



THE INTERNATIONAL AND COMPARATIVE LAW CENTER, NGO

**ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION (CERD)**

FOR REVIEW OF THE PERIODIC REPORT OF AZERBAIJAN

107th session of CERD 8–30 August 2022

Submitted on 1 July 2022

The International and Comparative Law Center (ICLaw-Armenia) is a non-governmental organization founded in 2010 by a group of young legal scholars. The mission of the organization is to protect human rights and fundamental freedoms, strengthen the rule of law in international relations and foreign policy. The Organization operates in an apolitical, independent, fair and transparent manner, covering the whole territory of the Republic of Armenia and Nagorno-Karabakh (Artsakh). ICLaw-Armenia conducted fact-finding mission in connection with the 2020 war in Nagorno-Karabakh and documented human rights abuses and international crimes based on first-hand, reliable and verifiable information, which has served as a basis of complains and litigations before international and regional courts and other bodies.

I. INTRODUCTION

1. This report is submitted by the ICLaw-Armenia in advance of the review of the periodic report of Azerbaijan by the Committee on the Elimination of Racial Discrimination (CERD) at its 107th session.
2. This report focuses on Azerbaijan's and its representatives' policy of racial discrimination and ethnic hatred against ethnic Armenians, which has considerably deteriorated after the outbreak of the armed conflict on September 27, 2020, against the predominantly Armenian-populated Republic of Artsakh (Nagorno-Karabakh Republic) and remains relevant to this day.
3. This report also highlights incidence of ethnically motivated violence against Armenian and state-sponsored impunity for the perpetrators.

II. INFLAMMATORY SPEECHES BY POLITICIANS AGAINST ARMENIANS

4. The Committee has often in its documents (arts. 4,5, and 7 of concluding observations) expressed concern over inflammatory language by politicians speaking about the Nagorno-Karabakh conflict and the Armenian population, which has a direct impact on the Armenian population inside and outside of Azerbaijan.¹
5. Despite the recommendations by the Committee, the Azerbaijani authorities not only failed to condemn and investigate instances of inflammatory speech but engaged in such conduct at the highest level. Racial discrimination is constantly fueled and expressed not only by the actions of ordinary citizens, but also by official public figures, representatives of local authorities.
6. The rhetoric of the Azerbaijani authorities during the war in 2020 was Armenian-phobic. Azerbaijani President Ilham Aliyev has repeatedly stressed in his addresses to the people that

¹ CERD, Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan, CERD/C/AZE/CO/7-9, 10 June 2016

Armenia is “an enemy”². During the hostilities, discriminatory information was also disseminated outside of Azerbaijani territory using the media: social networks and television. An example of this was the speech by Saadat Kadyrova, the head of the TASS Department for Relations with Diplomatic Structures, who justified the bombing of Ghazanchetsots Cathedral in Shushi and the caused casualties among Russian journalists³, as well⁴ referring to Armenian army as “occupation forces” and “terrorists”.⁵ This statement violates the guiding norms-principles that are enshrined in the Convention on the Laws and Customs of War on Land,⁶ Geneva Convention relative to the Protection of Persons in Time of War because of the baseless labeling of a group of troops as terrorists⁷ and incites hatred against those categories of people who expressed solidarity with and actively supported the Armenian side of the conflict.

7. Despite the end of the war and the Committee's Concluding Observations of 2016 to Azerbaijan, anti-Armenian rhetoric persists and is still being practiced. It should be noted that in this way the fundamental principles stipulated by the Convention (Articles 2, 5, 7)⁸ are violated, as well as the provisions of Article 42 of the Combined tenth to twelfth periodic reports submitted by Azerbaijan under article 9 of the Convention⁹ are not respected.

8. The most widely accepted legally recognized way of disseminating such ideas is through hate speech, which includes any kind of communication in speech, writing or behavior.¹⁰ Hate speech of Azerbaijani representatives creates negative prejudices against the Armenian community and thus the European Commission against Racism and Intolerance (ECRI) issued a distinct recommendation to authorities of Azerbaijan to “ensure that public officials at all levels refrain from hate speech towards Armenians” in its report in 2016.

9. One of the most disturbing statements which endangers the Armenian population in the territory of Azerbaijan (formerly Nagorno-Karabakh) was Ilham Aliyev's phrase addressed to Armenians on 4 October 2020: "Now we have shown who is who. We are driving them away like dogs!".¹¹ Further, in the context of Azerbaijani politics, all those who do not share the

² Ilham Aliyev addressed the nation. July 15, 2022, from <https://president.az/ru/articles/view/40968>

³ Journalist Yury Kotenok told about the attack in Karabakh. July 15, 2022, see more at <https://www.kp.ru/online/news/4042532/>

⁴ Российские журналисты пострадали при обстреле церкви в Карабахе. July 15, 2022, see more <https://ria.ru/20201008/obstrel-1578868832.html>

⁵ <https://www.youtube.com/watch?v=6Ykz0Ipxsc>

⁶ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907. See from <https://ihl-databases.icrc.org/ihl/INTRO/195>

⁷ IV GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR OF 12 AUGUST 1949. See from https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf

⁸ Азербайджанский политолог сравнила христианский храм с сортиром. July 13, 2022. Video time stamp: 0:50-1:25

<https://www.youtube.com/watch?v=NEgV0m4YD9k&t=214s>

⁹ Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979 <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-aga-inst-women>

¹⁰ <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech>

¹¹ President Aliyev: Azerbaijani soldiers drive them away like dogs <https://defence.az/en/news/146240/president-aliyev-azerbaijani-soldiers-drive-them-away-like-dogs>

viewpoint "Karabakh is Azerbaijan", including those who advocate for giving autonomy to these territories, become occupiers. This perception is disseminated with mockery and humiliation by Ilham Aliyev¹².

10. The Armenian nation, like Armenia, was repeatedly referred to as "the enemy"¹³ in the post-war period, although it was not specifically about military action. The President emphasizes the status of the Azerbaijani people as "victorious people".¹⁴

11. The heritage and dignity of the Armenian nation is being completely erased amidst historical disputes and speculations on the part of Azerbaijan. The Armenian nation is repeatedly referred to as "barbarians"¹⁵. "Armenian fascism"¹⁶ is the most radical assessment of the activities of both the Armenian authorities and the ordinary people who do not share the views of the official Azerbaijani position.

12. An important turn of events was the victory parade, which was held on December 10, 2020 in Baku with the participation of Turkish President Recep Erdoğan and Turkish troops. The Turkish President, as the main ally of Azerbaijan,¹⁷ mentioned the name of Enver Pasha¹⁸, who was one of the key persons planning and implementing the Armenian genocide. Furthermore, the official attitude of Azerbaijani and Turkish authorities to the historical tragedy of Armenian Genocide was expressed in a gesture by Turkish Foreign Minister Çavuşoğlu during a demonstration on Armenian Genocide Memorial Day in Uruguay.¹⁹ He showed the demonstrators the sign of the "Grey Wolves"- a Turkish far-right organization and movement affiliated with the Nationalist Movement Party, commonly described as ultranationalist²⁰ and neo-fascist.²¹ With this behavior Azerbaijani authorities, with their ideological and political ally-Turkey, threaten the existence of Armenians²².

¹² "Nə oldu Paşinyan?". July 13, 2022. See from

<https://www.youtube.com/watch?v=q8UfXwEQCsI>

¹³ President Ilham Aliyev and First Lady Mehriban Aliyeva attended opening ceremony of first stage of "Smart Village" project in Zangilan district VIDEO

https://azertag.az/en/xeber/President_Ilham_Aliyev_and_First_Lady_Mehriban_Aliyeva_attended_opening_ceremony_of_first_stage_of_Smart_Village_project_in_Zangilan_district_VIDEO-2153168

¹⁴ Speech of Ilham Aliyev at the Fifth Congress of World Azerbaijanis gets underway in Shusha

<https://apa.az/en/official-news/fifth-congress-of-world-azerbaijanis-gets-underway-in-shusha-updated-374170>

¹⁵ President Aliyev: Armenia must be punished at international level, Azerbaijan demands compensation. See from <https://news.az/news/president-aliyev-armenia-must-be-punished-at-international-level-azerbaijan-demands-compensation>

¹⁶ Fifth Congress of World Azerbaijanis gets underway in Shusha. July 12, 2022. See from

<https://apa.az/en/official-news/fifth-congress-of-world-azerbaijanis-gets-underway-in-shusha-updated-374170>

¹⁷ A Victory parade dedicated to Victory in the Patriotic war was held at Azadlig Square, Baku, see from

https://azertag.az/en/xeber/A_Victory_parade_dedicated_to_Victory_in_the_Patriotic_war_was_held_at_Azadlig_Square_Baku_Azerbaijani_President_Ilham_Aliyev_and_Turkish_President_Recep_Tayyip_Erdogan_attended_the_parade_VIDEO-1662787

¹⁸ Эрдоган в Баку: парад победы над Арменией и отголоски Османской империи

<https://www.bbc.com/russian/news-55239689>

¹⁹ <https://asbarez.com/uruguay-leaders-angry-at-cavusoglu-for-flashing-grey-wolves-sign-at-armenian-protesters/>

²⁰ Taspinar, Omer (2005). "The Kurdish Question in Turkish Politics"

²¹ Sullivan, Colleen (2011). "Grey Wolves". In Martin, Gus (ed.). *The SAGE Encyclopedia of Terrorism* (2nd ed.). Sage Publications. pp. 236–7

²² <https://president.az/ru/articles/view/48793>

III. INSTANCES OF ETHNICALLY MOTIVATED VIOLENCE AND EXTRAJUDICIAL KILLINGS AGAINST ARMENIANS

13. The violent assault, torture, and execution of persons of Armenian origin by Azerbaijani authorities²³ and military personnel serve as a stark reminder that Azerbaijanian's policy of racial discrimination and violence against ethnic Armenians, especially against those living in Nagorno Karabagh is still in full effect.²⁴

14. We need to look no further than the extrajudicial killings of 73-year-old Benik Hakobyan and 25-year-old Yuri Adamyan²⁵ on the northern edge of Hadrut. Two videos were recorded here that involve Hakobyan and Adamyan's interaction with Azerbaijani military personnel. In the first video²⁶ both men are seen surrendering their arms and military equipment, at the order of an unidentified Azerbaijani soldier. By the order of a Russian-speaking Azerbaijani soldier, both men with their hands raised proceed to slowly walk toward the military personnel only to be met with hostility and unwarranted aggression. The video depicts Hakobyan being thrown to the ground by a soldier, who then proceeds to point his weapon at Hakobyan's head.²⁷The video ends with Hakobyan screaming in agony offscreen.²⁸

15. More alarming is the second video²⁹ that shows Hakobyan and Adamyan sitting on a ledge with Armenian and Nagorno-Karabakh Republic (NKR) flags wrapped around their bodies.³⁰ The video ends with an Azerbaijani soldier giving the verbal order to his soldiers to open fire at the "heads" of the unarmed soldiers. Both men collapsed to the ground after a series of rapid and single-shot bullets were fired at them. Even as their bodies lie still on the ground a swarm of bullets is continually shot at both prisoners of war.

16. Consistent with the other cases we will discuss below, the Azerbaijani government proceeded to deny the authenticity of the video, accusing the Armenian government of "staging" the execution videos. However, several independent investigation networks and experts agreed that this was indeed not a staged operation³¹ but rather a blatant violation of international human rights law. It is important to outline that the extrajudicial execution of prisoners of war is a

²³ Nazaretyan, H. (2020, December). *Azerbaijan's War Crimes*. EVN Report. July 10, 2022, from <https://evnreport.com/magazine-issues/azerbaijan-s-war-crimes/>

²⁴ Human Rights of Ombudsman. (2020, October 18). *The updated edition of the Second Interim Report on the Azerbaijani atrocities against the Artsakh population in September-October 2020*. Ombudsman. July 11, 2022, from https://artsakhombuds.am/en/document/735?fbclid=IwAR3Tg_nv4k48sGSWzbU7wQ8Fgrt9Nqc5TYpEr_sw6miPZTfkHwR8b2

²⁵ Atanesian, G., & Strick, B. (2020, October 24). *Nagorno-Karabakh Conflict: 'execution' video prompts war crime probe*. BBC News. July 12, 2022, from <https://www.bbc.com/news/world-europe-54645254>

²⁶ <https://youtu.be/zkQXy3fG9BY>

²⁷ Video time stamp: 1:08 – 1:13

²⁸ Video time stamp: 1:46 – 1:51

²⁹ https://azeriwarcrimes.org/wp-content/uploads/2020/10/final_blur.mp4

³⁰ https://azeriwarcrimes.org/wp-content/uploads/2020/10/Screenshot_1.jpg & https://azeriwarcrimes.org/wp-content/uploads/2020/10/Screenshot_2.jpg

³¹ Waters, N. (2020, October 15). *An Execution in Hadrut*. bellingcat. July 12, 2022, from <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/> & Atanesian, G., & Strick, B. (2020, October 24). *Nagorno-Karabakh Conflict: 'execution' video prompts war crime probe*. BBC News. July 09, 2022, from <https://www.bbc.com/news/world-europe-54645254>

violation of various international human rights treaties all of which establish the “right to life”.³² Azerbaijan must not only be held accountable for creating the conditions for such violence to occur but must also hold soldiers who violate such international mandates accountable for their crimes. Azerbaijan has presented no serious willingness to investigate any of these cases with diligence. Therefore, the burden of ensuring that justice is served falls on the shoulders of international bodies like CERD.³³

17. Yuri Asriyan is yet another innocent causality of war who was brutally murdered on camera by Azerbaijani soldiers in October of 2020. The 80-year-old resident of Azokh village, in Artsakh’s southern Hadrut region, is shown fighting for his life while an Azerbaijani soldier pins him to the ground, while aggressively trying to lift his chin. Yuri resisted valiantly pleading for them to stop but was eventually overpowered. The video ends with Yuri’s body lying still with his throat being slashed violently.

18. Reports indicate that Yuri true to his nature had refused to leave his home to the encroaching Azerbaijani forces. According to Yuri’s sister Maria,³⁴ he lived alone and suffered from various ailments which further implicated his decision not to leave. Common Article 3 of the 1949 Geneva Convention³⁵ prohibits persons from engaging in attacks on civilians including “members of armed forces who have laid down their arms”. This further includes individuals who are facing sickness. Bound by this international standard Yuri should have been granted all the necessary protections afforded to noncombatants. However, the outcome of this case further highlights the utter disregard that Azerbaijan has for international authority and binding precedents.

19. Another case we can point to that demonstrates the extent of Azerbaijan’s desire to humiliate and propagate anti-Armenian sentiments can be seen at the “Spoils of War Museum” in Baku. The park which was opened and inaugurated by Azerbaijani President Ilham Aliyev only months after the end of the 2020 conflict demonstrates the lack of empathy and respect that Azerbaijan has for the victims and casualties of war.³⁶

³² Per: The Universal Declaration of Human Rights (1948), The International Convention on Civil and Political Rights (1966), The Geneva Convention (1949), The European Convention on Human Rights (1950), The American Convention on Human Rights (1969), The African Charter on Human and Peoples’ Rights (1981)

³³ See more: Dovich, M. (2021, September 17). *Armenia files case against Azerbaijan at International Court of Justice*. CIVILNET. July 11, 2022, from <https://www.civilnet.am/en/news/633045/armenia-files-case-against-azerbaijan-at-international-court-of-justice/> & Fontanelli, F. (2021, November 11). *The disputes between Armenia and Azerbaijan: The Cerd compromissory clause as a one-way ticket to Hague*. EJIL. July 10, 2022, from <https://www.ejiltalk.org/the-disputes-between-armenia-and-azerbaijan-the-cerd-compromissory-clause-as-a-one-way-ticket-to-hague/>

³⁴ Interview with Maria: Musheghyan, T. (2021, September 27). *Maria's nightmare: Mourning her brother, murdered by Azerbaijani soldiers*. Hetq.am. July 12, 2022, from <https://hetq.am/en/article/136111>

³⁵ *The Geneva Conventions of 12 August 1949*. (n.d.). July 12, 2022, from <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf>

³⁶ Hauer, N. (2021, April 22). *Azerbaijan's 'Ethnic Hatred' Theme Park Draws Ire, Imperils Reconciliation*. RadioFreeEurope/RadioLiberty. July 09, 2022, from <https://www.rferl.org/a/azerbaijan-karabakh-theme-park-armenia-ethnic-hatred-aliyev/31217971.html>

20. On its opening day, the park was adorned with various trucks, tanks, helmets, and all other manners of military equipment captured during the conflict.³⁷ The park's most racially charged exhibits displayed caricatures of Armenian servicemen in various degrading and humiliating positions/scenes. To add insult to injury the mannequins bore exaggerated features such as hooked noses,³⁸ bulging eyes,³⁹ and distorted faces.

21. In October, Azerbaijan removed various blood marks and helmets of Armenian Soldiers following a complaint by Armenia at the ICJ.⁴⁰ However, the park remains open and continues to propagate false statements and claims regarding the nature of the 2020 conflict. Ultimately, while Azerbaijan followed the decrees made by the ICJ,⁴¹ the psychological trauma and blatant attempt to promote racial hatred against Armenians are demonstrative⁴² of Baku's continued violation of the rules and statutes established under CERD. It is also worth noting here that Azerbaijan presented no willingness or desire to remove said mannequins and helmet displays until Armenia pursued legal actions. Further, the photos of removed helmets and mannequin remain on the official website of the park,⁴³ and the photo of Ilham Aliyev against the background of helmets is one of the most popular in social networks.

IV. IMPUNITY

22. Incidents of violence and impunity committed by Azerbaijanis against Armenians were known long before the war in Karabakh in 2020. One such incident is Makuchyan and Minasyan v. Azerbaijan and Hungary⁴⁴, in which an Azerbaijani army lieutenant Ramil Safarov hacked to death Armenian army officer Gurgen Margaryan with an axe during military training exercises while the Armenian officer was asleep. In its 2020 judgment, the European Court of Human Rights confirmed the fact that the murder was committed out of hatred on ethnic grounds, as specified in Paragraph 212 of the judgment. The Court found "particularly disturbing" (paras 216-217 of the judgment) the fact that after the extradition procedure, Ilham Aliyev signed the

³⁷ Please view gallery - AzerTAG.az. (2021, April 14). *President Ilham Aliyev attended opening of Military Trophy Park in Baku*. AZERTAC.

https://azertag.az/en/xeber/President_Ilham_Aliyev_attended_opening_of_Military_Trophy_Park_in_Baku-1753223

³⁸ https://gdb.rferl.org/514AE81D-383F-4E7B-B9AA-56B55FA7E821_w650_r0_s.jpg

³⁹ https://azertag.az/files/galleryphoto/2021/1/1000x669/16182229295358633769_1000x669.jpg

⁴⁰ Cricchio, E. L. (2021, October 15). *Azerbaijan removes dead Armenian soldiers' helmets and bloody mannequins from the war trophies park in Baku*. CIVILNET. July 12, 2022, from

<https://www.civilnet.am/en/news/636310/azerbaijan-removes-dead-armenian-soldiers-helmets-and-bloody-mannequins-from-the-war-trophies-park-in-baku/>

⁴¹ 7 décembre 2021 Ordonnance - *International Court of Justice*. Application of the International Convention on the Elimination of All Forms of Racial Discrimination. (2021, December 7). Retrieved July 9, 2022, from

<https://www.icj-cij.org/public/files/case-related/180/180-20211207-ORD-01-00-EN.pdf>

⁴² Titizian, M. (2021, April 13). *Baku's Military Trophy Park and the defeat of humanity*. EVN Report. July 9, 2022, from <https://evnreport.com/opinion/baku-s-military-trophy-park-and-the-defeat-of-humanity/>

⁴³ Hərbi Qənimətlər Parkı. July 13, 2022. See from <https://herbiqenimetlerparki.az/en/foto/87#event-photo-17> and <https://herbiqenimetlerparki.az/en/foto/87#event-photo-31>

⁴⁴ CASE OF MAKUCHYAN AND MINASYAN v. AZERBAIJAN AND HUNGARY (*Application no. 17247/13*) <https://hudoc.echr.coe.int/eng?i=001-202524>

act on pardon, and Safarov was popularly recognized as a hero and members of political parties recognized the president's action as a concern for patriots⁴⁵.

23. The case of Saribekyan v. Azerbaijan can also serve as an example of impunity toward Armenians. 20-years-old Manvel Saribekyan was captured in September 2010. The Azerbaijani Ministry of Defense claimed that Manvel Saribekyan was an Armenian spy and was captured "during a sabotage operation carried out by Armenian forces from the northeastern section of Nagorno-Karabakh". The young man's family reported that Saribekyan crossed the border by mistake in foggy conditions in search of firewood and missing cattle, but Azerbaijani authorities accused him of planning to blow up a school in a nearby Azerbaijani village. He was taken to the military police department in Baku and held in a cell, where he was found dead in October 2010. Azerbaijani authorities claimed that he had hanged himself. ECHR finds in its judgment that Azerbaijan violated Article 2 of the Convention in respect of the death of Saribekyan and in respect of the inadequacy of the investigation into the death, as well as violation of Article 3 of the Convention in respect of the torture of Manvel Saribekyan.⁴⁶ Again the Court acknowledged that the Azerbaijani authorities failed to investigate the racial motives of the committed crimes and punish those responsible.

V. RECOMMENDATIONS

Considering the aforementioned the "International and Comparative Law Center" requests the Committee to urge the Government of Azerbaijan:

- To take measures to eradicate hate speech from the Azerbaijani authorities about the Armenian population as an enemy.
- To stop speculations over Armenian history and culture and change the nationwide perceptions thereof, by educating the public officials and the younger generation in Azerbaijan.
- To conduct effective investigation concerning hate crimes against Armenians and hold the perpetrators accountable.
- To investigate independently and effectively the ethically motivated crimes of torture and extrajudicial killings of Armenian captives and bring the perpetrators to justice.

⁴⁵ Помилование Рамиля Сафарова - пример заботы Президента Азербайджана о патриотах - правящая партия. July 15, 2022. See from

<https://www.trend.az/azerbaijan/politics/2060697.html>

⁴⁶ CASE OF SARIBEKYAN AND BALYAN v. AZERBAIJAN (*Application no. 35746/11*)
<https://hudoc.echr.coe.int/eng?i=001-200439>