



ARMENIAN
LEGAL
CENTER

FOR JUSTICE AND HUMAN RIGHTS



Evidence-based report

Intentional mutilation of the dead bodies of Armenian soldiers

**Report on
Intentional mutilation of the dead bodies of Armenian
soldiers of the D20 artillery division, Tsor military unit**

Evidence-based report

**Warning: The report contains sensitive photo materials of
humiliated body parts of fallen Armenian soldiers**

This report is prepared and published by the International and Comparative Law Center (ICLaw-Armenia), a human rights non-governmental organization, based in Armenia, with the support of the Armenian Legal Center for Justice and Human Rights, non-governmental organization based in Washington.

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1. Background information

On September 27, 2020, Azerbaijan launched attacks against Artsakh (Nagorno-Karabakh), which turned into a full-scale 44-day war. During the war and following it, the dead bodies of Armenian servicemen have constantly been mutilated by the Azerbaijani side in such a way that they were becoming completely unrecognizable. Occasionally several photos and video materials were disseminated throughout social media, where Azerbaijani troops humiliate, disrespect, and mutilate the dead bodies of Armenian soldiers. In particular, there is evidence of cutting the hands and ears of dead bodies, hitting them, stabbing with a knife, kicking burned bodies, etc¹. Those materials were highly targeting people using social media and, especially, the family members of those who appear in videos or photos.

Following the 44-day war, a trilateral ceasefire statement was signed on November 9, 2020 (hereinafter referred to as the “ceasefire statement”) by Armenia, Azerbaijan, and Russia. The 8th point of the statement provides that “The Parties shall exchange prisoners of war, hostages and other detained persons, and **dead bodies** [emphasis added].” However, Azerbaijan failed to obey its obligation to return the dead bodies of Armenian soldiers properly. Particularly, the mutilated and unrecognizable dead bodies of 11 fallen soldiers of the TSOR military unit were returned to their parents and relatives only after a year the ceasefire statement was reached.

This report is an evidence-based analysis that concentrates on the events, namely the mutilations of deceased bodies of the Armenian soldiers of the D20 artillery division of the Tsor military unit. During the 44-day war, in mid-October 2020, Armenian soldiers of the D20 artillery division of the Tsor military unit found themselves surrounded and attacked by the Azerbaijani troops in Juvarlu. This attack caused a panic situation among the Armenian servicemen who tried to defend themselves in all possible ways. Still, Azerbaijani soldiers, who were prevailing in numbers, managed to squeeze the ring around Armenian soldiers and blockade them. During the battle, some Armenian servicemen got out of the adversary’s fire zone and retreat to the rear. However, 20 of the soldiers were forced into combat and died. Their bodies remained in the firing position. Nine bodies (bodies of L.G., S.G., V.H., N.B., A.A., G.B., N.A., V.A., G.A.) were removed on December 1, 2020, during search operations carried out by Armenian side after the established trilateral statement. The remaining eleven bodies (bodies of R.P., V.P., S.P., K.D., D.A., A.T., N.O., A.M., H.A., H.P., H.M,) were handed to the Armenian side by the Azerbaijanis only one year after the war, on the 2nd of November 2021.

After the battle in Juvarlu, video materials started circulating, showing the bodies of dead Armenian soldiers of the Tsor military unit who died as a result of the mentioned attack. It is important to note that

¹ Human rights violations during the 44-day war in Artsakh, Fact-finding report, 2022, page 142
https://www.osf.am/wp-content/uploads/2022/06/Fact-Finding-Report_FINAL_web.pdf?fbclid=IwAR1JUcLM-1GO1jsbnpBVLCupxZOrzp0NeXUEuTI42Ouayqr_aAJ803BvZLU

in the videos, it can be seen that the identities of the bodies are distinguishable, recognizable, and complete. However, family members got only humiliated body parts and remains of their loved ones, which caused them distress, anguish. The identification of soldiers was possible to make only after forensic examinations were carried out. Thus, in addition to the time they were waiting for the bodies to be transferred, they had to wait for the DNA examinations to be carried out. Consequently, the stress the family members were going through worsened as they had to give DNA samples and wait for the results. This additional stress could be avoided if the bodies of Armenian soldiers were returned as they had been found, without mutilations.

The report takes into consideration and discusses the fact that being presented with mutilated bodies amounts to degrading treatment toward the family members and the relatives of fallen soldiers. On the other hand, the prolonged period of uncertainty and the inability to properly bury the bodies impacted the relatives' right to private and family life.

This report aims to present the violent acts of mutilations committed by the Azerbaijani side, which amounted to human rights violations.

2. International legal standards

2.1. The intentional mutilation of dead bodies as a war crime

The mutilation, disfigurement, and disrespect of the dead are strictly prohibited. Mutilation of a dead body is the act of injuries and wounds that destroy and degrade the appearance and the identity of the human being. Mutilation includes the actions of permanently disabling or removing an organ or appendage of the person (or persons) or permanently disfiguring the person (or persons). The acts of mutilation can be done both before and after death. Corpse mutilation can also occur when the body is left unburied and is not kept in proper conditions. Once someone is dead, his/her body shall be treated with dignity. It is important to stress here that personal dignity does not cease after a person's death.

The Statute of the International Criminal Court prohibits "committing outrages upon personal dignity", prescribing that it constitutes a war crime. Article 8 (2) (b) (xxi) of Elements of Crimes for the International Criminal Court specifies the concept of "committing outrages upon personal dignity" as acts that have "The severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity."

The Elements of Crimes for the International Criminal Court expressly mentions that the mentioned Article applies to dead persons as well and that there is no need for the victim to be personally aware of the existence of the humiliating, degrading, or other treatment violating the dignity. Examples of prosecutions of mutilation as war crimes are the trials following the Second World War that revealed several

crimes of mutilation and ill-treatment of dead bodies, and the accused were held liable for these crimes².

Under international humanitarian law, States have an obligation to search for the dead³ and respect the remains of the deceased⁴. In particular, Article 15 of GCI states that “At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures ... to search for the dead.” Following the armed conflict, the bodies of the dead must be properly managed, found, and recovered in order to identify individuals and lower the number of missing persons. In addition to this, States have the obligation to respect the dead bodies and protect those from disfiguration. For the first time, the duty to prevent the dead from “pillage and ill-treatment” as stipulated in the Hague Convention (X) in 1907 (Article 16). Later this obligation was codified by the Geneva Conventions. Article 17 of Geneva Convention I states that “[A]n Official Graves Registration Service [shall be established] to allow ... the possible transportation of the remains to the home country. These provisions shall likewise apply to the ashes”. According to Article 34.II of Additional Protocol I, States shall “As soon as circumstances and the relations between the adverse Parties permit, the High Contracting Parties in whose ... locations of the remains of persons who have died as a result of hostilities ... shall conclude agreements in order:...facilitate the return of the remains of the deceased and personal effects to the home country upon its request...” The ICRC Study on Customary International Humanitarian Law, (Rule 112) stipulates that “Whenever circumstances permit, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to search for, collect and evacuate the dead without adverse distinction.” Mutilation of dead bodies is prohibited and amounts to a war crime, and the parties of the armed conflict shall take possible measures to prevent the despoliation of the dead. (Rule 113)

Customary Rule 114 relates to the return of the remains of the deceased and prescribes that “Parties to the conflict must endeavour to facilitate the return of the remains of the deceased upon request of the party to which they belong or upon the request of their next of kin. They must return their personal effects to them.”

Article 33 (1) of the Additional Protocol I states: “As soon as circumstances permit, and at the latest from the end of active hostilities, each Party to the conflict shall search for the persons who have been reported missing by the adverse Party.” This Article also ensures the requirement to respect the family life of missing persons.

² (Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, Cambridge University Press, Geneva, 2006, page 410, available at <https://www.icrc.org/en/doc/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>)

³ See for example also GCII, Art. 18, 21, GCIV Art. 16, API Art 17, 32, APII Art. 8

⁴ See for example International Committee of the Red Cross, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Article 34

2.2. The intentional mutilation of dead bodies amounting to ill-treatment toward the fallen soldiers' family and relatives

Article 3 of European Convention on Human Rights (ECHR) reads as follows;

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

The prohibition of torture is one of the fundamental principles of human rights. Torture, inhuman or degrading treatment, or punishment are absolutely prohibited, and there is no possible derogation from Article 3 in the event of a war or any other circumstances. (Article 15. ECHR)

Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects, and, in some cases, the sex, age, and state of health of the victim. Allegations of ill-treatment must be supported by appropriate evidence (*see, Jalloh v. Germany* [GC], no. 54810/00, § 67, ECHR 2006-IX). Although the question of whether the purpose of the treatment was to humiliate or debase the victim is a factor to be taken into account, the absence of any such purpose cannot conclusively rule out a finding of a violation of Article 3 (*see, V. v. the United Kingdom* [GC], no. 24888/94, § 71, ECHR 1999-IX).

Treatment is considered to be ‘degrading’ within the meaning of Article 3 when it humiliates or debases an individual, showing a lack of respect for, or diminishing, his or her human dignity, or when it arouses feelings of fear, anguish, or inferiority capable of breaking an individual’s moral and physical resistance (*see M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 220, ECHR 2011, and *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 202, ECHR 2012). The public nature of the treatment may be a relevant or aggravating factor in assessing whether it is ‘degrading’ within the meaning of Article 3 (*see, inter alia, Tyrer v. the United Kingdom*, 25 April 1978, § 32, Series A no. 26; *Erdoğan Yağız v. Turkey*, no. 27473/02, § 37, 6 March 2007; and *Kummer v. the Czech Republic*, no. 32133/11, § 64, 25 July 2013).

In order for treatment to be ‘degrading’, the suffering or humiliation involved must in any event go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment (*see V. v. the United Kingdom*, § 71).

Respect for human dignity forms part of the very essence of the Convention (*see Pretty v. the United Kingdom*, no. 2346/02, § 65, ECHR 2002 III). The object and purpose of the Convention as an instrument for the protection of individual human beings require that its provisions be interpreted and applied to make its safeguards practical and effective. Any interpretation of the rights and freedoms guaranteed has to be consistent with the general spirit of the Convention, an instrument designed to maintain and promote the ideals and values of a democratic society (*see Soering v. the United Kingdom*, 7 July 1989, § 87, Series A no. 161)."

In its established case law, the European Court of Human Rights (hereinafter referred to as “ECtHR”) has found that “the anguish caused [applicant] as a result of the mutilation of the body of his son amounts to degrading treatment contrary to Article 3 of the Convention.” (Akkum v. Turkey, para. 259) The fact that the relatives cannot “bury the dead bodies of their loved ones in a proper manner”, in itself must cause continuous anguish, distress, and moral suffering. (Khadzhaliyev and Others v. Russia, para. 121) In another case, ECHR found a violation of Article 3 toward family members of a dead person whose body was mutilated as “suffering caused to them as a result of [the] mutilation amounted to degrading treatment.” (Akpınar and Altun v. Turkey para. 84)

The ECHR repeatedly stated that the question, of if a family member is a victim of the violation of Article 3 of ECHR, depends on the existence of particular factors that give him/her the suffering distinct from the emotional distress, which causes a serious human rights violation. In particular, the following criteria shall be taken into account; “...the proximity of the family tie... the particular circumstances of the relationship, the extent to which the family member witnessed the events in question, the involvement of the family member in the attempts to obtain information about the disappeared person ...”. Moreover, in the context of the proximity of the family tie, the parent-child bond will have a certain weight. (*Çakıcı v. Turkey* [GC], no. 23657/94, para. 98)

2.3. The excessive time length between the death and burial amounting to a violation of private life of fallen soldiers’ family and relatives

Article 8 of ECHR enshrines everyone’s right to respect for private and family life and reads as follows;

“1. Everyone has the right to respect for his private and family life, his home, and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

For the purposes of this report, an emphasis will be made on the right to respect a person’s private and family life. The terms “private life” and “family life” are broad and, thus, cannot have an exhaustive definition. The essential object of Article 8 is to protect the individual against arbitrary interference by public authorities. Any interference under the first paragraph of Article 8 must be justified in terms of the second paragraph, namely as being “in accordance with the law” and “necessary in a democratic society” for one or more of the legitimate aims listed therein. The notion of necessity implies that the interference correlates with a pressing social need and, in particular, that it is proportionate to one of the legitimate aims pursued by the authorities. (*Elberte v. Latvia* (Application no. 61243/08) 0112/2016 para. 103)

Article 8 of ECHR covers the feelings of family members of the deceased on issues of whether the bodies of the dead were treated in an appropriate manner or not. (Genner v Austria, para. 35) An excessive time length between the death and burial and the way the deceased body was treated prior to its return to family members may result in a violation of the right to private and family life. (Girard v. France).

3. Mutilation and desecration of the dead bodies

The table below demonstrates the remains of the body parts that the family members and relatives of the fallen soldiers of the D20 artillery division of the Tsor military unit got.

No	Name Surname	Remains that were handed to the relatives
1	R.P.	Right femur, right ulna, right humerus, tibia, left ulna, lower part of shin
2	L.G.	Tibia, teeth
3	V.P.	Humerus, shin
4	S.G.	Femur
5	S.P.	Femur, calf bone, shin bone, shin, ulna and tibia
6	K.D.	Shin bone, hip bone, cervical spine, skull and teeth
7	D.A.	Right femur
8	A.T.	Collarbone, lower jaw, teeth and skull
9	N.O.	Humerus, hip bone, femur, and lower jaw
10	A.M.	Skull, femur, vertebrae, lower jaw, teeth and forearm bone
11	H.A.	Right femur, vertebrae
12	H.P.	Femur
13	H.M.	Right Femur
14	V.H.	Femur
15	N.B.	Radius, right femur and tibia
16	A.A.	Teeth
17	G.B.	Femur
18	N.A.	Full/recognizable body
19	V.A.	Full/recognizable body
20	G.A.	

Meanwhile the bodies of the above mentioned soldiers, who died during military operations, were videotaped and circulated on social networks. These videos substantiate that the dead bodies were whole, undivided, fatal injuries received did not cause destruction or modification of the dead bodies anyhow. The comparisons of the images of identifiable dead bodies seen in the videos and the returned remains confirm intentional external interference, including mutilation, with corpses. Below are presented several illustrative cases.

1. The completely recognizable dead body of conscript soldier R.P. appears in the video, lying on the ground (the photo of R.P. extracted from the video is presented in Annex 1.1.). His relatives got only his right femur, right ulna, right humerus, tibia, left ulna, and lower part of the shin (the photos of R.P.'s returned remains are presented in 1.2.).



2. Conscript soldier L.G. appears second in the video, in green T-shirt, lying with the front of his body facing downwards (the photo of L.G. extracted from the video is presented in Annex 2.1.). His relatives were handed his tibia and teeth (the photos of L.G.'s returned remains are presented in 2.2.).



3. Third in the video appears conscript soldier V.P. (the photo of V.P. extracted from the video is presented in Annex 3.1.). His family got only his humerus and shin (the photos of V.P.'s returned remains are presented in 3.2.).



4. Concluding remarks

The evidence demonstrated in this report explicitly shows that the dead bodies of Armenian soldiers of the D20 artillery division of the Tsor military unit have been subjected to intentional mutilation and desecration by the Azerbaijani side, which failed to treat the bodies with dignity, respect the remains of the deceased, keep the bodies in proper conditions, protect the dead bodies from disfiguration and rotting. Azerbaijan also refused to return the bodies to the families in a timely manner. In result, family members of fallen soldiers did not receive whole and identifiable corpses, but only remains of the body parts after the elapse of a prolonged time. The family members witnessed unlawful removals of body parts, defacements, desecration of the dead bodies of their loved ones, which had caused shock and sufferings to family members. The moral suffering endured by the relatives and family members of Armenian soldiers has reached a level of dimension and character distinct from the emotional distress and constituted a serious human rights violation.

The fact that the relatives could not properly bury the dead bodies of their loved ones over a prolonged time, itself has caused them continuous anguish, distress, and moral suffering, amounting to a violation of their private and family life. The family members and relatives of the deceased soldiers have been waiting for the corpses to bury them in line with their personal and religious convictions. However, after a year, they were presented with unrecognizable remains of bodies, which caused them psychological stress.