

THE HUMAN RIGHTS OMBUDSMAN OF THE REPUBLIC OF ARTSAKH



AD HOC REPORT

ON THE CHILDREN RIGHTS AFFECTED BY THE AZERBAIJANI ATTACKS AGAINST THE REPUBLIC OF ARTSAKH (NAGORNO-KARABAKH)

**9 NOVEMBER, 2020
STEPANAKERT, REPUBLIC OF ARTSAKH**

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INTRODUCTION

Since the early morning of September 27, 2020, around 07:10 AM, Azerbaijani armed forces have launched a large-scale armed attack against the Republic of Artsakh (Nagorno-Karabakh). The Azerbaijani armed forces have inclusively targeted civilian residential areas, including the capital city of Artsakh - Stepanakert. Targetings of civilian objects have been deliberate and indiscriminate – strikes on communities have been recorded from the very first day of the offense. The attacks by the Azerbaijani armed forces on civilian households have put life and health of children, women, the elderly and the entire peaceful civilian population, as well as their property, schools and other civilian objects in real danger. Moreover, these assaults have not been tempered relative to other targets and have included the full use of air force, missiles, artillery, attack UAVs and even internationally prohibited weapons and methods.

Since 27 September, at least 50 civilians were killed, including 1 child, and at least 163 civilians, including 9 children, were wounded (Pictures 1, 2, 4, 5), as a result of the Azerbaijani missile strikes, shelling and UAV (including Turkish “Bayraktar”) attacks in different cities and villages of Artsakh, including capital Stepanakert, towns of Shushi, Hadrut, Martuni, Martakert, Askeran, Karvajar, Berdzor, villages of Taghaser, Vardashat, Spitakshen, Maghavus, NerkinHoratagh, Alashan, Mataghis.¹

The targeting of the civilian population and of the civilian objects took place since the beginning of the Azerbaijani offensive not only alongside the line of contact but also in towns and villages about 90-100 km deep in the rear.

The employment of high-precision weapons against civilians strongly indicates the intentional nature of such attacks. For instance, a high-precision Israeli UAV “Harop” targeted a civilian person and a house in Hadrut on September 27.² Similarly, missiles, including ballistic missiles targeted the civilian population and houses in capital Stepanakert and other cities, whereas there were no military objects in the vicinity of relevant areas.³

Survivors and families in the affected areas have been forced to flee their homes fearing for their lives. The immediately-apparent human toll of this aggression has prompted the Human Rights Ombudsman to launch an urgent investigation, including monitoring and fact-finding procedures.

Given the special importance of protecting and promoting Children’s Rights in all circumstances, and even more so in crisis situations, the Human Rights Defender of Artsakh deems it necessary to introduce the results of the investigations regarding the impact of the ongoing military action by Azerbaijan on the livelihood of children in Artsakh, calling the attention of UN, UNICEF, UNESCO, UN Committee on the Rights of the Child, CoE Commissioner for Human Rights and other international stakeholders to respond to the current situation in prevention of further gross violations of the Rights of Children of Artsakh.

1. Ibid

2. Follow Human Rights Ombudsman of Artsakh, “Press Conference on Second Interim Report,” 05:00 minute, Video, 11 October 2020, <https://www.facebook.com/ArtsakhInformation/videos/340369097076183/>

3. Ibid, 06:00 minute, Video

CHAPTER 1: IMPACT ON CHILDREN ARISING FROM THE ATTACKS AGAINST CIVILIAN POPULATION AND CIVILIAN OBJECTS IN ARTSAKH

It is strictly prohibited under customary international law to direct attacks (target) the civilian population, individual civilians⁴ and civilian objects.⁵ Such acts are considered war crimes. Civilians become a legitimate target only when they take direct part in the hostilities.⁶ A civilian is anyone who is not a member of the armed forces or organized military group of the party to the conflict.⁷ Civilian objects are those which are not military objectives.⁸

1.1 TARGETING OF CIVILIAN POPULATION, INCLUDING CHILDREN

It is evidently true that children are often the most vulnerable victims of armed conflicts. As a result, the fundamental rights of children, including their inherent right to life, right to be with family and community, right to health, right to the development of personality and right to be nurtured and protected, require special attention. These rights are being violated on a daily basis by Azerbaijani forces in Artsakh.

On September 27th, 9-years-old Victoria Gevorgyan was killed from shelling in the Martuni region of Artsakh in the yard of her house. Her mother and younger brother were wounded. The latter, two-year-old Artsvik Gevorgyan, received shrapnel wounds in the process of evacuation (Pictures 1 and 2). Their mother stated that strikes from Azerbaijani UAVs continued even as they fled the area by bus.⁹



Picture 1: 2-year-old Artsvik Gevorgyan, who received shrapnel wound as a result of attack in Martuni town, with His Father

4. ICRC, Article 51(2), Additional Protocol I of 1977 to Geneva Conventions (AP I); para. 49..

5. Henckaerts, Doswald-Beck, Customary International Humanitarian Law, Article 52, AP I; Vol. I: Rules, 2005, pp. 25-26.

6. ICTY, Prosecutor v. Galic, Trial Chamber, Judgment of 5 December 2003, para. 48.

7. ICTY, Prosecutor v. Galic, Trial Chamber, Judgment of 5 December 2003, Article 51(2), Article 43, para. 47.

8. Ibid, Article 52(1), AP I.

9. Human Rights Ombudsman of Artsakh, "INTERIM REPORT ON THE AZERBAIJANI ATROCITIES AGAINST ARTSAKH POPULATION IN SEPTEMBER 2020," <https://artsakhombuds.am/en/document/722>



Picture 2: 2-year-old Artsvik Gevorgyan, who received a shrapnel wound as a result of attack in Martuni town, with Doctors

On September 27th, pregnant woman Anna Galstyan in Mataghis village tried to move to the neighboring community after hiding in a shelter for several hours. However, she was wounded as a result of the shelling of the intercommunity road (Picture 3). Due to successful caesarean section her 36-weeks-old baby survived. Yet, doctors stated that because of the early delivery the baby was premature, which will negatively affect the development of the child.



Picture 3: A pregnant woman injured in Mataghis village

On September 27th, 13-year-old Robert Gevorgyan was heavily wounded by Azerbaijani shelling while fleeing the house with his family. By the same shelling and in the same car, his cousin 15-year-old Narek Gevorgyan was also wounded (Picture 4 and 5).



Picture 4: 13-year-old Robert Gevorgyan wounded by Azerbaijani shelling in Maghavuz village



Picture 5: 15-year-old Narek Gevorgyan wounded by Azerbaijani shelling in Maghavuz village

Besides the mentioned names, 6 other children have also been wounded as a result of Azerbaijani attacks, namely, 1-year-old Lana Melkumyan and Tigran Avanesyan, 2-year-old Marianna Kamalyan, 14-year-old Elina Mayilyan, 15-year-old Vanik Muradyan, 17-year-old Tigran Gabrielyan.

Most of the cases of death and injuries among children have been recorded on September 27, though civilian casualties have continued. The reason for that was the forced displacement of children at shelters and then to safer communities in the Republics of Artsakh and Armenia, as the parents saw tangible danger to their children's life and security.

On October 8, 2020 the Azerbaijani military forces targeted and bombarded one of the historical symbols of Armenian architecture, the St. All Savior Ghazanchetsots Church of Artsakh, located in Shushi city center. Azerbaijani military forces launched the second missile attack shortly after the first one. At the moment of the first missile attack there were only children, women, and elderly in the bomb-shelter basement of the Cathedral.

The ad hoc report of the Human Rights Defender of Artsakh presents the facts on targeted attacks on the St. Holy Savior Ghazanchetsots Cathedral, analyzing it in the context of the international humanitarian law and international criminal law¹⁰.

It should be stressed that there are no military objects near the Cathedral. It should also be noted that highly accurate missiles have been used.

The facts of these strikes have also been corroborated by reports from the civilian population and sources directly provided to the Human Rights Defender. Furthermore, the results of the urgent investigation provide evidence to conclude that the targeted airstrikes on Shushi St. All Savior Ghazanchetsots Church were made with an intent to inflict destruction on the Cathedral and cause death of children, women and the elderly, who found shelter in the Cathedral basement, thus, premeditated killing of civilians (Pictures 6 and 7)¹¹.

It is important to mention that the St. Holy Savior Ghazanchetsots Cathedral, as well as, major residential buildings, was serving as shelter for children, women and the elderly. So, the targeted attacks had a key goal to cause casualties and a panic and force all civilians to leave the country.

10. Human Rights Ombudsman of Artsakh, "AD HOC PUBLIC REPORT ON THE AZERBAIJANI TARGETED ATTACKS AGAINST THE ST. HOLY SAVIOR GHAZANCHETSOTS CATHEDRAL OF SHUSHI, ARTSAKH (NAGORNO KARABAKH) AS A WARCRIME AND CRIME AGAINST HUMANITY," 21 October, 2020, https://artsakhombuds.am/en/document/740?fbclid=IwAR0YSU8LyHGdlyaG_bcdRctlkWSVU_DXNY5Go7BqWwka_g7xMj6hcIEpsEc

11. Human Rights Defender of Armenia, "Armenia's Human Rights Defender's special statement on shelling of Shushi Cathedral by Azerbaijani military forces," 8 October, 2020, https://ombuds.am/en_us/site/ViewNews/1330.



Picture 6: All Savior Ghazanchetsots Cathedral of Shushi Town after the Attack of October 8



Picture 7: A Bomb Shelter in Artsakh

“UN reaffirms its strong condemnation of the deliberate targeting of children in situations of armed conflict and the harmful and widespread impact of armed conflict on children, and the long-term consequences this has for durable peace, security and development.”¹²

The imperative to protect lives of children is not only mandated under fundamental principles of international law, but also supported in practice by special provisions and relevant tools to protect Children’s Rights and recognize their particular vulnerability and needs in armed conflicts.

The rights of the children not taking part in the hostilities are specifically protected and recognized by the 1949 Geneva Convention (IV) on Civilians and the additional Protocol (Protocol I of 8 June 1977)¹³. Besides, Article 38 of the United Nations Convention on the Rights of the Child

12. UN Security Council, Resolution 1314, Para 1.

13. According to Art. 77.1 of the Additional Protocol I, “children shall be the object of special respect and shall be protected against any form of indecent assault”. See also Commentary of 1987, Protection of Children, available

requires special measures of care and protection for children affected by armed conflict. In particular, Articles 38.1 and 38.4 of the UN Convention provide that State Parties undertake to respect and to ensure respect for international humanitarian law applicable to Children's Rights in armed conflicts.

The UN Security Council and General Assembly have repeatedly passed resolutions affirming their "strong condemnation of the deliberate targeting of civilians or other protected persons in situations of armed conflict"¹⁴.

Parliamentary Assembly of the Council of Europe in its Resolution 2204 (2018) on protecting children affected by armed conflicts mentioned that "the Parliamentary Assembly is very concerned about the short- and long-term consequences of armed conflicts on children: they are directly affected in their daily lives, their physical and mental development and their ability to trust other human beings and public institutions. Many of them will be traumatized for their entire lives and see their chances in life compromised. Children that experience armed conflicts also grow up with the understanding that violence is an acceptable means of settling conflicts with other countries or between ethnic or religious groups, and may reproduce it in their later lives. International law is very clear about the protection of children – any person under the age of 18 – and the need to give primary consideration to their best interests in all circumstances (as enshrined in the United Nations Convention on the Rights of the Child (UNCRC)). Children benefit from general protection to civilians and special protection granted by the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War and its 1977 Additional Protocol, as recalled by Article 38.4 of the UNCRC (...)"¹⁵.

Armed conflicts jeopardize the Right to Life of many children and the Committee on the Rights of the Child has frequently referred to this threat: "The Committee is deeply concerned at the extensive violations of the right to life of children by, inter alia, armed conflict, deliberate killings by armed persons including members of the armed forces, state regroupment policies, other forms of population displacement, poor health and sanitation facilities, severe malnutrition and related illnesses, and as a result of the prevailing conflict between groups of the population"¹⁶.

The International Criminal Tribunal for the Former Yugoslavia (ICTY) recognized that when children are the victims of murder, torture or injury it amounts to "aggravating circumstances" of such crimes, warranting lengthier than ordinary prison terms for perpetrators¹⁷.

It is extremely emerging to take all necessary measures to prevent and exclude further violations of Child's Rights in Artsakh. Targeted attacks on the civilian population and civilian communities are at this moment resulting in grave violations of child's inherent right to life, right to education and other fundamental rights ensured by international law.

at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=8E174BC1926F72FAC12563CD00436C73>

14. See for example: UNSC 1882 (2009), UNSC 1296 (2000), UNGA 2444 (1988) - unanimously adopted.

15. Parliamentary Assembly of the Council of Europe, Resolution 2204, 25 January, 2018, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24495&lang=en>

16. Implementation handbook for the Convention on the Rights of the Child, fully revised third edition, September 2007, United Nations Children's Fund, p. 89, https://www.unicef.org/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child.pdf

17. Prosecutor v. Kunarac, Kovac and Vukovic, the International Criminal Tribunal for the former Yugoslavia, p. 276, <https://www.icty.org/x/cases/kunarac/tjug/en/kun-tj010222e.pdf>

1.2. TARGETING OF CIVILIAN OBJECTS SERVING CHILDREN

“UN strongly condemns all violations of applicable international law [...] attacks against schools or hospitals and denial of humanitarian access by parties to armed conflict [...] and demands that all relevant parties immediately put an end to such practices and take special measures to protect children.”¹⁸

The Azerbaijani armed forces attacked around 170 civilian communities, including the densely populated ones, with aerial, artillery, rocket and tank fire strikes, some of which were indiscriminate, resulting in deaths and injuries in civilian population. In many cases, attacks against civilians were targeted and intentional, since military targets were located very far from the civilian objects, and the Azerbaijani forces used high-precision weapons like missiles and striking drones.

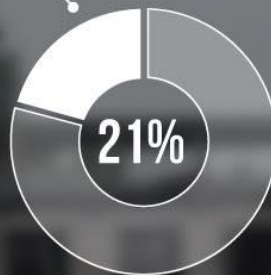
It has been recorded by the Human Rights Defender that densely populated areas, including schools and kindergartens, have been indiscriminately targeted. The armed forces of Azerbaijan have been acting with clear intention to damage lives and health of the civilian population, including children. Based on preliminary data, 71 schools and 14 kindergartens, among those, Stepanakert Schools No. 4 and No. 10, schools in Hadrut, Shushi, Aygestan, Mataghis have suffered material damages from the shelling, rocket and air strikes by the Azerbaijani armed forces (Pictures 8, 9 and 10). As a result of the Azerbaijani attacks, all the 220 schools and 58 kindergartens were closed. Consequently, all the 23,978 children in Artsakh have been deprived of the Right to Education, the opportunity to attend school and 4,036 children of getting preschool education (Infographic 1).

18. UN Security Council, Resolution 2143, Para 1.

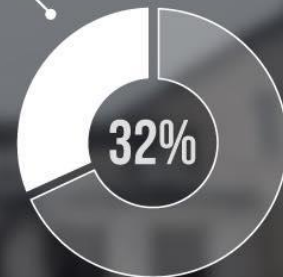
THE CONSEQUENCES OF THE TURKISH-AZERBAIJANI AGGRESSION ON THE ARTSAKH CHILDREN'S RIGHT TO EDUCATION



12 OF 58 KINDERGARTENS
ARE DAMAGED



71 OF 220 SCHOOLS
ARE DAMAGED



23978 SCHOOL
CHILDREN ARE
DEPRIVED OF THE
RIGHT TO EDUCATION



4036 PRESCHOOL
CHILDREN ARE
DEPRIVED OF THE RIGHT
TO EDUCATION



2020

SEP 27 - NOV 9

Infographic 1: The Azerbaijani Offensive's Consequences on the Right to Education of Children



Picture 8: The #10 School of Stepanakert Bombarded by Azerbaijan



Picture 9: The School of Aygestan Village Bombarded by Azerbaijan



Picture 10: A Kindergarten of Stepanakert Destroyed by Azerbaijan

This message should be of huge concern for those state agencies and competent international organizations that aim at the protection and promotion of the Right to Education, necessary for children during war time situations. The ongoing threats to the security of children made teachers organize classes at shelters (Picture 11).



Picture 11: Children Taking Classes at a Bomb-Shelter

On the October 28th, the Maternity and Child Health Center was attacked in Stepanakert¹⁹. The hospital was destroyed as a result of continued rocket strikes at Artsakh's capital, Shushi and other communities (Picture 12). Given the circumstance that at the moment of the strike there was nobody at that part of the hospital and everyone was staying at the basement, no casualties have been recorded there. However, there were patients (including children) at the hospital who got serious psychological traumas.

19. Artak Beglaryan's Facebook Page, "My video message and introduction on the Azerbaijani latest strike on the Republican Medical Center of Stepanakert, including the Maternity and Child Hospital," 28 October, 2020, <https://www.facebook.com/artak.beglaryan/videos/3668331173205093>



Picture 12: The Maternity and Child Health Center Building after Being Struck by Azerbaijan

General protection of civilian objects is stipulated under Article 52 of the Additional Protocol I to the 1949 Geneva Conventions and is reflective of customary international law. The deliberate targeting or destruction of civilian objects may amount to grave breaches of the law of armed conflict²⁰. Under the general legal principle of distinction, meaning that civilian objects must be distinguished from military objectives and protected against the consequences of military operations. The Rome Statute considers intentionally directing attacks against civilian objects, that is, objects which are not military objectives as a “war crime”²¹. The International Court of Justice has also declared the protection of civilians and civilian objects of paramount importance under international humanitarian law²².

As further stipulated under Article 52.3 of the Additional Protocol I that in case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.

The protection afforded to schools is comprehensive: according to international customary and treaty law, a party to conflict must guard against targeting or attacking schools amidst the civilian population, as well as safeguard from attack the schools found within its own civilian population or those that fall under its control²³.

Far from being legitimate military targets, it is known that schools often provide shelter and protection, and tend to serve the educational needs of children during armed conflicts. Attacks against

20. ICRC, Art. 147 Geneva IV; Art. 85 Additional Protocol I to the 1949 Geneva Conventions; Customary Rule 10-13 in; Customary International Humanitarian Law Vol. 1: Rules, p. 34.

21. Rome Statute, Art. 8 (2)(b)(ii).

22. International Court of Justice, Nuclear Weapons Case, (1996).

23. ICRC, Customary Rules 10-22 in; Customary International Humanitarian Law Vol. 1: Rules, p. 34.

schools are, in principle, contraventions of well-established international humanitarian law, including customary norms, and may constitute war crimes and crimes against humanity²⁴.

International legal instruments citing this prohibition include the Convention on Certain Conventional Weapons, Amended Protocol II and Protocol III, which ban, respectively, the use of mines and incendiary weapons against schools, hospitals or other civilian objects²⁵.

The International Criminal Tribunal for the former Yugoslavia has developed solid jurisprudence on the necessity to protect schools and hospitals from attack (in Kupreskic (2000), Blaskic(2000) and Kordic&Cerkez (2001) cases, for example)²⁶. The Rome Statute extends the criminal accountability for these acts (or “failures to protect”), providing the International Criminal Court explicit jurisdiction to prosecute and punish those that intentionally target schools during armed conflict. Such acts amount to war crimes regardless of whether they occur during an international or non-international armed conflict²⁷.

Thus, by analyzing the situation in Artsakh and the above-mentioned violations against their basis in applicable international law, it becomes clear that at least two of them – 1) killing and maiming of children; 2) attacks against schools and hospitals - have already been committed by the Azerbaijani military during the armed conflict.

24. E.g. ICRC, Customary International Humanitarian Law Vol. 1: Rules, p. 34.

25. UN, Convention on Certain Conventional Weapons, Amended Protocol II Art. 3 and Protocol III Art. 2.

26. Kupreskic(2000), <https://www.icty.org/x/cases/kupreskic/tjug/en/kup-tj000114e.pdf>, p. 204, Blaskic(2000), <https://www.icty.org/x/cases/blaskic/acjug/en/bla-aj040729e.pdf>, the International Criminal Tribunal for the former Yugoslavia. In Kupreskic, the Court stated: ‘The deliberate attacks on civilians or civilian objects are absolutely prohibited by international humanitarian law’. In Blaskic, the ICTY Trial Chamber found the accused guilty of ‘unlawful attacks on civilian objects’.

27. Rome Statute, Art. 8(2)(b).

CHAPTER 2: THE WAR-CAUSED EFFECTS AND THREATS TO CHILDREN RIGHTS PROTECTION

2.1 FORCED DISPLACEMENT AS A SOURCE OF VIOLATIONS OF CHILDREN RIGHTS

The attacks of Azerbaijani armed forces have caused unprecedented violations of all principles of Human Rights and Child Rights. Children have become victims of this vicious military aggression. After the first days of the military activities children were moved to safer places and communities, shelters, schools, basements, cultural and religious objects.

Almost all the children moved to shelters on the first day of the Azerbaijani offensive, facing difficulties and traumas there. However, in parallel with the Azerbaijani attacks on civilian areas and the increase of threats to children, the majority of them have moved to the Republic of Armenia. However, those children who stayed in shelters of Artsakh up to now, continue to suffer from different deprivations and traumas (Pictures 13 and 14).



Picture 13: Children in a Shelter of Stepanakert



Picture 14: Families with Children in a Shelter of Stepanakert

As attacks on civilian population continued, thousands of children and mothers were forced to leave their homes and move to Armenia. This forced displacement was the only way to save their lives, to be safe from constant shelling and bombing. Most of them didn't even manage to take the first essential things, clothes, documents. After violation of ceasefire by Azerbaijani armed forces, it became evident that the military actions were aimed at ethnic cleansing and annihilation of the Armenian population from their place of birth. Within the reported period, over 40,000 children were forcefully displaced, the overwhelming majority of them moving to different regions of Armenia. On October 19, women of Artsakh gathered together to raise their voice to the UN and other international organizations in Armenia and to ask for respect and protection of their Basic Human Rights²⁸ (Picture 15).

28. EVN Report, "The Women of Artsakh: Our Children Are Being Deprived of the Right to Life," 19 October, 2020, <https://www.evnreport.com/spotlight-karabakh/the-women-of-artsakh-our-children-are-being-deprived-of-the-right-to-life>



Picture 15: Protest of Artsakh Children and Mothers Near the Building of UN Residency in Yerevan

There are several documented cases when teenagers had to drive their family cars a few hundreds of kilometers to save their family from attacks. Children, who witnessed the war, shared their personal stories and narratives²⁹. “I woke up in the morning and learned that the rats were running away, but it was war in reality and I did not know it. It was very scary when mommy said: “Quick, take your clothes, we are going””.

This forced displacement affected the lives of children- their development, psychology, education, health, special needs, including the ones derived from disabilities.

The war trauma on children’s lives was assessed by Save the Children International³⁰. Save the Children’s Rapid Needs Assessment was conducted in Goris town, Verishen, Khndzoresk and Vorotan rural settlements (each at 7-15 km proximity from Goris town) between October 7-9, 2020. Goris town is the closest urban setting to the Nagorno-Karabakh border. Therefore, it was the first destination for the displaced people to find shelter or to use it as a transit point to move to the other provinces.

While most of them have found shelter, food and water with the assistance of local authorities, relatives or friends, Save the Children’s team has found signs of stress, sleeping problems and fear among the girls and boys seeking safety. According to the assessment, children

29. Aravot, “13-ամյա Դավիթը հոր սպիտակ 07-ով Ստեփանակերտից Երևանի քրտեղափոխել-Հայաստան”, 7 October, 2020, <https://www.aravot.am/2020/10/07/1141352/>

30. Reliefweb, “Nagorno-Karabakh fighting leaves children who fled the conflict in distress,” 22 October, 2020, <https://reliefweb.int/report/azerbaijan/nagorno-karabakh-fighting-leaves-children-who-fled-conflict-distress>

are showing signs of anxiety and sleep deprivation, especially those who do not have a family member with them.

“Children who fled the violence from Nagorno-Karabakh to Armenia are showing signs of distress such as anxiety, depression and sleeplessness”.³¹

“I feel well in Yerevan, but I want to go to Stepanakert. I missed my grandparents, my father, relatives. I pray for the war to end and for us to go home, for all the soldiers to come to their relatives safe”.³²

Based on the evidences, and the facts witnessed, Save the Children International made a statement on October 9, 2020: “Save the Children is calling for the immediate cessation of hostilities in Nagorno-Karabakh and for the safety and protection of civilians, particularly children, to be prioritised, in line with international humanitarian law and the rules of war. As conflicts around the world have shown, children are always the main victims, and that must not be allowed to happen in Nagorno-Karabakh”.³³

Several children have been group rescued and brought to safety in Armenia. Some of them were able to reunite with their families. Tragically, thousands of children have lost their parents. The trauma on children’s lives is enormous: day and night they are waiting for any news from their fathers, brothers, grandfathers.

According to the owner of an apartment building where these children are hosted, “Some of the children cry when their fathers’ names are mentioned, others are afraid of any sharp noises”.³⁴

Besides, in parallel to the COVID-19 pandemic and its escalating spread, children and their families lack the possibility of physical distancing, had a limited access to clean water and sanitation in bomb-shelters and in many places of their temporary living, thus jeopardizing their right to health and sanitation. There is already a sharp increase of COVID-19 cases in the Republics of Artsakh and Armenia, and among them displaced children and families have also been affected considerably.

31. Save the Children, “Nagorno-Karabakh Fighting Leaves Children Who Fled the Conflict In Distress,” 23 October, 2020, <https://www.savethechildren.net/news/nagorno-karabakh-fighting-leaves-children-who-fled-conflict-distress>

32. Mediamax, “The war witnessed by children,” 21 October, 2020, <https://mediamax.am/en/news/special-report/40384/>

33. Save the Children, “Thousands of Children Flee as Conflict in Nagorno-Karabakh Continues To Escalate,” 9 October, 2020, <https://www.savethechildren.net/news/thousands-children-flee-conflict-nagorno-karabakh-continues-escalate>

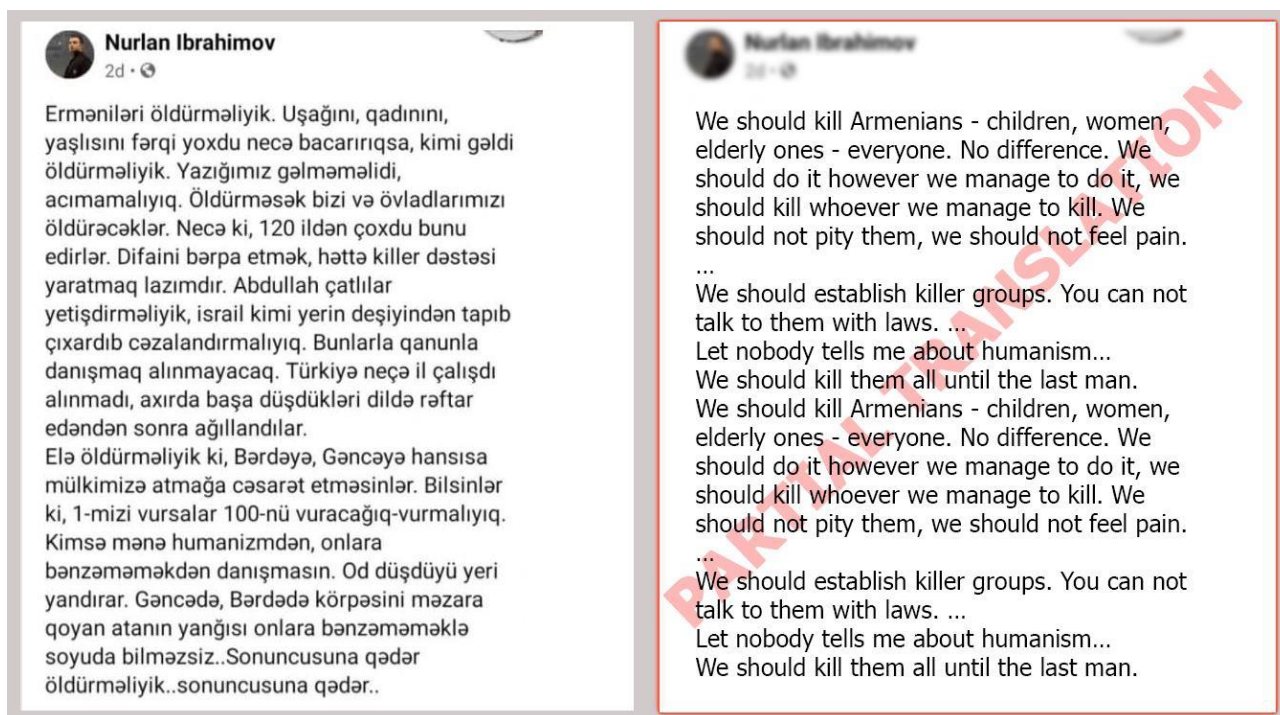
34. Voice of America, “Reporter’s Notebook: Outrage Swells as Civilians Suffer From Nagorno-Karabakh Conflict,” 6 October, 2020, <https://www.voanews.com/south-central-asia/reporters-notebook-outrage-swells-civilians-suffer-nagorno-karabakh-conflict>

2.2 MASS HATE SPEECH AGAINST ARMENIAN CHILDREN

The anti-armenian hate (Armenophobia) policy in Azerbaijan has a long history and is strongly conducted and encouraged by the authorities.³⁵ Especially during the war activities Azerbaijani social media is full of hate speech against Armenians in general and Armenian children, in particular. According to World Press Freedom Index 2020, Azerbaijan is ranked 186³⁶ with the freedom of speech. By not censoring or controlling these anti-Armenian hatred in the social networks, which they are well capable of doing, the Azerbaijani Government encourages and indirectly approves it.

All the means of social media (Facebook, Twitter, Telegram, Tiktok) are used for expression and dissemination of hate speech. The more vicious the expression of hate speech is, the more supporters, likes and shares it gets.

Nurlan Ibrahimov, the public relations and media manager of “Qarabag” football club, made a publication on his social media page, calling to kill all the Armenians, old and young, without distinction (Screenshot 1). He also justified the fact of the Armenian Genocide committed by Turkey. Ibrahimov has already deleted his post, yet thousands of users managed to see and save it³⁷.



Screenshot 1: The Armenophobic Post of Nurlan Ibrahimov, the Public Relations and Media Manager of “Qarabag” Football Club

Below are some other examples of hate speech expressions in social media.

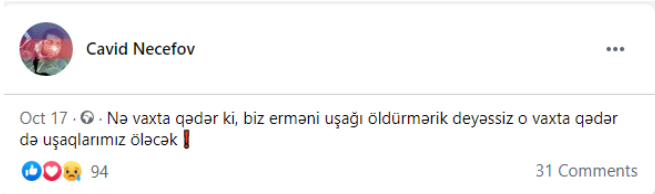
35. The Human Rights Ombudsman of Artsakh, “ARTSAKH OMBUDSMAN INTERIM PUBLIC REPORT ARMENOPHOBIA IN AZERBAIJAN ORGANIZED HATE SPEECH ANIMOSITY TOWARDS ARMENIANS,” 25 September, 2018, <https://artsakhombuds.am/hy/document/570>

36. Reporters without borders, “World Press Freedom Index 2020,” <https://rsf.org/en/azerbaijan>

37. ARMENPRESS, “Armenia Football Federation demands to exclude FK Qarabag from European competitions for xenophobia,” 31 October, 2020, <https://armenpress.am/eng/news/1033460.html>



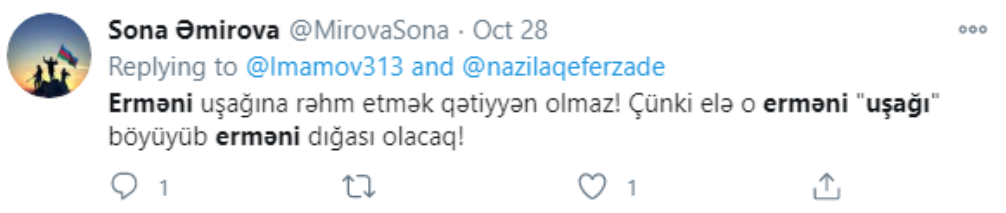
Screenshot 2: Marsu Pilami: “I have always told that I would not kill an Armenian child, however, from now, death to all, of course, from the youngest to the oldest.”³⁸



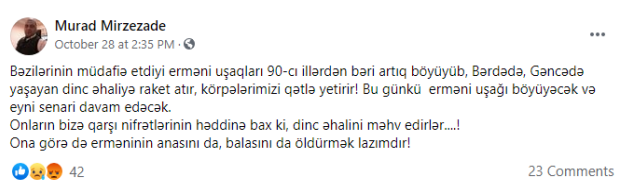
Screenshot 3: Cavid Necefov: “As long as you say we will not kill Armenian children, our children will die.”³⁹



Screenshot 4: Elmeddin Muradlı: “If you see an Armenian child, will you kill him? I think in some cases abortion is not a sin.”⁴⁰



Screenshot 5: Sona Əmirova: “An Armenian child should not be pitied, as the Armenian child grows up and becomes an Armenian boy.”⁴¹



Screenshot 6: Murad Mirzəzadə. “...Both the Armenian mother and child should be killed.”⁴²

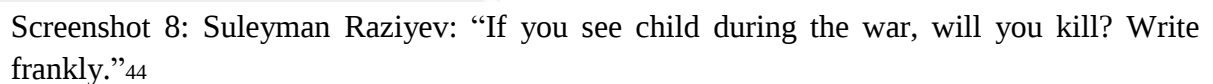
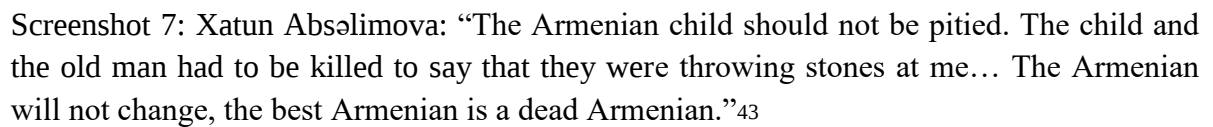
38. Marsu Pilami, 17 October, 2020, <https://twitter.com/sadecesisidde/status/1317260072653934592>

39. Cavid Necefov, 17 October, 2020, <https://www.facebook.com/cnecefov1/posts/3422028687881721>

40. Elmeddin Muradlı, 13 October, 2020, <https://twitter.com/thisiselmaddin/status/1316028875478953985>

41. Sona Əmirova, 28 October, 2020, <https://twitter.com/MirovaSona/status/1321473332118581249>

42. Murad Mirzəzadə, 28 October, 2020, <https://www.facebook.com/murad.mirzazade.98/posts/1676638545845092>



43. Xatun Absəlimova, 31 October, 2020, <https://www.facebook.com/100015540885357/posts/948880772306610/?d=n>

44. Suleyman Raziyeu, 29 October, 2020, <https://www.facebook.com/suleyman.raziyev.5/posts/1004794839977559>



Afa Ceferova

Mən öldürərəm qanında içərəm Mənim əsirlərlə körpələrimin qanın töküüb kökünü if demədən keserəm

Like · 12w



Screenshot 9: Afa Ceferova: “Surely, I will kill. My hands are itching to do it.”



Qalib Nebiyev Bozkurt

Mən şəxsən işgəncələr yox ancaq bircə dəfə vurub öldürəm

Like · 12w



Screenshot 10: Qalib Nebiyev Bozkurt: “I will not torture, I will kill.”



Xaliq Mamedov

Yox. QANIN İCƏRƏM !!!!

Like · 12w



Screenshot 11Xaliq Mamedov: “Yes, I will drink the blood.”

2.3. USE OF BANNED WEAPONRY (CLUSTER MUNITIONS) AGAINST CIVILIAN TARGETS

“Cluster munition remnants kill or maim civilians, including women and children, obstruct economic and social development, [...] can negatively impact on national and international peace-building and humanitarian assistance efforts, and have other severe consequences that can persist for many years after use.”⁴⁵

There is substantive evidence of the use of cluster munitions by Azerbaijan against the civilians of Artsakh. A video was released demonstrating the attack and its impact on the surrounding civilian residential area.⁴⁶ Since September 27, Azerbaijan has repeatedly deployed LAR-160 and Smerch cluster-warhead rockets against capital city Stepanakert, the city of Hadrut, and the village of Shosh near Stepanakert.⁴⁷

According to the HALO Trust, one of the very few international humanitarian organizations present in Artsakh, cluster bombs were found in houses and streets.⁴⁸

Amnesty International identified Israeli-made M095 DPICM cluster munitions fired by Azerbaijan against Stepanakert.⁴⁹

In its recent report issued on October 23, 2020, Human Rights Watch confirmed that Azerbaijan has repeatedly used widely banned cluster munitions in residential areas in Artsakh⁵⁰.

The use of weapons that are indiscriminate by nature is prohibited.⁵¹ The very nature of the cluster munitions in question inevitably means that those deploying them are incapable of ensuring the required distinction between military and civilian targets when used in proximity with civilians and civilian objects, let alone when used in densely populated communities.

Both the HALO Trust and the State Emergency Service of Artsakh have detected extensive number of unexploded remnants in civilian areas of various communities. For example, as of October 15, the HALO Trust has destroyed over 150 items of unexploded ordnance.⁵² While the State Emergency Service of Artsakh, as of 13 October, found and destroyed 673 unexploded cluster munitions in capital city Stepanakert.⁵³ It means that the number of unexploded remnants is too

45. UN, Convention on Cluster Munitions, Dublin, 2008, Para 3.

46. Arman Tatoyan, Human Rights Defender of Armenia, Facebook Page, 5 October, 2020, https://www.facebook.com/permalink.php?story_fbid=724389021493639&id=100017676420633

47. The Human Rights Ombudsman of Artsakh, “Second Interim Report on the Azerbaijani atrocities against Artsakh population in September-October 2020,” 10 October, 2020, p. 25, <https://artsakhombuds.am/en/document/735?fbclid=IwAR3wSu6IB-uEdr5L2ucTnp7qvr50PLJHjI-zGlFoaTt93IdvV0lFT-18Xgg>

48. The HALO Trust, “Update: Crisis in the Caucasus,” https://www.halostrust.org/latest/halo-updates/news/nagorno-karabakh-conflict/?utm_campaign=451816_Update%3A%20Nagorno%20Karabakh%20-%20all&utm_medium=email&utm_source=The%20HALO%20Trust&dm_i=5F0F,9OMG,310KOD,12ZPP,1

49. Amnesty International, “Armenia/Azerbaijan: Civilians must be protected from use of banned cluster bombs,” 5 October, 2020, <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-civilians-must-be-protected-from-use-of-banned-cluster-bombs/>

50. Human Rights Watch, “Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh,” 23 October, 2020, <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>

51. ICJ, Legality of the threat or use of nuclear weapons, Advisory Opinion of 8 July 1996, para 78.

52. The HALO Trust, “MAKE PEOPLE SAFE IN NAGORNO KARABAKH,” 15 October, 2020, <https://www.halostrust.org/get-involved/give/appeal-for-nagorno-karabakh/>

53. Sputnik Armenia, « Միայն Ստեփանակերտում 673 չպայթած ռումբ է հայտնաբերվել. սակրավորները «մաքրում» են Արցախը », 13 October, 2020, <https://armeniasputnik.am/karabakh/20201013/24885481/miayn-stepanakertum-673-chpaytats-rumbb-e-haytnabervel.html>

much throughout the whole country, which are risking the safety of civilians, among them, mostly children, given their objective vulnerability in such conditions.

Azerbaijan also targets and regularly intimidates civilians using unmanned aerial vehicles (UAV)/drones, the usage of which in the residential areas is prohibited. This proves once again that Azerbaijan targets the civilian population on purpose. These vehicles were also exercised on the territory of the Republic of Armenia striking a 14-year-old boy, who was heading to the agricultural civilian field for potato harvest, and damaging middle schools in Sotq and Kut communities leaving broken windows and cracked walls as reported by the Human Rights Defender of Armenia on October 14.

Hence, by using cluster munitions, Azerbaijan has been systematically committing grave breaches of international humanitarian law and customary international law, demonstrating a blatant disregard for its human rights obligations and risking lives of civilians, including children.

ANNOTATION

The institution of the Human Rights Ombudsman of the Republic of Artsakh is an independent national human rights institution functioning with Paris principles. It was established in 2008, according to the Constitution and the Law on Human Rights Ombudsman.

The first Human Rights Ombudsman was Yuri Hayrapetyan, who served in 2008-2016.

The second Human Rights Ombudsman was Ruben Melikyan, who served in 2016-2018.

The incumbent Ombudsman is Artak Beglaryan, who has been elected on October 31, 2018.

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