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الدورة السادسة والأربعون

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البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية

والاجتماعية والثقافية، بما في ذلك الحق في التنمية

رسالة خطية من مكتب المدافع عن حقوق الإنسان* في أرمينيا

مذكرة من الأمانة

تتشرف الأمانة بأن تحيل إلى مجلس حقوق الإنسان الرسالة الخطية المقدمة من مكتب المدافع عن حقوق الإنسان في أرمينيا**، التي تُعمم وفقاً للمادة 7(ب) من النظام الداخلي للمجلس (انظر قرار المجلس 1/5، المرفق) واستناداً إلى الترتيبات والممارسات التي وافقت عليها لجنة حقوق الإنسان في قرارها 74/2005.

* مؤسسة وطنية لحقوق الإنسان معتمدة من جانب التحالف العالمي للمؤسسات الوطنية لتعزيز وحماية حقوق الإنسان ضمن الفئة "ألف".

** تُعمّم بالصيغة التي وردت بها، وباللغة التي قُدمت بها فقط.



الرجاء إعادة الاستعمال

Report of the Human Rights Defender of Armenia on the Treatment of Armenian Prisoners of War and Civilian Captives in Azerbaijan (With Focus on Their Questionings)

INTRODUCTION

In the early morning hours of 27 September 2020, during the Coronavirus (COVID-19) global pandemic, armed forces of Azerbaijan, with the direct participation of Turkey and the deployment of mercenaries, launched a large-scale attack against Artsakh (Nagorno Karabakh) at the entire length of the contact line. This has turned into a full-scale war, producing war captives.

As of 7 January 2021, 58 Armenian captives were repatriated to Armenia (25 civilians and 33 prisoners of war). Currently, the Human Rights Defender of Armenia has gathered irrefutable evidence on facts of Armenians' captivity in Azerbaijan. Despite the fact that Azerbaijani authorities has been hiding the real number or has been showing obvious reluctance in confirming cases of captivities, the total number of Armenians believed to have been taken prisoners in Azerbaijan is much more, than even is formally confirmed (including, the period when 44 captives were returned to Armenia).

With the contributions of OSCE Minsk Group Co-Chairs, ceasefires for humanitarian purposes for the exchange of prisoners of war and other detained persons and bodies of the dead through the mediation of the International Committee of the Red Cross have been agreed on for three times on 10, 17 and 24 October 2020.

On 10 October a trilateral agreement was reached in Moscow, which declared a complete ceasefire and termination of all hostilities in the area of the Nagorno-Karabakh conflict. It also stipulated the undertaking of Azerbaijan and Armenia to exchange prisoners of war, hostages and other detained persons, and dead bodies. This undertaking is not fully met. Meanwhile, several dozen people, including civilians, have been taken prisoners by the Azerbaijani armed forces after the ceasefire.

This ad hoc report presents the international rules pertaining to the treatment and questioning of prisoners of war and civilian captives, the standards for their interrogations, provides for a factual information on the treatment since capture, with focus on the interrogations, and makes conclusions thereof.

For the purpose of preparation of this report, fact-finding activities were commissioned, interviews were conducted, audio-video materials were studied and analyzed together with media publications. At the time of drafting the report, interviews with the returned captives were not accomplished. Therefore, issues, identified through the interviews with the returned prisoners, are out of the scope of this report and will be presented separately. Similarly, the practice of willful killings of protection persons, including the PoWs, is not covered in this report.

INTERNATIONAL RULES PERTAINING TO QUESTIONING OF PRISONERS OF WAR

Provisions concerning the treatment of prisoners of war (PoWs) are contained in The Hague Regulations of 1899 and 1907. In the course of World War I, they revealed several deficiencies as well as a lack of precision, which were partly overcome by agreements made between belligerents in Berne in 1917 and 1918. Later, the rules protecting PoWs were detailed in the 1929 Convention relative to the Treatment of Prisoners of War. The most important aspects covered included the prohibition of reprisals and collective penalties, protection from public curiosity. Particularly, according to Article 2 of the 1929 Geneva Convention, prisoners of war shall at all times be humanely treated and protected, particularly against acts of violence, from insults and from public curiosity. According to Article 5, no pressure shall be exercised on prisoners to obtain information regarding the situation in their armed forces or their country. Prisoners who refuse to reply may not be threatened, insulted, or exposed to unpleasantness or disadvantages of any kind whatsoever.

The 1929 Geneva Convention was replaced by the third Geneva Convention of 12 August 1949 (hereinafter the 1949 Geneva Convention), following the lessons of World War II. Provisions were stipulated in Additional Protocol I of 1977 (not ratified by Azerbaijan). At the same time, the state practice establishes the rules pertaining to questioning of the PoWs as a norm of customary international law.

According to Article 17 of the 1949 Geneva Convention,

1) Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

...

4) No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatsoever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind.

5) Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

6) The questioning of prisoners of war shall be carried out in a language which they understand.

A specific application of this rule can be found in Article 99(2), which prohibits using moral or physical coercion to induce a prisoner of war to admit guilt of the act of which he is accused.

Article 17(4) of the 1949 Geneva Convention reflects the general prohibition of torture under international law and prohibits the infliction of physical or mental torture or any other form of coercion on prisoners of war to secure from them ‘information of any kind whatsoever’. The language of this provision was replaced 1) to expand the provision to cover “information of any kind whatever” 2) to explicitly prohibit not only “physical or mental torture”, but also other form of “coercion”, as methods to elicit information of any kind whatsoever. This provision applies not only to questioning in order to identify a person, but also to any subsequent interrogation.

Torture is defined as the intentional infliction of severe pain or suffering, whether physical or mental, for such purposes as to obtain information or a confession, to punish, intimidate or coerce the victim or a third person, or to discriminate, on any ground, against the victim or a third person. The purpose of torture (to secure from information of any kind whatsoever) is one of the prohibited purposes of the general definition of torture. The prohibition is thus encompassed within.

The 1949 Geneva Convention prohibits any other form of coercion. “Coerce” means to persuade (an unwilling person) to do something by using force or threats. Thus any methods of compulsion (any direct or indirect physical or psychological pressure) are wholly unacceptable. In this sense interrogation under duress is also covered, as duress involves a situation, where the threat of imminent danger to life, limb, and freedom is so great as to overbear the will of a prisoner of war.

The decisive factor in determining whether coercion has occurred or is occurring is whether the method used deprives or impairs the prisoner of the exercise of free will and autonomy. Coercion need not cause physical harm, but could be aimed at breaking a prisoner’s mental resistance.

In general, the interrogation tactics that seem to be common practice, in a time of war are all illegal. The third Geneva Convention outlaws everything beyond the simple asking of a question. In assessing whether an interrogation method is lawful, it is important to take into account the following considerations:

1) Interrogations must be conducted only by qualified personnel and be subject to strong control mechanisms and oversight to ensure that it does not violate the prohibitions of torture, cruel, inhuman and degrading treatment and any form of coercion.

2) A definitive list of prohibited interrogation techniques is not established, while all possible coercive techniques are prohibited.

3) Individual circumstances of the prisoners of war, including the environment, physical or mental condition of the prisoner, cultural beliefs and sensitivity, gender, age, social, cultural, religious or political background, or past experiences must be taken into account.

4) The totality of treatment since capture must be taken into account, but not only the parameters for interrogation regime or the treatment of the prisoners during the interrogations.

5) Wounded or sick prisoners of war may only be interrogated with the approval of medical staff and such interrogation must not interfere with required medical treatment and must respect applicable standards of medical ethics (attempts to gain information from a prisoner of war through the deliberate denial or protraction of required medical treatment).

6) Interrogation sessions should not take place unless recording methods (audio and/or video) are in operation.

7) Prolonged “incommunicado” in undisclosed locations without access to legal representation or independent mechanisms is prohibited, as it facilitates the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and in itself constitutes a form of such treatment.

Other interlinked articles that apply at all times during captivity are also relevant. Particularly, Article 13 provides, that PoWs must at all times be humanely treated; PoWs must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity. This provision prohibits the forced participation of prisoners of war in demonstrations and thus exposing prisoners of war to public curiosity.

Article 14 imposes an obligation to ensure that prisoners of war in their custody are treated in a way that is respectful of their persons and their honor. In line with this, respect for the person demands the dignified treatment of all prisoners of war that is mindful of their sense of self-value, for example in relation to clothing. Article 14 precludes any treatment during detention that humiliates prisoners, for example scornful language or sexual or other harassment. This might involve, for instance, forcing prisoners to engage in tasks that amount to humiliating or degrading treatment, demanding they act against their belief systems or threatening harm or humiliation to someone close to them.

Respect for a person’s moral integrity precludes forcing the prisoners of war to behave in a manner that is offensive to the national or religious sentiments of the prisoners or expression slogans against the power on which they depended. Respect for honor requires the protection of prisoners from “libel, slander, insult and any violation of secrets of a personal nature”, as well as humiliating circumstances.

THE TOTALITY OF TREATMENT OF ARMENIAN PRISONERS IN AZERBAIJAN AND THE PRACTICE OF THEIR QUESTIONINGS

The treatment of Armenian prisoners of war and civilians in Azerbaijan during the questionings has reflected the peculiarities of Azerbaijani character towards the Armenians. The following factors have been detected as influencing the behavior of Azeris in this matter.

1) The deliberate long lasting policy of human rights violations of Armenians by Azerbaijan, even in peace time.

2) The exploitation of climate created by wars to intensify the long-standing patterns of human rights violations of Armenians.

3) The remarkable efforts to disguise human rights abuses towards Armenians during the captivity.

1. The consistent pattern of gross human rights violations of Armenians in peacetime

This pattern of human rights violations of Armenians is well confirmed not only by UN human rights bodies but also through the final judgments of international courts.

The Committee on Elimination of Racial Discrimination in its period reports on Azerbaijan has consistently expressed its concerns on abuses against Armenians on their ethnicity. Particularly, in the report of 2016, the Committee expressed its concerns at Azerbaijan's racial hatred and hate crimes against Armenians, denial of redress to victims, as well as the repeated and unpunished use of inflammatory language by politicians speaking about the Nagorno-Karabakh conflict and at its adverse impact on the public's view of ethnic Armenians in Azerbaijan.

As concerns final judgments from international human rights tribunals, in the case of *Makuchyan and Minasyan v. Azerbaijan and Hungary* (<http://hudoc.echr.coe.int/eng?i=001-202524>), it was established that Azerbaijan ensured impunity for an Azerbaijani officer (Ramil Safarov), who decapitated an Armenian officer and threatened to kill another Armenian soldier. The European Court of Human Rights (ECtHR) noted: "Ramil Safarov had been treated by Azerbaijan as an innocent or wrongfully convicted person and bestowed with a number of benefits (salary arrears, a flat, a promotion) that were devoid of any legal basis under domestic law. In view of the foregoing, the acts of Azerbaijan in effect had granted Ramil Safarov impunity for the crimes committed against his Armenian victims. The measures taken by the Azerbaijani authorities in respect of Ramil Safarov, leading to his virtual impunity and coupled with the glorification of his extremely cruel hate crime, had had a causal link to the Armenian ethnicity of his victims and had thus been racially motivated". The Court found violation of the right to life and the right to be free from discrimination.

In the case of *Saribekyan and Balyan v. Azerbaijan* (<http://hudoc.echr.coe.int/eng?i=001-200439>), which concerned the death of an Armenian citizen, while in military police detention in Azerbaijan, the ECtHR found in particular that Manvel Saribekyan, had died as a result of the violent actions of others, notably personnel at the Military Police Department in Baku, where he was being held. He had been tortured before the intentional killing. The Court could not accept the Azerbaijani authorities' version of events that he had hanged himself. The Court held that there had been a violation of right to life and prohibition of torture (for more judicial cases on serious human rights violations by Azerbaijan against ethnic Armenians see *Badalyan v. Azerbaijan* (<http://hudoc.echr.coe.int/eng?i=001-159138>), *Petrosyan v. Azerbaijan* (<http://hudoc.echr.coe.int/eng?i=001-172622>), *Khojoyan and Vardazaryan v. Azerbaijan* (<http://hudoc.echr.coe.int/eng?i=001-159139>), *Khalapyan v. Azerbaijan* (<http://hudoc.echr.coe.int/eng?i=001-169756>), *Ghazaryan and Bayramyan v. Azerbaijan* (<http://hudoc.echr.coe.int/eng?i=001-204087>)).

2. Intensification of the long-standing patterns of human rights violations of armenians in wartime

Azerbaijan has also exploited the climate created by wars to intensify long-standing patterns of human rights violations or to justify new ones. Atrocities against Armenians were committed during the wars of 2016 and 2020 (for the legal cases covering the atrocities of 2016 war, see *K.S. and N.A. against Azerbaijan* and 21 other applications (<http://hudoc.echr.coe.int/eng?i=001-169755>)). Human rights abuses, torture and ill-treatment were widely practiced in respect of captives in general. Human Rights Watch (<https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>) also reported that Armenian PoWs were badly mistreated and were acted under obvious duress.

Below are some of the manifestations of general treatment of PoWs and civilian captives in Azerbaijan.

Beating the PoWs while fallen down

The PoW Samvel Kastaksyan is being beaten by an Azerbaijani soldier. He is lying helplessly on the ground, with his arms tied together behind his back, while an Azerbaijani soldier slaps hard him in the face for two times, cursing him, lifts him up from the ground by grabbing his

collar and yells at him, then shakes him and throws him back to the ground (https://drive.google.com/file/d/1aYKvtO_Y20KtgLVqQQZ2gRn7ZpGg8XYz/view).

Coercing the PoWs to crawl

The PoWs are being physically tortured at night. They are forced to crawl and meantime are being beaten. Azerbaijani servicemen shout and swear at them (See the video via this link <https://www.dropbox.com/s/jrq44fulthb85x4/Coercing%20to%20crawl.mp4?dl=0>).

The PoW Erik Mkhitarian is lying on the ground on his stomach in a crawling position, while an Azerbaijani soldier holds the back of his neck and shakes him. A couple of Azerbaijani soldiers who are around him are standing with their rifles pointed at him. In the beginning of the video, an Azeri soldier speaks in the Azeri language. He then orders Erik Mkhitarian to repeat several times the expression “Karabagh Azerbaijan” and forces him to repeat it louder (<https://www.dropbox.com/s/szhaw5io2591zq3/Geri%20Erik%20Mkhitarian.mp4?dl=0>).

Humiliation of the PoWs

Erik Khachatryan’s captor is holding him by the neck and slapping his head. He is forced to repeat expressions in Azerbaijan and he also says “Karabakh is Azerbaijan” (https://www.dropbox.com/s/b840ynpvjnsoffd/Geriner%20%2C%2CEriki%2C%2C%20xumb_1.mp4?dl=0). Afterward, Erik Khachatryan and other PoWs Narek Sirunyan, Karen Babayan, Arayik Galstyan, Robert Vardanyan, are forced to kneel and clap, as their captors are “celebrating” and dancing.

(https://www.dropbox.com/s/f2d277as5wyrp58/Geriner%20%2C%2CEriki%2C%2C%20xumb_par.MP4?dl=0).

Many PoWs were forced particularly to kiss the Azerbaijani flag (for example, PoWs Yenok Avetisyan, Robert Vardanyan, Arayik Galstyan and Erik Khachatryan), to repeat certain expressions in Azerbaijani and to voice loudly (individually or collectively) the political slogan “Karabakh is Azerbaijan” (for example, PoWs Arsen Karapetyan, Norik Arakelyan, Gagik Terjyan, Ruben Simonyan, Narek Nersisyan, Hayk Dilanyan), to praise Azerbaijani President Ilham Aliyev and to swear at Armenian Prime Minister Nikol Pashinyan (for example, Areg Sargsyan, Samvel Asatryan).

Torturing the civilian captives

The video shows that Kamo Manasyan, kneeling on the ground with his hands tied behind his back, and his face half-covered in blood, is surrounded by Azerbaijani soldiers. One of them asks him in Russian what village he is from. A couple of seconds later, having no response from him, the soldier kicks him in the stomach and repeats the question, cursing him and ordering him to immediately give an answer. The soldier also asks him how many of them there are, and Kamo Manasyan says that he does not know and that he is on his own, after which the soldier takes his rifle. The Azerbaijani soldier hits Kamo Manasyan in the head several times. He also says, that Azeris and Turks will go after all Armenians, who cannot be considered as people, make them kneel and slaughter them. A couple of Azerbaijani soldiers start searching Kamo Manasyan’s jacket, while the others start laughing at him and hitting him in the head.

(<https://www.dropbox.com/s/14by5f5hi31wzyu/Qaxaqaci%20geri%20cnkac%20cacum%20en%20Kamo%20Grishayi%20Manasyan.mp4?dl=0>).

A civilian captive Sedrak Petrosyan, who was returned on 10th of December, confessed that he was drugged, severely beaten and also subjected to mental torture, as he was told that his son is killed and the dogs were fed with his dead body.

An eyewitness Yevgeniya Babayan, who was released from captivity, also confirmed the beatings of civilians. In a police station, she saw two other Armenians, one of them a young man with civilian clothing. That young man was blindfolded and had his hands and feet tied together. He was thrown into the corner of the room, and Azerbaijani soldiers took turns in kicking him in different parts of his body. The next day, when Yevgenia Babayan was being taken out of the police station, she saw that the young man was put in a sack and was being dragged to a car. She was also told that they had butchered and beheaded the two foregoing Armenians (her testimony is available at:

https://lurer.com/?p=392320&l=am&fbclid=IwAR1_hDzuf6Uts38Ht7ndc7b1VYKf2_YOYDcyUvzxQbeh-OFx0kzAtCwwkYM).

3. The remarkable efforts to conceal the torture and inhuman treatment towards the Armenians

Azerbaijan, though figured as a Council of Europe member state with human rights values, resorted to secrecy. For an extended period, it refused to allow the representatives of any neutral power (the International Committee of the Red Cross) to visit the prisoners of war. Not only have the access of independent mechanisms prohibited, but also the prisoners were constantly prevented from communication. Their captivity remained unacknowledged and prisoners were left completely at the mercy and discretion of those holding them. There are a vast majority of cases, where the captivity as to this day remains unacknowledged and incommunicado. It is more worrying that Azerbaijan also refuses to cooperate properly with the regional human rights court and failed to provide complete and trustworthy information on Armenian captives in the framework of court proceedings.

Incommunicado and unacknowledged captivity

The video shows that Norik Arakelyan is in the hands of an Azerbaijani soldiers. He is standing with his hands tied in front of him, and the lower part of his trousers are wet. He answers the questions of the Azerbaijani soldier. Twice, the latter says out loud “Karabagh...” and waits for the continuation. Norik Karapetyan answers “Karabagh is Azerbaijan” in Russian. Then, the Azerbaijani soldier says “You said so yourself”, and once again says “Karabagh...” which follows by Norik Arakelyan’s answer: “Azerbaijan”. “You said so yourself”, says the Azerbaijani soldier for another time, and adds “Karabagh is Azerbaijan” for Norik Arakelyan to repeat, which the latter does so (<https://drive.google.com/file/d/1ER77zGBzgQ02IUQZkOMQG18VfSDW-WZ9/view?usp=sharing>).

Norik Arakelyan has been taken as a prisoner from 21 of October. As of this date, the ICRC or any independent or neutral mechanisms were refused to visit him. His captivity is still unacknowledged by Azerbaijan and he was not able to contact his family.

Failure to cooperate with the European Court of Human Rights to provide information on whereabouts of Armenian captives

The video shows that Arsen Karapetyan is in the hands of an Azerbaijani soldier and answers his questions. Twice the Azerbaijani soldier repeats “Karabagh”, and waits for the continuation. Arsen Karapetyan answers “Azerbaijan”. At the end, the Azerbaijani soldier asks “Are you honest?” and a “Yes” answer follows. On the ground, there are ropes beneath Arsen Karapetyan’s feet.

(<https://www.dropbox.com/s/xmynpcb31atngwb/Geri%20Arsen%20Karapetyan.mp4?dl=0>)

On 27 October 2020, the ECtHR invited Azerbaijan to submit information on, inter alia, the conditions under which Arsen Karapetyan is being held, his medical condition, possibility of exchange of war prisoners. The information was to be submitted to the Court by 3 November 2020. In its reply, the Azerbaijani Government did not provide any information on Arsen Karapetyan. The ECtHR gave a second opportunity to Azerbaijan to submit the requested information by extending the deadline to 16 November 2020. By the Court’s letter dated 20 November 2020, the Applicant was informed that due to the fact that the respondent Government had failed to comply with the Court’s requests for information, by not providing any information at all in regard to Arsen Karapetyan, the ECtHR made the decision to indicate to the respondent Government, under Rule 39, to ensure respect for his Convention rights and to provide them with necessary and appropriate medical treatment. Information on details of the measures that have been taken or are planned to be taken to repatriate Arsen Karapetyan has also been requested. As of this date, no information is provided to the Court about Arsen Karapetyan, while the events in issue lie wholly within the exclusive knowledge of the Azerbaijani authorities and the responsibility rests on them.

PROHIBITED MEANS EMPLOYED DURING THE QUESTIONINGS

Due to the above-mentioned decisive factors and adhering to their character and peculiar policy towards Armenians, the Azerbaijani authorities also resorted to prohibited means during the questionings, the manifestations of which are illustrated below:

Torturing the PoWs during an interrogation on the battlefield

Six Armenian PoWs are lying on the ground, blindfolded with a white cloth and their hands bound on the back. A couple of them are lying, without being able to move. There are Azerbaijani soldiers with sharp metal rod and weapons in their hands. These captors kick, drag, step on them, and prod them with a sharp metal rod. Wounds caused by sharp metal rods are noticeable on several PoWs. Azerbaijani soldiers repeatedly kick and poke them with the metal rod on head, back, stomach, and legs. PoWs plead with them not to hurt. Begging voices “I will tell everything,” “I will tell more” in Russian are also heard. The PoWs that are being tortured are Valeri Hayrapetyan, Lyudvig Mkrtchyan, Mikayel Martirosyan, Vahe Arakelyan, Saro Markosyan and Mikayel Sargsyan (<https://drive.google.com/file/d/1tzKO6ML8aZqx197-mISpUp0fXYv7tvbz/view>).

Provision of information under torture and coercion regarding the situation in armed forces

The PoW Valeri Hayrapetyan was among the prisoners who were tortured during the interrogation on the battlefield. After a while, Valeri Hayrapetyan was questioned in a meeting room, which was filmed and disseminated (<https://www.youtube.com/watch?v=3bBkckY1WRE&feature=youtu.be>). Bruises are noticeable under his eyes and the hands are swollen. He looks exhausted and speaks with great concentration and efforts. Apart from presenting information on his identity, rank, he describes the circumstances of his service, situation in the army and calls on Armenians to renounce war and refuse to fight for the territories that do not belong to them. In the same manner another PoW Edik Tonoyan was questioned (<https://www.youtube.com/watch?v=sNbiTRjCztw&feature=youtu.be>).

Coercing the PoWs to making untrue confessions on mercenaries

The PoW Albert Mikayelyan introduces himself in Armenian to a person who does not appear in the video. He starts by giving general information about himself, such as his date of birth, the day when he was conscripted into the armed forces, and where he served. He then adds that 6 months after the day of conscription into the army, he received the rank of sergeant-junior and had to be transferred to the military unit in Martuni, Artsakh, where he served in the anti-tank platoon, which, according to him, was always preparing for military exercises. He also says that the military unit of Martuni consisted of 1500 people, including, apart from those conscripted into the army for a 2-year period, contract-soldiers and Kurdish mercenaries. He adds that every one of these Kurdish mercenaries received an amount of \$600 on a monthly basis and that they were formed into 10-15 detachments, constantly exploring the area (<https://www.youtube.com/watch?v=XkX--cLH-mM&feature=youtu.be>). Albert Mikayelyan has noticeable wounds on his face, particularly on his forehead and nose.

Obviously this evidence was required to create a mirror effect on the issue of the use of mercenaries. The UN Working Group on the use of mercenaries confirmed the involvement of mercenaries in and around the Nagorno-Karabakh conflict zone and called Azerbaijan and Turkey to immediately withdraw the mercenaries¹. Though the Working Group received reports from Azerbaijani side with allegations that Armenia has been involved in the deployment of foreign nationals to fight in the Nagorno-Karabakh conflict, it was not confirmed.

Coercing the civilian captive to make untrue confession on his involvement on the Khojaly massacres

¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26494&LangID=E#:~:text=The%20UN%20Working%20Group%20on,zone%2C%20including%20on%20the%20fron tline.>

On 28 of November at around 17:00 o'clock 52 years old villager of Khamort, Abel Hambarzumyan, together with another villager Ramiz, went to the wheat field. In their way back, when they wanted to turn around, they were surrounded by 15-20 Azerbaijani soldiered, who captured them. They were thrown into vehicles and their heads were covered by hoods. Abel was interrogated for several times and was severely beaten. As a result of the beatings, he received physical pain, fractures of the ribs, head injury and currently faces difficulties in moving. At the time of the third interrogation, he was instructed to testify that in a certain year, a certain commander, a certain number of troops took him to Khojaly and many people were massacred.

(https://news.am/arm/news/617332.html?fbclid=IwAR39FhnVoZAfdJgyXCY__ms7niIt-IE_qbhWy2f-2d8dPu10JGu4ZpJBAgU).

By the efforts of Russian peacekeepers, Abel Hambarzumyan and his friend are now released from the captivity.

Evidently, the captives were abused to fabricate evidence in order to “prove” through their confessions the “crimes” of Armenians during the Khojaly events in 1992, as well as to neutralize the effects of the ECtHR rulings in the case of *Fatullayev v. Azerbaijan*, protecting the Azerbaijani journalist for his comments on Khojali events that did not concur with officially declared version (<http://hudoc.echr.coe.int/eng?i=002-984>).

Coercing the PoWs to act against their belief system and opinions

In the video, Vahe Abrahamyan lying in a hospital bed, makes a statement for Armenians. He starts by presenting himself and calling on Armenians to not send anyone to Karabagh, since the battle is unequal, with 18-20-year-old Armenians with basic weapons fighting against Azerbaijani powerful armored fighting vehicles. He then continues by praising for the kind people in Azerbaijan. He starts speaking Russian by saying “These are not our lands”, and continues in Armenian: “It’s not ok to fight for something that is not yours. Take care of yourselves. Let your sons be known for not being capable of fighting or not strong enough, but at least they will be by your side. I am asking you to help all those who are in the same situation as I am. I am asking you to not go in that direction. Your lives are the most precious thing for you.

(https://www.youtube.com/watch?v=61LhpHP_DmU&feature=youtu.be).

Vahe Abrahamyan does not move at all and talks with great difficulty. He is reading out loud a text given to him.

Exposing the PoWs to "public curiosity"

After receiving the request for information on 8 Armenian PoWs by the ECtHR in the framework of an inter-state application *Armenia v. Azerbaijan*, the Azerbaijani Government pre-staged a press conference with the participation of 5 of them, which was an appeal to public curiosity, and as such is prohibited. Despite the fact that signs of torture were visible on the PoWs, they were publicly praising the Azerbaijani authorities. Later, the Government of Azerbaijan, relying on their submissions at the time of the press conference, attempted to convince the human rights court that all Armenian PoWs had been treated in line with the international humanitarian law.

CONCLUSIONS

Due to the above-mentioned decisive factors and adhering to their character and peculiar policy towards Armenians, the Azerbaijani authorities also resorted to prohibited means during the questionings, the manifestations of which are illustrated below:

- Collection of military intelligence has been a priority for Azerbaijan and it employed different prohibited means for extracting information from Armenian prisoners of war. On the one hand, Azerbaijan abused the intelligence value of captives, on the other hand, the exploitation of PoWs was done for propaganda purposes.
- Since their captivity, the prisoners were tortured and ill-treated. The PoWs were also compelled to behave in a predefined way and particularly to make untrue confessions during the questionings.

- The captivity of PoWs was also combined with lengthy incommunicado detention, lack of access to independent mechanisms or to a lawyer. The PoWs were not permitted to notify their families of their capture. Azerbaijan refused the requests for captivity notifications for a prolonged period. This was a special dimension of torture and mental anguish of the PoWs and their family members, as they suffered from the agony that they were enduring because uncertainty.

- Even in the judicial proceedings before the ECtHR, the Government of Azerbaijan failed to comply with the Court's mandatory request for information, by not supplying any specific details or not providing any information at all. Meantime, Azerbaijan was invited to provide to the Court information on the circumstances of the capture, the conditions under which the PoWs have been held, details on their medical examinations or treatment, supported by medical certificates.

- The contributing factors for the duress have been the state-supported hatred against Armenians and discriminatory policy, glorification of persons committing atrocities against Armenians, state-tolerated practice of cult killings, decapitations and torturing of Armenian captives, as well as video-recordings of these scenes of heinous crimes and their wide dissemination among Armenian population with the aim to spread terror.

- The Azerbaijani armed forces acted in an arbitrariness-countenancing environment and the Armenian PoWs have been left completely at the mercy of those holding them. No mechanism to protect the prisoners right to freedom from coercion, duress, torture or cruel treatment was operational and the Armenian captives were forced to make untrue confessions to produce fake evidence for Azerbaijan.

- Azerbaijan pre-staged interviews, press-conferences with the imposed involvement of captives, and forced them voicing of political slogans that "Kharabagh is Azerbaijan", filmed them and disseminated this information with the aim of influencing public opinion and manipulating the opinions and beliefs of the PoWs.
