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Report to the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions

In response to the call for input on the occasion of the 40th anniversary of the creation of the mandate

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I. Introduction

1. This Report is submitted by the Armenian Bar Association in response to the call for input on the occasion of the 40th anniversary of the creation of the mandate on extrajudicial, summary or arbitrary executions by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions.
2. The Report responds to question two (2) of the Questionnaire, by detailing ongoing violations which the Special Rapporteur can highlight in order to contribute to greater awareness and implementation of the standards the Special Rapporteur has developed, such as the Minnesota Protocol and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.
3. The Report outlines Azerbaijan's responsibility in carrying out arbitrary executions since November 2020. The Report sets forth, *first*, international legal standards in relation to arbitrary killings, *second*, the relevant factual context, and *third*, some of the documented instances in which Azerbaijan has committed arbitrary and racially motivated killings of ethnic Armenian civilians.

II. Legal Framework

4. The ICCPR protects individuals both from State-inflicted harms¹ and foreseeable threats to life from private actors.² States must take special measures to protect those in vulnerable situations, including members of ethnic and religious minorities.³ States' obligations in some circumstances apply extraterritorially.⁴

¹ Leechong v. Jamaica, Communication No. 613/1995, U.N. Doc. CCPR/C/66/D/613/1995, para. 9.3 (Aug. 12, 1999).

² Marcellana v. Philippines, Communication No. 1560/2007, U.N. Doc. CCPR/C/94/D/1560/2007, para. 7.7 (Oct. 30, 2008). *See also* Human Rights Committee, General comment No. 35 Article 9 (Liberty and security of person), U.N. Doc. CCPR/C/GC/35, para. 9 (Dec. 16, 2014).

³ Human Rights Committee, General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life, U.N. Doc. CCPR/C/GC/36, para. 23 (Oct. 30, 2018). *See also*, Human Rights Committee, Concluding observations on France, U.N. Doc. CCPR/C/FRA/CO/4, para. 24 (July 31, 2008).

⁴ Human Rights Committee, Concluding observations on the Islamic Republic of Iran, U.N. Doc. CCPR/C/79/Add.25, para. 9 (Aug. 3, 1993) (condemning under ICCPR Article 6 and 9 Iran's issuance of a *fatwa* against a foreign writer).

5. The Minnesota Protocol on the Investigation of Potentially Unlawful Death clarifies that the right to life as protected in instruments such as the ICCPR requires States to “respect the right to life and not deprive any person of their life arbitrarily... This is particularly the case where... there is a pattern of killings where victims are linked by... race or ethnicity.”⁵
6. Further, the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions requires States to prevent such executions, irrespective of any exceptional circumstances.⁶ As UNESCO has recognized, racism is the belief in the superiority of one “arbitrarily defined group[]” over another.⁷ Thus, race-based executions are inherently arbitrary.

III. Factual Background

7. Azerbaijan initiated hostilities against ethnic Armenians in Nagorno-Karabakh on September 27, 2020, continuing until November 10, 2020 with the signing of the Trilateral Statement.⁸ Highlighting the racial nature of this aggression, after thousands of ethnic Armenians were forced to flee their homes in Nagorno-Karabakh because of the war, in December 2020 Azerbaijan released a commemorative postage stamp depicting an individual “fumigating” Nagorno-Karabakh.⁹ In April 2021, Azerbaijan opened the so-called “Military Trophies Park” in Baku, which included wax mannequins of ethnic Armenian soldiers as prisoners of war with caricatured faces and abnormally large noses.¹⁰
8. As the result of the war Azerbaijan took control of several regions of Nagorno-Karabakh. In these territories today, no ethnic Armenians remain, as they were detained, tortured, killed, and/or expelled.¹¹ This report sets forth some of the arbitrary, racially motivated killings that took place on Azerbaijan-controlled territory.

⁵ Office of the United Nations High Commissioner for Human Rights, *The Minnesota protocol on the investigation of potentially unlawful death* (2016), HR/PUB/17/4 at 3 (2017).

⁶ Economic and Social Council, Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Resolution 1989/65 (May 24, 1989).

⁷ United Nations Educational, Scientific and Cultural Organization, *The Race Question* 3 (1950).

⁸ See Prime Minister of the Republic of Armenia, Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation (10 November 2020), available at <https://www.primeminister.am/en/pressrelease/item/2020/11/10/Announcement>.

⁹ Lucía de la Torre, *Azerbaijani postal stamps accused of spreading anti-Armenian propaganda*, Calvert Journal (12 January 2021), <https://www.calvertjournal.com/articles/show/12442/azerbaijan-stampsnagorno-karabakh-war-anti-armenian-propaganda>.

¹⁰ Neil Hauer, *Azerbaijan's 'Ethnic Hatred' Theme Park Draws Ire, Imperils Reconciliation*, Radio Free Europe (22 April 2021), <https://www.rferl.org/a/azerbaijan-karabakh-theme-park-armenia-ethniCE-hatredaliyev/31217971.html>. 109; *‘War trophies park’ in Baku sparks controversy domestically and abroad*, JAMNews (14 April 2021), <https://jam-news.net/war-trophies-park-in-baku-sparks-controversy-domestically-and-abroad/>.

¹¹ See Freedom House, Nagorno-Karabakh, <https://freedomhouse.org/country/nagorno-karabakh/freedom-world/2022> (last accessed June 25, 2022); see also, Abramian, *supra* note 11.

IV. Azerbaijan Has Arbitrarily Killed Ethnic Armenians in Violation of International Legal Obligations

9. Prejudice against Armenians in Azerbaijan “is so ingrained that describing someone as an Armenian in the media” is considered to be “an insult that justifies initiating judicial proceedings against the persons making such statements.”¹² Given also the Government’s own “condon[ing] [of] racial hatred and hate crimes,”¹³ impunity for offenses against Armenians prevails.

10. On November 9, 2020, the Trilateral Statement was signed ending the conflict in the Republic of Artsakh between Armenia and Azerbaijan. As of that date, it is the responsibility of both Armenia and Azerbaijan to not only honor the terms of the ceasefire agreement, but also to continue to abide by the international prohibitions regarding extrajudicial, arbitrary and summary executions.

11. In some instances, the killings and/or torture were video recorded, highlighting the arbitrary nature of these executions:

a. **Yuri Asriyan**, a pensioner born in 1938, was unable to leave his home in the Azokh village of Hadrut region after the Azerbaijani Armed Forces took over in October 2020. Yuri was single and had health problems which prevented his escape from his home. Yuri was captured on October 21, 2020, shortly after the invasion, and in December 2020, a video of his beheading was posted to the internet. Yuri repeatedly asked not to be beheaded in the name of "Allah", but despite his pleas, an Azerbaijani Armed Forces member proceeded to behead Yuri. Yuri’s body was later found on January 21, 2021.¹⁴

b. **Arsen Gharakhanyan**, a 46 year-old husband and father of three, was found dead on January 19, 2021, in Hadrut during a search operation for human casualties. Arsen had entered Hadrut to evacuate his elderly father and was captured by the Azerbaijani Armed Forces. According to the forensic examination preliminary conclusion, Arsen died as a result of torture, and a gunshot wound he suffered was determined to be inflicted posthumously. Arsen’s father, Sasha Karakhanyan, was repatriated on December 14, 2020, and relayed the circumstances of his son’s captivity. On January 1, 2021, and on January 16, 2020, two videos were published to the Azerbaijani internet with Arsen being featured in the videos.¹⁵

¹² European Commission against Racism and Intolerance, ECRI Report on Azerbaijan (fourth monitoring cycle) (31 May 2011), available at <https://rm.coe.int/third-report-on-azerbaijan/16808b557e>, para. 99.

¹³ CERD Committee, Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan, UN Doc. CERD/C/AZE/CO/7-9 (10 June 2016), p. 3.

¹⁴ The Republic of Artsakh Human Rights Ombudsman, Interim Report at 15 (Sept. 27, 2021), <https://artsakhombuds.am/en/document/785>.

¹⁵ *Id.* at 19.

c. **Yuri Adamyan** was a cattle breeder, and **Benik Hakobyan** was a pensioner, in Hadrut region who were captured by Azerbaijani military after Azerbaijan's entrance into that region on October 10, 2020. They were shot in Hadrut town square between October 12 and 14, and the video of the shooting was posted to Azerbaijani social networks on October 15. Benik was the husband of Elena Hakobyan, whose story is relayed above.¹⁶

d. **Genadi Petrosyan** was a pensioner in Askeran region. He was captured by Azeri soldiers in October 2020. In November, a video was posted showing Genadi being beheaded, his body and amputated head being placed next to the body of a pig.

12. The bodies of victims provide further evidence of Azerbaijan's killings of ethnic Armenians on Azerbaijan-controlled territory have emerged. In some instances, there was clear evidence of torture:

a. **Vladimir Parsiyants**, a pensioner born in 1946, according to forensic medical examinations, was killed on November 18, 2020, in Shushi by Azerbaijani Armed Forces. Mr. Parsiyants's body, returned to the Armenian government on May 12, 2020, had suffered a gunshot wound to the thigh and a cut abdomen with the use of a cutting-piercing tool.¹⁷

b. **Vyacheslav Avakyan**, born in 1958, was returned dead to the Armenian government by Azerbaijan. Mr. Avakyan's body had suffered a gunshot wound to the back and a wound to the abdomen inflicted by a cutting-piercing tool.¹⁸

c. **Nina Davtyan**, a woman born in 1938, was found dead and in a completely dilapidated condition on December 19, 2020, during a search for corpses in the Vardashat community of Hadrut. Nina's head was barbarically removed from her body and her hands were broken.¹⁹

d. **Radik Stepanyan**, a disabled man born in 1937, was found dead in Hadrut on December 19, 2020, with his head missing and legs broken. Radik had stayed in the village of Togh in Hadrut after the takeover of the region by Azerbaijani Armed Forces on October 10, 2020.²⁰

e. **Alvard Tovmasyan**, a woman born in 1963, who suffered from a mental illness, was found dead on January 13, 2021, during a search of the village of Karin Tak in the Shushi region. A forensic examination of Alvard revealed obvious signs of torture, with her left ear and tongue cut out. Alvard was identified by relatives and comparative examinations of DNA samples.²¹

¹⁶ *Id.* at 15.

¹⁷ *Id.* at 16.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 18.

²¹ *Id.* at 19.

- f. **Elena Hakobyan**, a woman born in 1953, was found dead January 4, 2021, during a search operation for corpses in the Hadrut region of Artsakh Republic. Elena was found with her legs tied together with rope and her head separated from her body. Elena's neighbor identified her.²²
- g. **Mushegh Melkumyan** was a pensioner in Hadrut region. He was captured by Azerbaijan and reported dead at the time of his body was returned. Forensic examination reveal the cause was traumatic brain injury.²³
- h. **Eduard Zhamharyan** was a pensioner in Shushi. He was captured on November 8, 2020 and his body was returned on December 4, 2020. He had an open craniocerebral injury on the left side of his head.²⁴
- i. **Ashot Munchyan** was a pensioner who was captured in Shushi by the Azerbaijani military on November 8, 2020. His body was returned on December 4, 2020 with a gunshot wound, and with his left ear cut off.²⁵
- j. **Edik Muradyan** was born in 1938 in Hadrut. He remained in the area after Azerbaijan took control of the territory in October 2020. He was killed October 29, 2020, from multiple fractures of the skull and skeletal bones. His body was found March 3, 2021.²⁶

V. Conclusion

13. Azerbaijan has tortured, mutilated, and arbitrarily killed ethnic Armenians in violation of its international legal obligations. This includes video recorded beheadings and clear evidence of torture. The Armenian Bar Association hopes the Special Rapporteur takes this evidence into consideration on the occasion of the 40th anniversary of the creation of the mandate on extrajudicial, summary or arbitrary executions. By engaging with these ongoing violations, the Special Rapporteur can contribute to increasing awareness and implementation of the standards the Special Rapporteur has developed.

VI. Organizational Information

The Armenian Bar Association was formed in 1989. It is a forum in which attorneys with different backgrounds and at different stages of their careers share their expertise and insight. The Armenian Bar Association may be reached at info@ArmenianBar.org.

²² *Id.*

²³ *Id.* at 15.

²⁴ *Id.* at 15.

²⁵ *Id.* at 16.

²⁶ *Id.* at 21.