



**Humanitarian  
Aid Relief Trust**

**A JOINT REPORT**  
**on the analysis of the risk factors associated with the crime of**  
**genocide in the Republic of Artsakh**

## Introduction

The present report is a joint work between the **Observatorio Internacional de Derechos Humanos** (International Observatory for Human Rights) and **Humanitarian Aid Relief Trust**.

The “**Observatorio Internacional de Derechos Humanos**” is part of the foundation “Fundación de Altos Estudios en Ciencias Jurídicas” established in Argentina in 2008. The Observatory’s primary purposes encompass monitoring, documenting, and analyzing human rights violations nationally and internationally. By meticulously gathering data and evidence, the observatory sheds light on violations, providing a crucial platform for raising awareness and fostering accountability among governments, organizations, and individuals. The Observatory aims at playing a critical role in pursuing cases in international, regional, and national courts, advocating for justice and accountability, and fostering international cooperation to create a world free of impunity and where human rights are universally respected and safeguarded.

**Humanitarian Aid Relief Trust (HART)** is an international development charity founded by Baroness Caroline Cox in 2004, who is a human rights campaigner, independent member of the UK House of Lords and former Deputy Speaker. HART partners with local peacebuilders and humanitarian organizations in six countries and provides food, water, shelter, and medical care, as well as support for education, livelihoods, and disability rehabilitation. HART stands alongside local people who are caught in the crossfire of conflict, champions their solutions for sustainable change, and celebrates their vision for a brighter future.

This report provides a comprehensive analysis of the risk factors associated with the potential crime of genocide in the Republic of Artsakh (Nagorno-Karabakh). By applying the United Nations Framework of Analysis for Atrocity Crimes, with a specific focus on genocide, this report aims to shed light on the root causes, preconditions, and international risk indicators relevant to the potential occurrence of genocide. By examining common risk factors such as the situation of armed conflict, records of human rights violations, motives, capacities to commit such crime, the absence of mitigating factors, as well as the specific factors for the crime of genocide, the analysis provides a detailed understanding of the complex dynamics contributing to the heightened risk of genocide.

The findings aim to inform the Special Adviser of the UN Secretary General on the Prevention of Genocide and other relevant agencies within the United Nations and other international organizations, and guide targeted preventive actions to prevent this heinous crime. By taking proactive measures, the stakeholders can collectively work towards preventing genocide and protecting vulnerable populations in the Republic of Artsakh (Nagorno-Karabakh).

Based on the presented analysis, **the report concludes with a recommendation to enact the mechanism of early warning** under the mandate of the Special Adviser on the Prevention of Genocide to bring this situation of the genocide resulting from the illegal siege of the Lachin Corridor to the attention of the Secretary-General and, through him, to the Security Council.

## **I. Relevant Common Risk Factors:**

### **1. The existence of an international armed conflict and the recently developed humanitarian crisis.**

The Artsakh conflict (also known as the Nagorno-Karabakh conflict) has a long history dating back to the early 20th century but escalated into a full-scale war in the late 1980s and early 1990s. In 1988, the Nagorno-Karabakh Autonomous Oblast passed a resolution requesting its transfer from the Azerbaijan Socialist Republic to the Armenian Socialist Republic. This triggered a series of violent clashes between Armenians and Azerbaijanis. As the conflict intensified, Azerbaijan resorted to ethnic violence and forced displacement of Armenians, leading to significant casualties and large-scale population movements. In 1991, both Armenia and Azerbaijan declared independence from the Soviet Union.

Since then, efforts to find a peaceful solution to the conflict have been ongoing for many years, with mediation efforts led by the OSCE Minsk Group, co-chaired by France, Russia, and the United States. However, numerous negotiations and agreements have failed to result in a lasting solution. The status of Artsakh remains a contentious issue, with Armenia advocating for self-determination and recognition of the Republic of Artsakh, and Azerbaijan insisting on maintaining its control over the territory.

In September 2020, Azerbaijan decided to resort to force again and launched a large-scale military attack against the Republics of Artsakh and Armenia. A six-week war ended with a Russian-brokered ceasefire statement on 9 November 2020. The September - November war led to substantial gains for Azerbaijan, including the occupation of a significant part of the territory of Republic of Artsakh. Russian peacekeeping forces were deployed in Artsakh to monitor the ceasefire and ensure stability.

However, as of today the status of the Republic of Artsakh remains unresolved and neither the ceasefire statement nor the deployment of peacekeepers succeeded in establishing peace in the region. While the negotiations for a long-term political solution are expected to continue, the situation on ground has not been stabilizing since the end of the September - November war. The cross-border shootings, repeated ceasefire violations, direct targeting of civilians and threats to civilian population are of a daily character.

Since 12 December 2022, Azerbaijan has administered another provocation leading to a severe humanitarian catastrophe in the Republic of Artsakh. In particular, the Azerbaijani authorities have blocked the only land route connecting Artsakh to Armenia and the outer world. Initially, this was done under the staged pretext of protests organized by state-sponsored “eco-activists” occupying a section of the Berdzor/Lachin corridor near the city of Shushi. Then, directly by the Azerbaijani armed forces and border control service, who illegally blocked the bridge over the Hakari River, located along the Berdzor/Lachin Corridor and established an unauthorized checkpoint on 23 April 2023, in a clear violation of the Ceasefire Tripartite Agreement of 2020<sup>1</sup>.

Furthermore, on 15 June 2023, Azerbaijan escalated the situation in the Lachin Corridor by provoking an incident<sup>2</sup> used to enforce the complete sealing off the lifeline of Artsakh. This has resulted in the absolute blocking of humanitarian access, including the supplies of food, medicine, and other indispensable goods, to the already vulnerable population. Both the ICRC and Russian peacekeeping forces have been banned for long periods from delivering humanitarian relief. As a result, the entire population of Artsakh, including 30.000 children and 20.000 elderly, is now left with meager and rapidly depleting reserves, making them highly susceptible to starvation and further untold suffering.

Along with the ongoing blockade of the Corridor, Azerbaijan has deliberately disrupted the vital infrastructure of Artsakh (natural gas and electricity supply, Internet, and mobile communication) with the aim of further aggravating the humanitarian situation and causing excessive human suffering to the people of Artsakh. Moreover, families were separated, and children could not reunite with their parents. Due to lack of energy and gas, children were not able to attend school during cold weather conditions as the absence of heating resulted in the closure of almost all educational institutions. Many people (17000 persons) lost their jobs during the blockade. The overall sufferings of the Armenians of Artsakh due to the blockade amounts for a countless number of human rights violations and possibly the international crimes of genocide.

The unlawful siege of the Lachin Corridor is causing a serious humanitarian crisis, which is deepening with every passing day. The blockade is targeting the entire ethnic Armenian population of the Republic of Artsakh, deliberately inflicting on them conditions of life calculated to bring about its physical destruction in whole, hence possibly constituting the crime of genocide. The criminal actions of the blockade started nearly eight months ago. In parallel with the blockade, Azerbaijan regularly uses force and escalating threats of the use

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<sup>1</sup> “Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation», <https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement/>

<sup>2</sup><https://www.reuters.com/world/middle-east/azerbaijani-border-guard-wounded-entrance-closed-karabakh-road-2023-06-15/>

of force against the Artsakh people, aiming at clearing the region of any Armenian population, as expressed by President Ilham Aliyev in several public discourses. Ilham Aliyev's public speeches, translated into actions such as the blockade, the constant breaches of the November of 2020 Tripartite Ceasefire Agreement, and the destruction of Armenian cultural heritage in Artsakh, clearly and uncontestably show the dual -general and special- intent required by the provisions defining the elements of the crime of genocide.

Given the homogenous ethnicity of Artsakh population and considering the long-standing tension between Azerbaijanis and Armenians, this blockade serves as a ground for the perpetration of the crime of genocide. However, this crime should not be viewed as a spontaneous and isolated act. It is one episode among Azerbaijan's widespread and systematic attacks against people of Artsakh committed during the last 30 years. These criminal actions also fall within the context of the persecution of Armenians in the region, which started before but reached a peak with the Armenian Genocide between 1915-1923.

The lack of recognition of the Armenian Genocide by its perpetrators, but also by most of the international community, as well as the absence of any form of accountability and of reparations for the victims, has had a direct impact in the more recent history of Artsakh. Genocide does not always appear as a single event of mass murder.<sup>3</sup> Commonly, such acts are a consequence of a process that starts with the legal and factual discrimination of a group of people because of their identity. This is the case of Artsakh and its majority ethnic Armenian inhabitants.

## **2. Record of serious violations of international human rights and humanitarian law by Azerbaijan.**

The human rights situation in Azerbaijan has always been a subject of concern for international human rights organizations.<sup>4</sup> There are ongoing issues and challenges in several areas, such as freedom of expression and media freedom, the right to peaceful assembly, discrimination, etc. Journalists, bloggers, and activists and even regular citizens who criticize the government or report on sensitive topics have faced harassment, intimidation, and imprisonment. The government has imposed restrictive legislation and used tactics such as defamation charges to silence dissent. Civil society organizations and human rights defenders have faced obstacles in their work. Furthermore, discrimination and violence against marginalized groups, including women, LGBT+ individuals, and ethnic minorities, remain issues of concern. Many Azerbaijanis live abroad, mostly in Europe, and they are scared they

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

<sup>4</sup> <https://freedomhouse.org/country/azerbaijan/freedom-world/2022>

might be subjected to deportation to Baku, due to their statements against Aliyev's regime in social media.<sup>5</sup>

These and all the other serious violations of human rights have been the subject of the recent reports by international human rights organizations such as Human Rights Watch<sup>6</sup> and Amnesty International.<sup>7</sup>

The cases of well-documented human rights violations by Azerbaijan not only demonstrate the Azerbaijani legacy of human rights violations in general but also reflect the overall context of hatred towards Armenians, which is widely known under the term **Armenophobia** and constitutes the state policy of Azerbaijan.

Moreover, during the 2020 war in Artsakh and the attacks of 13 and 14 September of 2022 in the Republic of Armenia, Azerbaijani soldiers committed war crimes and crimes against humanity that were clearly motivated by hatred towards the Armenian identity. The crimes were committed against soldiers but also against civilians, and then published on the internet with the aim of intimidating, creating fear in the Armenian population, humiliating, and glorifying their criminal actions. Some of the cases are publicly known as they circulated in social media channels such as Telegram and Twitter, and they were verified by relevant organizations such as Bellingcat.<sup>8</sup>

Azerbaijani soldiers extrajudicially executed Armenian civilians and soldiers; beheaded civilians;<sup>9</sup> desecrated the bodies of dead Armenian soldiers by cutting their ears, stepping on them, and hitting them,<sup>10</sup> and applied psychological and physical torture to civilians -by cutting off their ears and slicing their throats while still alive- and soldiers -hitting them in their wounds, insulting their ethnicity, and forcing them to say "Karabakh is Azerbaijan"-, amongst many other horrific actions whose videos are still available on the internet.<sup>11</sup> The widespread physical and psychological violence exercised by Azerbaijani soldiers during the war is yet to be punished. The international community has yet to express its condemnation for the atrocities committed by Azerbaijanis and provide and/or support any justice process for the victims.

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<sup>5</sup> [https://twitter.com/jalilzademanaf/status/1683443344200826880?s=46&t=l-YY\\_O-tvp1t25XPv0Kgg](https://twitter.com/jalilzademanaf/status/1683443344200826880?s=46&t=l-YY_O-tvp1t25XPv0Kgg)

<sup>6</sup> See "Azerbaijan, events of 2022", Human Right Watch, available at <https://www.hrw.org/world-report/2023/country-chapters/azerbaijan>

<sup>7</sup> See "Azerbaijan, 2022" Amnesty International, available at <https://www.amnesty.org/en/location/europe-and-central-asia/azerbaijan/report-azerbaijan/>

<sup>8</sup> <https://www.bellingcat.com/news/2022/10/20/an-execution-near-sev-lake-armenia-azerbaijan/>

<sup>9</sup> <https://azeriwarcrimes.org/2020/12/21/18-azerbaijani-special-forces-soldier-pins-down-an-old-armenian-man-and-proceeds-to-cut-his-head/>

<sup>10</sup> <https://azeriwarcrimes.org/2022/09/19/desecration-of-female-armenian-soldier-by-azerbaijani-troops/>

<sup>11</sup> <https://azeriwarcrimes.org/atrocities/>

Furthermore, there were various reports and allegations regarding the use of different weapons and tactics during the conflict, including the use of white phosphorus.<sup>12</sup> White phosphorus is a highly controversial substance when used as a weapon, as it can cause severe burns and other injuries, especially when it comes into contact with human skin potentially leading to long-term physical and psychological trauma. It can also ignite fires that are difficult to control, putting civilian populations and their surroundings at risk. The use of white phosphorus in populated areas or against civilian targets is prohibited under international law.<sup>13</sup>

Although the use of white phosphorus ammunition was allegedly used by Azerbaijan to set forests on fire, it shows the total disregard for the ecosystem while destroying the autochthonous flora and fauna. Likewise, the destruction of the environment is a tactic used to expel its inhabitants, since life in the affected areas is impossible to sustain. Nevertheless, there are reports that 87 Armenian soldiers sustained burn injuries consistent with the use of white phosphorus during the 44-day war.<sup>14</sup> Those victims were treated in Yerevan, and 9 of them died due to the burns. On 6 November 2020, the then Ombudsman of Armenia Armen Tatoyan mentioned that this weapon of mass destruction was used in civilian residential areas. Among them are the communities of Nngi, Sghnakh, Aknaghbyur, Taghavard, Togh, Karin Tak, the forests of which are in the immediate vicinity of the settlements, up to 100 meters away.<sup>15</sup>

In the context of these actions, it is possible to infer Azerbaijan's intention to cause excessive suffering and physical and psychological damage to Armenian soldiers and civilians through the use of this chemical weapon. Although there have been crossed allegations regarding the use of white phosphorus, the detection of the geographical place and the time in which the fires occurred, established in the satellite images, shows that the use was carried out, *prima facie*, by Azerbaijan.<sup>16</sup>

Considering these actions and the historical verbal and physical violence, it is possible to affirm that Azerbaijan has engaged in a constant, systematic, and historical genocidal policy against Armenians that has reached its peak with the current siege of Artsakh. The total isolation of this territory, which began in December 2022 with the blockade of the only land communication route between Artsakh and Armenia and deepened with the establishment of a checkpoint in April of this year, is the epitome of the violence exerted against the

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<sup>12</sup> See <https://medium.com/dfrlab/satellite-imagery-shows-environmental-damage-of-reported-white-phosphorus-use-in-nagorno-karabakh-9826391a295>

<sup>13</sup> Protocol III of the Convention on Certain Conventional Weapons (CCW) and Additional Protocol I of the Geneva Conventions.

<sup>14</sup> See brief report: [https://www.injuryjournal.com/article/S0020-1383\(21\)00175-3/fulltext](https://www.injuryjournal.com/article/S0020-1383(21)00175-3/fulltext) and <https://www.france24.com/en/europe/20201119-nagorno-karabakh-ceasefire-armenia-accuses-azerbaijan-of-using-phosphorus-bombs>

<sup>15</sup> <https://fip.am/en/13682>

<sup>16</sup> See *ut supra* note 71.

Armenians of Artsakh. Nothing is more pressing in terms of violence than the slow death from starvation, isolation, lack of access to medicine, and the imposition of overall physical and psychological torture caused by the blockade.

The destruction of Armenian property and cultural sites and heritage in Artsakh is another relevant crime worth mentioning. Several reports and claims of national and international organizations, both governmental and non-governmental, have spoken up about the systematic destruction of cultural heritage -including but not limited to churches and the famous and traditional stone-crosses known as Khachkars- by Azerbaijanis which clearly aims at erasing the indigeneity of ethnic Armenians in these territories.

Since 1991, Azerbaijan has steadily and systematically destroyed property and cultural heritage. However, a few examples will suffice to clearly state that Azerbaijan is engaging in strong policies of erasure, falsification, and destruction of the Armenian identity via the destruction of cultural representations and property.

Among many other cases, there is the well-documented example of the destruction of the Old Jugha/Djulfa cemetery in Nakhichevan, which once possessed the world's largest collection of Khachkars from the 15th and 16th centuries.<sup>17</sup> The destruction has been acknowledged and denounced by the International Council on Monuments and Sites, the European Parliament, and international press reports, which have condemned Azerbaijan's acts as "the worst cultural genocide of the 21st century."<sup>18</sup>

The 2020 war and its aftermath are not different from the abovementioned event. Several videos published -most likely- by the perpetrators themselves, show the systematic disrespect and destruction of Armenian cultural heritage in the region. Amongst other actions, Azerbaijani soldiers shot, vandalized, and destroyed monuments, crosses, family tombs, churches, statues, and monuments.<sup>19</sup>

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<sup>17</sup> Simon Maghakyan & Sarah Pickman, "A Regime Conceals Its Erasure of Indigenous Armenian Culture," Hyperallergic (18 February 2019), available at <https://hyperallergic.com/482353/a-regime-conceals-its-erasure-of-indigenous-armenian-culture/>; "Azerbaijan must be held accountable for the destruction of Armenian cultural heritage," Horizon Weekly (8 December 2018), available at <https://horizonweekly.ca/en/azerbaijan-must-be-held-accountable-for-the-destruction-of-armenian-cultural-heritage/>; Armen Haghazarian & Dieter Wickmann, "Azerbaijan, destruction of the Armenian Cemetery at Djulfa – Continued," Heritage at Risk 37 (June 2007), [https://www.icomos.org/public/risk/world\\_report/2006-2007/pdf/H@R\\_2006-2007\\_09\\_National\\_Report\\_Azerbaijan.pdf](https://www.icomos.org/public/risk/world_report/2006-2007/pdf/H@R_2006-2007_09_National_Report_Azerbaijan.pdf), "Satellite Images Show Disappearance of Armenian Artifacts in Azerbaijan," American Association for the Advancement of Science (7 December 2010), <https://www.aaas.org/resources/satellite-images-show-disappearance-armenian-artifacts-azerbaijan>

<sup>18</sup> Berning Sawa, D. "Monumental loss: Azerbaijan and the 'worst cultural genocide of the 21st century'", The Guardian, March 1st 2019. <https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars>

<sup>19</sup> For evidence on the destruction of cultural heritage access the following links: <https://youtu.be/yDWqHR1bc7k>



Moreover, Nagorno-Karabakh's symbolic cultural city of Shushi has been under the control of the Azerbaijani armed forces since 7 November 2020. It is home to the St. Savior Ghazanchetsots Armenian Cathedral, attacked twice during the war. Since then, images of the vandalism of the cathedral have been circulating on the Internet. Artsakh's Ombudsman published an Ad-hoc Public Report that speaks of Azerbaijan's targeted attacks on Shushi Cathedral as a war crime and crime against humanity. Moreover, the Human Rights Watch in its "Azerbaijan: Attack on Church Possible War Crime" report stated: "Two separate attacks, hours apart, on the Ghazanchetsots Cathedral on October 8 in the town of Shushi, also known as Shusha, suggest that the church, a civilian object with cultural significance, was an intentional target despite the absence of evidence that it was used for military purposes."<sup>20</sup> Another relevant Ad-Hoc Public Report on the Armenian Cultural Heritage in Artsakh focuses on the cases of vandalism and the risk of destruction of cultural heritage in areas controlled by Azerbaijan, such as the Armenian Genocide monument destroyed in Shushi by Azerbaijani forces.<sup>21</sup>

### **3. The Azerbaijani incentive of seizing the territory of Artsakh and rendering the area free from Armenians.**

In examining the depths of Azerbaijani motivations, one clear incentive emerges—a desire to seize the territory of Artsakh and **rid it of any trace of Armenian existence**. This may arise from an insatiable hunger for power, twisted beliefs, fear, or suspicion. It is important to recognize that such actions disregard the value of human life and go against fundamental principles the international community has adopted since the end of WWII to prevent the atrocities that occurred prior and during that conflict. Furthermore, although these reasons for committing crimes are not within the required elements of the crime of genocide, specialists in the field have recognized them as relevant alerts for genocide usually present in the overall process of the crime.

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<https://twitter.com/i/status/1327673231550124035>, [https://horizonweekly.ca/en/armenia-raises-the-issue-of-destruction-of-artsakhs-heritage-by-azerbaijan-with-unesco/?fbclid=IwAR2W-p7T9stS7b2\\_zZAonrhxxRTsm8ef\\_INGbEXhOVujQ\\_LhHxTRQPkrWE](https://horizonweekly.ca/en/armenia-raises-the-issue-of-destruction-of-artsakhs-heritage-by-azerbaijan-with-unesco/?fbclid=IwAR2W-p7T9stS7b2_zZAonrhxxRTsm8ef_INGbEXhOVujQ_LhHxTRQPkrWE)

<https://twitter.com/i/status/1336286195966423040>

<https://twitter.com/i/status/1331949299236806657>

<https://twitter.com/i/status/1329372595926528000>

<https://twitter.com/i/status/1331902704436867073>

<https://twitter.com/i/status/1331902372755419141>

and [https://www.instagram.com/p/CHW-r9RJyzk/?utm\\_source=ig\\_web\\_copy\\_link](https://www.instagram.com/p/CHW-r9RJyzk/?utm_source=ig_web_copy_link)

<sup>20</sup> <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime>

<sup>21</sup>Zartok Media (@ZartokMedia), "Azerbaijanis Demolish Armenian Genocide Monument In Occupied Artsakh's Shushi," Twitter (30 March 2021), available at <https://twitter.com/ZartokMedia/status/1376995152728760321> (showing before and after photos of the destruction of an Armenian Genocide monument in Shushi). See also generally Armenian Bar Association, Urgent Call for Action: In response to the destruction and desecration of Armenian religious and cultural heritage property by the Azerbaijani Armed Forces and the denial and erasure of Armenian cultural heritage (21 January 2021), available at <https://armenianbar.org/heritage/>

As previously mentioned, what is more disturbing is that the president of Azerbaijan has never tried to conceal or hide his genocidal incentives and has persistently repeated his purpose of rendering the territory of Artsakh free from ethnic Armenians.

In January 2021, in his address to servicemen in the occupied city of Shusha, Ilham Aliyev said, in reference to the 44-day war and Armenians: *“They are hiding like mice now, tight-lipped, unable to utter a word. We came here as winners,” “We forced the enemy to kneel before us and sign the act of capitulation. That is what happened, and the humiliating act of capitulation will go down in history forever,” “I have said many times, including in my meetings with the military, that if the enemy does not leave our lands of its own free will, we will force them out of our lands. Force will play a role, and so it happened.”*<sup>22</sup> These words are manifestations of hatred towards the Armenian population of Artsakh, they show Aliyev’s megalomaniacal and genocidal objectives, and deny the ancestral origin of autochthonous Armenians. Expressions of this kind are not isolated, on the contrary, they can easily be found in Ilham Aliyev’s official website where his speeches are publicly posted without any kind of reservation (<https://president.az/en/news/category/speeches>).

Another one of the recent vivid examples of this serves the statement of President Aliyev made in May 2022, when speaking at the opening of a new residential complex for war veterans and their families in Baku when he clearly mentioned *“Our primary duty was to expel the Armenians from our lands”*.<sup>23</sup>

Regarding the blockade, Aliyev also expressed his intention to expel Armenians from their lands and to exercise control over the territory. In an interview held in January of the current year, he said: *“Conditions will be created for those who want to live under the flag of Azerbaijan. Like the citizens of Azerbaijan, their rights and security will be ensured. For whoever does not want to become our citizen, the road is not closed, but open. They can leave. They can go on their own, or they can ride with peacekeepers, or they can go by bus. The road is open.”*<sup>24</sup> His expressions refer to the Armenians of Artsakh and his understanding of their possibility to leave the territory despite the blockade. Aliyev, in total control of the situation and the territory of Artsakh, gave an *ultimatum* to its citizens to either adopt Azerbaijani citizenship or leave.<sup>25</sup> On May 28, over a month after the establishment of the checkpoint at the Hakari bridge, Aliyev reiterated his ultimatum to Armenians to leave or acquire

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<sup>22</sup> See Ilham Aliyev’s full speech: <https://president.az/en/articles/view/50226>

<sup>23</sup>See *“Ilham Aliyev and First Lady Mehriban Aliyeva have attended the opening of a new residential complex for families of martyrs and war disabled in the Sabunchu district, Baku”*, The President of the Republic of Azerbaijan Ilham Aliyev, 2 May 2022, available at <https://president.az/en/articles/view/55929>

<sup>24</sup> See <https://www.opendemocracy.net/en/odr/nagorno-karabakh-blockade-azerbaijan-armenia-citizenship/>

<sup>25</sup> Id.

citizenship: “obey the laws of Azerbaijan [and] be a loyal and normal citizen of Azerbaijan.”<sup>26</sup> Aliyev also added that the checkpoint “should be a lesson” for the Armenians, in a clear recognition that his actions are a reprisal for his understanding of the ‘wrongdoings’ of Armenians.<sup>27</sup>

Thus, it is more than evident that the perpetration of the illegal siege of the Lachin corridor, the establishment of a checkpoint on the bridge over Hakari River and the complete seal of the road since 15 June 2023 confirms that Azerbaijan’s state policy is aimed at committing genocide in Artsakh, which *inter alia* presupposes the incentive of seizing the territory of Artsakh without any Armenians therein.

#### **4. The capacity of Azerbaijani authorities to commit the crime of genocide.**

While military power alone is not sufficient to predict the crime of genocide, it, nevertheless, can be a contributing factor. To generally assess Azerbaijan’s military strength, access to weapons, and capacity for violence more in-depth analysis from the military perspective might be needed. However, for the purposes of the current report it would suffice to mention that currently Azerbaijani army has its boots on the territory of the Republic of Artsakh. Since the end of September – November 2020 war and the occupation of a significant part of the Republic of Artsakh, the Azerbaijani armed forces have deployed extensive forces and armory in the area by establishing dozens of military bases and hundreds of military positions. As a result, it currently has enough military presence in the vicinity of Artsakh to reach the mass murder/extermination stage<sup>28</sup> of genocide against ethnic Armenians. On this note, it should be highlighted that the checkpoint on the Hakari bridge has been established and is being operated by the Azerbaijani armed forces themselves.

On the other hand, the limited resources available to the Republic of Artsakh should not be neglected as well. The Defense Army of the Republic of Artsakh has been deprived of any significant military supplies since the end of the 2020 war. Thus, it would not be compatible to even assess those resources for the defensive purposes against Azerbaijani forces.

It is important to note that the Russian peacekeeping contingent deployed in the territory has a purely humanitarian mandate and is not supposed to be engaged in any military activity. The latter has been evidenced during all the latest military provocations and ceasefire violations from the Azerbaijan side, when the Russian forces refrained to take any military

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<sup>26</sup><https://oc-media.org/aliyev-ready-to-offer-amnesty-to-stepanakert-authorities-if-they-dissolve-government-and-parliament/>

<sup>27</sup> Id.

<sup>28</sup> <http://genocidewatch.net/genocide-2/8-stages-of-genocide/>

action even for the prevention or cessation of the attacks against civilians and civilian objects of Artsakh.<sup>29</sup>

## **5. The shadowed character of the Blockade as the main cause for the absence of any mitigating factor.**

Despite its profound impact, the blockade of Artsakh has remained in the shadows, desperately pleading for recognition on a global scale. This pressing concern, with its far-reaching consequences, has struggled to secure the global recognition it rightfully deserves. Notwithstanding its urgency and gravity, the international community's attention has been diverted by other pressing concerns or overshadowed by political rivalries. Consequently, the limited visibility has hampered the mobilization of resources, actions, and concerted efforts necessary to tackle the issue head-on.

The inadequacy of the pressure from the international community on Azerbaijan has led to a situation where the latter clearly ignores even the decisions taken by international tribunals, such as the European Court of Human Rights (ECtHR)<sup>30</sup> and International Court of Justice (ICJ)<sup>31</sup>. Furthermore, the military checkpoint at the Hakari bridge shortly after ICJ's decision is a clear violation of the Tripartite Ceasefire Agreement of November of 2020, and the international principles and provisions Azerbaijan has freely ratified.

This ignorance has served as a soil for further deterioration of the situation on the ground. As mentioned above, on 23 April 2023, Azerbaijan unilaterally blocked the bridge across the Hakari River and established an unlawful checkpoint in the Lachin Corridor, which resulted in the complete isolation of the population. The villages of Mets Shen, Hin Shen and Yeghtsahogh with hundreds of civilians are now dangerously separated from the outside world. These are small and not self-sufficient villages, which depend on access to Goris (Armenia) for food and vital medicines. Without such access, the civilian population of the villages are suffering serious humanitarian consequences.

Having gone unobserved with the checkpoint, since 15 June 2023, Azerbaijan further escalated the humanitarian crisis by halting all the flows of crucial humanitarian relief and leaving the already vulnerable population of Artsakh in a state of dire need.<sup>32</sup>

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<sup>29</sup> <https://armenpress.am/eng/news/1112791/>

<sup>30</sup> See "European Court decides to indicate interim measures in the "Lachin Corridor" Press Release ECHR 401(2022), 21 December 2022, available at <https://hudoc.echr.coe.int/eng-press#%7B%22itemid%22:%5B%22003-7528728-10337270%22%7D>

<sup>31</sup> See *Armenia v. Azerbaijan*, ICJ Order of 22 February 2023, available at <https://www.icj-cij.org/sites/default/files/case-related/180/180-20230222-ORD-01-00-EN.pdf>

<sup>32</sup> <https://www.icrc.org/en/document/azerbaijan-armenia-sides-must-reach-humanitarian-consensus-to-ease-suffering>

Thus, absence of the Artsakh blockade from the global spotlight not only perpetuates the suffering of those directly affected but also creates a favorable environment for any potential crime of genocide absent of mitigating factors.

## **6. Steps taken by Azerbaijan towards the trajectory of the crime of genocide.**

Considering the tensions of the Artsakh conflict within the annals of history, the actions initiated by Azerbaijan's regime since the war of aggression of 2020 are nothing else than preparatory activities gradually creating an environment conducive to the commission of the crime of genocide, where the illegal siege of the Lachin Corridor is just the culminating act.<sup>33</sup>

First, it is to be noted that the signing of the Trilateral Ceasefire Agreement of 9 November 2020, failed to establish any lasting ceasefire, and clashes and ceasefire violations by Azerbaijan continued in various forms and intensity. The very first breach of the ceasefire statement took place nearly one month after its adoption, when on 11 December 2020, Azerbaijani forces occupied the villages of Hin Tagher and Khtsaberde of the Hadrout Region.

Afterwards numerous cases of targeting and killing of civilians, capturing, and abducting individuals, attacking, and destroying civilian infrastructure and cultural heritage have come to prove the futile nature of this joint statement.

Second, the clearly staged manifestations of State sponsored "eco-activists" sieging the lifeline between Artsakh and the outside world and imposing unbearable living conditions on the entire ethnic Armenian population of Artsakh, showed the Azerbaijani regime's intent to destroy the population of Artsakh.

It should be highlighted that even during the ongoing siege parallel military aggravations by Azerbaijani forces continued. On 5 March a sabotage group of the Azerbaijani armed forces attacked a vehicle of the Passport and Visa Department of the Ministry of Internal Affairs of Artsakh. As a result of this attack, three police officers were killed, and one was wounded.<sup>34</sup>

Third, the protestors faded away as soon as a military checkpoint was established on the Hakari bridge on 23 April 2023. This served as the continuation of the imposition of slow death

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<sup>33</sup> The Lemkin Institute for Genocide Prevention has issued a Red Flag Alert for Genocide - Azerbaijan and 8 updates: <https://www.lemkininstitute.com/red-flag-alerts/red-flag-alert-for-genocide---azerbaijan---update-5> as well as Statements highlighting the genocidal actions of Aliyev's regime: <https://www.lemkininstitute.com/statements-new-page/a-peace-to-end-all-peace%3F--statement-on-the-international-actors-sponsoring-so-called-peace-negotiations-between-armenia-and-azerbaijan->

<sup>34</sup> See "Statement on deadly ambush carried out by Azerbaijani subversive group against police officers of Nagorno-Karabakh in violation of Trilateral Statement of November 2020", 9 March 2023, available at <https://www.osce.org/files/f/documents/c/c/539213.pdf>

measures, this time directly by Azerbaijan's state agents. The so-called State sponsored "eco-activists" were replaced by the military structure.

Lastly, since 15 June 2023, Azerbaijani servicemen have deliberately provoked a military incident on the Hakari bridge and used it to completely seal off the lifeline serving for the delivery of humanitarian relief.

All the above mentioned and other relevant events and measures being perpetrated by the Azerbaijani authorities for a prolonged period suggest a clear trajectory towards the preparation of the crime of genocide. The people of Artsakh live in constant fear of a large-scale imminent attack knowing also about the impossibility of defending themselves and the indifference of the international community.

On this note, it is important to also highlight that since the very first day of the siege up to date **Azerbaijan has refused to allow any international or independent media** or any other relevant actor to access these areas. Neither Armenian nor any other media outlets, non-governmental organizations or any other stakeholder was allowed to visit the blockaded parts of the Corridor.<sup>35</sup> Only governmental or government affiliated media from Azerbaijan have been allowed to cover the blockade and relevant incidents.<sup>36</sup>

## **II. Risk Factors Specific to the Crime of Genocide:**

### **7. The patterns of discrimination by Azerbaijan against the ethnic Armenian population of Artsakh.**

The Artsakh conflict has always been accompanied with hatred and hate speech inflicted from Azerbaijani side towards ethnic Armenians. This phenomenon commonly referred as "Armenophobia" has formed a significant part of Aliyev's regime, which includes an open state propaganda against Armenians to the extent of denying the existence of this ethnic group. International and regional organizations have extensively documented the state-led policies of hatred, construction of distorted historical narratives, denial of the very existence of the Armenian people in their ancestral homeland and glorification of perpetrators of hate crimes, which constitute a serious threat to the peace and security in the region -fundamental values supposedly protected by the international community-.

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<sup>35</sup> <https://rsf.org/en/after-three-month-blockade-rsf-urges-azerbaijan-and-russian-peacekeepers-let-reporters-visit>

<sup>36</sup> See "After three-month blockade, RSF urges Azerbaijan and Russian peacekeepers to let reporters visit Nagorno-Karabakh" Rapporteurs Without Borders, available at <https://rsf.org/en/after-three-month-blockade-rsf-urges-azerbaijan-and-russian-peacekeepers-let-reporters-visit>

Mentioning all historical events representative of the embedded Armenophobia within Azerbaijan's regime for the past 30 years would exceed the length provided to this report; thus, only some of the ones committed since the beginning of the war onwards will be mentioned.

During the 44 days war of 2020, Azerbaijan committed several crimes that amounted to war crimes and crimes against humanity, and possibly also the crimes of genocide. These crimes included -but were not limited to- forced displacement of 40 000 people, torture, beheadings, homicides of civilians, use of prohibited weapons, destruction of cultural heritage, monastery complexes and their contents, churches, and buildings representative of the Armenian identity in Artsakh. However, the crimes committed during the war have special characteristic as they were based on the hate towards the Armenian identity of the victims: Victims were executed both with the Armenian and Artsakh flags, POWs were forced to say that "Karabakh is Azerbaijan," victims were insulted for being ethnic Armenians. Women were specifically targeted during the September 2022 attack; their corpses were mutilated, and perpetrators used derogatory insults towards their gender and identity as they were filming them dead in the battlefield.

Moreover, a few months after the ending of the war, on 12 April 2021, Ilham Aliyev inaugurated the so-called "Military Trophy Park,"<sup>37</sup> where in a grotesque and offensive way the crimes committed by Azerbaijan were portrayed and glorified, and Armenian soldiers were ridiculed and caricatured in a kind of life-size wax mannequins.<sup>38</sup> Shortly after the inauguration of the "Park," photos of young children playing with the Armenian soldiers' figures began to circulate on the internet.<sup>39</sup> Hate against Armenians is embedded in children at a very young age.

The blockade initiated by pseudo environmentalists in December 2022 is the epitome of the materialization of Armenophobia into actions. The international community has stood still without condemning Azerbaijan's regime. On the contrary, politicians<sup>40</sup> and prominent public figures<sup>41</sup> have engaged in politics of "bothsidesism," portraying the situation as if every side was equal in responsibilities and obligations.

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<sup>37</sup> See Ilham Aliyev's inauguration speech full of hate towards Armenians:

<https://president.az/en/articles/view/51083>

<sup>38</sup> <https://www.bbc.com/news/world-europe-56885719>

<sup>39</sup> Photos of children playing in the so called park can be found here: <https://asbarez.com/azeri-children-play-at-bakus-macabre-military-trophies-park/>

<sup>40</sup> <https://www.politico.eu/article/crisis-in-karabakh-baku-eu-armenia-azerbaijan/> and <https://eafjd.eu/eafjd-condemns-charles-michels-endorsement-of-using-aghdam-to-provide-so-called-humanitarian-aid-to-nagorno-karabakh-artsakh/>

<sup>41</sup> <https://www.bbc.co.uk/programmes/w3ct32mm>



In conclusion, it can be established that there is a strong pattern of discrimination throughout the annals of the Artsakh conflict against ethnic Armenians of Artsakh as a protected group under Azerbaijan's power and control, that of course goes far beyond the war of 2020. Regardless of Artsakh's own organization as an autonomous State and the ethnic Armenians of Artsakh wanting to be independent, Azerbaijan continues to exercise its full control over the territory and to impose measures aiming at destroying the entire population.

#### **8. Azerbaijan's unhidden "intent to destroy in whole"<sup>42</sup> the ethnic Armenian population of Artsakh.**

Since the beginning of the 2020's aggression of Azerbaijan towards Artsakh and for a period that lasted for about a year, hundreds of Armenian civilians were killed, tortured, or mutilated by the Azerbaijani forces.<sup>43</sup> Many of them were not able to leave their homes. In the case of the town of Hadrut, people were unable to leave due to disabilities or age, and the evacuation took place on the night of the 7 to 8 of October, just a day before the entire region fell under the control of Azerbaijan. The entire civilian population that could not leave, was killed; their bodies were found later, during 2021, at the request of their relatives, and, finally, the remains were sent to Armenia. Only by that time many people found out their loved ones had been subjected to extremely inhumane conditions, which paved the way to their death.<sup>44 45</sup>

The illegal siege of Artsakh through the blockade of the Lachin Corridor and the recently established military checkpoint on the Hakari Bridge are the culminating events of decades of discrimination, stigmatization, violence, segregation of the Armenians of Artsakh. As stated recently in Moreno Ocampo's report, this blockade has the objective to physically destroy the Armenians of Artsakh, either by their biological elimination through starvation and/or lack of access to healthcare, or by their expulsion due to the impossibility to continue to live under such a distressing regime. The slow death of the Armenians is already happening. The denial of their right to live on their ancestral lands is today a concrete fact.

Ilham Aliyev has repeatedly and publicly expressed his intention to expel Armenians from Artsakh if they do not submit to Azerbaijani rule and recognize themselves as such. Given Azerbaijan's publicly known record of persecution, discrimination, illegal detention, murder, torture, and stigmatization of Armenians, requesting them to subject themselves to the total control of Aliyev's regime is equivalent to accepting a short-term death sentence. Azerbaijan's

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<sup>42</sup> According to the legal terminology of the Genocide Convention and the Rome Statute for the International Criminal Court.

<sup>43</sup> The Republic of Artsakh Human Rights Ombudsman, Interim Report (Sept. 27, 2021), <https://artsakhombuds.am/en/document/785> at 3.

<sup>44</sup> Committee on the Elimination of Racial Discrimination, Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan, CERD/C/AZE/CO/7-9, June 10th, 2016. <https://www.ohchr.org/en/documents/concluding-observations/concluding-observations-combined-seventh-ninth-periodic-reports>

<sup>45</sup> Freedom House, "Nagorno-Karabakh," <https://freedomhouse.org/country/azerbaijan/freedom-world/2023>



dictatorial government glorifies, celebrates, and rewards individuals convicted in foreign courts for criminal acts against Armenians.<sup>46</sup>

Aliyev's expressions, along with his regime's public policy of discrimination of Armenians, demonstrate a clear intent on the part of Azerbaijan's authorities to destroy the entire ethnic Armenian population of Artsakh and render the area free of any Armenians. Those verbal intentions, often embodied in laws and translated into the criminal actions fulfill the requirement of the intent of the crime of genocide. All the steps taken by Azerbaijan are aimed at making the lives of Armenians of Artsakh intolerable, if not impossible.

As stated by Kai Ambos, under the elements of the crime, there are two mental elements. One is a general intent which refers to the objective or material elements of the crime (acts enumerated in the Genocide Convention and the Rome Statute). To meet the general intent element, the active subject must be aware that his actions are directed to one of the protected groups.<sup>47</sup> In the case of Artsakh, the population is undoubtedly Armenian. High-ranking officials, as well as mid and low-level perpetrators, are aware of the Armenian ethnicity of those living in Artsakh and of those illegally detained, apprehended, illegally sentenced in show trials, tortured, murdered, and persecuted. All perpetrators are undoubtedly aware of the identity of the targeted group.

Genocide also has an "intent to destroy," which, according to international jurisprudence in the matter, implies a special intent, in its most intense form, based on the purpose of destroying the targeted group.<sup>48</sup> Regardless of the doctrinal or judicial interpretation, in the case under analysis there is a clear intent to destroy the Armenians of Artsakh. It is undeniable that all Azerbaijani perpetrators, regardless of their rank, have the knowledge and intent to impose conditions of life that aim at the physical destruction of Armenians.

Moreover, the situation in Artsakh, significantly worsened due to a complete siege via the blockade of the Lachin Corridor, is clearly approaching a genocidal situation. On August 15, the Ombudsman of the Republic of Artsakh reported about a case of starvation: 40-year-old K. Hovhannisyanyan died because of chronic malnutrition and protein-energetic deficit<sup>49</sup>.

The ongoing starvation and the arbitrary denial of access for any humanitarian relief has already reached a level that aligns with several of the acts of the crime of genocide, as defined

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<sup>46</sup> Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Order of 7 December 2021 Indicating Provisional Measures, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20211207-ORD-01-00-EN.pdf>

<sup>47</sup> Ambos, K., ¿Qué significa la «intención de destruir» en el delito de genocidio? Revista Penal, n.o 26, Julio 2010. <https://dialnet.unirioja.es/servlet/articulo?codigo=4969738>

<sup>48</sup> Id.

<sup>49</sup> <https://www.facebook.com/ArtsakhOmbuds/posts/pfbid02dzk8LcLVKY92HMKzuhoSnVPWH4zVVZQoVFXSUyrGarsJFLRw4JExf59NfgoqXWxDI>

in the provisions of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and of the Rome Statute. Given the severity of the situation, the ICRC has issued a public statement raising the alarm about the deteriorating humanitarian emergency and calling on the restoration of delivery of humanitarian assistance through the Lachin Corridor.<sup>50</sup>

These criminal actions, viewed in a general context of the continuing tensions and supported by government statements, suggest Azerbaijan's intent to destroy in whole the ethnic Armenians of Artsakh as a protected group. Thus, the presence of all other elements of the crime can be strongly argued.

Therefore, in the case of Artsakh and its ethnic Armenian population, even under the strictest interpretation, it is possible to affirm that the acts committed by Azerbaijanis -whether against military personnel, or civilians- under the direct orders of Ilham Aliyev constitute the crime of genocide. This has created unbearable conditions of life calculated to bring about the physical destruction of the entire population of Artsakh. If this trajectory of genocidal criminal actions remains unaltered, the stage is set for the total eradication of Armenians in Artsakh either by death or forced expulsion, despite the efforts to address the escalating tensions and mitigate the underlying causes.

### **III. Conclusion and Recommendations**

The current report has tried to highlight the common and specific risk factors for the crime of genocide being perpetrated in the Republic of Artsakh against the ethnic Armenians.

Accordingly, the report recommends enacting the mechanism of early warning under the mandate of the Special Adviser on the Prevention of Genocide to bring this situation of a crime of genocide resulting from the illegal blockade of the Lachin Corridor to the attention of the Secretary-General and, through it, to the Security Council with a view to:

- prevent the perpetration of the crime of genocide in Artsakh by halting the illegal blockade of the Lachin Corridor and ensuring free and unimpeded movement along the corridor in both directions;
- deploy a fact-finding mission in Artsakh to evaluate the existent risk of the atrocity crimes including but not limited to the crime of genocide in the country and the consequences of the unlawful siege;

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<sup>50</sup> ICRC, "Azerbaijan/Armenia: Sides must reach "humanitarian consensus" to ease suffering", July 25th, 2023. <https://www.icrc.org/en/document/azerbaijan-armenia-sides-must-reach-humanitarian-consensus-to-ease-suffering>

- call on Azerbaijan to fulfil the international obligations it has accepted by ratifying several international human rights documents including but not limited to the Ceasefire Tripartite Agreement and the Genocide Convention;
- call on Azerbaijan to immediately lift the blockade and remove the checkpoint, according to the International Court of Justice's decision of 22 February 2023 and the recommendations done by several UN experts and Special Rapporteurs;
- call on Azerbaijan to protect Armenian cultural heritage in Artsakh and to allow a fact-finding mission by UNESCO;
- address the issue of the right of self-determination and recognition of Artsakh's statehood as requested by the Armenians of Artsakh since 1991;
- support any investigations and justice processes carried out in any jurisdiction to bring justice to the Armenian people in the understanding that genocide prevention cannot exist without justice and accountability;
- call on the international community to cooperate and ensure the livelihood of Armenians in Artsakh;
- enforce the principles within the Genocide Convention to prevent and punish the crime of genocide.