatriate states: *Azerbaijani guards entered our cells and demanded us to shout “Karabakh is Azerbaijan!” Whether we were compliant or not, we were subjected to brutal beatings, both in Military Police and in*

²¹ Additional information is available in Armenia’s Human Rights Defender’s Ad Hoc Public Report on the Treatment of Armenian Prisoners of War and Civilian Captives in Azerbaijan (with focus on their questionings), Yerevan, 2021 (<https://ombuds.am/images/files/1138b156720bec6ae0fd88dc709eb62c.pdf>).

the State Security. There were other captives with me in the cell; three of them were tortured during interrogations using electroshock.

47. After being transferred to a prison in Baku - the final destination before repatriation, the captives were subjected to psychological abuse, solitary confinement, and mockery. They were forced to voice ideas against their will under threats to their physical integrity and life. An excerpt from a testimony of a repatriate: *“I was kept alone for the last four months. It was torturous. They would give us food and drinks in a way that when they poured it, most of it would spill and I had to get the leftovers. They broke the cigarettes then gave them to us. As soon as they opened the cell door, I had to stand up and say “Karabakh is Azerbaijan.” Besides that, they would repeat Aliyev’s statement about Artsakh is Azerbaijani and would try to make us repeat whatever they were saying.”*

48. Humiliation was also prevalent in these environments. POWs were pervasively mocked and disgraced by Azerbaijani armed forces. In the case of a 20-year-old repatriated draftee, the guards made him wear a woman’s dress and mocked and humiliated him while videotaping everything along the way. Azerbaijani guards threatened to kill him if he did not take part in a filmed event designed to record further humiliation. The prisoner was given a text to read (not seen on camera) saying that there were Kurdish fighters amongst the Armenian army who had prepared to partake in the conflict. Meanwhile, his cellmate, who was seriously injured before falling captive, was tied to metal bars so that his body would stay straight. Then, he was placed on top of a tank to be paraded as a trophy. All of these events were recorded by Azerbaijani troops who jeered and mocked both soldiers throughout their ordeal.

49. POWs were also systematically subjected to humiliation and violence publicly—in front of forces and civilians of Azerbaijan. Moreover, Azerbaijani military forces allowed civilians to participate in the inhumane treatment of certain prisoners. There is also enough evidence to conclude that captives were used as blatant propaganda material by the Azerbaijani government. These illegal propaganda efforts involved the participation of high-level politicians, the ombudswoman, and the head of the POW unit of the Azerbaijani army. In between their public appearances, POWs were abused, beaten, and tortured. These acts constitute gross and systematic violations of international humanitarian law and international human rights law, being direct breaches of GC III.

50. From the collected statements it is evident that torture was a regular practice for Azerbaijani captors. In a particularly severe incident, a POW faced abuse and degrading treatment as soon as he was found by Azerbaijani soldiers with shrapnel wounds from combat. His captors filmed him as they spat at him and forced him to repeat Azerbaijani propaganda material while pointing a loaded gun to his head. Before being admitted into a hospital, he was thrown on the ground and severely beat up by the guards. While waiting for attendance from hospital staff, elderly people and younger civilians would come up to him and spit at him while guards stood by. Not only was he exposed to public curiosity, then, but the public was allowed to physically abuse him themselves, violating Article 13 of GC III. He was transported to Baku and heavily beaten with hands, feet, and gun butts for refusing to say pro-Azerbaijani phrases. He was in such a poor physical state afterwards that he was unable to move his legs and had to crawl to be able to move for the next twenty days.

51. After enduring prolonged transportation trips, this same POW was taken to see the head of the POW unit of the Azerbaijani army and later the Ombudsman of Azerbaijan. The

head of the POW unit allowed him to contact his family. The whole procedure was recorded on video and photographed, which was later used for public propaganda as he saw himself on television and news outlets. One of the cell guards watching him at the time told him that he was being talked about all over the Azerbaijani media and among high-ranking officials (including the President, the first Vice President, and the First Lady of Azerbaijan).

52. In a separate case, a young draftee was seriously wounded in combat and subsequently captured by enemy forces. The medical staff that was meant to give him his initial treatment physically beat him instead. The beating stopped only after a higher ranked officer had noticed the incident. Even then, the prisoner was not given adequate medical attention. He was only taken to a hospital after being transferred to Baku and spending several days there.

53. In Baku, the draftee's hand was tied to a heating rod while security guards and other visiting military staff beat him periodically. During his beatings, he realized that he had a broken hand, which he later received some treatment for. He stated that contracted soldiers and older POWs who fell under the profiles of individuals who could have been participants of previous military clashes between Armenia and Azerbaijan (namely in the Four-Day War in April 2016 and the First Nagorno-Karabakh War) were treated especially brutally.

54. Additionally, another soldier was severely beaten throughout his term in captivity. While he was in one of the internment buildings in Baku, he was constantly tortured by his guards. They had poured a boiling substance (either water or tea) over his body, giving him severe burns. He was tased and beaten to the point where he was no longer able to walk on his own for the next 21 days. He experienced regular mouth and nose bleeds from all the damage caused to his body. During his beatings, the perpetrators had told him that they were beating him so severely because of his role in the army—the soldier handled a machine gun during the war. He was thought to have caused more damage to the Azerbaijani forces during the combat phase and was punished for his role in the war—an act of reprisal that is specifically prohibited in Article 13, GC III. Such behavior constitutes a direct violation of the protection of POWs from discrimination.

55. Torture within Azerbaijani captivity also took on a perverse form of creativity: one soldier was subjected to torture by a skewer. He was also videotaped and forced to deliver propaganda statements from a paper prewritten for him. Another prisoner was pepper-sprayed in the face; his hands were burnt, and interrogators would put their hands into his open wounds to cause further physical pain. Still another captive was beaten for the first 8 days of captivity with different items such as bats and whips. Often, in such cases, damage from torture caused lasting physical and psychological effects or even permanent disability. In one case, a captive whose body was pierced with sharp tools later discovered that as a result of all the physical harm that was caused to him during captivity, one of his spinal disks had been displaced.

56. One young draftee stated Azerbaijani guards would come into his cell and take him out while he was chained and he was forced to crawl on all fours like an animal. He endured this all while getting beaten by the guards and getting shouted and sworn at.

57. One severely injured captive in need of a wheelchair was so physically injured that he was unable to walk and had to crawl for 20 days. He could not bathe and developed skin rashes.

58. Azerbaijani forces used a variety of methods to humiliate and torture soldiers, in full disregard of their health and dignity. They tended to treat those who they perceived as more experienced or having done more damage to Azerbaijanis more brutally. These acts were recorded or sometimes even held in public, adding to the humiliation and serving propaganda purposes. The overall terms of custody in conjunction with the constant atmosphere of physical and psychological harassment surrounding the POWs has had lasting detrimental effects on the physical and mental health of the individuals concerned.

59. The religious rights of captives were also violated. The crosses carried by the captives were removed and destroyed in the front of their eyes. When a few asked for a book to read, they were given only a Russian translation of the Quran. A prisoner was shaved, showered, taken to a church, and put on public display before journalists.

60. The captives were required to put their signatures under unknown or blank documents. They were not provided with legal assistance, nor were they informed that applications were lodged to the ECHR on their behalf. Prior to the repatriation, they were also forced to sign documents obligating them to cooperate with the Azerbaijani authorities. Another excerpt from a testimony of a repatriate: *“Before Red Cross visits, the guards told us we were not allowed to disclose the degrading treatment and we would have to lie and tell the Red Cross we were being treated well. The Red Cross visited me for the first time on February 1. They handcuffed us. The Red Cross gave us cigarettes and sweets, and the Azeris confiscated the cigarettes and took out the filters and started giving us 1 or 2 a day”*.

61. The evidence presented above are only a partial reflection of the evidence collected for this report—which itself only concerns a very small fraction of the total POWs previously or currently held by Azerbaijan. Every POW interviewed experienced abuse and torture. All of these cases make abundantly clear the gross and systematic character of the violations, including of multiple articles of Geneva Conventions I and III, committed against Armenian POWs by the Azerbaijani military forces and state officials involved.

62. The described ill-treatment practices of Azerbaijani authorities in the places of detention are illustrated in multiple instances in reports²² by the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); in the judgments of the European Court of Human Rights (ECtHR)²³. The fact of systemic torture and ill-treatment has been also confirmed by International Non-Governmental Organizations, such as Human Rights Watch²⁴, etc.

²² See, *inter alia*, Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 29 March to 8 April 2016, <https://rm.coe.int/16808c5e43>
Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), from 23 to 30 October 2017, <https://rm.coe.int/16808c5e46>

²³ For example, <http://hudoc.echr.coe.int/eng?i=001-169755>.

²⁴ The Human Rights Watch Report is available at <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>.

V. Violations against Military Personnel in Kovsakan by the State Border Service of Azerbaijan

63. Massive human rights violations were organized and committed against the POWs captured in Kovsakan²⁵ by the Azerbaijani State Border Service (SBS).
64. Thus, on 20 October 2021, the city of Kovsakan was seized by Azerbaijani soldiers. The following day, on 21 October 2021, around 61 Armenian military personnel were mobilized and traveled towards Kovsakan from the military base in Kapan. Upon approaching the outskirts of Kovsakan, the unit was met by armed Azerbaijani soldiers. The ambush resulted in the exchange of gunfire and the capture of Armenian soldiers by the Azerbaijan SBS.
65. Overall, of the 61 identified personnel, 15 Armenian soldiers were killed presumably in action, 20 escaped and others were captured. Five of the captured soldiers were later repatriated. However, some were subjected to cruel treatment and killed in captivity, while the others were subjected to forced disappearance.
66. 15 soldiers were presumably killed in action in the outskirts of Kovsakan on 21 October 2020. The bodies of these soldiers appear in several videos. In two of these videos, 4 more individuals are seen with their hands tied, lying on the ground, revealing that they were killed after being captured.
67. In [Video 1](#), an Azeri soldier cuts off the ear of a killed Armenian serviceman and demonstrates it on camera.



²⁵ Kovsakan is called Zəngilan in Azerbaijani.

68. Two separate videos showing how the dead bodies of Armenian servicemen are being dragged along the road were spread on the Internet. [Video 10](#) depicts the bodies of two Armenian soldiers tied to a Turkish made Otokar APV, a vehicle known to be used by the State Border Service of Azerbaijan. This exact model of vehicle appears in official press release videos put forth by the State Border Patrol's account. Several Azeri soldiers wearing SBS uniforms are seen in the video, including the cameraman. It should be noted that the two deceased men in these videos have no visible facial hair and have indications of having been killed relatively recently. They are being dragged along the road, which measures approximately 5-6 meters wide and is whitish in color. The color of the road is indicative of spillage from trucks transporting lime in trucks on the road. They are seen tied at the ankles with rope, implying the absence of specialized equipment.

The two men from [Video 10](#) also appear in the next videos, as 2nd and 3rd from the right.



Photo collages demonstrate the same two bodies from Video 10 appearing in Video 8.

69. Another [video](#) was spread on the Internet, depicting several dead bodies of Armenian servicemen lying on the ground. Two of the corpses are being dragged along the ground, tied with a rope. These 2 corpses can also be seen in Videos [7](#), [8](#) and [9](#).



A body of an Armenian serviceman seen in Videos 11, 7, 8 and 9. Note the rope attached to the body.

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[Video 7](#), [Video 8](#) and [Video 9](#) show bodies on the ground in a line. Bodies of 14 soldiers are seen in Video 7. Later, 5 more bodies were added to the row which are seen in Videos 8 and 9. The last four men in the row are lying prone with their arms tied behind their backs. The fact that four bodies appear with their arms tied suggests that they were executed after being captured. Notably, repatriated soldiers Tigran Khachatryan, Artur Stepanyan and Gegham Elibekyan saw Erik Nersesov and 3 other captives held in the Kovsakan Middle School on 21 October 2020. He described seeing the captives' hands tied with a type of synthetic rope frequently used in agriculture.



Manually assembled panorama from the Video 8 frames depicting 4 bodies mentioned above.

70. All the men in these videos appear covered in residue from the limestone or dust covered path and have rope ties around their ankles, indicating they were likely dragged by the vehicle as well before being placed in the line shown. Furthermore, many of the men's clothing is moved high up on their bodies contributing to the working theory that many of these men were dragged by a vehicle to this spot. Digital Investigator Benjamin Strick

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shared the [geolocation](#) of Videos 7, 8 and 9 on his Twitter account.²⁶ The image was captured at 09:41 on October 24.



The photo collage created by Benjamin Strick and posted on his Twitter account.

71. The servicemen of SBS appear in the media wearing several types of military uniforms with various patterns. In the video published on 20 October 2020, the SBS soldiers appear wearing green, tan and khaki uniforms of various patterns. Most of those are identical to the uniforms worn by the Rapid Response Unit of the SBS²⁷ (Çevik Hərəkət Dəstəsi).



*Left photo: a serviceman of the Rapid Response Unit of the SBS during a demonstrative drill.
Right photo: a serviceman of SBS of Azerbaijan in front of the Kovsakan Middle School.*

²⁶ Geolocation of footage which shows bodies, some handcuffed, others unclothed, in Zəngilan, Benjamin Strick, 30.10.2020, <https://twitter.com/BenDoBrown/status/1322200787141971971>

²⁷ Zafər, Dövlət Sərhəd Xidməti, 06.10.2020, <https://youtu.be/2HdPOugZHDS?t=73>

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72. The Azeri soldiers standing in front of the school building are wearing combat helmets with tactical attachment mounts. An Azeri soldier appearing in Video 4 wears a helmet of the same type.



Left photo: servicemen of the SBS of Azerbaijan in front of school after Tatul Krpeyan.

Right photo: a SBS serviceman taking a video of armenian captives marching.

73. In Video 11, an Azerbaijani-made Khazri rifle, which is a domestically made variation of the AK-74, appears in frame. The same rifle which is known to be used by the Rapid Response Unit of the SBS.



Left photo: servicemen of the Rapid Response Unit of the SBS carrying Azerbaijani-made Khazri rifles. Right photo: a Khazri rifle appears in the video depicting corpses of Armenian soldiers being dragged. Note the two-sector part of the gunstock.

74. The most distinct camouflage pattern used only by SBS is a variation of a woodland camouflage with black, dark green and aqua green shapes on a sea green background. The pattern is used in production of field uniforms, vests, helmet covers and other equipment.

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Servicemen of the SBS of Azerbaijan.



Sample of SBS camouflage pattern

75. Soldiers [appearing in the videos](#) of the Kovsakan incident are wearing uniforms of this pattern. It should be noted, that at the end of Video 5, depicting 13 captives kneeling in a row, another soldier with the SBS uniform appears at the same spot, from which the video of execution was taken.



From left to right: servicemen of the SBS appearing in Videos 11, 2, 3 and 5 respectively.

76. On 7 November 2020, a video showing around 15 soldiers of the SBS dancing in a hall inside the Kovsakan middle school after Tatul Krpeyan was published on the youtube channel of Kanal 13 news agency²⁸. In the aforementioned video, as well as in several

²⁸ ƏSGƏRLƏRİMİZ AZAD ETDİKLƏRİ ZƏNGİLƏN RAYONUNDA RƏQS EDİR, 07.11.2020, https://www.youtube.com/watch?v=A93CRbX_mHU&t=30s

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others depicting the Kovsakan Incident, faces of SBS servicemen are clearly seen and may be further identified during a proper investigation.



Faces of servicemen of the SBS seen throughout the videos depicting the Kovsakan Incident.

VI. Legal Protections of Civilians

77. While GC I and III provide for protections specifically concerning captive combatants (i.e. POWs), civilians captured in the course of military operations fall under a distinct set of international legal protections. GC IV employs a negative definition of what constitutes being a “civilian” or a “protected person” at times of war, focusing on what they are not rather than what they are. The *raison d’être* of the safeguards put forward in GC IV is based on basic considerations of humanity, where civilians are all persons not belonging to the armed forces.²⁹ In addition, GC IV is applied for the protection of those who do not fall under the protection of other Geneva Conventions.

Geneva Convention IV

78. Under Article 4, “Persons protected by [GC IV] are those who, at a given moment and, in any manner, whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.”³⁰ In the understanding of the GC IV drafters, persons living in occupied territories, as well as those belonging to an enemy nationality that find themselves in the territory of the opposing party to the conflict, counted as protected persons.³¹

79. Article 27 establishes general obligations, including that “Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.”³² Additionally, women are particularly protected “against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.”³³

80. According to the Pictet commentary, the right to respect for one’s person covers the rights of the individual that are “inseparable from the human being by the very the fact of his existence and his mental and physical powers.”³⁴ The duty of providing humane

²⁹ Article 1, Chapter I, Hague Regulations of 1907 (CIHL) (Article 154, Section II, GC IV, stating that the Hague Regulations of 1907 are supplementary to Sections II and III of the GC IV).

³⁰ Article 4, GC IV.

³¹ Pictet Commentary GC IV, at 45.

³² Article 27, GC IV.

³³ *Ibid.*

³⁴ Pictet Commentary GC IV, at 201.

treatment for civilians during war, as mentioned in Article 27, is a fundamental guarantee under Article 75 of Additional Protocol (AP) I³⁵ and a part of customary law.³⁶ Within the boundaries of humane treatment, Article 27 gives special attention to protection from “all acts of violence or threats thereof and against insults and public curiosity.”

81. Article 147 adds “willfully causing great suffering or serious injury to body or health” to the list of acts that fall under inhuman treatment. Certain instruments of human rights delve deeper into the meaning and classification of acts of inhuman treatment, making distinctions based on the severity of the acts committed. For example, the European Commission on Human Rights had identified three levels of inhuman treatment—torture, inhuman treatment or punishment, and degrading treatment or punishment—all under the umbrella of deliberate acts causing severe mental or physical suffering.³⁷ In addition, Common Article 3 of GC III could be applied for the regulation of the way that civilians in war should be treated. Amongst other things, it prohibits “outrages upon personal dignity, in particular humiliating and degrading treatment” against persons *hors de combat*.

82. Regarding detainment of civilians, Article 27 states that “the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.”³⁸ Article 42 adds that the internment may take place only when it is “absolutely necessary” for the security of the Detaining Power. Articles 68 and 78 state the importance of the obligation to assess necessity and proportionality of punishment and adherence to this assessment. Furthermore, the fundamental rights of civilian detainees must be observed throughout the time of the internment. As a result, punishment must be proportionate to the misdemeanors committed.

83. Article 32 prohibits all High Contracting parties from conducting acts or omissions “of such character as to cause” physical sufferings of the protected persons. This may be seen as complementary to the provisions of Article 27, which specifically state the obligation to protect civilians from acts of violence. Additionally, under protection against coercion, Article 31 states that it is not permitted for the Detaining Power to coerce civilians for the purpose of retrieving information. Therefore, acts that result in torture, death, and other types of physical harm, as well as actions that harm individuals indirectly (such as prolonged deprivation of water, food, or sleep) violate the principles set forth in GC IV.

84. Article 49 states that “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to

³⁵ In IAC for persons not benefitting from a more favorable treatment. In NIAC, Article 4 AP II, for persons not engaged in hostilities.

³⁶ ICRC CIHL Study vol. 1, at 306, Rule 87.

³⁷ ECommHR, *The Greek case*, 5 November 1969, 12-II YECHR (1969), at 186.

³⁸ Article 27, GC IV.

that of any other country, occupied or not, are prohibited, regardless of their motive.”³⁹ However, where such transfers are necessary, the “Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.”⁴⁰ Additionally, the “Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.”

85. Under Article 32, parties “specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.” Additionally, under Article 33, “No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.”

VII. Violations against Captive Civilians

86. In addition to the 20 captive POWs, there were 10 civilians repatriated in December 2020 who were interviewed. From their testimony, it is apparent that there was no distinction between the way that these Civilians and the above-mentioned POWs were treated. Not only did Azerbaijan fail to treat them as protected persons, but they committed similar atrocities against these civilians as they did against the POWs.

87. The 10 civilians returned from captivity were not engaged in activities threatening the security of the Republic of Azerbaijan. They had not been identified as spies or saboteurs, as defined in Article 5 of GC IV.⁴¹ They did not face any formal charges, and neither were they presented with evidence of them committing such acts that would amount to their loss of the status of a “protected person” under GC IV. Except for one single case of an elderly gentlemen, their rights were nonetheless systematically and grossly violated. Captive civilians were separated from their family members, without knowing the fate and whereabouts of their relatives, and interned in similar locations and similar conditions as captive soldiers. In no case were they presented with any formal charges that would prove their involvement in military action. Despite the lack of charges or indeed any equitable justification, they were arbitrarily tortured, beaten, and humiliated whenever it pleased their guards, all the while receiving limited food, items of hygiene, and medical attention.

³⁹ Article 49, GC IV.

⁴⁰ Ibid.

⁴¹ Article 5 GC IV.

FAMILY LIFE

88. The ICRC Customary International Humanitarian Law Study has identified that “respect for family life requires, to the degree possible, the maintenance of family unit, contact between family members and the provision of the whereabouts of family members.”⁴² However, several civilians were separated from their family members. One returned civilian was caught together with her father in their house in one of the areas that had fallen under the control of Azerbaijani forces. Her captives beat her father and separated them. His personal items were taken away. When she was being transported to Baku, she was not given food or water for six hours. She was threatened to be killed unless she cooperated. When she later received a visit from psychologists, they informed her that her father had died in captivity. Another civilian was captured together with his son. They were beaten, abused, and made fun of based on their Armenian identity. He was later thrown into a chicken coop and separated from his son, while his captors went inside a house to have food. He has not seen or heard of his son since. The majority of captives were not allowed to contact their families; as a result, they were distraught and suffered significant stress. In many cases when the captives were allowed to contact their families in Armenia, it was given as a special privilege and not as an essential right. Alongside other unlawful mechanisms of psychological and physical coercion, Azerbaijan used permission to contact as a bargaining tool to coercively acquire additional information during interrogations at the Military Police confinements and the National Security building. Otherwise, POW contact with families and other essential rights were either highly limited or nonexistent.

INTERNMENT

89. Under GC IV Article 5, in cases where a Party to the conflict is certain that the individual protected person is suspected or engaged in activities hostile to the security of the state, the individual ceases its status of a protected person. In cases when the Detaining Power consider captives as spies or saboteurs, with absolute requirement from the standpoint of military security, such captives forfeit their rights of communication under the convention. However, none of the returned civilians qualified as such. Still, they faced wrongful internment and frequent abuse from Azerbaijani forces, who failed to respect captives’ fundamental rights.

90. One civilian was abducted by Azerbaijani forces when he was walking near an unmanned Armenian military position on the Armenian-Azerbaijani border. When he was being interrogated, he was subjected to heavy psychological pressure—once the interrogators found out his family details, they told him that he was being a bad father and that he would not be able to see his children unless he cooperated. Another civilian fell captive together with his brother-in-law when trying to visit a family property. He was

⁴² ICRC CIHL study, vol 1, at 380-2.

subjected to regular beatings from the guards. As a result, he is experiencing long lasting damage to his lower joints and spine. While in captivity, at some point the beating became so severe that his nose broke, and he started experiencing seizures and convulsions. Another civilian was caught when he attempted to visit his home. His captors stabbed him in the leg several times and put a gun in his mouth. He was subjected to regular beatings, all while his captors tried to force him to confess that he was an intelligence officer. Yet another was subjected to beatings and interrogations about his personal information. He was coerced into falsely confessing that he took part in a battle under military command and was offered better treatment if he confessed.

91. A female civilian was taken into internment at a location in Baku where she was mistreated and not given adequate food. She was videotaped and forced to give pre-written answers to the questions that they asked her, including that Azerbaijan treated her hospitably, contrary to Armenians' claim that she would face bad treatment in Azerbaijan. While in confinement, she was constantly transferred from place to place. At the third location, she had come across a younger gentleman in civilian clothes and an older man with a broken hand. She witnessed the guards put a bag over the young man's head and take him away. Sometime later, she found out that both of them had been slaughtered.

PHYSICAL VIOLENCE

92. As indicated above, the captive civilians were subjected to torture similar to that suffered by the POWs, and even worse in some cases in which they would not falsely admit to being soldiers. Azerbaijani forces inflicted physical harm on civilian captives, along with deprivation of food, water, and clothing.

93. Like several POWs, one civilian was taken to a military post where his hands were tied, and he was held in confinement with no access to food or water for nearly twelve hours. His captors forced him to sing the Azerbaijani national anthem and if he refused he would be beaten and tortured. He was constantly abused and degraded based on his Armenian background. His captives threatened to kill him if he attempted or demonstrated any type of insubordination or noncompliance. He was forced to sleep on the floor and was constantly subjected to degrading treatment.

94. Civilians were regularly beaten and severely tortured. One civilian witnessed an older man being kept naked on the floor with his hands tied. The man was sick and died as a result of the abuse, but his dead body remained in the cell for several days afterward.

95. In one especially troubling case, a civilian who was a shepherd was detained by Azerbaijani forces several months before the start of the war in June 2020—he had gotten

lost while taking his animals to the pastures. Upon capture, he was beaten by multiple guards, stripped, and searched. He was tortured with pliers and tased. The guards pierced his skin with random items and hit his wounds. At times, he would be forced to put his hands in the food slot of the cell and the guards would slam the slot door shut over his fingers and hands. He was given dirty water and food that often contained cigarette butts—if he tried to take the butts out, they would take away the food. He was not provided with items of hygiene and the soap that he was given was previously used.

96. However, before Red Cross visits, the captors would clean him up and transfer him to a better cell. As soon as the visits ended, they would take him back to his old, cold, and humid cell. Guards would threaten to beat captives if they said anything bad about the treatment to the Red Cross staff. The Red Cross staff would often bring him food and other provisions, but guards would take them away and beat him after they left. His treatment became even worse during the period of the war, from September to November.

VIII. CONCLUSION

97. The treatment of civilians, prisoners of war, and soldiers who are otherwise rendered as *hors de combat* or incapable of fighting is one of the key principles of *jus in bello* and *jus post bellum*. It guarantees the rightful protection of individuals who fall into the circumstances of war and puts them at the centerfold as one of the main subjects of war. Ensuring for the protection of *hors de combat* is a major part of maintaining a humanitarian world order and ensuring that the lives and dignity of human beings are at the center of global development. Turning a blind eye to the violation of such principles would set a dangerous and unjust precedent which could result in widescale negative implications for the Caucasus region and beyond.

98. This inquiry into the facts and circumstances of the alleged mistreatment of Armenian POWs by Azerbaijan during and after the 2020 war has produced incontrovertible evidence that such abuses did occur. The report has detailed various violations of three Geneva Conventions against 50 returned individuals who have testified to the above stories. Despite the fact that they have been repatriated, these individuals have suffered gross mistreatment and they deserve justice. The Azerbaijani individuals who committed these violations should be held accountable for their severe violations of international humanitarian law. Simultaneously, the Azerbaijani state should be held responsible for its systematic policy of human rights violations against Armenian captives.

An even more important question remains: the safe return of the remaining Armenian captives being held by the Republic of Azerbaijan. The government of Azerbaijan and its armed forces continue to deny the release of all Armenian prisoners of war and civilians in their custody in direct opposition to the trilateral peace agreement of November 10, 2020,

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stipulating explicitly their release. Additionally, Azerbaijan has failed to acknowledge its possession of other individuals who are known to be in its captivity based on direct evidence, including video and photographic materials. Azerbaijan's systemic and pervasive violations of the Geneva Conventions evidenced by the testimonies of returned individuals as well as by various photos and videos that have surfaced and been used as propaganda by Azerbaijan shows the precarious situation of those in Azerbaijani captivity. Azeri authorities continue the torture, abuse, and murder of Armenians in their custody in blatant disregard of all international norms, as well as international and interstate laws and conventions governing wartime captives and prisoners of war.

