

# WHEN EMBERS BURST INTO FLAMES

INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS LAW

VIOLATIONS DURING THE 2020 NAGORNO-KARABAKH WAR



May 2021

REPORT

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International Humanitarian Law and Human Rights Law  
Violations During the 2020 Nagorno-Karabakh War

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# EXECUTIVE SUMMARY

Nagorno-Karabakh is a land-locked mountainous region in the southern Caucasus spanning approximately 4,400 km<sup>2</sup>. Whilst internationally recognised as part of the Republic of Azerbaijan, its territory has been disputed and fought over by Armenia and Azerbaijan since the breakup of the Soviet Union. The most intense clashes took place in 1992 to 1994, resulting in 30,000 deaths, the displacement of over one million people and Armenia's de facto occupation of the former Autonomous Oblast' of Nagorno-Karabakh and a "buffer zone" of seven Azerbaijani districts (approximately 14 per cent of Azerbaijani territory). Armenia's occupation of these areas was condemned by the UN Security Council (see UNSC resolutions 853, 874 and 884). On 27 September 2020, the protracted conflict flared up once again into a deadly six-week all-out war. According to official estimates, the 2020 conflict has resulted in more than 5000 deaths – including 100 Azerbaijani and 55 Armenian civilians - and well over 100,000 displaced persons. The six-week war ended with a Russian-brokered truce taking effect on 10 November 2020. The truce has largely held, although some ceasefire violations have been reported by both sides.

Between October and December 2020, IPHR/Truth Hounds conducted four separate field investigation missions to Azerbaijan and Armenia, amounting to a total of 29 days of field work. In the course of the missions, the IPHR/Truth Hounds team interviewed 30 witnesses in Azerbaijan (outside of Nagorno-Karabakh), 46 witnesses in Nagorno-Karabakh and seven witnesses in Armenia. The team also visited and documented 46 bombing impact sites across the conflict-affected region. In addition to field investigations, IPHR/Truth Hounds con-

ducted open-source investigations and analysis of satellite imagery, social media posts and information released by national and de facto authorities. IPHR/Truth Hounds also examined reports by international fact-finding missions and experts, including the International Committee of the Red Cross, Human Rights Watch and Amnesty International, as well as media reporting from the conflict zone. All findings were analysed using the framework of international humanitarian law ("IHL") and the European Convention on Human Rights ("ECHR"), with expert advice and assistance provided by Global Diligence LLP.

Based on our investigation and analysis, IPHR/Truth Hounds were able to draw the following conclusions on the warring parties' conduct during the six-week war between 27 September and 10 November 2020 (these findings are made to a 'reasonable basis to believe' standard unless otherwise specified):

- ▶ IPHR/Truth Hounds independently verified 46 reported bombings of civilians and civilian infrastructure through on-site investigations, witness evidence, satellite imagery analysis and open-source data analysis. At least **32 incidents qualify as indiscriminate and/or disproportionate attacks on civilians** in violation of IHL and the right to life, of which **23 were perpetrated by Azerbaijani armed forces** leading to **20 civilian deaths**, and nine were perpetrated by the armed forces of Armenia/Nagorno-Karabakh resulting in **80 civilian deaths**.
- ▶ Members of Azerbaijani armed forces are responsible for the **extrajudicial**

**executions of four captured Armenian combatants and three Armenian civilians**, and are further responsible for the **enforced disappearance of at least one Armenian civilian**. Another **Armenian civilian died in Azerbaijani custody** as a result of the conditions of his detention. There is also *prima facie* evidence that **members of Armenia/Nagorno-Karabakh armed forces are responsible for two episodes of executions of wounded Azerbaijani combatants**.

- ▶ Azerbaijani authorities are responsible for the **torture and cruel, inhuman or degrading treatment of Armenian prisoners of war**. Furthermore, there is *prima facie* evidence that **members of the Azerbaijani armed forces subjected at least four civilians to torture and cruel, inhuman or degrading treatment** in the course of military operations.
- ▶ At least **seven Azerbaijani prisoners of war were subjected to torture and cruel, inhuman or degrading treatment at the hands of Armenian/Nagorno-Karabakh armed forces**. Furthermore, there is *prima facie* evidence of a further three cases of **torture** perpetrated against Azerbaijani prisoners of war.
- ▶ Members of the **armed forces of Armenia/Nagorno-Karabakh are responsible for at least eight instances of despoliation of the dead**. At least two **Azerbaijani soldiers are accused of committing similar offences** against deceased Armenian/Nagorno-Karabakh soldiers.
- ▶ **Azerbaijani armed forces** appear to have **deliberately targeted and damaged places of religious and/or cultural significance** to ethnic Armenians: Ghazanchetsots Cathedral in Shushi and the Chartar/Guneykhirman cross.

- ▶ **Azerbaijani armed forces** appear to have **deliberately targeted Armenian hospitals, medical transport and medical personnel in at least five documented incidents**.

IPHR/Truth Hounds takes no position on the legality of the conflict and does not draw any comparisons between the parties' relative compliance with the laws and customs of war. The sole purpose of this report is to set out a neutral and objective account of violations of the laws and customs of war and fundamental human rights by both warring parties between 27 September 2020 and 10 November 2020, and to highlight Armenia and Azerbaijan's continuing obligations to conduct independent, prompt, public and effective investigations into these violations and to bring those responsible to account. The authors acknowledge that there are other important issues raised by this conflict, such as the use of foreign mercenaries, the international trade in inherently indiscriminate weapons, the continued detention of Armenian nationals apprehended after the cessation of hostilities and the humanitarian situation of civilians in conflict-affected areas, however these issues are beyond the scope of this report.

It is hoped that a reliable account of the true human cost of the war will persuade both sides to resort to non-violent means of settling their disputes. Alternatively, it is hoped that the report will inform the parties as to necessary institutional and legislative reforms required to minimise human suffering in future conflicts.

# INTRODUCTION

On 27 September 2020, the protracted conflict between Armenia and Azerbaijan over the territory of Nagorno-Karabakh flared up once again into a deadly six-week all-out war. According to official estimates, the conflict resulted in more than 5000 deaths – including 100 Azerbaijani and 55 Armenian civilians – and well over 100,000 displaced persons. Between October and January 2020, International Partnership for Human Rights (“IPHR”), Truth Hounds (hereinafter “IPHR/Truth Hounds”) conducted four field missions to Azerbaijan, Armenia and the conflict-affected territory of Nagorno-Karabakh, to document violations of the laws and customs of war and the human cost of this latest chapter in the region’s troubled history. This report sets out the authors’ findings – analysed and presented using the frameworks of international humanitarian law (“IHL”) and the European Convention on Human Rights (“ECHR”). It is important to emphasize that IPHR/Truth Hounds take no position on

the legality of the conflict and does not draw any comparisons between the parties’ relative compliance with the laws and customs of war.

Based on the authors’ findings, both parties to the conflict have committed grave breaches of the Geneva Conventions and Protocols and serious violations of the ECHR. IPHR/Truth Hounds call on both parties to conduct full, independent and effective investigations into the violations set forth in this report, to hold those responsible to account under the law, and to conduct all necessary institutional and legislative reform and training to ensure that such violations will not occur in the future.



# A Authors

**International Partnership for Human Rights (IPHR)** is an independent, non-governmental organisation founded in 2008. Based in Brussels, IPHR works closely together with civil society groups from different countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities. IPHR is committed to promoting human rights worldwide.

**Truth Hounds** is a team of human rights defenders, working on documenting war crimes and crimes against humanity in war contexts since 2014. Based in Kyiv, Ukraine, Truth Hounds aims at fighting against the impunity of perpetrators of international crimes and grave human rights violations through investigation, documentation and monitoring, advocacy, problem solving for vulnerable groups.

**Global Diligence LLP** provided legal advice and assistance during the investigation, analysis and completion of this report. Global Diligence LLP is a public interest law firm based in the United Kingdom, specialising in complex legal issues in unstable and conflict-affected regions. Its main practice areas are international criminal law, human rights and justice-sector capacity building. Global Diligence LLP partners and counsel have substantial experience in international courts and tribunals as representatives of victims, defendants and members of the prosecution.

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## B Aims of the Report

This report is aimed at setting out a neutral and objective account of violations of the laws and customs of war and fundamental human rights by both warring parties in the 2020 Nagorno-Karabakh war (between 27 September 2020 and 10 November 2020).

As is often the case, this conflict is characterised by mutual animosity, cross-accusations and disinformation. Truth about the human experience of thousands of civilians on both sides of the conflict is yet another casualty of this conflict. The authors' aim is not to point fingers or apportion blame, but to provide an impartial assessment of the parties' compliance with applicable international law. Violations have been committed by both sides, and there is no merit in establishing whether one side was more compliant with its international obligations than the other. Likewise, it is not the aim of this report to assess the legality of either party's use of force. The authors also acknowledge that there are other important issues raised by this conflict, such as the use of foreign mercenaries, the international trade in inherently indiscriminate weapons, the continued detention of Armenian nationals apprehended after the cessation of hostilities and the humanitarian situation of civilians in conflict-affected areas, however these issues are beyond the scope of this report.

It is the authors' firm belief that all sides may benefit from an objective account of the legality of both parties' conduct in this war. The true cost of settling regional disputes by resorting to violence is the inevitable human suffering on both sides of the conflict. It is hoped that a reliable account of the true human cost of the war will persuade both sides to resort to non-violent means of settling their disputes. Alternatively, it is hoped that the report will inform the parties as to necessary institutional and legislative reforms required to minimise human suffering in future conflicts.

As signatories to the Geneva Conventions and the ECHR, both parties have binding legal obligations to investigate all violations and to hold those responsible for grave breaches to account. It is hoped that this report will inform those investigations and contribute to future restorative justice initiatives aimed at redressing the pain and suffering of the multitude of victims of this war. The obligation to investigate, prosecute or extradite those responsible for grave breaches of IHL and acts of torture also falls on all other signatories of the Geneva Conventions and its Protocols and the United Nations Convention Against Torture. It is therefore hoped that this report will assist all other state parties to comply with these obligations in relation to any persons on their territories who may bear responsibility for the conduct set forth in this report.

# C Methodology

The information on which this report is based was collected through field mission documentation, semi-structured witness interviews, open-source investigations and desktop research. To ensure a methodologically consistent documentation process, IPHR/Truth Hounds use a tailor made IHL documentation manual and a practical toolbox (hereinafter “the Guide”). The Guide includes detailed description of elements of IHL violations and international crimes (using the legal framework of the Geneva Conventions and Protocols and the Rome Statute of the International Criminal Court), classification of evidence, instructions on obtaining and safely storing different categories of evidence, guidelines on conducting field interviews and obtaining appropriate statements from victims and witnesses and security aspects of the fieldwork.

Investigating violations of the laws and customs of war requires the completion of several stages of data collection, analysis and verification. Each stage includes specific requirements for establishing the material elements of IHL violations and the linkage evidence to potential perpetrators.

## I. DATA COLLECTION

The main form of data collection for the purposes of IHL documentation is interviewing witnesses and victims of alleged violations. To gather witness and supporting evidence, the documentation team travels to the alleged crime site with the view to identifying victims, witnesses and physical evidence. Witness statements, conducted in an impartial and open manner, form the bulk of the evidence – an indispensable part of the investigation. Further contextual and/or corroborating information is sought from official documents such as reports from State and quasi-State organs (e.g. statements by representatives of the warring parties, law enforcement agencies, international monitoring organisations, media reports).

The purpose of the interview is to obtain the victim’s most complete answers on the event

in question. To ensure the reliability and credibility of witness evidence, the documentation team resorts to the use of open questions. The following data is gathered from every witness:

- ▶ Brief description of the interviewee, their occupation, previous occupation, education, workplace and residence, date of birth and other personal and contact details; timing and location of the incident with questions aimed at verifying the accuracy, reliability, credibility and sources of knowledge of that information (e.g. proximity of date of incident to well-known public holidays or events; presence of watch or clock; daily routine; corroborating evidence such as mobile phone data);
- ▶ Other contextual data such as the prevailing meteorological conditions, quantity and quality of light, astronomical events (e.g. position of the moon); verbal description of the location where the incident(s) occurred, address (especially for the location of affected property and infrastructure); graphic representation of the location where the incident occurred (hand-drawn map of the scene); photo and video evidence, captured by the respondent or his/her close relatives;
- ▶ Location of the interviewee at the time of the events (for establishing accuracy, reliability and credibility and identifying possible hearsay); the list of places targeted by the attack, addresses of damaged buildings, places of shell bursts; what the interviewee saw (flashes, active colours in the sky, the flight path of the projectile), heard (shots, explosion, whistling, hissing, creaking, rustling), and felt (vibration, oscillation, effect of a blast); from which side of the interviewee the fire was conducted (from a certain cardinal direction, from a certain locality, a particular object, “right-left”, etc...);



- ▶ Factors identifying the types of weapons being used, as well as the witness' own observations and information that may affect the interviewee's ability to make such observations (e.g.: current or former position in the armed forces, personal experience of modern weaponry, discussions with experts etc); information on positions, movements and composition of warring parties (including the sources of such information and factors supporting its credibility and reliability); information on the presence of military objectives in the vicinity of the targeted area;
- ▶ Information on the nature of the targeted area (especially the presence of protected buildings such as schools and hospitals);
- ▶ Information on whether any warning was given and if so, how it was given (e.g. alarm sound, warning from one of the military sides, alert in the media, rumours and where did they come from); whether the respondent was personally affected and how;
- ▶ Information about injured civilians as a result of the attack (killed, wounded) and sources of that information;
- ▶ Other consequences of the attack: damaged infrastructures, injuries and traumas, financial losses; availability of corroborating evidence (e.g.: notes from doctors concerning injuries and wounds, acts of State organs on the destruction and damage to facilities).

At the end of each interview, the statement is read back to (or by) the interviewee and he or she may correct any errors or inaccuracies on the record. The interviewer and the respondent sign a duplicated form, which includes information on the potential use of the data and the duty and purposes of the interviewing organisation to ensure the confidentiality of the data. All evidence is collected from each witness separately and independently. The presence of other witnesses or anyone that could have an

influence on the testimony is not allowed during the interview (or if unavoidable, placed on the record).

## **II. IMPACT SITE DOCUMENTATION AND ANALYSIS**

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Attack impact sites are identified from witness statements and official or open-source data. Each impact site is visited by the documentation team. The following documentation and analysis processes are conducted on site to determine the means and methods of the attack, its provenance as well as its impact on civilian lives and infrastructure:

- ▶ Systematic photo and video recording of the documentation process; taking necessary measurements to determine the direction of fire (i.e. width, depth and angle of impact); documentation of missile remnants (photo backed by video) or any other information identifying the type of weapon used;
- ▶ In order to boost the accuracy, credibility and reliability of documented information, each documenter must:
  - *Specify the date, place and time of the recording and give their name and the names of everyone involved in the analysis of the impact site; show a panorama of the scene, in order to confirm the location and identifying features (e.g.: addresses on buildings, street signs or unusual objects, etc.);*
  - *Show the impact site from four sides (crosswise) and overall, medium, large and detailed plans;*
  - *Capture on camera the measurements of the impact zone;*
  - *Capture the settings on camera with a compass azimuth, the direction from which shooting was carried and show that the direction on camera; during the documentation and analysis of impact sites the documenters;*

- Use tapes and a ruler to measure: width, length and depth of the crater (its size) and specify the direction from which they took the measurements of the crater (ex: width from east to west);

- Show the dimensions of the entry point of the projectiles;

- Show the dimensions of the remnants left by exploding shells, the extent of damage on the affected area;

- Show the dimensions of debris and remnants, if they are present on the site of the incident, the size of the remains of the shell if there are any;

- Record the symbols and marks on the shells and their residues, if possible;

- Determine the fire direction with the help of a compass and determine the azimuth to the highest degree of accuracy;

- Where possible, record the coordinates of the places of documenting damages (note the GPS coordinates to mark the place on the map).

### III. DOCUMENTING PHYSICAL EVIDENCE

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Physical evidence such as shell fragments, bullet casings and victims' documents and other possessions bearing witness to IHL violations are documented and described wherever possible. Physical evidence is only collected when documenters determine that its collection is paramount to its preservation. All necessary measures are taken to maintain a clear and reliable chain of custody for each item collected.

Each documented item of physical evidence is appended to witness statements and other information identifying the attack in question.

When physical evidence is handed to documenters by witnesses, the evidence is separated, placed in a sealed bag or contained and marked with identifying information including the place, date, circumstances of collection and contact in-

formation of the evidence provider. For physical evidence collected directly by a documenter, the physical act of collecting is recorded on video. The evidence is then stored in a secure place in the organisation and protected against manipulation and corrosion. Where necessary, the documenters are able to testify in court regarding the evidence, the collection and storage process and other observations made at the impact site.

### IV. DATA ANALYSIS

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After collection, all data is organised and analysed using the legal framework of the Geneva Conventions and Protocols and the International Criminal Court Statute and its Elements of Crimes. The aims of the process are to (a) obtain the most complete picture of events documented (including contextual evidence and information on gravity and impact of attacks); (b) determine – to 'a reasonable basis to believe' standard – whether the documented evidence reveals the existence of IHL violations and crimes; and (c) identify gaps in the evidence and potential sources of information for bridging the identified gaps. To this end, documenters compare the testimonies of civilian and combatant respondents in relation to the episode independently from one another and compare the data that they have reported. In the event that the collected data answers the questions in the investigation, and the different testimonies demonstrate an acceptable level of consistency, the issue is considered documented. In the alternative, further investigative steps are sought.

All attack impact sites and other crime sites are marked on the map, after which the intensity, provenance, means and methods of the attack are determined using the documented data, allowing a preliminary conclusion as to the likely origin of the attack, and the types of weapons used.

Based on the documented evidence, a determination is made on the harm caused to civilians and civilian infrastructure, its extent and gravity.

The Geneva Conventions and its Protocols and the International Criminal Court Statute and its Elements of Crimes are used to deter-

mine whether IHL violations and international crimes have taken place. This analysis takes into account the conflicting parties' adherence to the principles of distinction, proportionality, humanity; an evaluation of the parties' military necessity and actual or potential military advantage, and any evidence indicating efforts made to take into account civilians and their well-being.

Linkage evidence is analysed to determine those responsible by identifying the likely warring party responsible for the attack, the units stationed at or near the identified launch site and the chain of command of those units.

## **V. OPEN-SOURCE DATA VERIFICATION**

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Following the field research and the analysis of the collected data, the following measures are used:

- ▶ Analysis of open-access satellite maps and images, which occasionally allow the identification of military installations and launch sites that correspond to the documented evidence and analysis.
- ▶ Analysis of photos, videos and publications on the Internet and social networks posted by eyewitnesses of the events. Publications on the Internet and social media (photos, videos, posts) that were made by potential perpetrators of the documented attacks.
- ▶ Official data on the combat actions taken by the parties of the conflict, obtained from reports of international monitors, which checks data collected by documenters in field missions.

## **VI. DOCUMENTATION MISSIONS CONDUCTED FOR THE PURPOSE OF THIS REPORT**

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IPHR/Truth Hounds carried out four separate documentation missions for the purpose of collecting information for this report, amounting to

a total of 29 days of field work documentation. The IPHR/Truth Hounds team was joined or supported by members of other organisations. Each team consisted of four to six field researchers:

- ▶ Three separate missions were carried out on the territories of Armenia and Nagorno-Karabakh on 16-19 October, 14-26 November and 22-29 December 2020. The field missions visited the following settlements: Stepanakert/Khankendi, Martakert/Agdere, Martuni/Khojavend, Karmir Shuka/Qırmızı Bazar, Shosh/Shushakend, Chartar/Guneykhirman, Nngi/Jamiyyat, Berdzor/Lachin, Mets Masrik/Boyuk Mezre and Sotq/Zod. The team also visited witnesses to the conflict who were located in Yerevan, Guymri, Tsahkadzor, Kotayk, Armavir and Aygestan.
- ▶ One mission was carried out on the territory of Azerbaijan (outside of Nagorno-Karabakh) on 10-13 November 2020. The field mission visited the following settlements: Ganja, Barda, Mingechaur, Naftalan, Yevlakh, Terter and the villages of Duyerli and Sixarx. The documentation team was unable to enter Azerbaijan during its second mission to the country in January 2021. The official reasons for refusal of entry were the intended mission's incompatibility with the country's COVID-19 restrictions.

In the course of the missions, the IPHR/Truth Hounds team interviewed 30 witnesses in Azerbaijan (outside of Nagorno-Karabakh), 46 witnesses on the territory of Nagorno-Karabakh and seven witnesses in Armenia. The team also visited and documented 46 bombing impact sites on the territories of Azerbaijan and Armenia.



# CHRONOLOGY OF THE 2020 NAGORNO-KARABAKH WAR

Nagorno-Karabakh is a land-locked mountainous region in the southern Caucasus spanning approximately 4,400 km<sup>2</sup>. In 1988, its population was composed of ethnic Armenians (approximately 75%) and a large Azerbaijani minority. Under the Soviet Union, it was an autonomous region within the Soviet Socialist Republic of Azerbaijan (formally known as the Nagorno-Karabakh Autonomous Oblast<sup>1</sup>). In February 1988, regional leaders sought unification with Armenia, a request opposed by Moscow and Baku, but supported by Yerevan. During the breakup of the Soviet Union, Azerbaijani authorities abolished the region's autonomous status. Ethnic Armenians in Nagorno-Karabakh resisted by declaring independence. An armed conflict broke out as a result, in which Armenia and Nagorno-Karabakh (with Russian support) fought against Azerbaijan. From 1992–1994, clashes segued into large-scale military action. The war ended with ethnic Armenian forces taking control of seven Azerbaijani districts around Nagorno-Karabakh (approximately 14 per cent of Azerbaijani territory), creating a buffer zone and land bridge to Armenia. An estimated one million people had been displaced and about 30,000 killed as a result of the conflict.<sup>1</sup>

A stalemate had largely prevailed since a 1994 ceasefire, punctuated by skirmishes. Ethnic Armenians declared an independent Republic of Nagorno Karabakh (later referred to as the Republic of Artsakh), which has never been officially recognised by a single UN member state. The occupation of Azerbaijani territory and alleged human rights violations against ethnic Azerbaijanis have been subject to international condemnation, most notably by the UN Security Council,<sup>2</sup> European Parliament,<sup>3</sup> Parliamentary Assembly of the Council of Europe,<sup>4</sup> the Organization of Islamic Conference<sup>5</sup> and the UN General Assembly.<sup>6</sup> The breakaway region's de facto administration has relied heavily on Armenia's political, economic, and security support, which in turn has close military and political ties with Russia, while Turkey openly supports Azerbaijan. Since 1994, there have been several flare-ups in the conflict and frequent exchanges of fire, resulting in dozens of casualties. The Minsk Group of the Organization for Security and Co-operation in Europe ('OSCE')—chaired by France, Russia, and the United States—has been mediating conflict resolution since 1992 without any tangible results. Armenia and Azerbaijan declared another ceasefire in April 2016 after the

- 1 Council of Europe, 'REPORT on the humanitarian situation of the refugees and displaced persons in Armenia and Azerbaijan', 14 February 1995, available at: <https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=6823&lang=en>; estimating that the conflict displaced up to 300,000 ethnic Armenians and up to 900,000 ethnic Azerbaijanis; Human Rights Watch, 'Bloodshed in the Caucasus: Escalation of the Armed Conflict in Nagorno Karabakh', September 1992, available at: <https://www.hrw.org/reports/1992%20Bloodshed%20in%20Cauc%20-%20Escalation%20in%20NK.pdf>; Economist, 'Nagorno-Karabakh: Peace, for now', 14 November 2020, available at: <https://www.economist.com/europe/2020/11/14/a-peace-deal-ends-a-bloody-war-over-nagorno-karabakh>.
- 2 UNSC Resolutions 822, 853, 874 and 884 – full texts available here: <https://2001-2009.state.gov/p/eur/rls/or/13508.htm>.
- 3 European Parliament, 'Resolution of 20 May 2010 on the need for an EU strategy for the South Caucasus (2009/2216(INI))', available at: [https://www.europarl.europa.eu/doceo/document/TA-7-2010-0193\\_EN.html?redirect](https://www.europarl.europa.eu/doceo/document/TA-7-2010-0193_EN.html?redirect).
- 4 Parliamentary Assembly of the Council of Europe (PACE), 'Inhabitants of frontier regions of Azerbaijan are deliberately deprived of water', 26 January 2016, available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-FN.asp?fileid=22429&lang=en>.
- 5 Organisation of Islamic Conference, 'Resolution No. 7/33-P on the Aggression of the Republic of Armenia against the Republic of Azerbaijan', 17 May 2007, available at: <https://www.oic-oci.org/docdown/?docID=438&refID=31>.
- 6 United Nations General Assembly, 'Resolution 62/243. The situation in the occupied territories of Azerbaijan', 14 March 2008, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/478/35/PDF/N0747835.pdf?OpenElement>.

region experienced four days of violent clashes that left hundreds dead. Tensions between the two countries have always remained high, with each side frequently accusing the other of violating the ceasefire agreement.<sup>7</sup>

Renewed clashes between Azerbaijan and Armenia alongside the de facto authorities in Nagorno-Karabakh (hereinafter “Armenia/Nagorno-Karabakh”) erupted on **27 September 2020**, with intense battles raging over the break-away region.<sup>8</sup> The two sides blamed each other for the resumption of hostilities, although most analysts agree that the first shots were fired by Azerbaijan.<sup>9</sup> Reports from the first days of the

conflict suggested 15 civilian deaths and 60 injuries, while both sides—each with laws restricting conflict reporting—declared martial law.<sup>10</sup>

Eyewitness and government accounts from **27–29 September** confirmed civilian casualties, and destruction of civilian infrastructure in villages on both sides of the conflict line.<sup>11</sup> As has long been their custom, the parties traded accusations.<sup>12</sup> By the turn of the month, various reports provided detailed accounts of casualties claimed by both sides in multiple locations.<sup>13</sup>

On **1 October**, several clearly identified journalists covering the fighting in the Na-

- 7 *Human Rights Watch*, ‘Armenia/Azerbaijan: Don’t Attack Civilians’, 30 September 2020, available at: <https://www.hrw.org/news/2020/09/30/armenia/azerbaijan-dont-attack-civilians>; *Garda World*, ‘Armenia: Azerbaijani strikes on settlements in disputed Nagorno-Karabakh region reported on September 27’, 27 September, available at: <https://www.garda.com/crisis24/news-alerts/383591/armenia-azerbaijani-strikes-on-settlements-in-disputed-nagorno-karabakh-region-reported-on-september-27>.
- 8 *Human Rights Watch*, ‘Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh’, 23 October 2020, available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.
- 9 *Economist*, ‘Nagorno-Karabakh: Peace, for now’, 14 November 2020, available at: <https://www.economist.com/europe/2020/11/14/a-peace-deal-ends-a-bloody-war-over-nagorno-karabakh> (‘On September 27th, after 25 years of waiting for the return of its territory, Azerbaijan went back to war.’); *Garda World*, ‘Armenia: Azerbaijani strikes on settlements in disputed Nagorno-Karabakh region’, 27 September 2020, available at: <https://www.garda.com/crisis24/news-alerts/383591/armenia-azerbaijani-strikes-on-settlements-in-disputed-nagorno-karabakh-region-reported-on-september-27> (‘On Sunday, September 27, Azerbaijani forces reportedly carried out strikes on civilian settlements in the disputed Nagorno-Karabakh region, including the regional capital Stepanakert/Khankendi. Residents of the area have been instructed to seek refuge in shelters. Officials from the self-proclaimed Republic of Artsakh went on to claim that two Azerbaijani helicopters and three drones were shot down in retaliation to the air and artillery attacks. Azerbaijan has confirmed that one helicopter was lost to Armenian separatists, as well 12 surface-to-air missile systems. Following the separatist retaliation, Azerbaijan has launched what it claims to be a “counter-offensive” in response to the strikes.’); *Human Rights Watch*, ‘Armenia/Azerbaijan: Don’t Attack Civilians’, 30 September 2020, available at: <https://www.hrw.org/news/2020/09/30/armenia/azerbaijan-dont-attack-civilians> (‘Fighting between Armenia and Azerbaijan over Nagorno-Karabakh dramatically escalated early September 27, 2020. Armenia and the de-facto authorities in Nagorno-Karabakh characterized the escalation as a “wholesale attack” by Azerbaijani forces. Officials in Baku, Azerbaijan’s capital, initially said Azerbaijan was responding to Armenian attack, but provided no further details. They later said that “the fighting for the liberation of territories from occupation continues.” Armenian and Azerbaijani media are reporting continued military operations in districts around Nagorno-Karabakh and along the border between Azerbaijan and Armenia.’)
- 10 *Human Rights Watch*, ‘Armenia/Azerbaijan: Don’t Attack Civilians’, 30 September 2020, available at: <https://www.hrw.org/news/2020/09/30/armenia/azerbaijan-dont-attack-civilians>; *Radio Free Europe/Radio Liberty*, *Ron Synovitz*, ‘Azerbaijani, Armenian Civilians Under Fire As Conflict Flares Over Nagorno-Karabakh’, 30 September 2020, available at: <https://www.rferl.org/a/azerbaijani-armenian-civilians-under-fire-as-conflict-flares-over-nagorno-karabakh/30866896.html>.
- 11 *Radio Free Europe/Radio Liberty*, *Ron Synovitz*, ‘Azerbaijani, Armenian Civilians Under Fire As Conflict Flares Over Nagorno-Karabakh’, 30 September 2020, available at: <https://www.rferl.org/a/azerbaijani-armenian-civilians-under-fire-as-conflict-flares-over-nagorno-karabakh/30866896.html> (‘There are numerous reports of civilian casualties in other villages in and around Nagorno-Karabakh as well as along the border between Armenia and Azerbaijan’ – citing the following villages: Martuni/Khojavend in Nagorno-Karabakh; Azerbaijani-controlled villages in Terer district, Shiharkh village; Gashalti in Naftalan region).
- 12 *Radio Free Europe/Radio Liberty*, *Ron Synovitz*, ‘Azerbaijani, Armenian Civilians Under Fire As Conflict Flares Over Nagorno-Karabakh’, 30 September 2020, available at: <https://www.rferl.org/a/azerbaijani-armenian-civilians-under-fire-as-conflict-flares-over-nagorno-karabakh/30866896.html> (‘Armenia’s Foreign Ministry says the first civilian casualty on Armenian soil since the fighting broke out was on September 29, when the town of Vardenis came under an artillery-and-drone attack from Azerbaijan. Azerbaijan’s Defense Ministry said the attack was in response to shelling by an Armenian Army artillery unit at Vardenis that had targeted the Dashkesan region inside Azerbaijan. Armenia denied Baku’s claim. In fact, both Armenia and Azerbaijan have accused each other of firing into their territory far from Nagorno-Karabakh—the worst fighting in the area since the 1990s.’)
- 13 *MENAFN*, ‘Azerbaijan discloses names of civilians wounded as result of Armenia’s attack’, 27 September 2020, available at: <https://menafn.com/1100864475/Azerbaijan-discloses-names-of-civilians-wounded-as-result-of-Armenias-attack-UPDATE>; *JAMnews*, ‘Losses as a result of military actions in Karabakh which began on the morning of September 27’, 27 September 2020, available at: <https://jam-news.net/hostilities-resume-around-karabakh-and-on-azerbaijan-armenia-border/>; *JAMnews*, ‘Three civilians were killed in the Karabakh village of Martakert/Agdere as a result of bombing by Azerbaijan’, 30 September 2020, available at: [https://jam-news.net/karabakh-fighting-news-september-30-azerbaijan-armenia-conflict-events-video-photo/#live\\_update9](https://jam-news.net/karabakh-fighting-news-september-30-azerbaijan-armenia-conflict-events-video-photo/#live_update9); *Azernews*, Aisha Jabbarova, ‘Armenia shelling Azerbaijani villages in Aghdam’, 2 October 2020, available at: <https://www.azernews.az/aggression/169844.html>.

gorno-Karabakh town of Martuni/Khojavend were injured by Azerbaijani attacks.<sup>14</sup> On **4 October**, the International Committee of the Red Cross “strongly condemned the reported indiscriminate shelling and other alleged unlawful attacks using explosive weaponry on cities, towns and other population areas, in which civilians are losing their lives and suffering terrible injuries, including life changing ones.”<sup>15</sup> Media reports confirm attacks by both sides on a variety of urban areas, in particular Stepanakert/Khankendi (Nagorno-Karabakh’s principal city) and Ganja (Azerbaijan’s second largest city).<sup>16</sup> And again, both sides traded accusations of deliberate civilian targeting.<sup>17</sup> World powers — including Russia, France, and the US — called for an immediate cease-fire, with Turkey supporting ‘Baku’s right to self-defense’.<sup>18</sup>

On **4 October**, Azerbaijani President Ilham Aliyev publicly declared ‘Nagorno-Karabakh is our land. We have to go back there and we are doing it now. This is the end. We showed them who we are. We are chasing them like dogs [...] Armenian forces “must leave our territories, not in words but in deeds and provide a timetable for a full withdrawal. Yerevan must also recog-

nise the territorial integrity of Azerbaijan, apologise to the Azerbaijani people, and admit that the region is not part of Armenia’.<sup>19</sup>

Meanwhile in Stepanakert/Khankendi, ‘residents were taking shelter [...] in the basement of the city’s Holy Mother of God Cathedral’, as the city came under a suspect cluster munitions attack.<sup>20</sup> On **5 October**, Amnesty International confirmed the use of cluster munitions by Azerbaijani forces in Stepanakert/Khankendi, as well as the use of heavy artillery by Armenian forces on civilian targets in Ganja.<sup>21</sup>

On or around **4 October**, retaliatory strikes by Armenian and Nagorno Karabakh forces were recorded in 10 population centres in Azerbaijan — most notably Ganja, Azerbaijan’s second most populous city with over 330,000 people. Other cities which appear to have been hard hit include Tartar (with a population of around 20,000 persons), Barda (41,000), Khizi, Mingachevir (around 105,000) and Yevlakh (59,000).<sup>22</sup> On or around **6 October**, Azerbaijani authorities claimed that the Armenian bombardment had killed 27 civilians, led to the hospitalisation of 141, and destroyed or damaged over 400 houses and civilian facilities. While Armenia denied carrying out the

14 *Reporters Without Borders*, ‘Call for probe into origin of shelling that injured reporters in Nagorno-Karabakh’, 2 October 2020, available at: <https://rsf.org/en/news/call-probe-origin-shelling-injured-reporters-nagorno-karabakh>.

15 *ICRC*, ‘Nagorno-Karabakh conflict: ICRC condemns attacks causing civilian deaths and injuries’, 4 October 2020, available at: <https://www.icrc.org/en/document/nagorno-karabakh-conflict-icrc-condemns-attacks-causing-civilian-deaths-and-injuries>.

16 *Daily Mail and AFP*, Milly Vincent, ‘Civilians are killed and injured as major cities are shelled in growing conflict between Azerbaijan and Armenia’, 4 October 2020, available at: <https://www.dailymail.co.uk/news/article-8804259/Civilians-killed-injured-major-cities-shelled-conflict-Azerbaijan-Armenia.html>; *Anadolu Agency*, Ruslan Rehimov, ‘Armenian attacks on Azerbaijani civilians continue Khizi, Absheron regions targeted by two 300-km mid-range missiles, says Azerbaijani official’, 4 October 2020, available at: <https://www.aa.com.tr/en/azerbaijan-front-line/armenian-attacks-on-azerbaijani-civilians-continue/1995491>.

17 *Daily Mail and AFP*, Milly Vincent, ‘Civilians are killed and injured as major cities are shelled in growing conflict between Azerbaijan and Armenia’, 4 October 2020, available at: <https://www.dailymail.co.uk/news/article-8804259/Civilians-killed-injured-major-cities-shelled-conflict-Azerbaijan-Armenia.html>.

18 *Anadolu Agency*, Ruslan Rehimov, ‘Armenian attacks on Azerbaijani civilians continue Khizi, Absheron regions targeted by two 300-km mid-range missiles, says Azerbaijani official’, 4 October 2020, available at: <https://www.aa.com.tr/en/azerbaijan-front-line/armenian-attacks-on-azerbaijani-civilians-continue/1995491>.

19 *Daily Mail and AFP*, Milly Vincent, ‘Civilians are killed and injured as major cities are shelled in growing conflict between Azerbaijan and Armenia’, 4 October 2020, available at: <https://www.dailymail.co.uk/news/article-8804259/Civilians-killed-injured-major-cities-shelled-conflict-Azerbaijan-Armenia.html>.

20 *Daily Mail and AFP*, Milly Vincent, ‘Civilians are killed and injured as major cities are shelled in growing conflict between Azerbaijan and Armenia’, 4 October 2020, available at: <https://www.dailymail.co.uk/news/article-8804259/Civilians-killed-injured-major-cities-shelled-conflict-Azerbaijan-Armenia.html>.

21 *Amnesty International*, ‘Armenia/Azerbaijan: Civilians must be protected from use of banned cluster bombs’, 5 October 2020, available at: <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-civilians-must-be-protected-from-use-of-banned-cluster-bombs/>.

22 *Forbes*, *Sebastien Roblin*, ‘Rockets, Cluster Munitions And Missiles Rain Down On Armenian And Azerbaijani Civilians’, 7 October 2020 (the ‘Roblin Report’), available at: <https://www.forbes.com/sites/sebastienroblin/2020/10/07/rockets-cluster-munitions-and-missiles-rain-down-on-armenian-and-azerbaijani-civilians/>. Details on the author are available at: <https://www.forbes.com/sites/sebastienroblin/?sh=24c00e2a2082>.

attacks, Nagorno-Karabakh Republic de facto leader Arayik Harutyunyan announced the artillery attacks on “permanent military locations in historical Gandzak, Ganja, Kirovabad” and warned that he was willing to “continue to hit other cities, and if necessary bigger cities.”<sup>23</sup>

On **6 October**, the Prosecutor-General’s Office of Azerbaijan said that a strategic oil pipeline had been targeted, an accusation immediately rejected by Armenia.<sup>24</sup> At the same time, public statements by Azerbaijani President Ilham Aliyev and Armenian Prime Minister Nikol Pashinyan highlighted the increasing geopolitical complexity of the conflict, with Iran and Turkey backing Azerbaijan and Russia, France, and the United States — co-chairs of the Minsk Group — reiterating calls for a ceasefire.<sup>25</sup> The conflict briefly

threatened to cross into Iran.<sup>26</sup>

On **7 October**, an independent weapons expert confirmed the use of “powerful artillery systems designed to devastate large areas to target densely populated urban communities, as well launching ballistic missiles to target infrastructure far away from the fighting”.<sup>27</sup>

Clashes continued on **7 and 8 October**, with additional shelling of Stepanakert/Khankendi and Ganja.<sup>28</sup> On **8 October**, Armenia accused Azerbaijan of shelling an historic cathedral in Armenian-controlled Shusha/Shushi.<sup>29</sup> Azerbaijani officials denied the attack and made counter accusations.<sup>30</sup> Continued attempts to reach a ceasefire stalled.<sup>31</sup>

On **10 October**, Armenia and Azerbaijan agreed to a Russian-brokered ceasefire. However, the two sides immediately accused each

23 Roblin Report.

24 *Radio Free Europe/Radio Liberty*, ‘Azerbaijan Says Pipeline Targeted In Fighting; Armenia Rejects Accusation’, 7 October 2020, available at: <https://www.rferl.org/a/azerbaijan-says-pipeline-targeted-in-fighting-armenia-rejects-accusation/30879737.html>; *BNE IntelliNews*, ‘Azerbaijan accuses Armenia of attempted cluster rocket attack on oil and gas pipelines’, 7 October 2020, available at: <https://www.intel-linews.com/azerbaijan-accuses-armenia-of-attempted-cluster-rocket-attack-on-oil-and-gas-pipelines-193645/>.

25 *Radio Free Europe/Radio Liberty*, ‘Azerbaijan Says Pipeline Targeted In Fighting; Armenia Rejects Accusation’, 7 October 2020, available at: <https://www.rferl.org/a/azerbaijan-says-pipeline-targeted-in-fighting-armenia-rejects-accusation/30879737.html> (‘Azerbaijani President Ilham Aliyev spoke by phone October 6 with Iranian President Hassan Rohani, the president’s press service said in a statement. Aliyev told Rohani that 27 Azerbaijani civilians had been killed, more than 170 injured, and more than 900 houses damaged or destroyed in recent fighting. Rohani expressed his country’s concern [...]. Armenian Prime Minister Nikol Pashinyan said on October 6 in an interview with the French AFP news agency that Turkey’s “full support” had motivated its ally Azerbaijan to reignite the fighting. [...] Pashinian [...] condemned Azerbaijan for waging a “terrorist war against a people struggling for their freedom” [...] describing the role of Armenian forces as a “counterterrorism operation”. [...] Each side has accused the other of targeting civilians. The hostilities have increased concern that a wider conflict could drag in regional power Turkey, which is Azerbaijan’s closest ally, and Russia, which has a defense pact with Armenia. On October 5, Russia, France, and the United States—the co-chairs of the [...] Minsk Group [...]—reiterated their call for an immediate cease-fire in and around Nagorno-Karabakh. Brushing off calls for a cease-fire, Turkish Foreign Minister Mevlut Cavusoglu met with Aliyev in Baku on October 6, vowing to deepen the country’s involvement as it criticized the Minsk Group. “There should be no doubt that, when needed, we will act like one state. Turkey is Azerbaijan, Azerbaijan is Turkey”, Cavusoglu [tweeted](#) on October 6.’)

26 *BBC*, ‘Nagorno-Karabakh: Iran warns of “regional war” as fighting rages’, 7 October 2020, available at: <https://www.bbc.com/news/world-europe-54449401> (‘President Rouhani [...] said it was “totally unacceptable” for any stray shells and missiles to land on Iranian soil. His comments followed reports that shells had landed on villages in Iran, just across from its northern border with Armenia and Azerbaijan. [...] Iranian Border Guards Commander Qasem Rezaei also said his forces had been placed “in necessary formation” across from the fighting. “Since the beginning of the conflict ... a number of artillery shells and rockets have hit the territory of [Iran]”, he said, [...]’)

27 Roblin Report.

28 *BBC*, ‘Nagorno-Karabakh: Iran warns of “regional war” as fighting rages’, 7 October 2020, available at: <https://www.bbc.com/news/world-europe-54449401> (‘Stepanakert/Khankendi has been hit by several days of shelling. Residents have been taking shelter in basements and much of the city has been left without power. There were fresh strikes on Wednesday morning and smoke was seen around Stepanakert/Khankendi, AFP reports. Meanwhile, Azerbaijan accused ethnic Armenian forces of shelling urban areas and targeting civilian buildings. Its second-largest city, Ganja, has been shelled and Azerbaijani officials said hundreds of buildings were destroyed.’); *Trend News Agency*, ‘Azerbaijan’s Ganja under fire once again by Armenian troops’, 8 October 2020, available at: <https://en.trend.az/azerbaijan/politics/3312771.html>; *Anadolu Agency*, Jeyhun Aliyev, ‘Armenian forces continue shelling Azerbaijani villages’, 8 October 2020, available at: <https://www.aa.com.tr/en/azerbaijan-front-line/armenian-forces-continue-shelling-azerbaijani-villages/2000176>.

29 *Radio Free Europe/Radio Liberty*, ‘Armenia Accuses Azerbaijan Of Shelling Cathedral In Nagorno-Karabakh’, 8 October 2020, available at: <https://www.rferl.org/a/situation-tense-in-nagorno-karabakh-after-day-of-heavy-fighting-amid-diplomatic-flurry/30881866.html>.

30 *Radio Free Europe/Radio Liberty*, ‘Armenia Accuses Azerbaijan Of Shelling Cathedral In Nagorno-Karabakh’, 8 October 2020, available at: <https://www.rferl.org/a/situation-tense-in-nagorno-karabakh-after-day-of-heavy-fighting-amid-diplomatic-flurry/30881866.html> (‘Azerbaijan’s Defense Ministry denied attacking the cathedral, saying its army “doesn’t target historical, cultural, especially religious buildings and monuments”. [...] Earlier on October 8, Baku said Armenian forces had attacked several Azerbaijani towns and villages overnight, causing casualties’).

31 *Radio Free Europe/Radio Liberty*, ‘Armenia Accuses Azerbaijan Of Shelling Cathedral In Nagorno-Karabakh’, 8 October 2020, available at: <https://www.rferl.org/a/situation-tense-in-nagorno-karabakh-after-day-of-heavy-fighting-amid-diplomatic-flurry/30881866.html>.

other of violating the agreement and the truce never effectively entered into force.<sup>32</sup>

On **11 October**, a hydroelectric power plant in Mingachevir, Azerbaijan was allegedly targeted by Armenian forces.<sup>33</sup> However, the incoming missiles 'were reportedly shot down by the Azerbaijani military air defense forces'.<sup>34</sup> On the same day, an Armenian scud attack on a residential area of Ganja was reported, with civilian casualties claimed by Azerbaijan.<sup>35</sup> Baku additionally claimed three civilian deaths and further casualties in an alleged Armenian attack on an Azerbaijani cemetery on **15 October**.<sup>36</sup>

On or around **14 October**, footage began circulating online appearing to show the capture and execution of two Armenian or Nagorno-Karabakh captives by Azerbaijani forces. An investigation by Bellingcat concluded that the videos were likely genuine, and geo-located them to a square in the town of Hadrut, the focus of some of the most intense fighting at the time.<sup>37</sup> The Armenian Prosecutor's Office denied that the men in the video were combatants and

identified them as 73-year-old BH and 25-year-old YA, both from the Hadrut region; while Azerbaijani officials claimed that the videos were fake.<sup>38</sup> According to the Nagorno-Karabakh Human Rights Ombudsman, Azerbaijani forces had killed four civilians in Hadrut, including a man with disabilities and his mother, in an earlier incident on **10 October**.<sup>39</sup>

On **16 October**, Hikmat Hajiyev, an assistant to Azerbaijan's president and head of the administration's foreign policy department, released a statement denying any IHL violations on his country's part and laying all blame for a catalogue of transgressions on Armenian forces. The statement included an official death count: 'As of **14 October**, 43 Azerbaijani civilians have been killed and 214 civilians were wounded in the course of these attacks against the settlements. 277 civilian facilities and 1571 houses and buildings have been destroyed.'<sup>40</sup>

On **17 October**, there were further reports of civilian targeting and casualties in Stepanakert/ Khankendi and Ganja by both sides; the usual

- 32 *Guardian*, 'Nagorno-Karabakh: Armenia and Azerbaijan agree to ceasefire', 10 October 2020, available at: <https://www.theguardian.com/world/2020/oct/10/nagorno-karabakh-armenia-and-azerbaijan-agree-to-ceasefire>. ('Minutes after the truce took force, the Armenian military accused Azerbaijan of shelling the area near the town of Kapan in southeastern Armenia, killing one civilian. Azerbaijan's defence ministry rejected the Armenian accusations as a "provocation". The Azerbaijani military, in turn, accused Armenia of striking the Terter and Agdam regions of Azerbaijan with missiles and then attempting to launch offensives in the Agdere-Terter and the Fizuli-Jabrail areas.')
- 33 TASS, 'Baku reports missile attack on its Mingachevir Hydro Power Plant', 10 October 2020, available at: <https://tass.com/world/1210919>).
- 34 *Hydro Review*, 'Azerbaijan Prosecutor General: Missile attack launched on 424-MW Mingachevir hydroelectric', 12 October 2020, available at: <https://www.hydroreview.com/dams-and-civil-structures/azerbaijan-prosecutor-general-missile-attack-launched-on-424-mw-mingachevir-hydroelectric/#:~:text=Specifically%2C%20on%20Oct.%2011%2C,power%20station%20in%20South%20Caucasus>.
- 35 *Turan*, 'Ganja was fired from "Scud" missile, and not "Tochka-U"', 12 October 2020, available at: <https://www.turan.az/ext/news/2020/10/free/politics%20news/en/128604.html>.
- 36 *Al Jazeera*, 'Nagorno-Karabakh: "Three dead" in attack at Azerbaijan cemetery', 15 October 2020, available at: [https://menafn.com/1100964367/Death-toll-as-result-of-deliberate-shelling-of-cemetery-in-Azerbaijans-Tartar-by-Armenia-increases-PHOTO](https://www.aljazeera.com/news/2020/10/15/nagorno-karabakh-three-dead-in-attack-at-azerbaijan-cemetery#:~:text=the%20menu%20Live-Nagorno%2D-Karabakh%3A%20%E2%80%99Three%20dead%E2%80%99%20in%20attack%20at%20Azerbaijan,hostilities%20over%20break-away%20region%20continue.&text=Hikmet%20Hajiyev%2C%20writing%20on%20Twitter,which%20he%20blamed%20on%20Armenia; MENAFN, 'Death toll as result of deliberate shelling of cemetery in Azerbaijan's Tartar by Armenia increases (PHOTO)', 15 October 2020, available at: <a href=).
- 37 *OC Media*, *Robin Fabbro*, 'Evidence mounts of war crimes in Nagorno-Karabakh', 16 October 2020, available at: <https://oc-media.org/evidence-mounts-of-war-crimes-in-nagorno-karabakh/>; *Bellingcat*, Nick Waters, 'An Execution in Hadrut', 15 October 2020, available at: <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/>; *Atlantic Council*, Digital Forensic Research Lab, 'Evidence emerges of Azeri soldiers executing Armenian POWs', 15 October 2020, available at: <https://medium.com/dfrlab/evidence-emerges-of-azeri-soldiers-executing-armenian-pows-bf7b28a95f16>.
- 38 *OC Media*, *Robin Fabbro*, 'Evidence mounts of war crimes in Nagorno-Karabakh', 16 October 2020, available at: <https://oc-media.org/evidence-mounts-of-war-crimes-in-nagorno-karabakh/>. *Nb.* The men allegedly killed are likely Benik Hakobian and Yuri Adamian. *Radio Free Europe/Radio Liberty*, 'This Is A Different War': Nagorno-Karabakh Refugee Shudders At Video Showing Neighbors' Execution', 30 October 2020, available at: <https://www.rferl.org/a/nagorno-karabakh-refugee-execution-video/30921794.html>.
- 39 *OC Media*, *Robin Fabbro*, 'Evidence mounts of war crimes in Nagorno-Karabakh', 16 October 2020, available at: <https://oc-media.org/evidence-mounts-of-war-crimes-in-nagorno-karabakh/> (According to the ombudsman, 'six civilians in Hadrut had been killed in the fighting so far').
- 40 *EURACTIV*, *Hikmat Hajiyev*, 'Attacks by Armenia against Azerbaijani civilians and critical infrastructure should not be overlooked', 16 October 2020, available at: <https://www.euractiv.com/section/azerbaijan/opinion/attacks-by-armenia-against-azerbaijani-civilians-and-critical-infrastructure-should-not-be-overlooked/>.



denials and counterclaims ensued.<sup>41</sup> Ignoring a renewed truce, heavy fighting was reported on **19 October**, with mutual blame.<sup>42</sup> The General Prosecutor of Azerbaijan's office reported deliberate targeting of civilians and infrastructure with Armenian Scuds on 22 October.<sup>43</sup> As of 23 October, two humanitarian ceasefires brokered by members of the Minsk Group had failed to halt the fighting, and scores of civilians had been killed or injured in attacks.<sup>44</sup>

On **28 October**, Azerbaijan accused Armenia of killing 21 people and wounding dozens in a cluster-munition strike on Barda.<sup>45</sup> HRW and Amnesty International confirmed the attack.<sup>46</sup> On **28 October**, the Armenian Defense Ministry spokesperson, Shushan Stepanyan, said on Facebook that "The statement of the Ministry of Defense of Azerbaijan that the Armed Forces of Armenia allegedly hit the town of Barda

with Smerch is groundless and false," but on **29 October** it issued two posts listing military objects allegedly located in Barda.<sup>47</sup>

On **31 October**, Russian state news reported on the possible Azerbaijani use of white-phosphorous weapons.<sup>48</sup> The Azerbaijani Defense Ministry immediately denied the accusations.<sup>49</sup> The alleged bombing was followed on **31 October** by further reports of residential shelling by both parties, 'just a day after the sides agreed to avoid targeting civilian populations' and 'as Russia said it would provide "necessary" assistance to Yerevan if fighting [...] reached Armenia's territory'.<sup>50</sup> Nagorno-Karabakh authorities said that the central market in Stepanakert/Khankendi 'had come under fire and that large parts of it had been burned', while an Armenian Defense Ministry spokesperson 'said several civilians had been

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- 41 BBC, 'Nagorno-Karabakh: Civilians hit amid Armenia Azerbaijan conflict', 17 October 2020, available at: <https://www.bbc.com/news/world-europe-54581628> ('Armenia and Azerbaijan have accused each other of attacking residential areas as the conflict [...] rages on. Azerbaijan said an Armenian missile had killed at least 13 civilians in Ganja, a city far from the front lines. Armenia meanwhile accused Azerbaijan of shelling residences in Stepanakert/Khankendi. [...] Officials in Azerbaijan announced on Saturday that at least 13 people had been killed and more than 40 injured after a missile struck populated areas in Ganja [...]).
- 42 Al Jazeera, 'Nagorno-Karabakh fighting continues as second truce fails to hold', 19 October 2020, available at: <https://www.aljazeera.com/news/2020/10/19/nagorno-karabakh-fighting-resumes-despite-ceasefire-commitment>.
- 43 Azerbaijan General Prosecutor's Office, 'Armenian Armed Forces fired ballistic missiles at Gabala, Kurdamir and Siyazan regions', 22 October 2020, available at: <https://genprosecutor.gov.az/az/post/3082> ('Starting early in the morning of October 22nd, the Armenian armed forces using massively destructive warfare methods fired Scud ballistic tactical missiles at Gabala, Kurdamir, and Siyazan districts of the Republic of Azerbaijan, which are located more than 150 km away from the frontline. As a result of rockets launched, resident of Hajally village, Gabala district, Amirbeyov Murad Jeyhun, born in 2003, received various injuries, 5 houses in the village were severely damaged.')
- 44 Human Rights Watch, 'Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh', 23 October 2020, available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>; Amnesty International, Armenia/Azerbaijan: First confirmed use of cluster munitions by Armenia 'cruel and reckless', 29 October 2020, available at: <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-first-confirmed-use-of-cluster-munitions-by-armenia-cruel-and-reckless/>.
- 45 Hürriyet Daily News, 'Azerbaijan says 21 dead in Armenia missile attack', 28 October 2020, available at: <https://www.hurriyetdailynews.com/azerbaijan-says-21-dead-in-armenia-missile-attack-159546> ('Azerbaijani presidential aide Hikmet Hajiyev said Armenian forces had fired Smerch missiles against Barda, accusing them of using cluster munitions "to inflict excessive casualties among civilians". [...] The prosecutor general's office said the strike had hit a densely populated area and a shopping district, killing 21 civilians and wounding at least 70.')
- 46 Human Rights Watch, 'Armenia: Cluster Munitions Kill Civilians in Azerbaijan', 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>; Amnesty International, Armenia/Azerbaijan: First confirmed use of cluster munitions by Armenia 'cruel and reckless', 29 October 2020, available at: <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-first-confirmed-use-of-cluster-munitions-by-armenia-cruel-and-reckless/>.
- 47 Human Rights Watch, 'Armenia: Cluster Munitions Kill Civilians in Azerbaijan', 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>;
- 48 TASS, 'Yerevan says Azerbaijan's forces used white phosphorus munitions in Nagorno-Karabakh', 31 October 2020, available at: <https://tass.com/world/1218643>.
- 49 TASS, 'Baku denies reports on use of white phosphorus munitions in Nagorno-Karabakh', 31 October 2020, available at: <https://tass.com/world/1218653>.
- 50 Radio Free Europe/Radio Liberty, 'Armenia, Azerbaijan Accuse Each Other Of New Shelling As Russia Vows Assistance To Yerevan', 31 October 2020, available at: <https://www.rferl.org/a/nagorno-karabakh--conflict-russia-assistance-armenia-csto/30922595.html>); Reuters, Nvard Hovhannisyan and Nailia Bagirova, 'Armenia, Azerbaijan trade fresh accusations of Karabakh shelling', 31 October 2020, available at: <https://www.reuters.com/article/armenia-azerbaijan/armenia-azerbaijan-trade-fresh-accusations-of-karabakh-attacks-idUSKB-N27GQD1>.

wounded in attacks on the strategic town of Shusha/Shushi'.<sup>51</sup> Nagorno-Karabakh's human rights ombudsman said a civilian in Martuni/Khojavend had died when a shell hit his home.<sup>52</sup> Azerbaijan's Defense Ministry denied both accusations and claimed that Tartar, Agdam, Aghjabedi, and Gubadli had been attacked.<sup>53</sup>

More civilian casualties on both sides were reported on **6 November**. Again, the Azerbaijani shelling was concentrated in Stepanakert/Khankendi and Shusha/Shushi, while Tartar and nearby villages were attacked by Armenian forces. As usual, both sides denied targeting civilians.<sup>54</sup> By **8 November**, Azerbaijan had raised its flag over Shusha/Shushi; Armenian forces surrendered within hours.<sup>55</sup>

On **9 November 2020**, Russian President Vladimir Putin, Azerbaijani President Ilham Aliyev, and Armenian Prime Minister Nikol Pashinyan signed a joint statement on a complete ceasefire in Nagorno-Karabakh as of **10 November**.

According to the agreement, Azerbaijan would retain the positions it gained during the conflict, while Armenia agreed to withdraw from several adjacent areas.<sup>56</sup> Russian peacekeepers would be deployed to the region.<sup>57</sup> Thus, the six-week war ended in a clear military victory for Azerbaijan, as well as a geopolitical coup for Russia and Turkey.<sup>58</sup> This agreement was received with anger and protests in Armenia, with calls for the Prime Minister's resignation.<sup>59</sup>

Whilst the ceasefire has largely held, some violations have been reported. Russian peacekeepers observed an attack by Azerbaijani forces on Armenian-controlled Hadrut district on **11 December**. The Armenian Defence Ministry confirmed the Azerbaijani army had carried out an attack close to two villages the south of Nagorno-Karabakh, adding that it was taking "appropriate measures." In response, Azerbaijani President Ilham Aliyev blamed Armenia for the new clashes and threatened to "break

51 *Radio Free Europe/Radio Liberty*, 'Armenia, Azerbaijan Accuse Each Other Of New Shelling As Russia Vows Assistance To Yerevan', 31 October 2020, available at: <https://www.rferl.org/a/nagorno-karabakh--conflict-russia-assistance-armenia-csto/30922595.html>; *Reuters*, Nvard Hovhannisyann and Nailia Bagirova, 'Armenia, Azerbaijan trade fresh accusations of Karabakh shelling', 31 October 2020, available at: <https://www.reuters.com/article/armenia-azerbaijan/armenia-azerbaijan-trade-fresh-accusations-of-karabakh-attacks-idUSKBN27G0D1>.

52 *Reuters*, Nvard Hovhannisyann and Nailia Bagirova, 'Armenia, Azerbaijan trade fresh accusations of Karabakh shelling', 31 October 2020, available at: <https://www.reuters.com/article/armenia-azerbaijan/armenia-azerbaijan-trade-fresh-accusations-of-karabakh-attacks-idUSKBN27G0D1>.

53 *Radio Free Europe/Radio Liberty*, 'Armenia, Azerbaijan Accuse Each Other Of New Shelling As Russia Vows Assistance To Yerevan', 31 October 2020, available at: <https://www.rferl.org/a/nagorno-karabakh--conflict-russia-assistance-armenia-csto/30922595.html>; *Reuters*, Nvard Hovhannisyann and Nailia Bagirova, 'Armenia, Azerbaijan trade fresh accusations of Karabakh shelling', 31 October 2020, available at: <https://www.reuters.com/article/armenia-azerbaijan/armenia-azerbaijan-trade-fresh-accusations-of-karabakh-attacks-idUSKBN27G0D1>.

54 *Radio Free Europe/Radio Liberty*, 'Civilians Reportedly Killed In Shelling As Fighting Over Nagorno-Karabakh Continues', 6 November 2020, available at: <https://www.rferl.org/a/civilians-reportedly-killed-as-fighting-over-nagorno-karabakh-keeps-up/30933290.html>; *Reuters*, Margarita Antidze, 'Nagorno-Karabakh says its two largest cities under fierce attack', 6 November 2020, available at: <https://www.reuters.com/article/armenia-azerbaijan-idUSKBN27M1UN>.

55 *Economist*, 'Nagorno-Karabakh: Peace, for now', 14 November 2020, available at: <https://www.economist.com/europe/2020/11/14/a-peace-deal-ends-a-bloody-war-over-nagorno-karabakh>.

56 *President of Russia*, 'Statement by President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia and President of the Russian Federation', 10 November 2020, available at: <http://en.kremlin.ru/events/president/news/64384>; *BBC*, 'Armenia, Azerbaijan and Russia sign Nagorno-Karabakh peace deal', 10 November 2020, available at: <https://www.bbc.com/news/world-europe-54882564>.

57 *TASS*, 'Statement of Russia, Azerbaijan, Armenia leaders leads to full-format negotiations', 10 November 2020, available at: <https://tass.com/politics/1222317>.

58 *Wall Street Journal*, Ann Simmons and David Gauthier-Villars, 'Armenia and Azerbaijan Reach Deal to End Nagorno-Karabakh War', 9 November 2020, available at: <https://www.wsj.com/articles/armenia-and-azerbaijan-reach-deal-to-end-nagorno-karabakh-conflict-11604964760>; *New York Times*, Anton Troianovski, 'In Bitter Nagorno-Karabakh War, a Reordering of Regional Powers', 10 November 2020, available at: <https://www.nytimes.com/2020/11/10/world/europe/armenia-azerbaijan-nagorno-karabakh.html>; *Carnegie Endowment for International Peace*, Paul Stronski, 'A Stunted Peace in Nagorno-Karabakh', Commentary, 12 November 2020, available at: <https://carnegieendowment.org/2020/11/12/stunted-peace-in-nagorno-karabakh-pub-83215>; *Economist*, 'Nagorno-Karabakh: Peace, for now', 14 November 2020, available at: <https://www.economist.com/europe/2020/11/14/a-peace-deal-ends-a-bloody-war-over-nagorno-karabakh>.

59 *Guardian*, 'Armenian protesters demand prime minister quit over deal with Nagorno-Karabakh', 5 December 2020, available at: <https://www.theguardian.com/world/2020/dec/05/armenian-protesters-demand-prime-minister-quit-over-deal-with-nagorno-karabakh>.

its head with an iron fist.”<sup>60</sup> On **29 December**, Turkey denounced attacks by “Armenian armed elements” on Azerbaijani positions allegedly taking place on **26 November, 8 December, 11 December and 27 December** (these allegations have not been independently verified).<sup>61</sup> On **16 December**, it was reported that up to 160 Armenian/Nagorno-Karabakh soldiers were seized by Azerbaijani armed forces in coordinated raids.<sup>62</sup> At the time of writing, an unknown number of Armenians continue to be held incommunicado by Azerbaijani authorities – who refuse to designate them as prisoners of war.<sup>63</sup>

On **2 December**, HRW reported evidence of physical abuse and humiliation of Armenian prisoners of war held by Azerbaijan.<sup>64</sup> On **10 December**, Amnesty International reported abuses by both sides of the conflict, including extrajudicial killings (including several decapi-

tations), the mistreatment of prisoners and the desecration of dead bodies of enemy soldiers.<sup>65</sup> On **19 March 2021**, HRW published further evidence of Azerbaijani abuse and torture of Armenian captives.<sup>66</sup>

According to various estimates, the conflict resulted in more than 5000 deaths and well over 100,000 displaced persons.<sup>67</sup> Official figures, as of **5 December**, are as follows: 94 Azerbaijani civilians killed and more than 400 wounded; 55 Armenian civilians killed and more than 120 wounded.<sup>68</sup>

60 DW, ‘Nagorno-Karabakh: Russian army reports cease-fire breach’, 11 December 2020, available at: <https://www.dw.com/en/nagorno-karabakh-russian-army-reports-cease-fire-breach/a-55918875>; *Guardian*, ‘Nagorno-Karabakh: both sides blame each other over ceasefire violations’, 12 December 2020, available at: <https://www.theguardian.com/world/2020/dec/12/armenian-officials-and-azerbaijan-accuse-of-breeching-nagorno-karabakh-peace-deal>.

61 *Daily Sabah*, ‘Turkey bashes Armenia for violation of Nagorno-Karabakh peace deal’, 29 December 2020, available at: <https://www.dailysabah.com/politics/diplomacy/turkey-bashes-armenia-for-violation-of-nagorno-karabakh-peace-deal>.

62 BBC, ‘Nagorno-Karabakh: Dozens of Armenian soldiers ‘captured in raid’, 16 December 2020, available at: <https://www.bbc.co.uk/news/world-europe-55329493>.

63 HRW, ‘Azerbaijan: Armenian POWs Abused in Custody’, 19 March 2021, available at: <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>; ‘Azerbaijani President Ilham Aliyev said that his government has returned all the POWs to Armenia but was still holding approximately 60 people as terrorism suspects’; Eurasianet, ‘Two months after war, dozens of Armenian POWs remain in Azerbaijani captivity’, 14 January 2021, available at: <https://eurasianet.org/two-months-after-war-dozens-of-armenian-pows-remain-in-azerbaijani-captivity>; Emerging Europe, ‘Fears grow for fate of Armenian POWs held by Azerbaijan’, 25 March 2021, available at: <https://emerging-europe.com/news/fears-grow-for-fate-of-armenian-pows-held-by-azerbaijan/>; Congressman Adam Schiff, ‘Armenian Caucus Co-Chairs Introduce Resolution Urging Azerbaijan to Release All Prisoners of War and Captured Civilians’, 16 March 2021, available at: <https://schiff.house.gov/news/press-releases/armenian-caucus-co-chairs-introduce-resolution-urging-azerbaijan-to-release-all-prisoners-of-war-and-captured-civilians->.

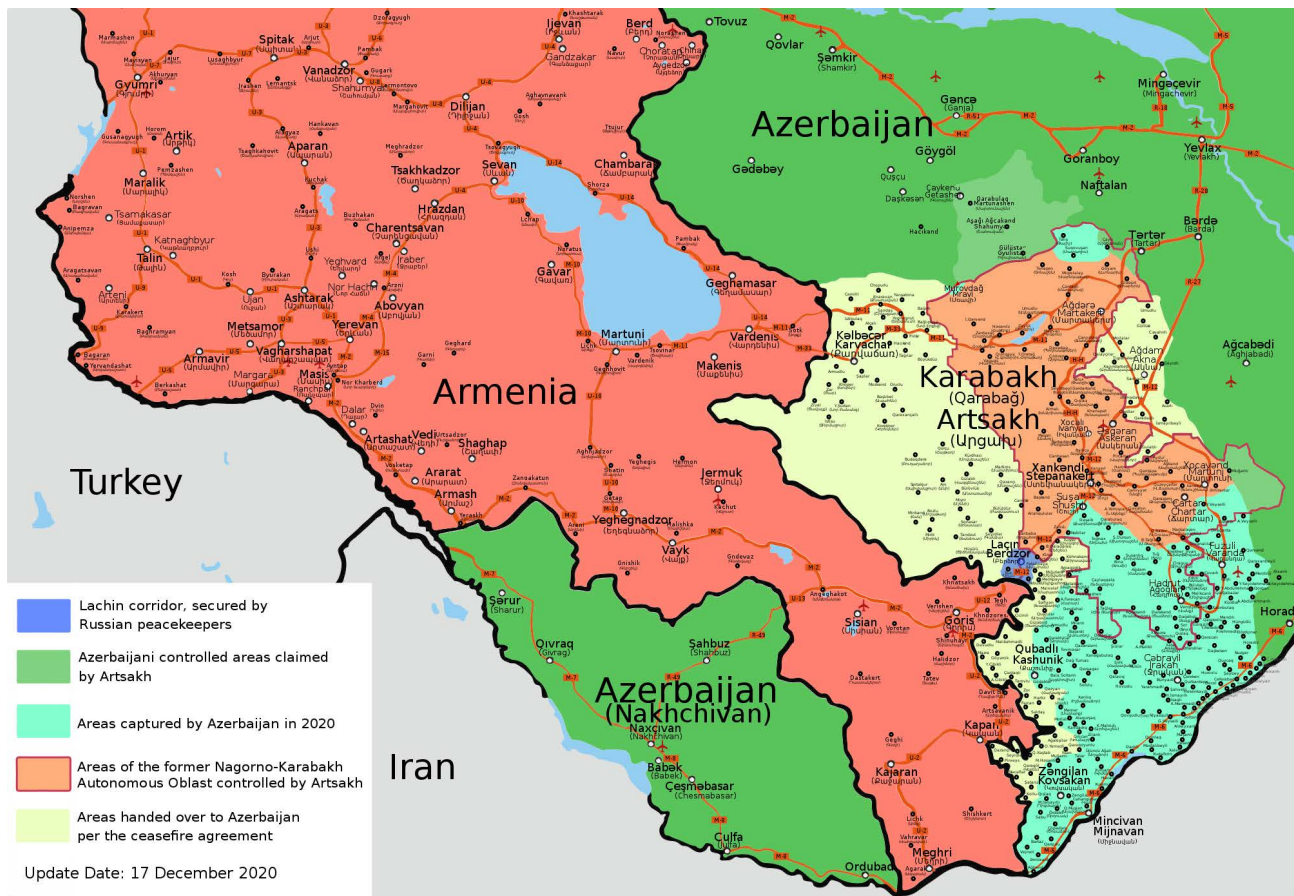
64 HRW, ‘Azerbaijan: Armenian Prisoners of War Badly Mistreated’, 2 December 2020, available at: <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>.

65 Amnesty International, ‘Armenia/Azerbaijan: Decapitation and war crimes in gruesome videos must be urgently investigated’, 10 December 2020, available at: <https://www.amnesty.org/en/latest/news/2020/12/armenia-azerbaijan-decapitation-and-war-crimes-in-gruesome-videos-must-be-urgently-investigated/>.

66 HRW, ‘Azerbaijan: Armenian POWs Abused in Custody’, 19 March 2021, available at: <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>.

67 *Wall Street Journal*, David Gauthier-Villars and Ann Simmons, ‘Armenians Protest Over Nagorno-Karabakh Peace Agreement With Azerbaijan’, 10 November 2020, available at: <https://www.wsj.com/articles/armenians-protest-over-nagorno-karabakh-peace-agreement-with-azerbaijan-11605022624>.

68 *Guardian*, ‘Armenian protesters demand prime minister quit over deal with Nagorno-Karabakh’, 5 December 2020, available at <https://www.theguardian.com/world/2020/dec/05/armenian-protesters-demand-prime-minister-quit-over-deal-with-nagorno-karabakh> (‘Azerbaijan on Thursday released information on its military casualties from the latest fighting. Its defense ministry said 2783 troops were killed and more than 100 were still missing and its government said 94 of its civilians were killed and more than 400 wounded. Armenia’s health ministry said on Wednesday that at least 2718 Armenian servicemen had been killed in the fighting. At least 55 Armenian civilians were also among the casualties.’); *Lawfare*, Anoush Baghdassarian and Cameron Pope, ‘Why the Nagorno-Karabakh Cease-Fire Won’t End the Conflict’, 25 November 2020, available at: <https://www.lawfareblog.com/why-nagorno-karabakh-cease-fire-wont-end-conflict> (‘The process of identifying bodies is still ongoing, but Armenia has put its official death toll so far at 2425 troops and 50 civilians. An additional 122 civilians have been wounded. Azerbaijan has not yet announced its military casualties, deeming this classified information, but has estimated its civilian casualties at 92, with more than 400 wounded. According to UNICEF, more than 130,000 civilians have been displaced since the fighting started.’)



2020 Nagorno-Karabakh conflict map. Source: Wikipedia.



# INDISCRIMINATE AND/OR DISPROPORTIONATE ATTACKS ON CIVILIANS

International organisations, human rights groups and media organisations have documented multiple incidents of indiscriminate and/or disproportionate bombing of civilians by all parties to the Nagorno-Karabakh war. Indiscriminate bombing – attacks of a nature to strike military objectives and civilians or civilian objects without distinction – are strictly prohibited and constitute grave breaches of the Geneva Conventions and its Protocols for war crimes. Similarly, attacks which may be expected to cause incidental loss of civilian life, injury to civilians and/or damage to civilian objects which would be excessive in relation to the anticipated military advantage are grave breaches of the Geneva Conventions and may be prosecuted as war crimes.<sup>69</sup> Civilian casualties resulting from indiscriminate or disproportionate bombing is a gross violation of the right to life under the ECHR. Signatories to the Geneva Conventions and the ECHR have an obligation to investigate all incidents of indiscriminate bombing and to prosecute or extradite those responsible.<sup>70</sup>

On **4 October**, the International Committee of the Red Cross ('ICRC') "strongly condemned the reported indiscriminate shelling and other alleged unlawful attacks using explosive weaponry in cities, towns and other populated areas, in which civilians are losing their lives and suffering terrible injuries, including life-changing ones".<sup>71</sup> According to the ICRC:

*"In recent days, there has been an increase in the use of heavy and explosive weaponry in populated areas. Hundreds of homes and key infrastructures like hospitals and schools have been destroyed or damaged by heavy artillery fire and by airborne attacks including missiles. Other infrastructures such as roads, electricity, gas, and communication networks have also been damaged. Families are on the move looking for safe shelter, while others have retreated underground to unheated basements sheltering day and night from violence."*<sup>72</sup>

The ICRC pertinently noted that "[t]he use of explosive weapons with a wide impact area against military targets in populated areas may violate international humanitarian law, which prohibits indiscriminate and disproportionate attacks".<sup>73</sup>

On **7 October**, international-security expert Sebastian Roblin catalogued the various type of weapons used by both warring parties, and highlighted their inherently indiscriminate nature:

*"Both belligerents are using powerful artillery systems designed to devastate large areas to target densely populated urban communities, as well launching ballistic missiles to target infrastructure far away from the fighting. Most of these weapons are designed to have large areas of effect, and could not plausibly be used surgically against military areas of civilian communities. They are inflicting massive*

<sup>69</sup> Additional Protocol I, Article 57(2)(a)(iii) and 85(3)(b).

<sup>70</sup> Fourth Geneva Convention, Article 146; Additional Protocol I, Article 85; ECHR, Article 2.

<sup>71</sup> ICRC, 'Nagorno-Karabakh conflict: ICRC condemns attacks causing civilian deaths and injuries', 4 October 2020, available at: <https://www.icrc.org/en/document/nagorno-karabakh-conflict-icrc-condemns-attacks-causing-civilian-deaths-and-injuries>.

<sup>72</sup> *Ibid.*

<sup>73</sup> ICRC, 'Nagorno-Karabakh conflict: ICRC condemns attacks causing civilian deaths and injuries', 4 October 2020, available at: <https://www.icrc.org/en/document/nagorno-karabakh-conflict-icrc-condemns-attacks-causing-civilian-deaths-and-injuries>.



*destruction of buildings and infrastructure, and killing at a minimum dozens of civilians”.*<sup>74</sup>

Roblin identified the weapons systems as Smerch rocket-launcher systems,<sup>75</sup> M095 cluster munitions,<sup>76</sup> other powerful long-range rockets<sup>77</sup> and ballistic missiles,<sup>78</sup> as well as a variety of shorter-range artillery.<sup>79</sup>

Media organisations and human rights groups have confirmed the use of cluster bombs by both sides of the conflict. Cluster munitions are inherently indiscriminate. They scatter hundreds of submunitions, inflicting damage and injury over a wide area and closing off escape routes. Between five and 20 per cent of the submunitions typically fail to explode, turning into anti-personnel mines that inflict further casualties for years to come. The production, stock-

piling, use and transfer of cluster munitions has been banned by the 2008 Convention on Cluster Munitions - ratified by 108 countries, but not Armenia or Azerbaijan).<sup>80</sup>

IPHR/Truth Hounds has independently verified 46 reported bombings of civilians through on-site investigations, witness evidence, satellite imagery analysis and open-source data analysis. Using the legal framework set forth below, IPHR/Truth Hounds has determined that at least 32 incidents qualify as indiscriminate and/or disproportionate attacks on civilians in violation of IHL and the right to life, of which 23 were perpetrated by Azerbaijani armed forces and nine were perpetrated by the armed forces of Armenia/Nagorno-Karabakh.

74 *Forbes*, [Sebastien Roblin](https://www.forbes.com/sites/sebastienroblin/2020/10/07/rockets-cluster-munitions-and-missiles-rain-down-on-armenian-and-azerbaijani-civilians/), 'Rockets, Cluster Munitions And Missiles Rain Down On Armenian And Azerbaijani Civilians', 7 October 2020 (the 'Roblin Report'), available at: <https://www.forbes.com/sites/sebastienroblin/2020/10/07/rockets-cluster-munitions-and-missiles-rain-down-on-armenian-and-azerbaijani-civilians/>. Details on the author are available at: <https://www.forbes.com/sites/sebastienroblin/?sh=24c00e2a2082>.

75 Roblin Report ('One of the principal weapons in the bombardments appears to be Russian-built BM30 Smerch ("Tornado") multiple-rocket launcher systems. A Smerch system consists of an eight-wheel truck mounting twelve tubes for 300-millimeter (12") diameter rockets. Azerbaijan is believed to possess 30 or 40 BM-30 systems. The Smerch uses several types of rocket. The 9M528 rocket has a single "unitary" 1796-pound high explosive warhead. However, there is also a 9M55K cluster munition rocket stuffed with 72 small bomblet submunitions each weighing 3.8 pounds. The 7.6-meter-long rockets can strike targets up to 56 or 43 miles away, respectively.')

76 Roblin Report ('[Amnesty International identified](#) Israeli M095 DPICM (Dual-Purpose Improved Cluster Munition) bomblets in a residential area in Stepanakert/Khankendi. It happens that after fighting in April 2016, a charity reported that in 2016 it had recovered and destroyed over 200 unexploded M095 cluster bomblets in northeastern Nagorno-Karabakh left behind by Israeli LAR-160 rockets fired by Azerbaijan. Azerbaijan possesses around 30 LAR-160 medium-range (28 miles) rocket artillery systems, and fifty EXTRA 306-millimeter rocket systems designed to deliver longer range (93 miles) precision strikes. Both munitions are built by Israeli Military Industries, and are mounted on an IMI Lynx trucks.')

77 Roblin Report ('Armenian sources claim two other type of systems have been used in long-range strikes on Armenian communities. One is Belarus's Polonez system, which mounts eight 300-millimeter artillery rockets with 120-mile range. The other is the Turkish-built T-300 Kasirga, which mounts four 302-millimeter rockets with a range of 62 to 74.5 miles on a 6x6 wheeled vehicle which uses a German diesel engine. Belarus may have 10 Polonez and 21 T-300s, though the author has not yet seen visual evidence confirming their use.')

78 Roblin Report ('Both sides also appear to have employed more powerful ballistic missiles, which arc high into the exosphere before plunging down at immense speeds. Armenia has reported missile attacks from early in the conflict, but visual evidence has been sparse. However, that changed on October 2 when footage emerged of what [appears to be an Israeli-built LORA ballistic missile](#) plunging directly into a key bridge near the Armenian border. Azerbaijan reportedly purchased up to 50 LORAs mounted on trucks with four-shot launch containers in 2017-2018. The missiles have a thousand-pound warhead, a range of 250 miles and use GPS and TV guidance to achieve accuracy within 10 meters of a designated target, making them suitable for attacking infrastructure targets that require precision. The Armenian capital of Yerevan may also have come under attack by either missiles or drones (the former should have been distinguishable by being much faster) on the evening of October 1-2. A Russian-built S-300 air defense missile battery opened fire, ostensibly destroying the aerial contacts. If true, this would represent the long-vaunted system's combat debut. Azerbaijan meanwhile claims Armenia has been using its arsenal of Soviet-era [Tochka-U \(SS-21 Scarab-B\) ballistic missiles](#) for long range attacks. The Tochka is only accurate within 90 meters—but it nonetheless has caused hundreds of deaths in recent conflicts. Video footage below does appear to show an Armenian unit firing a Tochka apparently in combat conditions. Armenia is believed to possess eight Tochka-U launchers, while Azerbaijan has four. Armenia possesses more precise and longer-range Iskandar ballistic missile purchased from Russia, but so far is believed not to have employed the weapon.')

79 Roblin Report ('Armenia also fields an estimated half-dozen BM-30s, and munitions from the strikes seem to be of that type. Armenia also earlier purchased four or eight Norinco WM-80 273-millimeter MRL systems from China with a range of 74.5 miles which could also have been used in the attacks.')

80 Convention on Cluster Munitions, <https://www.clusterconvention.org>.

# A Legal Framework

The legality of military attacks that result in civilian casualties and the destruction of civilian property is regulated by International Humanitarian Law (IHL). IHL is the branch of international law that seeks to impose limits on the destruction and suffering caused by armed conflict. Four fundamental principles are central to pursuing this aim: (i) the principle of humanity, which forbids the infliction of all suffering, injury, or destruction not necessary for achieving a legitimate military purpose; (ii) the principle of distinction, which obliges warring parties to distinguish between civilians and combatants and between civilian objects and military objectives; (iii) the principle of proportionality, which requires that the means, methods, and effects of warfare must not be disproportionate to the military advantage sought; and (iv) the principle of military necessity, which permits only the degree and kind of force required to achieve a legitimate military advantage. These principles are part of customary international law and find explicit support with regard to international armed conflicts in Additional Protocol I of the Geneva Conventions.<sup>81</sup>

## SPECIFIC CLARIFICATIONS AND PROHIBITIONS FOLLOW FROM THESE GENERAL PRINCIPLES:

- ▶ Civilians shall never be the direct object of an attack.<sup>82</sup> This prohibition is absolute and ‘can in no circumstances be counterbalanced by military necessity’<sup>83</sup> or excused as a reprisal.<sup>84</sup> The presence of ‘individuals who do not fit within the definition of civilians does not deprive the entire population of its civilian character’.<sup>85</sup> However, ‘factors such as the number and the conduct of the combatants present’ among the civilians is considered in the assessment of the legality of an attack.<sup>86</sup>
- ▶ Military objectives are limited to those objects which by their nature, location, purpose, or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage.<sup>87</sup> When permissible lethal

81 See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts of 8 June 1977 (‘Additional Protocol I’), Articles 51, 52, 57; ICRC, *How Does Law Protect in War*, Online Casebook, available at: <https://casebook.icrc.org>.

82 Additional Protocol I, Article 51(2); see also ICRC, Customary IHL, ‘Rule 1. The Principle of Distinction between Civilians and Combatants’, available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule1](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1). *Nb.* Civilians and civilian objects lose their protected status only when and for such time that they take a direct part in hostilities. Additional Protocol I, Article 51(3).

83 ICC-01/04-01/07, Situation in the Democratic Republic of Congo, *Prosecutor v Kantanga*, Trial Chamber II, ‘Judgment’, 7 March 2014, para 800.

84 ICC-01/04-01/10, Situation in the Democratic Republic of Congo, *Prosecutor v Mbarushimana*, PTC I, ‘Decision on the Confirmation of Charges’, 16 December 2011, para 143.

85 ICC-01/04-01/10, Situation in the Democratic Republic of Congo, *Prosecutor v Mbarushimana*, PTC I, ‘Decision on the Confirmation of Charges’, 16 December 2011, para 148 (citing Additional Protocol I, Article 50(3)).

86 ICC-01/04-01/07, Situation in the Democratic Republic of Congo, *Prosecutor v Kantanga*, Trial Chamber II, ‘Judgment’, 7 March 2014, para 801. At the ICC, the crime of directly targeting civilians ‘may be established even if the military operation also targeted a legitimate military objective’. *Ibid.*, para 802.

87 Additional Protocol I, Article 52(2); see also ICRC, Customary IHL, ‘Rule 8. Definition of Military Objectives’, available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule8](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule8).

force is employed by state agents, all surrounding circumstances—including the planning and control of the actions under examination—are to be considered.<sup>88</sup>

- ▶ Indiscriminate attacks - which are not directed at a specific military objective; which employ a method or means of combat which cannot be directed at a specific military objective; or which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction—are prohibited.<sup>89</sup> This includes attacks using cluster munitions in urban or other populated areas.<sup>90</sup>
- ▶ Area bombardment by any method or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village, or other area containing a similar concentration of civilians or civilian objects is prohibited.<sup>91</sup> While targeted aerial bombardment is permissible in exceptional cases,<sup>92</sup> 'it goes without saying that a balance must be achieved

between the aim pursued and the means employed to achieve it'.<sup>93</sup> Notably, where state actors should have foreseen the danger to civilians associated with the use of heavy, high-explosive aviation bombs with a large damage radius, in a populated area without evacuation of civilians, such massive use of indiscriminate weapons 'is impossible to reconcile with the degree of caution expected'.<sup>94</sup>

- ▶ Disproportionate attacks—those which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, and would be excessive in relation to the concrete and direct military advantage anticipated—are prohibited.<sup>95</sup>
- ▶ Advance warning - is required where a party to the conflict intends to launch attacks that may be reasonably expected to affect the civilian population, unless circumstances do not permit such warnings.<sup>96</sup>

IHL does not provide a universal formula for assessing whether a given attack is intentionally directed at civilians, indiscriminate, disproportionate or merely incidental to an attack on a

88 See *Ahmet Özkan et al v Turkey*, Application No 21689/93, Second Section, Judgment, 6 April 2004, para 297.

89 Additional Protocol I, Article 51(4)(a)–(c); see also ICRC, Customary IHL, 'Rule 12. Definition of Indiscriminate Attacks', available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule12](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule12); Rome Statute, Article 8(2)(b)(xx); ICC-01/04-01/07, Situation in the Democratic Republic of Congo, *Prosecutor v Kantanga*, Trial Chamber II, 'Judgment', 7 March 2014, para 802 (indiscriminate attacks 'may qualify as intentional attacks against the civilian population or individual civilians' under ICL).

90 The ICTY has held that the use of cluster munitions in urban areas was indiscriminate and may qualify as a direct attack on civilians. ICTY, IT-95-11-A, *Prosecutor v Martić*, Appeals Chamber, 'Judgment', 8 October 2008, para 259 ('Based on its finding that the M-87 Orkan was an indiscriminate weapon and that Martić knew of its effects, the Trial Chamber found that Martić wilfully made the civilian population of Zagreb the object of the attack [...]').; *ibid*, para 260 ('[A] direct attack against civilians can be inferred from the indiscriminate weapon used.')

91 Additional Protocol I, Article 51(5)(a); see also ICRC, Customary IHL, 'Rule 13. Area Bombardment', available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule13](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule13); see also *Benzer et al v Turkey*, Application No 23502/06, Former Second Section, Judgment, 12 November 2013, paras 184–185 (finding an Article 2 violation in case of indiscriminate military aerial bombing and helicopter strafing of villages, against the PKK, resulting in 38 civilian deaths and no post-attack remedial action) (citing *Isayeva v Russia*, para 191).

92 *Isayeva v Russia*, Application No 57950/00, Former First Section, Judgment, 24 February 2005, para 180.

93 *Isayeva*, para 181.

94 *Isayeva*, paras 184–191. *Nb.* '[A]ccepting that the operation in Katyr-Yurt on 4–7 February 2000 was pursuing a legitimate aim, the Court does not accept that it was planned and executed with the requisite care for the lives of the civilian population.' *Ibid*, paras 200–201. See also *Abuyeva et al v Russia*, Application No 27065/05, First Section, Judgment, 2 December 2010, paras 202–203 (affirming the same conclusions with respect to the same set of facts in a separate case).

95 Additional Protocol I, Article 51(5)(b), Article 57; see also ICRC, Customary IHL, 'Rule 14. Proportionality in Attack', available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule14](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule14).

96 Additional Protocol I, Article 57(2)(c); see also ICRC, Customary IHL, 'Rule 20. Advance Warning', available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule20](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule20).

legitimate military objective.<sup>97</sup> The question is therefore one of fact to be decided on a case-by-case basis on factors such as: type of weapon used, distance from launch site, distance of impact site from the military objective and the geographic distribution of impact sites.<sup>98</sup> Military operations on densely populated towns and cities resulting in civilian casualties may only be warranted under IHL in limited circumstances. Attacks which meet the threshold of deliberate or indiscriminate attacks against civilians qualify as grave breaches of the Geneva Conventions and its Additional Protocol I,<sup>99</sup> and may be prosecuted as war crimes.<sup>100</sup>

In parallel, military attacks which result in the loss of civilian life may be qualified as violations of the rights to life. The right to life is set out and defined in Article 2 of the European Convention on Human Rights ('ECHR').<sup>101</sup> State obligations under Article 2 include two distinct requirements: (a) the substantive prohibition on intentional deprivation of life, delimited by exceptions; and (a) the procedural obligation to carry out effective investigations into alleged breaches of the substantive limb.<sup>102</sup> In applying Article 2 of the ECHR in the context of security/military operations, the European Court of

Human Rights ('ECtHR') has made a number of relevant findings consistent with IHL principles.<sup>103</sup> Whilst it is 'accepted that attacks aimed at military objectives, including objects and combatants, may cause "collateral civilian damage" falling outside the scope of Article 2 of the ECHR',<sup>104</sup> the State must demonstrate that all such attacks were absolutely necessary and 'strictly proportionate to the achievement' of aims permitted by the ECHR – namely national security and public safety.<sup>105</sup> In any case, all military operations conducted in the vicinity of civilian settlements must be implemented with the requisite care for the lives of the civilian population and sufficient precautions must be taken.<sup>106</sup>

Under Article 390.3(2) of Armenia's Penal Code (2003), launching, during an armed conflict, an "indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause loss of life to civilians or damage to civilian objects excessive in relation to the concrete and direct military advantage anticipated" constitutes a crime against the peace and security of mankind. Likewise, Article 15 of Azerbaijan's Law concerning the Protection

97 An ICTY Trial Chamber attempted to develop such guidelines in the Gotovina case, holding that the high prevalence of BM-21 Grad and 155mm gun attacks on civilian objects located over 200 meters from military objectives could be inferred to constitute attacks intentionally directed at civilians. ICTY, IT-06-90-T, *Prosecutor v Gotovina et al*, Trial Chamber I, 'Judgment', 15 April 2011, paras 1903–1906. The so-called '200 Metre Standard' was criticised on appeal but no alternative was provided. ICTY, IT-06-90-A, *Prosecutor v Gotovina et al*, Appeals Chamber, 'Judgment', 16 November 2012, paras 51–67.

98 ICTY, IT-98-29-T, *Prosecutor v Galić*, Trial Chamber I, 'Judgment and Opinion', 5 December 2003, paras 561–594.

99 Additional Protocol I, Article 85(3)(a).

100 ICC Statute, Article 8(2)(b)(iv) and Article 8(2)(b)(i)/(ii).

101 European Convention, Article 2 ('1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law. 2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary: (a) in defence of any person from unlawful violence; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; (c) in action lawfully taken for the purpose of quelling a riot or insurrection.')

102 See European Court of Human Rights, Guide on Article 2 'of the European Convention on Human Rights', Right to Life, 31 August 2020, para 3 (internal citations omitted), available at: [https://www.echr.coe.int/Documents/Guide\\_Art\\_2\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_2_ENG.pdf).

103 See, e.g., *Hassan v United Kingdom*, Application No 29750/09, Grand Chamber, Judgment, 16 September 2014, para 104 ('[I]n situations of international armed conflict, the safeguards under the Convention continue to apply, [...] interpreted against the background of the provisions of [IHL].'); *Varnava et al v Turkey*, Applications Nos 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90, and 16073/90, Grand Chamber, Judgment, 18 September 2009, para 185 (citing Geneva Conventions of 1949 and Additional Protocols I, II, III).

104 ICTY, IT-95-14/2-A, *Prosecutor Kordić and Čerkez*, Appeals Chamber, 'Judgement', 17 December 2004, para 52 (internal citation omitted) ([I]nternational customary law recognizes that [IHL] does not imply that collateral damage is unlawful *per se*.)

105 See *Ahmet Özkan et al v Turkey*, Application No 21689/93, Judgment, 6 April 2004, para 297 (emphasis added).

106 See *Ergi v Turkey*, 66/1997/850/1057, Judgment, 28 July 1998, paras 80–81 (where a civilian death by a stray bullet from a security-forces ambush aimed at capturing PKK 'terrorists' near a village amounted to a violation of Article 2); *Ahmet Özkan et al v Turkey*, Application No 21689/93, Second Section, Judgment, 6 April 2004, para 297 (Responsibility may be incurred where state agents 'fail to take all feasible precautions in the choice of means and methods of a security operation mounted against an opposing group with a view to avoiding and, in any event, to minimizing incidental loss of civilian life'.) (citing *Ergi v Turkey*, para 79).

of Civilian Persons and the Rights of Prisoners of War (1995) provides that, in international and non-international armed conflicts, attacks against civilians are prohibited, whilst Article 116(10) of Azerbaijan's Criminal Code (1999) provides that provides that "directing attacks against the civilian population or against indi-

vidual civilians who do not take part in hostilities" constitutes a war crime. Article 116(1) of Azerbaijan's Criminal Code also provides that the "use of methods and means of warfare which can cause serious damage" constitutes a war crime.

# B Bombing of Civilians by Azerbaijani Armed Forces

## I. OVERVIEW

IPHR/Truth Hounds has verified 33 reported incidents of attacks on Armenian civilians and/or civilian infrastructure by the armed forces of Azerbaijan. Using the above-mentioned legal framework, IPHR/Truth Hounds has determined that at least 23 incidents amount to indiscriminate and/or disproportionate attacks in violation of IHL and constitute a breach of right to life under Article 2 of the ECHR (see other unlawful attacks against hospitals and places of religious/cultural significance below). These attacks include multiple bombings of Stepanakert/Khankendi using inherently indiscriminate weapons including cluster munitions, and indiscriminate or disproportionate bombings of Martakert/Agdere, Martuni/Khojavend, Chartar/Guneykhirman, Nngi/Jamiyyat, Mets Masrik/Boyuk Mezre and Hadrut. The attacks have resulted in 20 civilian deaths, numerous injuries and the widespread destruction of civilian housing, shops and other infrastructure.

## II. MULTIPLE ATTACKS ON STEPANAKERT/KHANKENDI USING CLUSTER MUNITIONS AND UNGUIDED ROCKETS

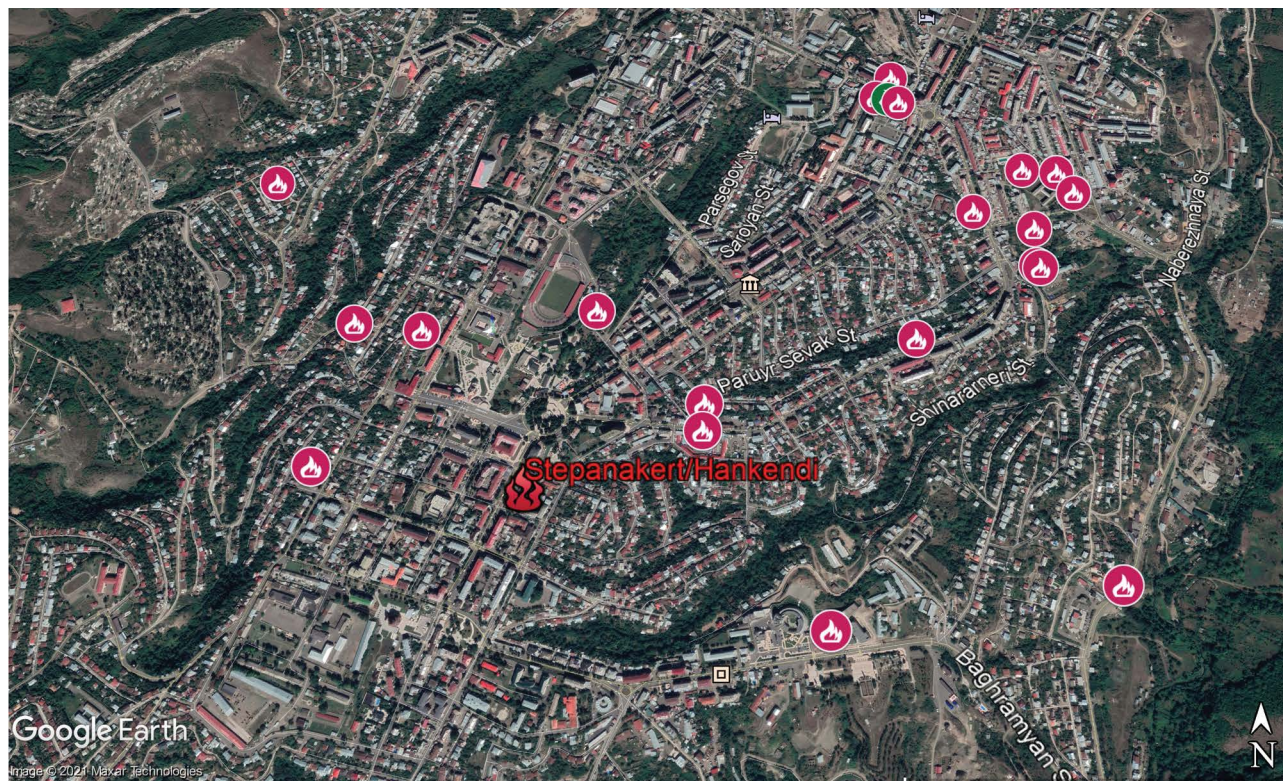
Stepanakert/Khankendi is the de facto capital of the self-proclaimed republic of

Nagorno-Karabakh or Artsakh. It is a densely populated city of approximately 55,000 inhabitants.<sup>107</sup> The city was repeatedly attacked by Azerbaijani armed forces, using cluster munitions, unguided rockets, aerial bombs and drones. IPHR/Truth Hounds was able to document and verify 11 separate incidents where civilians and civilian infrastructure came under attack inside the city of Stepanakert/Khankendi. The attacks resulted in the death of eight civilians, numerous physical and psychological injuries and widespread destruction of civilian housing and infrastructure. According to IPHR/Truth Hounds investigations, there was only one potential military target in Stepanakert/Khankendi itself – a building that serves as headquarters for the civilian and military leadership of the self-proclaimed republic.<sup>108</sup> Other military targets are located outside of the city. Whilst there are objects nestled in the heart of Stepanakert/Khankendi which could serve military and civilian purposes simultaneously – e.g.: an electricity substation and telecommunications equipment – attacks on these objects with inherently indiscriminate weaponry likely to cause extensive harm to civilians and excessive damage to civilian infrastructure is disproportionate to the potential military advantage sought. HRW has similarly confirmed that "Armenian or local forces were not deployed nor

<sup>107</sup> Coordinates: 39°49'08.9"N 46°45'53.7"E.

<sup>108</sup> According to Witness S-004, all military personnel previously stationed in Stepanakert/Khankendi had been taken out of the city and sent to the frontlines in the first days of the conflict.





Map of all documented attack sites in Stepanakert/Khankendi. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.

had set up any significant defensive systems or other weaponry in the city”.<sup>109</sup>

On 27 September 2020, a residential area of Stepanakert/Khankendi was attacked using MLRS “Smerch” and “LAR-160” missiles carrying cluster munitions.<sup>110</sup> The attack resulted in one civilian death, nine injured civilians and the partial or total destruction of multiple cars, shops, an electricity sub-station and a fire station. Two further suspected cluster munitions attacks on Stepanakert/Khankendi took place on 3 and 4 October 2020.<sup>111</sup> The attacks have been credibly linked to Azerbaijani armed forces.

Between 7:00 and 8:00 a.m. on 27 September 2020, the city of Stepanakert/Khankendi was rocked by a wave of explosions. Witness S-002 – who works for the Halo Trust demining organisation – observed that while the

attack was initially focused on military targets on the city’s outskirts, a second wave of cluster munitions was directed against civilian dwellings and infrastructure – including an electricity sub-station, a fire station and a residential/commercial street (David Sasuntsi street).<sup>112</sup> Witness S-001 was at home on David Sasuntsi street when he heard a series of explosions, which he describes as being “milliseconds apart”. The attack lasted between 30 and 45 minutes. As a career serviceman, he immediately identified the sound as cluster munitions. When he walked out onto the street after the attack, he found several unexploded bomblets with yellow ribbons. He also found the pavement and walls of adjacent buildings peppered with shrapnel, and at least six injured civilians who were taken away for emergency

<sup>109</sup> HRW, “Azerbaijan: Unlawful Strikes in Nagorno-Karabakh”, 11 December 2020, available at: <https://www.hrw.org/news/2020/12/11/azerbaijan-unlawful-strikes-nagorno-karabakh>; Also confirmed by Witness S-002 (witness based in Stepanakert/Khankendi working on de-mining).

<sup>110</sup> Coordinates: 39°49’08.9”N 46°45’53.7”E.

<sup>111</sup> A map of documented attack sites can be found here: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

<sup>112</sup> Witness S-002 interviewed by IPHR/Truth Hounds in October 2020.



Cluster munitions/LAR-160 delivery systems. Source: ITV TV-channel. .



LAR-160 (light artillery rocket). Source: militaryparitet.com.

treatment. At least two vehicles were on fire.<sup>113</sup> According to a witness interviewed by HRW, “the children started to scream, and everyone was panicking when the bombs started coming down. We opened the windows and saw that the cars were burning. We saw that they had small pink things that were making them burn, so we ran down to the basement”.<sup>114</sup> Witness S-002 witnessed at least one casualty and nine wounded civilians as a result of the 27 September attack.<sup>115</sup>

During his de-mining sweep of David Sasuntsi street, Witness S-002 collected unexploded bomblets – which he identifies as “Smerch” (red ribbons) and “LAR-160” (yellow ribbons) – as well as fragments of exploded munitions. He describes the “LAR-160” munitions as being

specifically designed to have a “fragmentation effect”.<sup>116</sup> Clusters had the cumulative effect and additionally fragmentation. Each impact caused a deep vertical penetrating effect. A witness interviewed by HRW said that a number of submunitions did not explode and that people in the neighbourhood covered them with sand from the children’s playground until emergency responders came the next day to secure and remove them.<sup>117</sup> CCTV footage from a shop on David Sosuntsi Street in the centre of Stepanakert/Khankendi captures the moment of the attack at 7:50 a.m.<sup>118</sup> The video shows two men running for cover as an explosion sends shrapnel and debris across the street. An investigation by the IPHR/Truth Hounds team confirmed the impact location and documented impact damage

<sup>113</sup> Witness S-001 interviewed by IPHR/Truth Hounds in October 2020.

<sup>114</sup> Human Rights Watch, ‘Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh’, 23 October 2020 (the ‘23 October HRW Report’), available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

<sup>115</sup> Witness S-002 interviewed by IPHR/Truth Hounds in October 2020.

<sup>116</sup> Witness S-002 interviewed by IPHR/Truth Hounds in October 2020.

<sup>117</sup> Human Rights Watch, ‘Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh’, 23 October 2020 (the ‘23 October HRW Report’), available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

<sup>118</sup> A copy of the video has been obtained by IPHR/Truth Hounds.





Stepanakert/Khankendi. Impact site of an attack on 27 September 2020. Photo by IPHR/Truth Hounds team (24 November 2020).



Stepanakert/Khankendi. Impact site of attack on 27 September 2020. Photo by IPHR/Truth Hounds team (24 November 2020).

and remnants consistent with the witnesses' account.<sup>119</sup> HRW also documented remnants of a LAR-160 rocket, scores of the distinctive impacts of the M095 submunitions, the remnants of the pink-coloured stabilization ribbons, and submunition fragments.<sup>120</sup>

According to analysis of impact sites conducted by IPHR/Truth Hounds, the attack was launched from the north-northwest (azimuth 330). This is confirmed by Witness S-003, who observed a series of light-blue flashes to the north-northwest from his balcony on Isakov street, followed by a series of explosions five seconds later.<sup>121</sup> According to satellite imagery analysis, Azerbaijani artillery units were located approximately 113 kilometres of Stepanakert/Khankendi, in Shamkir region of Azerbaijan.<sup>122</sup> The images show launch vehicles in formation that are consistent with the suspected LYNX Extra LAR-160 and MLRS Smerch launchers (both have a range of 100-150km). This location is home to the 3<sup>rd</sup> corps of the Azerbaijani armed forces.<sup>123</sup>

Cluster munitions have a wide impact area, in addition to leaving multiple unexploded bomblets as land mines. The use of cluster munitions in densely populated urban areas serves no purpose other than to inflict maximum damage and injury over a large area – and is therefore inherently indiscriminate and unlawful in those circumstances. In addition to the 27 September 2020 cluster munitions attack, there is credible evidence of at least two other cluster munitions attacks on Stepanakert/Khankendi. Witness S-002 states that Halo Trust has collected at least 250 unexploded cluster bomblets in Stepanakert/Khankendi, resulting from eight submunition-carrying rockets (each rocket carries 104 submunitions).<sup>124</sup> HRW has independently confirmed two other cluster munitions attacks on Stepanakert/Khankendi – an attack that destroyed a shop on Admiral Isakov Street on 3 October 2020 (the shop was destroyed with one cratering explosion, nearby cars were blown up, no cluster fragments were located) and an attack on Hakob Hakoby-

<sup>119</sup> Videos and photographs of the impact site taken by the IPHR/Truth Hounds team, along with analysis of the impact craters.

<sup>120</sup> *Human Rights Watch*, 'Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh', 23 October 2020 (the '23 October HRW Report'), available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

<sup>121</sup> Witness S-003 interviewed by IPHR/Truth Hounds in October 2020.

<sup>122</sup> Coordinates of Dollyar Air Base in Shamkir: 40°88'52.1"N 45°96'63.8"E.

<sup>123</sup> Azeri Daily, 'Aliev's Decree: General Akbarov called to Baku', 21 November 2020, available at: <http://azeridaily.com/news/13178>.

<sup>124</sup> Witness S-002 interviewed by IPHR/Truth Hounds in October 2020.



Stepanakert/Khankendi. Impact site of attack of 27 September 2020. Photo by IPHR/Truth Hounds team (27 November 2020).



Remnants of 'LAR-160' collected at Stepanakert/Khankendi, impact site of an attack on 27 September 2020. Photo by IPHR/Truth Hounds team (24 November 2020).

an street on 4 October 2020.<sup>125</sup> The latter was captured on a vehicle dashcam – showing three separate rockets dispersing payloads of sub-munitions.<sup>126</sup> Stepanakert/Khankendi was also attacked using unguided artillery rockets, aerial bombs, as well as guided rockets and drones throughout the entire period of the six-week war. The attacks led to seven deaths, numerous injured civilians and disproportionate damage to civilian residences, a school and a hospital.<sup>127</sup>

- On 2 October 2020, a 300mm MLRS 'Polonez' rocket landed in close proximity to the Stepanakert/Khankendi fire station, killing one civilian, injuring at least nine civilians, partially destroying the fire station and damaging a number of fire engines and civilian vehicles. MLRS "Polonez" systems are capable of carrying guided rockets with a range of 200 – 300km with an average accuracy range of 30 meters (remnants of a circuit board

were documented by IPHR/Truth Hounds at the scene of the attack, indicating the rocket was 'guided').<sup>128</sup> The closest potential target was a trench located 450 meters away,<sup>129</sup> which suggests that the attack was deliberately aimed at the fire station – a protected civilian object.

- Also on 2 October 2020, a salvo of unguided MLRS 'Smerch' rockets hit and destroyed a civilian apartment block located in the vicinity of the de facto authorities' headquarters.<sup>130</sup> Whereas a command post may be regarded as a legitimate military target, the use of unguided artillery to attack a mixed military/civilian object inside a densely populated city is indiscriminate and likely to lead to disproportionate civilian loss and damage.
- Between 4 and 6 October 2020, Stepanakert/Khankendi came under an in-

<sup>125</sup> HRW, "Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh", 23 October 2020, available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

<sup>126</sup> Twitter, @TheInsiderPaper, 4 October 2020, available at: <https://twitter.com/TheInsiderPaper/status/1312737987579445248>.

<sup>127</sup> Damage from the attack can be seen here: YouTube, "Воронки от снарядов и обломки здания: корреспондент RT побывал на месте обстрела в Степанакерте", 2 October 2020, available at: [https://www.youtube.com/watch?v=DncPa02jfoU&ab\\_channel=RTнаРусском](https://www.youtube.com/watch?v=DncPa02jfoU&ab_channel=RTнаРусском).

<sup>128</sup> Documentation and analysis of the attack by IPHR/Truth Hounds.

<sup>129</sup> Documentation and analysis of the attack by IPHR/Truth Hounds.

<sup>130</sup> Images of the damage incurred can be seen here: Twitter, @ArmenianUnified, 2 October 2020, available at: <https://twitter.com/ArmenianUnified/status/1312080746488705025>; Impact damage was also verified and documented by IPHR/Truth Hounds.



Positions of the Armed Forces of Azerbaijan, 40°47'28.00"N 46° 3'22.97"E. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.



tense attack from unguided MLRS ‘Smerch’ and MLRS ‘Kaserga’ rockets, and aerial bombs. Witness S-005 recalls that bombs fell on Stepanakert/Khankendi throughout the two days at 30-minute intervals.<sup>131</sup> The attacks led to three civilian deaths and at least one injured civilian. In addition, a school, civilian apartment blocks, shops, a telecommunications centre, an electricity sub-station and a factory were totally or partially destroyed.<sup>132</sup> Whilst some of the rockets and bombs may have been aimed at dual purpose (civilian/military) infrastructure – such as the electricity sub-station and the telecommunications centre – the use of unguided rockets and what appear to be area bombardments on a densely populated city is indiscriminate.

- Between 9 and 31 October 2020, multiple rocket attacks resulted in civilian injuries and damage to civilian infrastructure, including: a residential building (72 Martuni Street – hit on 9 October), a hotel (15 David Sasuntsi Street – 15 October), a bakery (16 October), a civilian residence (19 Pushkin Street – 17 October), a maternity ward of a hospital (7 Baghramyan Street, 28 October – see further details below) and Stepanakert/Khankendi central market (31 October). All buildings were located over 1.5km from the closest legitimate military target.<sup>133</sup>
- Between 3 and 5 November 2020, Stepanakert/Khankendi was shelled from unguided MLRS ‘Smerch’ rockets and short-range mortar and howitzer shell- ing. The attacks resulted in three civilian

<sup>131</sup> Witness P-001 was interviewed by IPHR/Truth Hounds in December 2020.

<sup>132</sup> See also: HRW, “Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh”, 23 October 2020, available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>; Twitter, @ArmenianUnified, 5 October 2020, available at: <https://twitter.com/ArmenianUnified/status/1313061280434061314?s=20>.

<sup>133</sup> All impact sites have been verified and documented by IPHR/Truth Hounds.



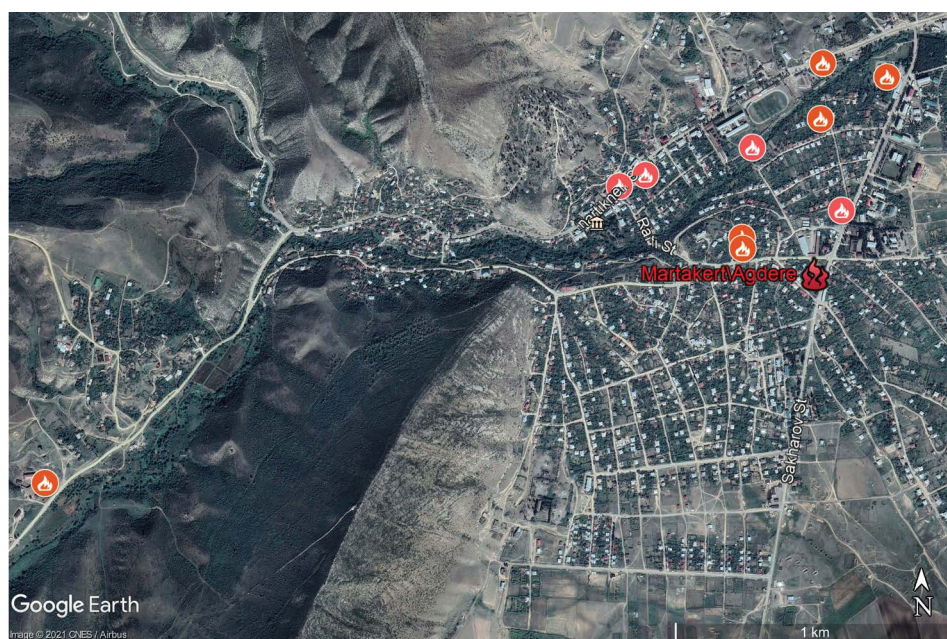
deaths and widespread damage to civilian housing and infrastructure. A local fire-fighter recalls how his team had to put out five separate fires simultaneously, as the shelling intensified in the run-up to the last ceasefire agreement. None of the buildings destroyed or damaged in these attacks were located near legitimate military targets.<sup>134</sup>

The documented attacks on civilians residential and civilian infrastructure in Stepanakert/Khankendi throughout the duration of the six-week war constitutes a flagrant violation of IHL principles and a grave breach of the prohibition on indiscriminate and/or disproportionate attacks.<sup>135</sup> There is no evidence of any, or any significant military target in the vicinity of the attack sites. In any event, even the presence of military personnel or installations would not justify the use of inherently indiscriminate weaponry in the heart of a densely populated city. The death of eight civilians, numerous physical and psychological injuries and widespread destruction of civilian housing and infrastructure caused by the attacks clearly have no justification in international law. Had it not been for

many bomb shelters in Stepanakert/Khankendi where civilians have spent most of their time throughout the six-week war, there would have been many more civilian casualties resulting from multiple indiscriminate attacks on the city. There is no evidence that Azerbaijani authorities have or intend to carry out independent, prompt, public and effective investigations into this attack. As such, the documented attacks on Stepanakert/Khankendi constitute violations of IHL and Article 2 of the ECHR.

### III. MULTIPLE ATTACKS ON MARTAKERT/AGDERE USING UNGUIDED ROCKETS AND AERIAL BOMBS

Martakert/Agdere is a majority-Armenian town of 4,500 inhabitants on the disputed territory of Nagorno-Karabakh.<sup>136</sup> Throughout the six-week war, the town was repeatedly attacked by Azerbaijani armed forces, using unguided rockets and aerial bombs, resulting in three civilian deaths, numerous injuries and widespread damage to civilian infrastructure. IPHR/Truth Hounds was able to document and verify seven separate incidents where civilians and civilian infrastructure came under attack inside Mar-



*Map of attacks in Martakert/Agdere. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.*

<sup>134</sup> All impact sites have been verified and documented by IPHR/Truth Hounds.

<sup>135</sup> Additional Protocol I, Article 85(3)(b).

<sup>136</sup> Coordinates: 40°21'43.89"N 46°81'49.09"E.



*Martakert/Agdere. Impact of attacks on 30 September 2020. Photo by the IPHR/Truth Hounds team (24 December 2020).*



*Martakert/Agdere. Impact of attacks on 30 September 2020. Photo by the IPHR/Truth Hounds team (24 December 2020).*



*'Grad' missiles. Source: militaryreview.ru.*



*'Grad' missiles. Source: militaryreview.ru.*

takert/Agdere. According to IPHR/Truth Hounds investigations, whilst there was a military base in Martakert/Agdere, it had been badly damaged and all-but-abandoned following the first week of conflict.<sup>137</sup> Other military targets are located outside of the town. Thus, from October 2020, attacks on Martakert/Agdere using inherently indiscriminate unguided artillery and aerial bombs cannot be justified under IHL. All attacks have been credibly linked to Azerbaijani armed forces.

On 30 September 2020, a salvo of up to fifteen BM-21 "Grad" rockets hit Martakert/Agdere. The attack resulted in three civilian casualties, two injured civilians and the total or

partial destruction of civilian infrastructure, including civilian housing, shops, a school, a museum and a factory. The closest military target was an Armenian military outpost located 900 meters from the target site.

At approximately 2:00 p.m. on 30 September 2020, Witness M-001 was near his shop on Azatamartikneri Street in Martakert/Agdere, when he heard the sound of incoming artillery fire coming from the north east. He ran into the basement of his shop and found others already there, as there had been bombing in and around the town earlier in the day. When he came out, he saw that David - the owner of the shop in front of his - had been injured from the

<sup>137</sup> Corner of Abovian and Saharov st.: Witness M-002 interviewed by IPHR/Truth Hounds in November 2020 confirms that practically all military personnel had left the base for the frontlines at the outset of the conflict.



attack. He subsequently discovered that David's mother, father and aunt had been killed, and a customer in their shop was badly injured in the attack. Witness M-001 says that at least eight rockets fell in a relatively small area surrounding the local museum to the first Nagorno-Karabakh war, and that overall, there were 15 rockets launched as part of this attack. He identified the missiles as "Grad" rockets, and showed the IPHR/Truth Hounds team the impact site at the front of his shop.<sup>138</sup> The IPHR/Truth Hounds team documented the impact crater which contained the remnants of a 122mm BM-21 "Grad" rocket delivery tube lodged into the ground. The IPHR/Truth Hounds team also documented impact damage to the shop, museum, factory and school. All impact craters and remnants indicate that the attack came from the north east.<sup>139</sup> The attacks were also reported on by Garda World and in the media.<sup>140</sup>

According to analysis of the impact craters and BM-21 "Grad" remnants, the attack came from Azerbaijani-controlled territory to the northeast of Martakert/Agdere. The standard firing range for MLRS BM-21 "Grad" artillery is 20 kilometres. The 703rd motorised brigade of the armed forces of Azerbaijan was located approximately 17 kilometres to the northeast of Martakert/Agdere.<sup>141</sup> Analysis of Google Earth satellite imagery for the time period of the attack reveals at least four MLRS BM-21 "Grad" firing positions around that location and within the 20km firing range (between 10 and 17km). All launching vehicles appear to be facing in the direction of Martakert/Agdere.<sup>142</sup>

All documented impact craters are in the centre of Martakert/Agdere – in the heart of the densely populated settlement. The MLRS BM-21 "Grad" CEP is 600 meters – meaning that it misses its target by an average of 600 meters at least 50 per cent of the time.<sup>143</sup> The nearest military object to the impact site – a dugout outpost – was approximately 900 meters away located beyond the town's perimeters to the northeast.<sup>144</sup>

### OTHER ATTACKS ON MARTAKERT/AGDERE DOCUMENTED BY THE IPHR/TRUTH HOUNDS TEAM INCLUDE:

- ▶ An aerial bomb dropped on a street in central Martakert/Agdere<sup>145</sup> on 1 October 2020 that damaged a civilian vehicle, injuring several civilians inside;<sup>146</sup>
- ▶ Between five and seven MLRS 'Grad' rockets that attacked Martakert/Agdere between 5 and 10 October 2020, damaging a civilian car and housing.<sup>147</sup>
- ▶ Multiple MLRS 'Grad' rockets and barrel artillery shells launched against Martakert/Agdere between 7 and 9 November 2020, leading to widespread damage to civilian housing.<sup>148</sup>
- ▶ Several MLRS 'Grad', aerial bomb and possible cluster munitions attacks on two hospitals in Martakert/Agdere between 13 and 15 October 2020, resulting in

<sup>138</sup> Witness M-001 interviewed by IPHR/Truth Hounds in November 2020.

<sup>139</sup> Videos and photographs of the impact site taken by the IPHR/Truth Hounds team.

<sup>140</sup> Garda World, "Armenia: Fighting in Nagorno-Karabakh enters fourth day: September 30/update 4", 30 September 2020, available at: <https://www.garda.com/crisis24/news-alerts/384806/armenia-fighting-in-nagorno-karabakh-enters-fourth-day-september-30-update-4>;

BBC, "Armenia-Azerbaijan: Both sides defy Nagorno-Karabakh ceasefire calls", 1 October 2020, available at: <https://www.bbc.co.uk/news/world-europe-54366616>.

<sup>141</sup> Coordinates: 40°20'13.43"N 46°57'12.47"E

<sup>142</sup> See coordinates: 40°16'32.19"N 46°54'54.07"E; 40°19'54.67"N 46°57'1.37"E; 40°18'55.66"N 46°56'44.12"E; 40°18'32.19"N 46°54'38.03"E.

<sup>143</sup> GICHR, "122mm BM-21 Multi Barrel Rocket Launcher (MBRL)", available at: <http://characterisationexplosiveweapons.org/studies/annex-a-122-mm-mbrl/>.

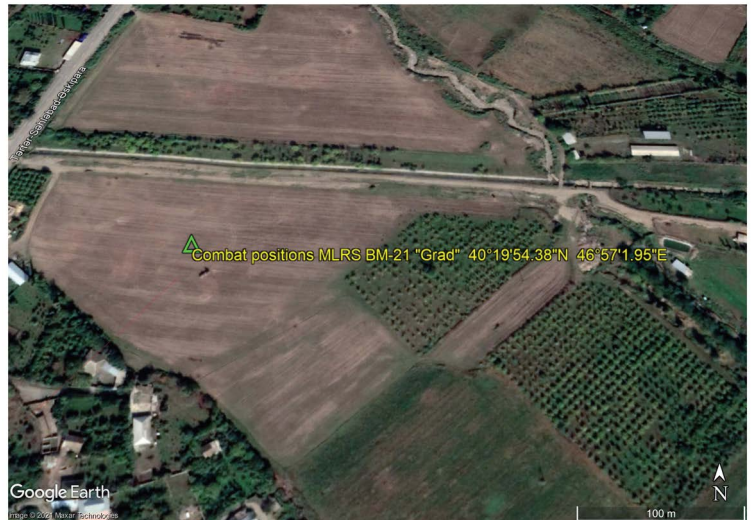
<sup>144</sup> Coordinate: 40°13'16.3"N 46°49'19.5"E.

<sup>145</sup> Coordinates of the impact site: 40°13'6.80"N 46°49'28.94"E.

<sup>146</sup> The moment of the attack can be seen here: *Twitter*, @Natsecjeff, 1 October 2020, available at: <https://twitter.com/Natsecjeff/status/1311656763104669696>. The impact site was verified and documented by IPHR/Truth Hounds.

<sup>147</sup> The impact sites were verified and documented by IPHR/Truth Hounds.

<sup>148</sup> The impact sites were verified and documented by IPHR/Truth Hounds.



Satellite image shots of the armed forces of Azerbaijan's positions. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.

damage to hospital buildings and vehicles (see further details below); 149

- Several bombs dropped from aircraft on Martakert/Agdere on 23 October 2020, destroying two civilian residences and damaging several other houses and shops. 150

The documented attacks on civilians and civilian infrastructure in Martakert/Agdere throughout the six-week war constitute a flagrant violation of IHL principles and a grave breach of the prohibition on indiscriminate

and/or disproportionate attacks.<sup>151</sup> The presence of a military base in Martakert/Agdere does not justify the use of inherently indiscriminate weaponry to attack the town, particularly as Azerbaijani authorities would have been well aware of the lack of activity at the base. The death of three civilians, numerous physical and psychological injuries and widespread destruction of civilian housing and infrastructure caused by the attacks clearly have no justification in international law. Had it not been for the fact that most of the civilian population had fled this border town at the outset of the six-week war, there would have been many more

149 The impact sites were verified and documented by IPHR/Truth Hounds.

150 The impact sites were verified and documented by IPHR/Truth Hounds.

151 Additional Protocol I, Article 85(3)(b).



civilian casualties resulting from indiscriminate attacks on the town. There is no evidence that Azerbaijani authorities have or intend to carry out independent, prompt, public and effective investigations into this attack. As such, the documented attacks on Martakert/Agdere constitute violations of IHL and Article 2 of the ECHR.

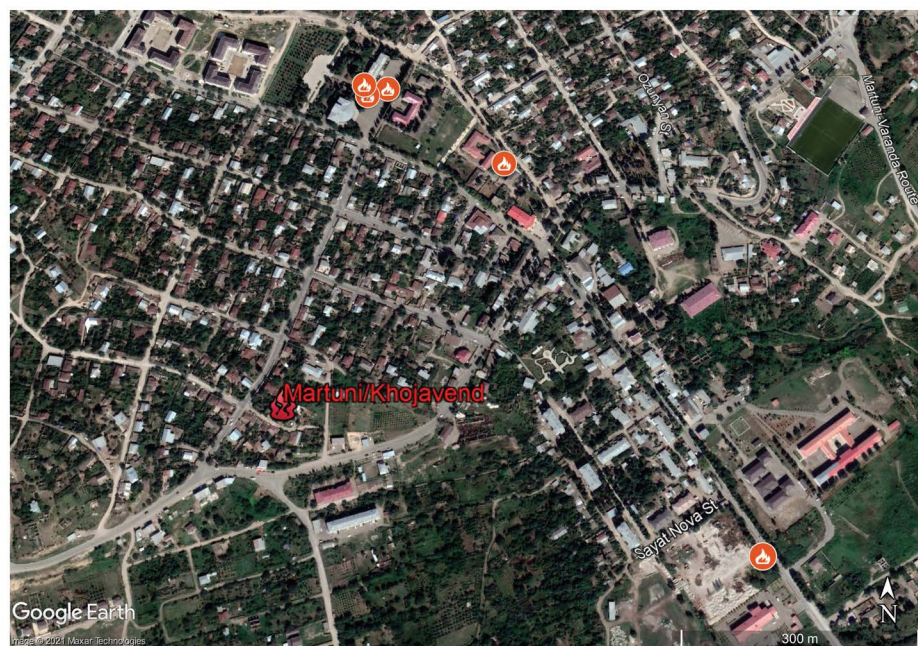
#### IV. MULTIPLE UNGUIDED ROCKET ATTACKS ON MARTUNI/KHOJAVEND

Martuni/Khojavend is a majority-Armenian town of approximately 7,000 inhabitants on the disputed territory of Nagorno-Karabakh.<sup>152</sup> Throughout the six-week war, the town was repeatedly attacked by Azerbaijani armed forces, using unguided artillery, resulting in seven civilian deaths, numerous injuries and widespread damage to civilian infrastructure. IPHR/Truth Hounds was able to document and verify five separate incidents where civilians and civilian infrastructure came under attack inside Martuni/Khojavend. According to IPHR/Truth Hounds investigations, the closest legitimate military target to Martuni/Khojavend was approximately 1km from the edge of the town. There were no legitimate mili-

tary targets inside Martuni/Khojavend itself until the final days of the conflict in November 2020, when the town became a frontline and Armenian/Nagorno-Karabakh forces moved in. Several witnesses confirm seeing and hearing Azerbaijani surveillance drones over Martuni/Khojavend throughout the conflict period<sup>153</sup> – thus Azerbaijani armed forces would have been well aware of the lack of military targets inside the town. Consequently, repeated unguided artillery attacks on Martuni/Khojavend at the end of September and throughout October 2020, were indiscriminate and cannot be justified under IHL. All attacks have been credibly linked to Azerbaijani armed forces.

On 27 September 2020, Azerbaijani armed forces began to attack Martuni/Khojavend with unguided MLRS 'Grad' rockets. The attack lasted from 7:00 a.m. until 3:00 p.m, killing three civilians, injuring at least seven civilians and causing widespread damage to civilian housing and infrastructure. Witness M-002 recalls how at around 7:00 a.m he was in his orchard when shells began to rain down on his property. Two shells fell in the orchard and two others fell on his home. His wife, daughter and grandchild were sleeping inside the house. The house quick-

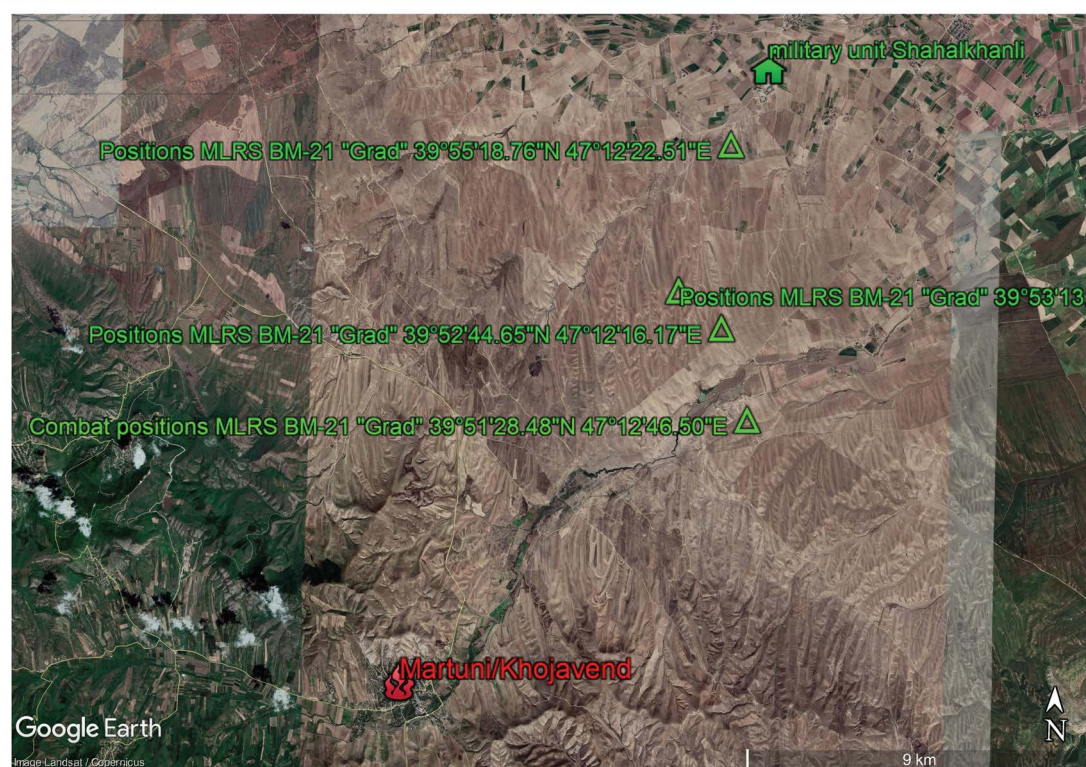
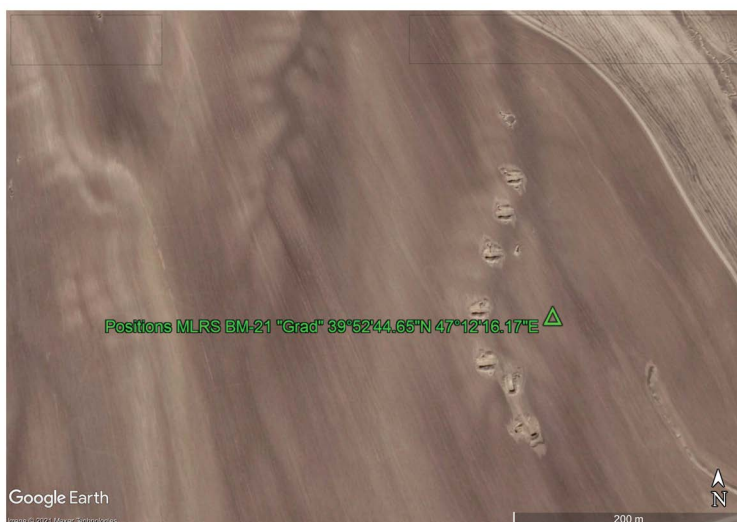
Map of attacks in Martuni/Khojavend. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.



<sup>152</sup> Coordinates: 40°14'02.49"N 45°30'59.43"E.

<sup>153</sup> Witnesses M-001, M-004, M-005.





Satellite images shots of Azerbaijani artillery launch positions and map. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.



ly caught fire and was subsequently destroyed. A fragment from one of the shells lodged in his wife's chest, killing her instantly. His daughter and grandchild were both badly injured and had to undergo surgery. His neighbour's house was also hit, resulting in the death of a nine-year old girl. There are only civilian residences and fruit orchards in the surrounding area, with no military facilities or personnel present in the vicinity at the time of the attack.<sup>154</sup> Witness M-007 identifies another man who died in the attack on the 27 September,<sup>155</sup> although the local hospital only registered two deaths on that day.<sup>156</sup>

An impact crater linked to the 27 September attack, documented and analysed by IPHR/Truth Hounds, contains the remnants of an MLRS 'Grad' rocket. The crater is situated in front of the 'House of Culture' building in the centre of Martuni/Khojavend. According to IPHR/Truth Hounds satellite imagery analysis, there were four Azerbaijani artillery launch positions within the 20km range of an MLRS 'Grad' at the time of the attack. A number of the BM-21 'Grad' launching vehicles visible on the satellite imagery are facing the direction of Martuni/Khojavend.<sup>157</sup> The angle of the MLRS 'Grad' rocket remnants found by the IPHR/Truth Hounds team is consistent with the locations of the launch vehicles identified in the satellite images.

Following attacks at the end of September, a group of journalists arrived in Martuni/Khojavend on 1 October to inspect the damage. According to Witness M-001, as the group gathered in the centre of town, an Azerbaijani surveillance drone could be seen flying over the area. A number of vehicles had 'PRESS' written on them and the journalists were visibly setting up filming equipment.<sup>158</sup> At approximately 14:00 p.m., a salvo of MLRS 'Grad' rockets began hitting the centre of Martuni/Khojavend where the journalists had gathered. The shelling lasted for approximately 40 minutes. Three civilians were



*Remnants of 'Grad' tubes used in an artillery attack on Martuni/Khojavend on 27 September 2020. Photo by the IPHR/Truth Hounds team (24 December 2020).*

killed and three others were seriously injured (including two French journalists). The attack also damaged several civilian residences and a secondary school. Witness P-001 was part of the group of people gathered in front of the town hall. As he surveyed and took photos of the sites damaged in previous attacks, he heard multiple explosions detonating in quick succession. The explosions got closer and closer, with the last one no more than 10 meters away from him. He heard people shouting for help. He recorded two short videos of the immediate aftermath – one shows two men covered in blood on the ground, the other a partially destroyed building and a woman screaming in the background.<sup>159</sup> Two Le Monde journalists and another civilian were badly injured and had to be rushed to hospital. As they were heading to the hospital, another salvo of rockets began to hit Martuni/Khojavend and they had to take cover. Witness P-001 confirms that there were no military personnel

<sup>154</sup> Witness W-002 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>155</sup> Witness W-007 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>156</sup> Witness W-005 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>157</sup> Satellite imagery analysis conducted by IPHR/Truth Hounds. Coordinates of the positions: 39°55'18.76"N 47°12'22.51"E (16.3km away); 39°53'13.70"N 47°11'23.86"E (12.2km away); 39°52'44.65"N 47°12'16.17"E (12.3km away); 39°51'28.48"N 47°12'46.50"E (11.2km away).

<sup>158</sup> Witness W-001 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>159</sup> Witness P-001 shared the videos with IPHR/Truth Hounds.

or equipment in Martuni/Khojavend on the day of the attack.<sup>160</sup> IPHR/Truth Hounds identified MLRS 'Grad' rocket remnants at one of the attack sites.<sup>161</sup>

## OTHER ATTACKS ON MARTUNI/KHOJAVEND DOCUMENTED BY THE IPHR/TRUTH HOUNDS TEAM INCLUDE:

- ▶ An MLRS 'Grad' attack on 10 October, leading to one civilian casualty and the total or partial destruction of several civilian dwellings. Witness M-008 describes how he found his father buried under a pile of rubble where his house once stood.<sup>162</sup>
- ▶ A salvo of 20-30 MLRS 'Grad' rockets hit Martuni/Khojavend on 17 October.<sup>163</sup> Witness M-007 saw two rockets hit a kindergarten, two rockets landed in front of the Martuni/Khojavend cultural centre and another two rockets landed in the vicinity of the local hospital.<sup>164</sup> One civilian died in the attack and at least one other civilian was seriously injured. IPHR/Truth Hounds documented some of the attack sites and confirm remnants of 'Grad' rockets lodged at angles that correspond to Azerbaijani firing positions.<sup>165</sup>

The documented attacks on civilians and civilian infrastructure in Martuni/Khojavend throughout the six-week war constitutes a flagrant violation of IHL principles and a grave breach of the prohibition on indiscriminate and/or disproportionate attacks.<sup>166</sup> There are

no legitimate military targets inside Martuni/Khojavend, the closest being over 1km from the edge of the town. The death of seven civilians, numerous physical and psychological injuries and widespread destruction of civilian housing and infrastructure caused by the attacks clearly have no justification in international law. Had it not been for the fact that most of the civilian population had fled this border town at the outset of the six-week war, there would have been many more civilian casualties resulting from indiscriminate attacks on the town. There is no evidence that Azerbaijani authorities have carried out or intend to carry out independent, prompt, public and effective investigations into this attack. As such, the documented attacks on Martuni/Khojavend constitute violations of IHL and Article 2 of the ECHR.

## V. OTHER ATTACKS:

IPHR/Truth Hounds documented four other incidents of bombing of civilians and civilian infrastructure by Azerbaijani armed forces that require further investigation in order to assess their legality under IHL and human rights law to a requisite degree of certainty. Based on information collected to date, there is a reasonable basis to suspect that the incidents summarised below violated IHL principles and constitute grave breaches of the IHL prohibition on indiscriminate and/or disproportionate attacks, and where deaths occurred, violations of Article 2 of the ECHR:<sup>167</sup>

- ▶ On 1 October 2020, two aerial bombs were dropped on the village of Mets Masrik/Boyuk Mezre,<sup>168</sup> killing two and

<sup>160</sup> Witness P-001 was interviewed by IPHR/Truth Hounds in October 2020; The attack was also described by the *Le Monde* newspaper: *Le Monde*, "Deux journalistes du 'Monde' blessés au Haut-Karabakh", 1 October 2020, available at: [https://www.lemonde.fr/international/article/2020/10/01/deux-journalistes-du-monde-blesses-au-haut-karabakh\\_6054377\\_3210.html](https://www.lemonde.fr/international/article/2020/10/01/deux-journalistes-du-monde-blesses-au-haut-karabakh_6054377_3210.html); See also: Reuters, "Two French journalists seriously wounded after shelling in Nagorno Karabakh", 1 October 2020, available at: <https://www.reuters.com/article/us-armenia-azerbaijan-journalists-condit-idUSKBN26M5U7>.

<sup>161</sup> Analysis and documentation of the impact site by IPHR/Truth Hounds.

<sup>162</sup> Witness M-008 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>163</sup> Witness M-007 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>164</sup> Witness M-007 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>165</sup> Analysis and documentation of the impact site by IPHR/Truth Hounds.

<sup>166</sup> Additional Protocol I, Article 85(3)(b).

<sup>167</sup> Additional Protocol I, Article 85(3)(b).

<sup>168</sup> Coordinates: 40°13'23" N, 45°46'15" E.

injuring one civilian. There were no military objects in the vicinity at the time of the attack.<sup>169</sup> According to Witness Z-001, the nearest military target is located some 20km away. Witnesses saw surveillance drones over the village on a daily basis, thus Azerbaijani authorities would have been well aware of the lack of military objectives in the village. As such, the incident appears to be a deliberate attack on civilians.

- ▶ On 2 October 2020, the town of Hadrut<sup>170</sup> was bombed with unguided artillery, including cluster munition carrying LAR-160 rockets. IPHR/Truth Hounds has seen evidence of remnants of LAR-160 cluster munitions. These findings were confirmed by HRW analysis.<sup>171</sup> At least five civilians were injured in the attack and numerous civilian houses were damaged. Whilst there is a military base in Hadrut, the use of cluster munitions to attack a military object inside a civilian town is a failure to distinguish between military and civilian objects.

- ▶ On 27 October 2020 an OFAB-250ShL bomb<sup>172</sup> was dropped from an Azerbaijani SU-25 military airplane on the village of Nngi/Jamiyyat.<sup>173</sup> The village of 250 civilian inhabitants had no legitimate military targets. Three civilians were injured as a result of the attack and two residential dwellings were damaged.<sup>174</sup> In the absence of military objectives, this attack appears to have deliberately targeted civilians.
- ▶ On 4 November 2020, a salvo of at least 12 MLRS 'Grad' rockets hit the town of Chartar/Guneykhirman,<sup>175</sup> injuring three civilians and causing damage to a kindergarten and commercial property.<sup>176</sup> The nearest legitimate military target was over 1km away.<sup>177</sup> In the absence of military objectives, this attack appears to have deliberately targeted civilians.

<sup>169</sup> Witnesses Z-001, Z-002 and Z-003 interviewed by IPHR/Truth Hounds and analysis of impact sites by the IPHR/Truth Hounds team.

<sup>170</sup> Coordinates: 39°51'95" N, 47°03'01" E.

<sup>171</sup> HRW, 'Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh', 23 October 2020, available at: <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

<sup>172</sup> Remnants of the bomb identified and documented by IPHR/Truth Hounds.

<sup>173</sup> Coordinates: 39°79'43"N, 46°88'71" E.

<sup>174</sup> Witness Y-002 interviewed by IPHR/Truth Hounds.

<sup>175</sup> Coordinates: 39°44'20"N 47°0'54"E.

<sup>176</sup> Witnesses C-001 and C-002 interviewed by IPHR/Truth Hounds.

<sup>177</sup> Based on analysis by IPHR/Truth Hounds.



# C Bombing of Civilians by the Armed Forces of Armenia/ Nagorno-Karabakh

## I. OVERVIEW

IPHR/Truth Hounds has verified and documented 13 reported incidents of attacks on Azerbaijani civilians by the armed forces of Armenia/Nagorno-Karabakh. Using the above-mentioned legal framework, IPHR/Truth Hounds has determined that at least nine incidents amount to indiscriminate and/or disproportionate attacks in violation of IHL and the right to life under Article 2 of the ECHR. These attacks include the bombing of civilian settlements using highly inaccurate 'SCUD' ballistic missiles, unguided artillery and inherently indiscriminate cluster munitions in Ganja, Barda, Terter, Gashalti, Qarayusifli and Mingachevir. The attacks have resulted in 80 civilian deaths,

numerous injuries and the destruction of civilian housing, shops and other infrastructure.

## II. ARTILLERY ATTACKS ON GANJA CITY ON 4 AND 5 OCTOBER 2020

On 4 and 5 October 2020, a series of artillery rockets hit multiple residential buildings and a busy bazaar in Ganja city.<sup>178</sup> The attacks resulted in one civilian casualty and at least 40 injured civilians, the total or partial destruction of over 30 civilian dwellings and over 120 shops. There were no identified military targets in the vicinity of the attacks, and no military casualties or damage were reported. According to Azerbaijani authorities, the attack involved cluster munitions and was launched



Ganja Bazar, Vali Khulufu street. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.

<sup>178</sup> Documented locations: (1) Hasan Aliyev street, coordinates: 40°40'46.3"N 46°21'07.2"E; (2) Aziz Aliyev street, coordinates: 40°39'53.2"N 46°21'56.8"E; (3) Ali Nizami Street, coordinates: 40°40'09.1"N 46°21'43.7"E; (4) Ganja Bazar, Vali Khulufu street, coordinates: 40°41'34.5"N 46°22'35.5"E.





*Ganja bazar. Impact sites of attack on 5 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).*

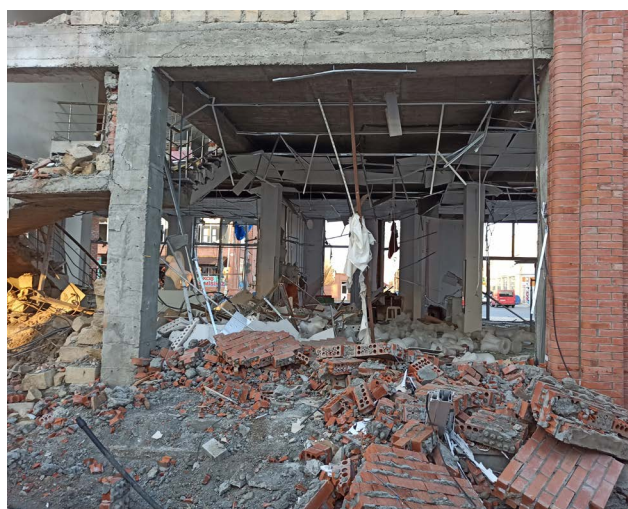
by Armenian/Nagorno-Karabakh forces from Vardenis region in Armenia. IPHR/Truth Hounds was unable to independently verify the precise type of weapon and provenance of the attack. However, based on witness statements and investigations at the impact sites, there is a reasonable basis to believe that the attack consisted of artillery (most likely 300mm MLRS ‘Smerch’) with blast fragmentation warheads, launched by Armenian/Nagorno-Karabakh forces from territory under Armenian control.

On 4 October 2020, at around 10:15 a.m, Witness J-001 was in her backyard on Aziz Aliyev street when she heard a loud noise (“like an airplane”) followed by an explosion nearby. She saw a column of black smoke rising from house number 134. She ran into her house and shortly afterwards heard another loud explosion. The shockwave shattered all the windows in her

house, injuring her daughter-in-law. A car driving down Aziz Aliyev Street at the moment of the attack was hit and the driver was killed by a rocket fragment. Multiple houses were destroyed.<sup>179</sup> At the same moment, Witness J-002 was at work when he heard the first explosion. Realising that the attack happened near his home on Ali Nazmi Street, he jumped in the car and drove home. As he stepped out into his backyard he heard a loud howling noise, looked up and saw a rocket with a parachute attached to it. Seconds later there was an explosion that threw him against a wall. When he regained consciousness, there was dust and smoke everywhere. He ran into his kitchen where he had left his family and saw that the ceiling had collapsed. His 11-month-old daughter was injured from a shard of glass lodged in her head, while his wife and mother received cuts from shattered glass. A next-

<sup>179</sup> Witness J-001 interviewed by IPHR/Truth Hounds in November 2020.





*Ganja bazar. Impact sites of attack on 5 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).*

door neighbour had lost her hand, and another neighbour suffered from a head-injury.<sup>180</sup> At around 14:00 p.m. on the same day, Witnesses J-003 and J-004 witnessed two further rockets landing near the Ganja cultural building and pre-trial detention centre, although one of the rockets did not detonate.<sup>181</sup>

On 5 October 2020, at around 12:45 p.m., Witnesses J-005 and J-006 were inside Ganja bazaar when a rocket landed and exploded at the northern end of the seven-hectare market. According to Witness J-005 who works in the bazaar, this was the busiest time of the day and the bazaar was full of shoppers. Both witnesses describe how the blast shattered window-fronts in over 100 shops and partially destroyed 20 two-floor buildings. At least 10 people were seriously injured by the shattered glass. Witness J-006 saw many rocket fragments around the impact site. Moments before the rocket hit the market, Witness J-006 heard explosions coming from the Kelbadjarskiy area of Ganja city.<sup>182</sup> The attack was also captured

by numerous CCTV cameras, showing a powerful blast that knocked out windows and damaged building façades in its vicinity.<sup>183</sup>

IPHR/Truth Hounds investigations at the impact sites confirm the attacks and reveal the extent of the damage, likely type of weapon used and the south-westerly provenance of the attack. Whilst most of the rocket remnants had been removed from the impact sites, fragments found by the IPHR/Truth Hounds team suggest that at least some of the rockets carried blast fragmentation warheads.<sup>184</sup> This is also consistent with the parachute-guided rocket observed by Witness J-002.<sup>185</sup> Based on known Armenian artillery systems and other documented attacks, there is a reasonable basis to believe that the rockets were carried by an MLRS 'Smerch' delivery system. Azerbaijan National Mine Action Agency ('ANAMA') has confirmed that fragments documented by IPHR/Truth Hounds at the impact site are consistent with an MLRS 'Smerch' rocket.<sup>186</sup> Azerbaijani authorities have alleged that cluster munitions have been used in this attack, however IPHR/Truth Hounds is

<sup>180</sup> Witness J-001 interviewed by IPHR/Truth Hounds in November 2020.

<sup>181</sup> Witnesses J-003 and J-004 interviewed by IPHR/Truth Hounds in November 2020.

<sup>182</sup> Witness J-005 and J-006 interviewed by IPHR/Truth Hounds in November 2020.

<sup>183</sup> CCTV footage has been obtained and stored by IPHR/Truth Hounds.

<sup>184</sup> IPHR/Truth Hounds analysis of the impact sites.

<sup>185</sup> Similar Armenian-fired parachute-guided artillery rockets have been identified as MRSL 'Smerch' delivered unitary blast fragmentation rockets.

<sup>186</sup> IPHR/Truth Hounds took photographs of the fragments found at the site and sent them to the ANAMA for identification. ANAMA identified the fragments as belonging to a MLRS 'Smerch' 9M528 rocket system.

unable to confirm this allegation from the available evidence.<sup>187</sup>

Witnesses confirm that there were no military units or personnel in the vicinity of the attack sites.<sup>188</sup> This was confirmed by the Azerbaijani Ministry of Defence.<sup>189</sup> The closest potential target representing a military advantage is Ganja city airport, located outside of the urban area that came under attack.<sup>190</sup> Despite assertions by de facto Nagorno-Karabakh authorities that the attack destroyed an Azerbaijani military airbase,<sup>191</sup> none of the rockets landed anywhere near the only airfield in the vicinity of Ganja – a civilian airport.<sup>192</sup> A BBC reporter has also confirmed the absence of military targets in Ganja.<sup>193</sup> Witnesses also confirm that there had been no warning prior to the attacks.<sup>194</sup>

All witnesses who observed the rockets confirm that they came from a south-westerly direction.<sup>195</sup> This is also consistent with the shape and angle of the impact crater. According to Azerbaijani authorities, the attack was launched from Vardenis region in Armenia. The precise launch site has not been independently verified by IPHR/Truth Hounds. On 4 October 2020, Arayik Harutyunyan – the de facto head of Nagorno-Karabakh – announced (on Face-

book and Twitter) that he gave the order for a military attack on Ganja city.<sup>196</sup> This is consistent with statements by Harutyunyan, threat-



*Fragments collected at Ganja civil housing, impact site of attack on 11 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).*

187 *Amnesty International*, 'Armenia/Azerbaijan: Civilians must be protected from use of banned cluster bombs', 5 October 2020, available at: <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-civilians-must-be-protected-from-use-of-banned-cluster-bombs/>; According to Amnesty, "while Amnesty International experts have verified that 300mm Smerch rocket artillery systems do appear to have been used by Armenian forces, the photographic and video evidence available from the Azerbaijani side does not yet allow for conclusive analysis of its specific targets, nor whether the rocket warheads contained cluster munitions".

188 Witnesses J-006, J-005, J-004, J-003, J-002 interviewed by IPHR/Truth Hounds in November 2020.

189 Ministry of Defence of the Republic of Azerbaijan, 'Ministry of Defence: Armenian propaganda is lying', 4 October 2020, available at: <https://mod.gov.az/en/news/ministry-of-defense-armenian-propaganda-is-lying-32619.html>.

190 *MassisPost*, 'Turkish F-16 Fighter Jets Spotted at Ganja Airport in Azerbaijan', 3 October 2020, available at: <https://massispost.com/2020/10/turkish-f-16-fighter-jets-spotted-at-ganja-airport-in-azerbaijan/>.

191 ArmenPress, 'Ganja military airbase in 'no more' – Artsakh says', 4 October 2020, available at: <https://armenpress.am/eng/news/1030235.html>.

192 Whilst the airport is designated for civilian aviation, it has been used by military aircraft in the past. This however does not justify attacks on civilian areas of Ganja that are not directly adjacent to the airport.

193 BBC, 'Armenia Azerbaijan: Reports of fresh shelling dent ceasefire hopes', 12 October 2020, available at: <https://www.bbc.co.uk/news/world-europe-54488386>.

194 Witnesses J-005, J-003 interviewed by IPHR/Truth Hounds in November 2020.

195 Witnesses J-002 and J-006 interviewed by IPHR/Truth Hounds in November 2020.

196 *Twitter*, @Arayik Harutyunyan, 4 October 2020, available at: [https://twitter.com/Pres\\_Artsakh/status/1312679685550149632](https://twitter.com/Pres_Artsakh/status/1312679685550149632); "Today I commanded to neutralize #Ganja military objectives"; *Facebook*, @Arayik Harutyunyan, 4 October 2020, available at: <https://www.facebook.com/ArayikHarutyunyan/photos/a.177887032908678/616555702375140/>; "Many of you still remember this photo and my statement upon posting it. If anybody had hard time perceiving my message, I reaffirm we were not joking. Today upon my command the Defense Army launched rocket attacks to neutralize military objects in Gyanja. At this moment I have called off the attack to avoid inevitable loss among the civilian population. Failing Azerbaijan to draw appropriate lessons we will continue proportionate and powerful strike, disrupting and eliminating the army of the adversary and its rear. We are resolute to take necessary action to the end. Azerbaijan can still stop before it gets too late."





**Arayik Harutyunyan | Artsakh President** @Pres\_Arts... · 4 жовт. 2020 ...

Many of you still remember both this photo & my statement. Reaffirming, we were not joking. Today I commanded to neutralize #Ganja military objects.



814

4,7 тис.

5,2 тис.



*Remnants of a SCUD system derived from the shell crater at Ganja civil housing, impact site of attack on 11 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).*

*Source: Facebook page of Arayik Harutyunyan, 4 October 2020.*

ening Azerbaijan with 'thousands or tens of thousands of victims and many times more wounded'.<sup>197</sup>

The 4 and 5 October 2020 attack on a Ganja city constitutes a flagrant violation of IHL principles and a grave breach of the IHL prohibition on indiscriminate and disproportionate attacks.<sup>198</sup> The choice of weapon – unguided 'Smerch' artillery rockets with unitary blast fragmentation warheads – is clearly indiscriminate and unlawful in the context of an attack on a densely populated urban area. There is no credible evidence of any, or any significant military target in the vicinity of the attack site, and no lawful military advantage to be gained from attacking civilian apartment blocks or a busy

market in broad daylight. The death of one civilian and numerous physical and psychological injuries caused by the attack clearly have no justification in international law. There is no evidence that Armenian authorities have or intend to carry out an independent, prompt, public and effective investigation into this attack. As such, the documented attacks on Ganja city on 4 and 5 October 2020 constitute violations of IHL and Article 2 of the ECHR.

### **III. BALLISTIC 'SCUD' MISSILE ATTACK ON GANJA CITY ON 11 OCTOBER 2020**

On 11 October 2020 – less than 24 hours after a ceasefire agreement between Armenia

<sup>197</sup> Twitter, @Arayik Harutyunyan, 1 October 2020, available at: [https://twitter.com/Pres\\_Artsakh/status/1311731684124090368](https://twitter.com/Pres_Artsakh/status/1311731684124090368).

<sup>198</sup> Additional Protocol I, Article 85(3)(b).

and Azerbaijan – a ballistic ‘SCUD’ missile hit a residential area located on 173 Shah Ismayil Khetayi Avenue in Ganja city, Azerbaijan.<sup>199</sup> The attack resulted in at least 10 civilian deaths, 40 injured civilians and the total destruction of three civilian apartment blocks (and partial destruction of a further five civilian buildings). There were no nearby military targets and no military casualties or damage were reported. There is credible evidence that the attack was launched by Armenian/Nagorno-Karabakh forces from Vardenis region in Armenia.

According to Witness G-001, at approximately 2:00 a.m. on 11 October 2020, she woke up to a loud sound above the house (“like an airplane landing”) followed by a massive blast. Her house shook and the air was immediately filled with dust and the smell of gun powder. The Witness was unable to see or hear anything, but managed to retrieve her son and escaped her partially destroyed house. Outside, she saw piles of rubble, flying sparks and thick smoke. A nearby apart-

ment block lay in ruins. She could hear cries for help from people under the rubble. The Witness saw a fragment of a missile lodged by the gate – subsequently collected by ANAMA. She is aware that at least 10 civilians died and many were injured in the attack, and describes having severe mental trauma and breathing difficulties as a result of the attack.<sup>200</sup> Another Witness residing in a nearby civilian house on Rafibaili Street – G-002 – confirms the date and time of the attack. She recalls that the ceiling had collapsed inside her apartment and the ground outside was covered in glass and masonry.<sup>201</sup> Both witnesses attest that no warning was given prior to the attack.

The moment of the attack was captured by surveillance cameras located in a nearby shop – showing a bright flash of an explosion, followed by a strong shockwave, smoke and debris.<sup>202</sup> The extent of the damage can be seen in the drone footage captured on the day following the attack,<sup>203</sup> and in media reports.<sup>204</sup> The impact site



*Ganja civilian buildings. Impact sites of attack on 11 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).*

<sup>199</sup> Coordinates: 40°42'03.2"N 46°22'01.7"E.

<sup>200</sup> Witness J-002 interviewed by IPHR/Truth Hounds in November 2020.

<sup>201</sup> Witness G-002 interviewed by IPHR/Truth Hounds in November 2020.

<sup>202</sup> *YouTube*, 'Gəncə şəhərinə Ermənistanın raket hücumunun videomüşahidə kameralarından görüntüsü', 11 October 2020, available at: [https://www.youtube.com/watch?v=ar3B2\\_JRjOk](https://www.youtube.com/watch?v=ar3B2_JRjOk).

<sup>203</sup> *Ruptly*, 'Azerbaijan: Drone footage shows Ganja shelling aftermath during ceasefire', 12 October 2020, available at: [https://www.youtube.com/watch?v=VmlucoMUW08&ab\\_channel=Ruptly](https://www.youtube.com/watch?v=VmlucoMUW08&ab_channel=Ruptly).

<sup>204</sup> *BBC News*, 'Ceasefire broken in Nagorno-Karabakh as apartment block hit by shelling', 11 October 2020, available at: [https://www.youtube.com/watch?v=A12-oqFcXgQ&ab\\_channel=BBCNews](https://www.youtube.com/watch?v=A12-oqFcXgQ&ab_channel=BBCNews).





*Ganja civilian buildings. Impact sites of attack on 11 October 2020. Photo by IPHR/Truth Hounds team (11 November 20f20).*

has been independently verified and documented by the IPHR/Truth Hounds team.<sup>205</sup>

According to Azerbaijani authorities, the attack was perpetrated using 'SCUD' ballistic missiles.<sup>206</sup> According to analysis of the rocket fragments documented by IPHR/Truth Hounds at the impact site, the attack was perpetrated

with a ballistic 'SCUD' class missile, identified by ballistics experts as an 8K14 (R-17), launched from a OTRK 9K72 'Elbrus' rocket system.<sup>207</sup> This assessment is consistent with the nature and extent of the documented damage. Such missile systems have a target range of 300km. Crucially, this category of missile has

<sup>205</sup> Videos and photographs of the impact site taken by the IPHR/Truth Hounds team.

<sup>206</sup> *Twitter*, @Hikmet Hajiyev, 16 October 2020, available at: [https://twitter.com/HikmetHajiyev/status/1317238112070868992?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1317238112070868992%7Ctwgr%5E%7Ctwcon%5Es1\\_&ref\\_url=https%3A%2F%2Fbalthazarkorab.com%2F2020%2F10%2F17%2Fazerbaijan-announced-shelling-of-ganja-with-scd-ballistic-mis-siles%2E](https://twitter.com/HikmetHajiyev/status/1317238112070868992?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1317238112070868992%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fbalthazarkorab.com%2F2020%2F10%2F17%2Fazerbaijan-announced-shelling-of-ganja-with-scd-ballistic-mis-siles%2E).

<sup>207</sup> IPHR/Truth Hounds took photographs of the fragments found at the site and send them to the Azerbaijan National Mine Action Agency (ANAMA) for identification. ANAMA identified the fragments as belonging to a 8K14 (R-17) rocket. The finding is consistent with ANAMA's analysis of fragments retrieved from the impact site.



a Circular Error Probable (CEP) of up to 600-900 meters – meaning that it misses its target by over half a kilometre at least 50 per cent of the time.<sup>208</sup>

Documented remnants of a SCUD missile system, used in attacking of a civil housing in Ganja on 11 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).

The Azerbaijani Ministry of Defence states that there were no military units of personnel in the vicinity of the attack site.<sup>209</sup> This was confirmed by witnesses<sup>210</sup> and independently verified by a BBC reporter.<sup>211</sup> The closest potential target representing a military advantage is Ganja city airport,<sup>212</sup> located some seven kilometres from the attack site, was unquestionably beyond the accuracy range of a SCUD missile.

According to Azerbaijani authorities, the attack was launched from Vardenis region in Armenia.<sup>213</sup> This is confirmed by ANAMA analysis, and consistent with the fact that Armenia has a missile base housing Elbrus OTRK launchers in that area.<sup>214</sup> At least one witness observed that the attack came from the westerly direction.<sup>215</sup> This is also consistent with the shape and angle of the impact crater. Vardenis region is located approximately 70km to the southwest of Ganja city – well within the range of an ‘Elbrus’ OTRK 9K72 missile system. Arayik Harutyunyan – the de facto head of Nagorno-Karabakh – had



*Ganja civilian buildings. Impact site of attack on 11 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).*

previously announced that he gave the order for a military attack on Ganja city,<sup>216</sup> and had threatened Azerbaijan with ‘thousands or tens of thousands of victims and many times more wounded’.<sup>217</sup>

The 11 October 2020 attack on a Ganja city constitutes a flagrant violation of IHL principles and a grave breach of the prohibition on indiscriminate and/or disproportionate attacks.<sup>218</sup> The choice of weapon – an outdated SCUD missile system with an accuracy range of 600-

208 Russian Ballistic Missiles, ‘R-17 ‘Elbrus’ (SS-1c Scud B), available at: <https://web.archive.org/web/20130331080952/http://inb-site.com/missiles1.html>

209 Ministry of Defence of the Republic of Azerbaijan, ‘Ministry of Defence: Armenian propaganda is lying’, 4 October 2020, available at: <https://mod.gov.az/en/news/ministry-of-defense-armenian-propaganda-is-lying-32619.html>.

210 Witnesses G-001, G-002 and G-003 interviewed by IPHR/Truth Hounds in November 2020.

211 BBC, ‘Armenia Azerbaijan: Reports of fresh shelling dent ceasefire hopes’, 12 October 2020, available at: <https://www.bbc.co.uk/news/world-europe-54488386>.

212 *MassisPost*, ‘Turkish F-16 Fighter Jets Spotted at Ganja Airport in Azerbaijan’, 3 October 2020, available at: <https://massispost.com/2020/10/turkish-f-16-fighter-jets-spotted-at-ganja-airport-in-azerbaijan/>.

213 *Prosecutor General’s Office of Azerbaijan*, ‘Press Release: General information about the conflict from the Prosecutor General’s Office of the Republic of Azerbaijan’.

214 Analysis provided by ANAMA on request from IPHR/Truth Hounds.

215 Witness G-003 interviewed by IPHR/Truth Hounds in November 2020.

216 *Twitter*, @Arayik Harutyunyan, 4 October 2020, available at: [https://twitter.com/Pres\\_Artsakh/status/1312679685550149632](https://twitter.com/Pres_Artsakh/status/1312679685550149632): ‘Today I commanded to neutralize #Ganja military objectives’; *Facebook*, @Arayik Harutyunyan, 4 October 2020, available at: <https://www.facebook.com/ArayikHarutyunyan/photos/a.177887032908678/616555702375140/>: ‘Many of you still remember this photo and my statement upon posting it. If anybody had hard time perceiving my message, I reaffirm we were not joking. Today upon my command the Defense Army launched rocket attacks to neutralize military objects in Gyanja. At this moment I have called off the attack to avoid inevitable loss among the civilian population. Failing Azerbaijan to draw appropriate lessons we will continue proportionate and powerful strike, disrupting and eliminating the army of the adversary and its rear. We are resolute to take necessary action to the end. Azerbaijan can still stop before it gets too late.’

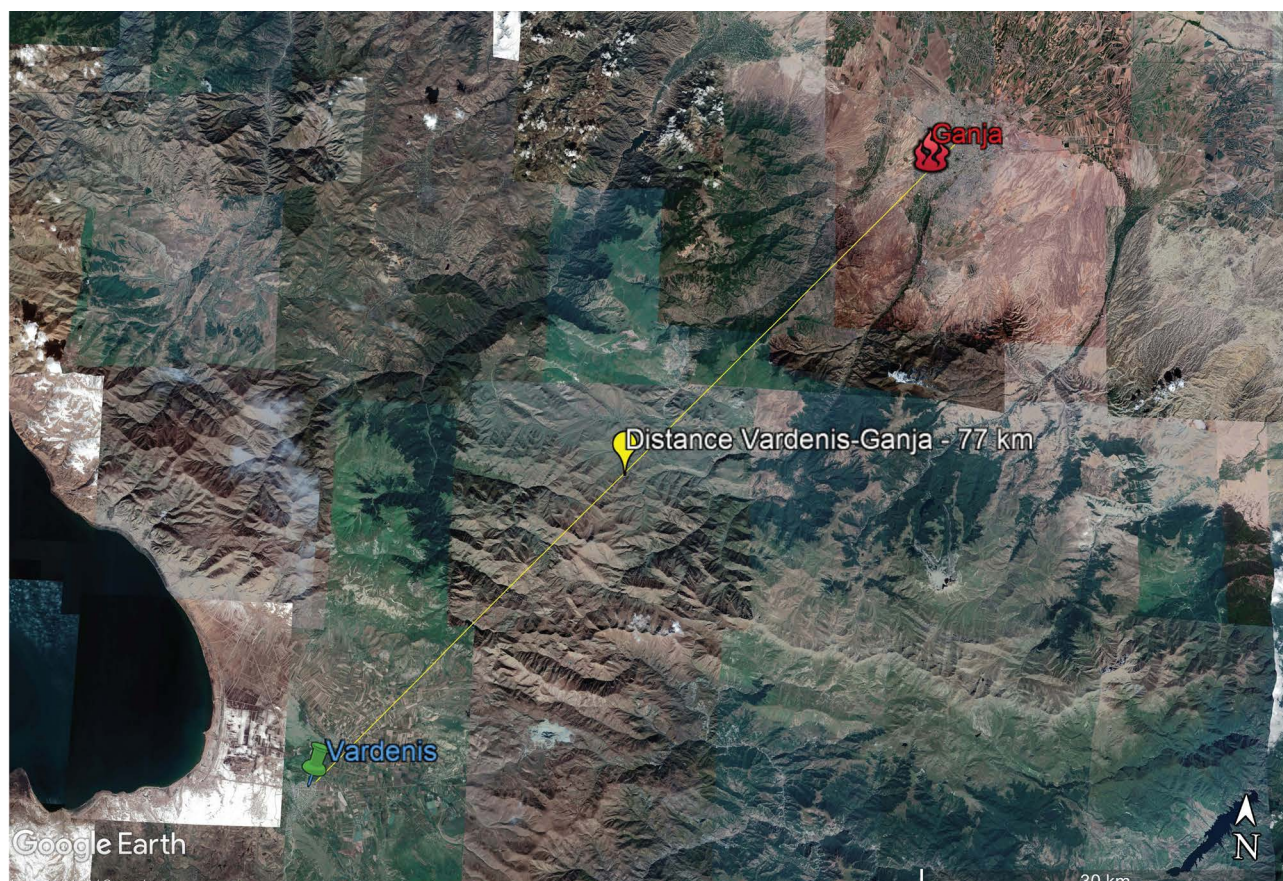
217 *Twitter*, @Arayik Harutyunyan, 1 October 2020, available at: [https://twitter.com/Pres\\_Artsakh/status/1311731684124090368](https://twitter.com/Pres_Artsakh/status/1311731684124090368).

218 Additional Protocol I, Article 85(3)(b).





Documented remnants of a 'SCUD' missile system, used in attacking of a civil housing in Ganja on 17 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).



Distance between Vardenis and Ganja. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.

900 meters – is clearly indiscriminate and unlawful in the context of an attack on a densely populated area. There is no credible evidence, or any significant military targets in the vicinity of the attack site, and no lawful military advantage to be gained from attacking civilian apartment blocks. The death of 10 civilians and numerous physical and psychological injuries caused by the attack clearly have no justification in international law. There is no evidence that Armenian authorities have or intend to carry out an independent, prompt, public and effective investigation into this attack. As such, the documented attack on Ganja city on 11 October 2020 constitutes a violation of IHL and Article 2 of the ECHR.

#### **IV. BALLISTIC ‘SCUD’ MISSILE ATTACK ON GANJA CITY ON 17 OCTOBER 2020**

On 17 October 2020, three ballistic ‘SCUD’ missiles descended on Ganja city, Azerbaijan, hitting a residential area and a car factory.<sup>219</sup> The attack resulted in 13 civilian deaths, at least 53 injured civilians, the total destruction of 20 civilian houses and partial destruction of a school, nursery and a children’s clinic. There were no nearby military targets and no military casualties or damage were reported. There is credible evidence that the attack was launched by Armenian/Nagorno-Karabakh forces from Vardenis region in Armenia.

Witness J-007 was at home when the first rocket hit the building across the street at around 12:45 a.m. The force of the blast knocked the roof off his house and smashed all of the windows in his house. Three minutes later, he saw another rocket exploding in the sky in the direction of the car factory. His next-

door neighbour died as a result of the attack, and her daughter and granddaughters were hospitalised with serious injuries.<sup>220</sup> Witnesses J-008 and J-009 were sleeping in the house on Mukhtar Hadziyev Street. Without prior noise or warning a massive explosion rocked their house and they found themselves under a pile of rubble. They began to scream for each other and were found by their mother who called people over to extract them from under the collapsed roof and walls of their house. Their 16-year-old nephew was also rescued but fell into a coma and died seven days later. Witness J-009 spent three weeks recovering in hospital.<sup>221</sup> Witness J-010 and his wife were in their summer kitchen in the backyard of their house on Mukhtar Hadziyev Street. Witness J-010 was watching television when he heard a loud explosion and temporarily lost his hearing and orientation. When he came to the house, he tried to open the door but it was blocked. After first responders unblocked their door, they stepped outside and heard people screaming under the rubble. He saw rubble everywhere and noticed a torn limb hanging from a post. His children had cuts all over their arms and legs, and his pregnant daughter was taken to hospital where she gave birth prematurely.<sup>222</sup>

A video posted on social media purportedly captures the moment of the explosion – the size of the blast and force of its impact can be clearly seen on the video. Footage taken at the impact site also shows the immediate aftermath and first responders attempting to rescue those buried under the rubble.<sup>223</sup> The extent of the damage can also be seen from drone and other footage published by Turkish and Azerbaijani media.<sup>224</sup> IPHR/Truth Hounds has confirmed the location and extent of the reported

219 The two impact sites are located at: (1) 17, Mukhtar Hadziyev street, coordinates: 40°41’28.6”N 46°21’18.9”E; and the car factory on Süleyman Rüstəm, coordinates: 40°39’40.8”N 46°22’44.1”E.

220 Witness J-007 interviewed by IPHR/Truth Hounds in November 2020.

221 Witnesses J-008 and J-009 interviewed by IPHR/Truth Hounds in November 2020.

222 Witness J-010 interviewed by IPHR/Truth Hounds in November 2020.

223 *YouTube*, “Срочно! Момент удара армянской ракеты по городу Гяндже, разрушения ужасные, много погибших”, 17 October 2020, available at: [https://www.youtube.com/watch?v=M\\_kU7FJ7k04&ab\\_channel=ДиалогUA](https://www.youtube.com/watch?v=M_kU7FJ7k04&ab_channel=ДиалогUA).

224 *YouTube*, “Armenia continues shelling Ganja, killing 13 civilians”, 17 October 2020, available at: [https://www.youtube.com/watch?v=w2UOhZUcHgM&ab\\_channel=TRTWorld](https://www.youtube.com/watch?v=w2UOhZUcHgM&ab_channel=TRTWorld); *Trend*, “Damage to Azerbaijani’s Ganja city from Armenian aggression revealed”, 20 October 2020, available at: <https://en.trend.az/azerbaijan/politics/3319860.html>.





Ganja, civil housing. Impacts of attack on 17 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).





Ganja, civil housing. Impacts site of attack on 17 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).





Ganja, civil housing. Impact site of attack on 17 October 2020. Photo by IPHR/Truth Hounds team (11 November 2020).



damage through an on-site investigation. An impact crater measuring four meters deep and approximately nine meters across was found in the place where a civilian residence stood prior to the attack.<sup>225</sup>

According to analysis of the rocket fragments documented by IPHR/Truth Hounds at the impact site, the attack was perpetrated with a ballistic 'SCUD' class missile, identified by ballistics experts as an 8K14 (R-17), launched from a OTRK 9K72 'Elbrus' rocket system.<sup>226</sup> This assessment is consistent with the nature and extent of the documented damage. This category of missile has a CEP of up to 600-900 meters – meaning that it misses its target by over half a kilometre at least 50 per cent of the time.<sup>227</sup>

Witnesses confirm that there were no military units or personnel in the vicinity of the attack site.<sup>228</sup> This was previously confirmed by the Azerbaijani Ministry of Defence,<sup>229</sup> and verified by a BBC reporter.<sup>230</sup> On the day of the attack, the de facto Ministry of Defence of Nagorno-Karabakh posted a map on Twitter, purportedly showing military targets in Ganja city.<sup>231</sup> The existence of these alleged targets has not been independently verified, is disput-

ed by Azerbaijani authorities and is inconsistent with witness testimony and media reports. The attack took place in the middle of the night and Witness J-010 confirmed that there had been no warning.<sup>232</sup>

Witness J-007 observed the rockets arrive from the south-southeast.<sup>233</sup> According to Azerbaijani authorities, the attack was launched from Vardenis region in Armenia.<sup>234</sup> This is confirmed by ANAMA analysis, and consistent with the fact that Armenia has a missile base housing Elbrus OTRK launchers in that area.<sup>235</sup> Vardenis region is located approximately 70km to the southwest of Ganja city – well within the 300km range of an 'Elbrus' OTRK 9K72 missile system. Arayik Harutyunyan – the de facto head of Nagorno-Karabakh – had previously announced that he gave the order for a military attack on Ganja city,<sup>236</sup> and had threatening Azerbaijan with 'thousands or tens of thousands of victims and many times more wounded'.<sup>237</sup>

The 17 October 2020 attack on a Ganja city constitutes a flagrant violation of IHL principles and a grave breach of the prohibition on indiscriminate and/or disproportionate attacks.<sup>238</sup> The choice of weapon – an outdated SCUD mis-

225 Videos and photographs of the impact site taken by the IPHR/Truth Hounds team.

226 IPHR/Truth Hounds took photographs of the fragments found at the car plant and send them to the Azerbaijan National Mine Action Agency (ANAMA) for identification. ANAMA identified the fragments as belonging to a 8K14 (R-17) rocket. The finding is consistent with ANAMA's analysis of fragments retrieved from the impact site on Mukhtar Hadziyev street.

227 Russian Ballistic Missiles, "R-17 'Elbrus' (SS-1c Scud B), available at: <https://web.archive.org/web/20130331080952/http://inbsite.com/missiles1.html>

228 Witnesses J-007, J-010 interviewed by IPHR/Truth Hounds in November 2020.

229 Ministry of Defence of the Republic of Azerbaijan, 'Ministry of Defence: Armenian propaganda is lying', 4 October 2020, available at: <https://mod.gov.az/en/news/ministry-of-defense-armenian-propaganda-is-lying-32619.html>.

230 BBC, "Armenia Azerbaijan: Reports of fresh shelling dent ceasefire hopes", 12 October 2020, available at: <https://www.bbc.co.uk/news/world-europe-54488386>.

231 Twitter, @Rasminfo, 17 October 2020, available at: <https://twitter.com/razminfo/status/1317440064255889408>.

232 Witnesses J-010 interviewed by IPHR/Truth Hounds in November 2020.

233 Witnesses J-007 interviewed by IPHR/Truth Hounds in November 2020.

234 *Prosecutor General's Office of Azerbaijan*, 'Press Release: General information about the conflict from the Prosecutor General's Office of the Republic of Azerbaijan'.

235 Analysis provided by ANAMA on request from IPHR/Truth Hounds.

236 *Twitter*, @Arayik Harutyunyan, 4 October 2020, available at: [https://twitter.com/Pres\\_Artsakh/status/1312679685550149632](https://twitter.com/Pres_Artsakh/status/1312679685550149632): "Today I commanded to neutralize #Ganja military objectives"; *Facebook*, @Arayik Harutyunyan, 4 October 2020, available at: <https://www.facebook.com/ArayikHarutyunyan/photos/a.177887032908678/616555702375140/>: "Many of you still remember this photo and my statement upon posting it. If anybody had hard time perceiving my message, I reaffirm we were not joking. Today upon my command the Defense Army launched rocket attacks to neutralize military objects in Gyanja. At this moment I have called off the attack to avoid inevitable loss among the civilian population. Failing Azerbaijan to draw appropriate lessons we will continue proportionate and powerful strike, disrupting and eliminating the army of the adversary and its rear. We are resolute to take necessary action to the end. Azerbaijan can still stop before it gets too late."

237 *Twitter*, @Arayik Harutyunyan, 1 October 2020, available at: [https://twitter.com/Pres\\_Artsakh/status/1311731684124090368](https://twitter.com/Pres_Artsakh/status/1311731684124090368).

238 Additional Protocol I, Article 85(3)(b).



Twitter account of Razm.info media, 17 October 2020.

## V. CLUSTER MUNITION ATTACK ON QARAYUSIFLI VILLAGE ON 27 OCTOBER 2020

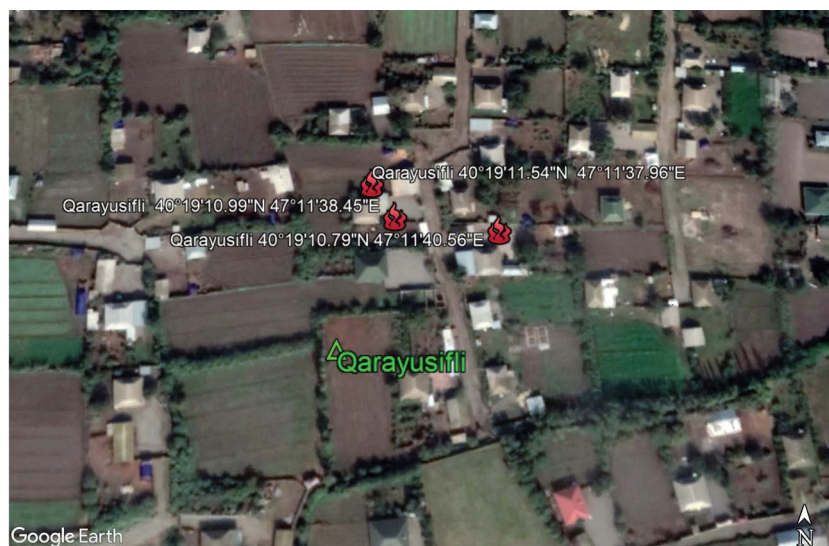
Witness Q-001 was near his home on Qarayusfli when at or around 16:55 he heard an explosion overhead. He looked up and saw a puff of white smoke in the sky. Ten seconds later, he

240 Republic of Azerbaijan – Ministry of Foreign Affairs, “No:383/20, Press-release of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan (En/Ru)”, 27 October 2020, available at: <https://mfa.gov.az/en/news/7000/view>.

heard a series of rapid explosions and saw a pillar of smoke and dust rising into the air. One of the munitions hit the roof of his house. A munition fragment lodged into his mother's leg. She was taken to hospital in Barda where she experienced another nearby 'Smerch' rocket attack the next day (see below). She died shortly afterwards.<sup>241</sup> Witness Q-002 was in her backyard in Qarayusifli when she heard an explosion overhead ("like a firework"). She ran for cover and seconds later heard five to six explosions in rapid succession. She smelled a strong odour of gunpowder and saw a column of black smoke rising from next door where her mother-in-law lived. She found her mother-in-law lying dead on the ground, with multiple fragment wounds over her head and body. She also noticed two small impact craters in the yard and a hole in the neighbour's roof. She is aware of three other people who died in her neighbourhood on the day of the attack, and one other person (Q-001's mother) who died from her wounds in hospital.<sup>242</sup> Witness Q-003 was at home with her daughter and grandchildren when they heard an explosion. They rushed to the door when two munitions fell on her property, hitting

the porch and the roof of an adjacent barn. All four civilians were injured by munition fragments, and her grandson had to be hospitalised to stem the blood-flow from his leg. She observed that three other munitions had landed onto a neighbour's property – but only two had detonated.<sup>243</sup> Witness Q-004 describes how his son's house and backyard were peppered with 310 pieces of 'shrapnel' – killing his son instantly and injuring his grandson with shrapnel lodged in his elbow, arm, head, back and chest.<sup>244</sup>

Witnesses confirm that there are no military targets or personnel in or around the village of Qarayusifli.<sup>245</sup> Witness Q-001 and Q-003 both describe the unexploded munitions as 15cm long cylindrical bomblets made of black metal. Witness Q-001 noticed a small propeller on the back. Witness Q-003 noticed a small red ribbon attached to the base of the munition.<sup>246</sup> The witness accounts of the attack and descriptions of unexploded munitions are consistent with MLRS 'Smerch' delivered 9M55K cluster munitions.<sup>247</sup> Azerbaijani authorities and ANAMA have confirmed the use of 'Smerch'-delivered cluster munitions.<sup>248</sup> These findings are



Impact sites in Qarayusifli. Source: Google Earth with markers added by Truth Hounds based on field investigation and satellite imagery analysis.

<sup>241</sup> Witness Q-001 interviewed by IPHR/Truth Hounds in November 2020.

<sup>242</sup> Witness Q-002 interviewed by IPHR/Truth Hounds in November 2020.

<sup>243</sup> Witness Q-003 interviewed by IPHR/Truth Hounds in November 2020.

<sup>244</sup> Witness Q-004 interviewed by IPHR's local partner organisation in January 2021.

<sup>245</sup> Witnesses Q-001, Q-002 and Q-003 interviewed by IPHR/Truth Hounds in November 2020.

<sup>246</sup> Witness Q-001 interviewed by IPHR/Truth Hounds in November 2020.

<sup>247</sup> Armament Research, "9M55K Cargo Rockets and 9N235 Submunitions in Ukraine", 3 July 2014, available at: <https://armamentresearch.com/9m55k-cargo-rockets-and-9n235-submunitions-in-ukraine/>.

<sup>248</sup> Twitter, @Hikmet Hajiyev, 27 October 2020, available at: <https://twitter.com/HikmetHajiyev/status/1321096011687907329?s=20>.





Qarayusifli, civil housing. Impact site of attack on 17 October 2020. Photo by IPHR/Truth Hounds team (12 November 2020).



Qarayusifli, civil housing. Impact site of attack on 17 October 2020. Photo by IPHR/Truth Hounds team (12 November 2020).

also consistent with evidence of damage documented by the IPHR/Truth Hounds team at the impact sites.<sup>249</sup>

The exact provenance of the attack has not been established. However, similar attacks on nearby Barda on 28 October 2020 have been linked to Armenian-controlled territory.<sup>250</sup> According to analysis by HRW, Armenian forces possess Smerch multi-barrel rocket launchers, but Nagorno-Karabakh forces do not;<sup>251</sup> Nagorno-Karabakh authorities initially denied perpetrating the attack, but subsequently acknowledged that they had targeted ‘military targets’

in Barda<sup>252</sup> and warned civilians to leave their homes ‘so as not to become human shields’.<sup>253</sup> There is a reasonable basis to suspect that Armenian forces carried out the attack or supplied the munitions to Nagorno-Karabakh forces.

The 27 October 2020 attack on Qarayusifli constitutes a flagrant violation of IHL principles and a grave breach of the prohibition on indiscriminate and/or disproportionate attacks.<sup>254</sup> The use of cluster munitions to attack undefended civilian areas serves no purpose other than to inflict maximum damage and injury over a large area – and is therefore inherently indiscriminate and unlawful. There is no evidence of

249 IPHR/Truth Hounds took and analysed photographs and video footage of the damage at all three impact sites. The size and shape of impact craters and fragment damage is consistent with cluster munition attacks.

250 Analysis provided by ANAMA on request from IPHR/Truth Hounds.

251 *Human Rights Watch*, ‘Armenia: Cluster Munitions Kill Civilians in Azerbaijan’, 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

252 According to Shushan Stepanyan – Armenian Defence Ministry spokesperson: *Human Rights Watch*, ‘Armenia: Cluster Munitions Kill Civilians in Azerbaijan’, 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

253 Telegram, @NKR InfoCentre, 28 October 2020, available at: <https://t.me/texekatvakanshtab/2974>.

254 Additional Protocol I, Article 85(3)(b).

any, or any significant military target in the vicinity of the attack sites, and no lawful military advantage to be gained from attacking civilians in the heart of an undefended town. The death of five civilians and numerous physical and psychological injuries caused by the attack clearly have no justification in international law. There is no evidence that Armenian authorities have carried out or intend to carry out independent, prompt, public and effective investigations into this attack. As such, the 27 October 2020 attack on Qarayusifli constitutes a violation of IHL and Article 2 of the ECHR.

#### **IV. BLAST FRAGMENTATION WARHEAD AND CLUSTER MUNITION ATTACK ON BARDATOWN ON 28 OCTOBER 2020**

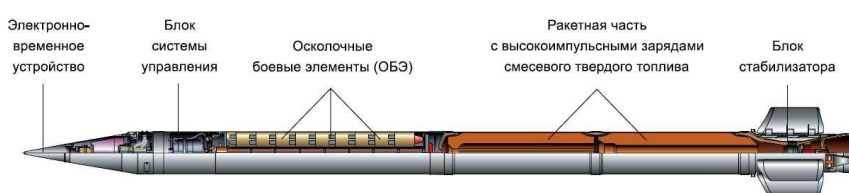
On 28 October 2020, suspected 'Smerch' rockets delivered multiple cluster bombs and

blast fragmentation warheads across three locations in Barda, a town of 40,000 inhabitants in Azerbaijan.<sup>255</sup> The attack resulted in 24 civilian deaths, over 70 injured civilians and widespread damage to civilian infrastructure and vehicles, with one missile landing less than 200 meters away from the municipal hospital. There were no nearby military targets, and no military casualties or damage were reported. There is credible evidence that the attack was launched by Armenian/Nagorno-Karabakh forces from Armenian-occupied territory.

At around 1:30 p.m. on 28 October 2020, Witness B-001 heard a noise in the sky that sounded like a fighter jet followed by several explosions. He looked up and saw white puffs of cloud from five or six explosions in the sky. Then the Witness noticed two black cylindrical missiles attached to parachutes coming down towards the ground over the centre of Barda.



9m55k cluster bombs and 'Smerch'. Source: doblest.club.



<sup>255</sup> Coordinates for the three attacks sites are: 40°23'09.9"N 47°08'03.8"E; 40°23'20.0"N 47°08'04.0"E; and 40°22'28.9"N 47°07'18.3"E.



Qarayusifli, civil housing. impact site of attack on 17 October 2020. Photo by IPHR/Truth Hounds team (12 November 2020).





*Barda, civil housing. Impact site of attack on 28 October 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*

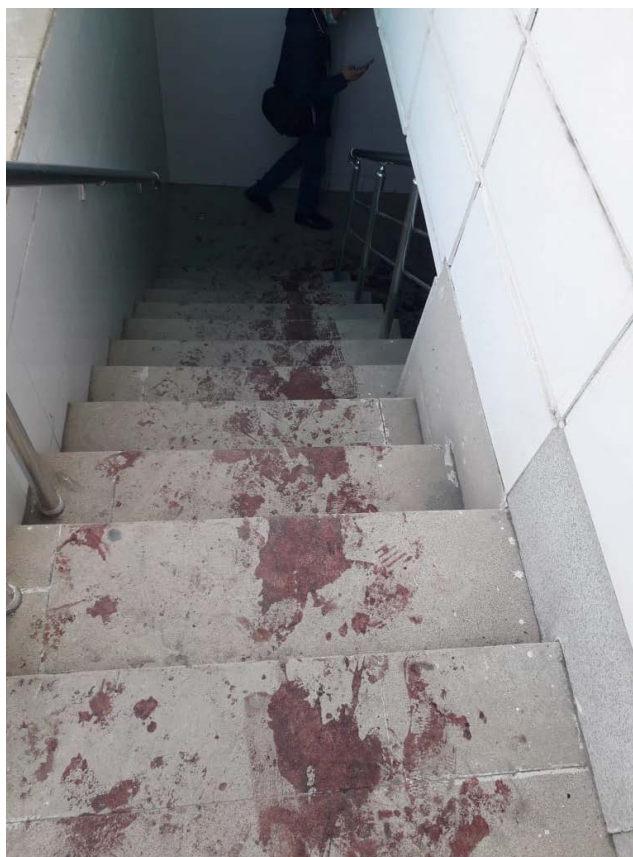
Moments later he heard and felt a blast and fell to the ground. When he lifted his head, he saw a pillar of smoke behind nearby buildings. Within seconds the second rocket exploded nearby. The Witness was knocked to the ground and momentarily lost his hearing. When he got up again, he saw smoke and dust all around. A white vehicle was on fire. Another vehicle stopped, and a badly injured civilian came out calling for help. Heading towards the epicentre of the second explosion, he saw many people, including children, lying on the ground – some moving and some not. He estimates that 16-17 persons died and about 70 persons were in-

jured in his immediate vicinity. Minutes later, he heard another explosion in another part of the town.<sup>256</sup> At the same moment, Witness B-002 – who was located 60-70 meters from the epicentre of the first blast – received a fragment of one of the bomblets lodged in his arm. He hid behind a fence and watched as a group of people were lifted into the air by the impact wave of the second round of explosions. He describes thick black smoke and a strong smell of gunpowder, with bleeding and shocked people all around.<sup>257</sup> Witness B-003 watched her mother run out onto the Uzeyir Hajibeyov Street to help injured people after the first blast. Sec-

<sup>256</sup> Witness B-001 interviewed by IPHR/Truth Hounds in November 2020.

<sup>257</sup> Witness B-002 interviewed by IPHR/Truth Hounds in November 2020.





Barda, hospital stairs covered with the blood of people wounded during the attack on 28 October 2020. Photo given to IPHR/Truth Hounds team by a witness.

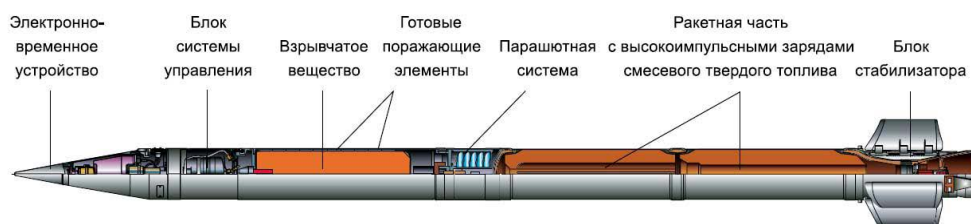
onds later, there were further explosions which killed her on the spot.<sup>258</sup> Witness B-004 ran out of his place of work after the first explosion. He describes a series of three explosions in rapid succession (less than a second apart) at 5-6 meter intervals across Uzeyir Hajibeyov Street.

A fragment of one of the bomblets lodged in his head. He also describes many other civilians with multiple injuries from small fragments. He personally witnessed six deaths – two customers at a nearby pharmacy, one traffic police officer, a person who died inside an electronics



Barda, civil housing. Impact site of attack on 28 October 2020. Photo by IPHR/Truth Hounds team (12 November 2020).

<sup>258</sup> Witness B-003 interviewed by IPHR/Truth Hounds in November 2020.



'Smerch' system. Source: *doblest.club*.

shop, a taxi driver who died next to his car and another man who died in front of a house.<sup>259</sup> Witness B-005 had difficulties identifying her husband at the morgue on account of his injuries – hundreds of fragments had perforated the car he was in, shredding his head and body.<sup>260</sup> Witnesses interviewed by HRW confirm hearing a mix of large explosions and waves of 'pops', consistent with the detonation of cluster munitions and fragmentation warheads.<sup>261</sup>

CCTV footage from inside an electronics shop shows people crowding in front of the door – looking at the aftermath of the first explosion. Several seconds later, a series of ten to fifteen explosions can be heard on the audio. People run from the door and smoke starts to billow in from outside. A man stumbles by the door – visibly injured – then falls to the ground motionless.<sup>262</sup> Another CCTV camera overlooking the street shows a series of small explo-

sions erupt in quick succession in a straight line across the street at 1–2-meter intervals.<sup>263</sup> Footage of the aftermath of the attack shows smoke from multiple impacts, storefronts and windows shattered and multiple vehicles perforated with small fragments from the explosions.<sup>264</sup> Another video shows several corpses in body bags strewn across the pavement.<sup>265</sup> The aftermath of the attack was also reported on by international media.<sup>266</sup>

According to the analysis of witness statements and missile remnants documented by IPHR/Truth Hounds and others at the impact sites,<sup>267</sup> the attack was perpetrated with MLRS 'Smerch' rockets delivering cluster munitions of the 9M528, 9N235 and/or 9M525 variety and at least two parachute-controlled unitary blast-fragmentation warheads.<sup>268</sup> This finding was confirmed by Azerbaijani authorities,<sup>269</sup> as well as analysis by HRW,<sup>270</sup> Amnesty Interna-

<sup>259</sup> Witness B-004 interviewed by IPHR/Truth Hounds in November 2020.

<sup>260</sup> Witness B-005 interviewed by IPHR's local partner organisation in January 2021.

<sup>261</sup> *Human Rights Watch*, 'Armenia: Cluster Munitions Kill Civilians in Azerbaijan', 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

<sup>262</sup> *Telegram*, 28 October 2020, available at: <https://t.me/Xebervar/11798>.

<sup>263</sup> Available at: <https://beyazgazete.com/video/webtv/guncel-1/berde-ye-bombalarin-dusme-ani-goruntulendi-882786.html>, and Twitter, @enBursaHaber, 2 November 2020, available at: [https://twitter.com/enBursaHaber/status/1323184574848000008?s=20\\$](https://twitter.com/enBursaHaber/status/1323184574848000008?s=20$).

<sup>264</sup> *Telegram*, 28 October 2020, available at: <https://t.me/AzeSputnik/5799>; Youtube, Bərdə şəhərinə raket atılması anı, 28 October 2020, available at: [https://www.youtube.com/watch?v=Dh5rTohhBRc&ab\\_channel=AçıqAzərbaycan](https://www.youtube.com/watch?v=Dh5rTohhBRc&ab_channel=AçıqAzərbaycan)

<sup>265</sup> *Telegram*, 28 October 2020, available at: <https://t.me/AzeSputnik/5778>.

<sup>266</sup> *Al Jazeera*, 'Azerbaijan accuses Armenia of killing 21 civilians in missile strike', 28 October 2020, available at: [https://www.youtube.com/watch?v=2ybjLQewR3w&ab\\_channel=AlJazeeraEnglish](https://www.youtube.com/watch?v=2ybjLQewR3w&ab_channel=AlJazeeraEnglish).

<sup>267</sup> Videos and photographs of the impact site taken by IPHR/Truth Hounds team.

<sup>268</sup> IPHR/Truth Hounds took photographs of the fragments found at the site and send them to the Azerbaijan National Mine Action Agency (ANAMA) for identification. ANAMA identified the fragments as belonging to an 8K14 (R-17) rocket. The finding is consistent with ANAMA's analysis of fragments retrieved from the impact site. The photographs of the fragments and ANAMA report.

<sup>269</sup> *Twitter*, @HikmetHajiyev, 28 October 2020, available at: <https://twitter.com/HikmetHajiyev/status/1321410768517140485>.

<sup>270</sup> *Human Rights Watch*, 'Armenia: Cluster Munitions Kill Civilians in Azerbaijan', 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

tional<sup>271</sup> and independent experts.<sup>272</sup> Both types of missiles are designed to inflict damage and severe injury over a wide area, though the dispersal of small metal fragments propelled at high speeds by the force of the explosion.

Witnesses confirm that there were no military units or personnel in the vicinity of the attack sites or anywhere else in Barda.<sup>273</sup> According to a journalist interviewed by HRW, he had not seen any concentrated presence of soldiers or military vehicles on the road before or at the time of the attack.<sup>274</sup>

According to analysis by ANAMA, the 9M528/9M525 ‘Smerch’ rockets were likely launched from ‘Armenian-controlled territory illegally occupied after the first Karabakh war’.<sup>275</sup> Nagorno-Karabakh authorities initially denied perpetrating the attack, but subsequently acknowledged that they had targeted ‘military targets’ in Barda<sup>276</sup> and warned civilians to leave their homes ‘so as not to become human shields’.<sup>277</sup> According to analysis by HRW, Armenian forces possess Smerch multi-barrel rocket launchers, but Nagorno-Karabakh forces do not; it is therefore likely that Armenian forces carried out the attack or supplied the munitions to Nagorno-Karabakh forces.<sup>278</sup>

The 28 October 2020 attack on Barda constitutes a flagrant violation of IHL principles and a grave breach of the prohibition on indiscriminate and/or disproportionate attacks.<sup>279</sup> The use of cluster munitions and blast fragmentation warheads in densely populated urban areas serves no purpose other than to inflict maximum damage and injury over a large area – and is therefore inherently indiscriminate

and unlawful. There is no evidence of any, or any significant military target in the vicinity of the attack sites, and no lawful military advantage to be gained from attacking civilians in the heart of an undefended town. Moreover, the impact site in the vicinity of a hospital may indicate a deliberate attack on a medical facility, in gross violation of IHL (IPHR/Truth Hounds is unable to confirm whether this attack was deliberately aimed at the hospital). The deaths of 24 civilians and numerous physical and psychological injuries caused by the attack clearly have no justification in international law. There is no evidence that Armenian authorities have carried out or intend to carry out independent, prompt, public and effective investigations into this attack. As such, the 28 October 2020 attack on Barda constitutes a violation of IHL and Article 2 of the ECHR.

## **VII. MULTIPLE MLRS ‘GRAD’, ‘SMERCH’, D-30 HOWITZER AND OTHER ARTILLERY ATTACKS ON TERTER CITY AND SURROUNDING DISTRICT FROM 27 SEPTEMBER UNTIL 10 NOVEMBER 2020**

Between 27 September and 10 November 2020, Terter city and surrounding villages came under sustained fire from MLRS ‘Grad’ and ‘Smerch’ artillery rockets, D-30 howitzer shells and other types of 122 and 152 mm calibre artillery, resulting in 21 civilian deaths, a multitude of civilian injuries and the total or partial destruction of civilian housing, shops and a school. Terter city and district are located a mere three kilometres from the Armenian border.<sup>280</sup> There

271 *Amnesty International*, Armenia/Azerbaijan: First confirmed use of cluster munitions by Armenia ‘cruel and reckless’, 29 October 2020, available at: <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-first-confirmed-use-of-cluster-munitions-by-armenia-cruel-and-reckless/>

272 *Twitter*, @Neil Gibson (fenix-insight weapons expert), 29 October 2020, available at: <https://twitter.com/blueboy1969/status/1321777324401057792?>

273 Witnesses B-003, and B-004 interviewed by IPHR/Truth Hounds in November 2020.

274 *Human Rights Watch*, ‘Armenia: Cluster Munitions Kill Civilians in Azerbaijan’, 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

275 Analysis provided by ANAMA on request from IPHR/Truth Hounds.

276 According to Shushan Stepanyan – Armenian Defence Ministry spokesperson: *Human Rights Watch*, ‘Armenia: Cluster Munitions Kill Civilians in Azerbaijan’, 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

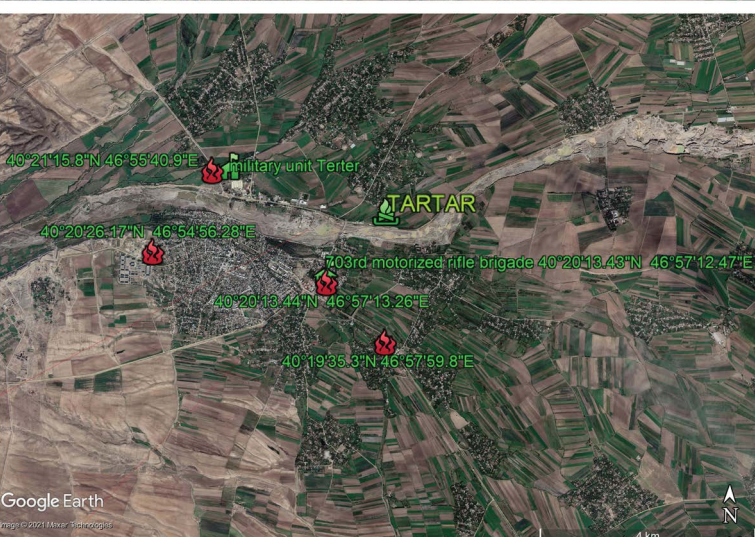
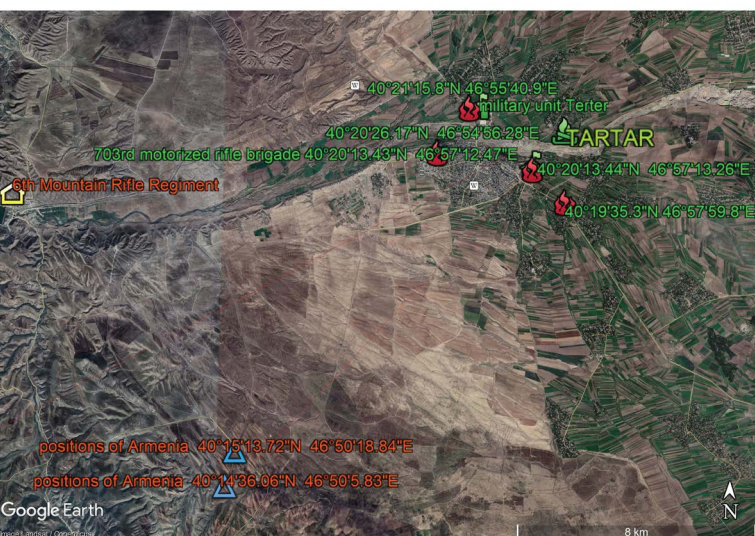
277 Telegram, @NKR InfoCentre, 28 October 2020, available at: <https://t.me/texekatvakanshtab/2974>.

278 *Human Rights Watch*, ‘Armenia: Cluster Munitions Kill Civilians in Azerbaijan’, 30 October 2020, available at <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

279 Additional Protocol I, Article 85(3)(b).

280 Coordinates: 40°21’15.8”N 46°55’40.9”E.





*Documented impact sites in or near Tartar (in green); Documented positions of Armenian armed forces (in orange) - Source: Google Earth with markers added by Truth Hounds based on field investigations and satellite imagery analysis.*

were no legitimate military objectives located in the areas targeted by the attacks, and no military casualties or damage were reported in the city and surrounding district. There is credible evidence that the attack was launched by Armenian/Nagorno-Karabakh forces from Armenian territory.

Witness T-001 has been living in Terter city since birth. He notes that the area has been regularly attacked by Armenian forces since 1992, although recent attacks can be distinguished by the intensity of the shelling and the use of high-calibre rockets (he claims that up to 17,000 shells were launched at the district in 2020). Locals are accustomed to regular attacks and either flee the area or spend the majority of their time in underground bunkers. According to T-001, there are no military positions, installations or garrisons in Terter city or surrounding villages.<sup>281</sup>

Witness T-002 lives in Shikharkh village in Terter district. He is a former soldier and is able to distinguish different types of weapons. He observed the first attack on the area on 27 September 2020 ("I watched as the rockets flew over from Armenia"). Some of the rockets did not explode and he subsequently identified one as a 'Smerch'. Throughout October he witnessed 'Grad' rockets, 122mm howitzer shells and 152mm artillery shells falling on the area. On 2 October, he witnessed at least 60 'Grad' rockets falling on or around his village. Many of the rockets failed to detonate, but at least one hit his house. On 28 October, at least five people died in a 'Grad' attack, including his son-in-law. Witness T-002 also confirms that there are no legitimate military targets in or near his village.<sup>282</sup>

Witness T-003 works at a school in Dugyarly village in Terter district. On 10 October 2020, at approximately 7:00 a.m. a rocket fell on the school, setting it on fire. As school staff and volunteers were trying to put out the fire, another rocket fell on the same spot at approximately 9:00a.m., injuring six people.

<sup>281</sup> Witness T-001 was interviewed by IPHR/Truth Hounds in November 2020.

<sup>282</sup> Witness T-002 was interviewed by IPHR/Truth Hounds in November 2020.

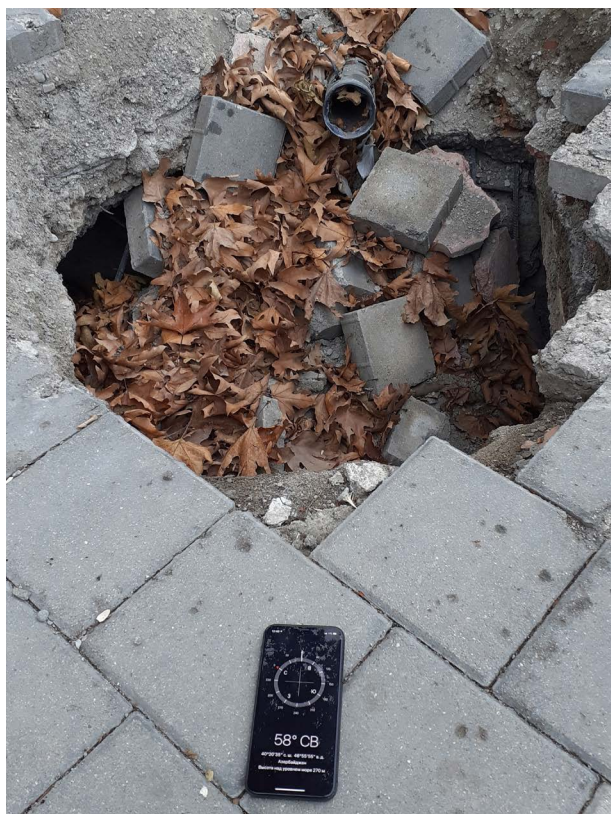




*Terter, civil housing. Impact site of attacks between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*



*Documented remnants of a missile system, used in an attack on a civilian house in Terter between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*



*Terter, civil housing. Impact site of attacks between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*





*Terter, civil housing. Impacts of attacks between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*

Witness T-003 also confirms that there are no legitimate military targets in or near his village.<sup>283</sup>

IPHR/Truth Hounds has documented numerous rocket impact sites in Terter city and district.<sup>284</sup> Some of the sites have also been confirmed in media reports.<sup>285</sup> The Ministry of Defence of Azerbaijan attributes the attacks to the 1<sup>st</sup> battalion of the 5<sup>th</sup> motorised rifle regiment stationed near Talish on the other side of the border from Terter region.<sup>286</sup> This allegation

has not been independently confirmed by IPHR/Truth Hounds. Witnesses confirm that all rockets that hit the area came from the territory of Armenia.<sup>287</sup>

According to Azerbaijani authorities, up to 160 rockets fell onto Terter region within a single day on 26 October 2020.<sup>288</sup> As noted above, Witness T-002 identified some of the rockets as 'Grad', 'Smerch' and other artillery rockets and howitzer shells. IPHR/Truth Hounds has confirmed this assessment through on-site

<sup>283</sup> Witness T-003 was interviewed by IPHR/Truth Hounds in November 2020.

<sup>284</sup> Videos and photographs of the impact sites taken by IPHR/Truth Hounds team.

<sup>285</sup> Azertag, "Армения обстреляла Тертер ракетами «Смерч» в нарушение нового режима гуманитарного прекращения огня", 27 October 2020, available at: [short link](#).

<sup>286</sup> Sputnik, "Противник понес большие потери на Талышском направлении и в Тертерском районе, отмечаются проблемы в поиске техники для эвакуации жертв и раненых", 29 September 2020, available at: <https://az.sputniknews.ru/karabakh/20200929/425067678/VS-Azerbaijdzhana-unichtozhili-pozitsii-protivnika---ministerstvo.html>.

<sup>287</sup> Witnesses T-001, T-002 and T-003 interviewed by IPHR/Truth Hounds in November 2020.

<sup>288</sup> *Ibid.*





*Terter, civil housing. Impact site of attacks between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*

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*Terter, civil housing. Impact site of attacks between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*

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*Terter, civil housing. Impact sites of attacks between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*

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*Terter, civil housing. Impacts of attacks between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*

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*Terter, civil housing. Impact sites of attacks between 27 September and 10 November 2020  
Photo by IPHR/Truth Hounds team (12 November 2020).*

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*Rocket remnants and fragments of missiles used in attacks of Terter civil housings between 27 September and 10 November 2020. Photo by IPHR/Truth Hounds team (12 November 2020).*

investigations of impact craters, rocket remnants and fragments.<sup>289</sup>

The sustained artillery attacks on Terter city and surrounding villages constitutes a flagrant violation of IHL principles and a grave breach of the IHL prohibition on indiscriminate and/or disproportionate attacks.<sup>290</sup> The use of unguided artillery against civilian settlements is therefore inherently indiscriminate and unlawful. There is no evidence of any, or any significant military target in the vicinity of the attack sites, and no lawful military advantage to be gained from attacking civilians in the heart of an undefended town. The death of 21 civilians and numerous physical and psychological injuries caused by the attack clearly have no justification in international law. The death toll would have been even greater had most of the civilian population not fled the area at the start of the conflict. There is no evidence that Armenian authorities have or intend to carry out independent, prompt, public and effective investigations into this attack. As such, the attacks on Terter city and district throughout the 2020 conflict constitute a violation of IHL and Article 2 of the ECHR.

#### **VIII. OTHER DOCUMENTED BOMBINGS THAT MAY AMOUNT TO INDISCRIMINATE AND/OR DISPROPORTIONATE ATTACKS:**

IPHR/Truth Hounds has documented four other incidents of bombing of civilians and civilian infrastructure by the armed forces of Armenia/Nagorno-Karabakh. These incidents require further investigation in order to assess their legality under IHL and human rights law to a requisite degree of certainty. Nevertheless, based on information collected to date, there is a reasonable basis to suspect that the incidents summarised below violated IHL principles and constitute grave breaches of the IHL prohibition on indiscriminate and/or disproportionate attacks, and where deaths occurred, violations of Article 2 of the ECHR.<sup>291</sup>

<sup>289</sup> Documentation and analysis of the impact sites by IPHR/Truth Hounds team.

<sup>290</sup> Additional Protocol I, Article 85(3)(b).

<sup>291</sup> Additional Protocol I, Article 85(3)(b).

- ▶ Artillery rocket or howitzer grenade attack on Gashalti village in Naftalan district on 27 September 2020, resulting in the killing of five members of the same household.<sup>292</sup> According to Witness Y-001, there were no military objects or personnel in the village, and the frontline was approximately 15km away.<sup>293</sup>
- ▶ An unspecified artillery rocket attack on Ganja city on 8 October 2020, resulting in damage to a school and nearby commercial premises on Hasan Aliyev street.<sup>294</sup> The school was not in use at the time; thus, the attack did not result in civilian casualties. The impact site was not located near any known legitimate military targets.<sup>295</sup>
- ▶ Ballistic ‘SCUD’ missile and ‘Smerch’ artillery attacks on Mingachevir city on 4 and 11 October 2020, resulting in one civilian casualty and, one injured civilian and damage to civilian housing and cars. The assumed target of the attacks was Mingachevir powerplant – providing electricity to the region.<sup>296</sup> Only one of the rockets hit the powerplant but failed to detonate. The other two rockets missed their presumed target and hit a nearby residential area. ANAMA analysis of remnants documented by IPHR/Truth Hounds at the impact sites confirms the use of 9M528 MLRS ‘Smerch’ artillery rockets and 8K14 SCUD ballistic missiles.

292 Twitter, @ AzMissionNATO, 28 September 2020, available at: <https://twitter.com/AzMissionNATO/status/1310520061237563394>; TRT, “TRT Haber Azərbaycan’da harabeye dönen evi görüntüledi”, 30 July 2020, available at: <https://www.trthaber.com/videolar/trt-haber-azerbaycanda-harabeye-donen-evi-goruntuledi-52200.html>;

293 Witness Y-001 interviewed by IPHR/Truth Hounds in November 2020.

294 Witness J-011 interviewed by IPHR/Truth Hounds in November 2020; Analysis of impact site by IPHR/Truth Hounds.

295 Coordinates: 40°40’46.3”N 46°21’07.2”E.

296 Coordinates: 40°46’47.8”N 46°59’41.8”E.



# D Conclusion

## AZERBAIJAN:

There is a reasonable basis to believe that 23 incidents of bombing of civilians by the armed forces of Azerbaijan qualify as indiscriminate and/or disproportionate attacks in violation of IHL and the right to life under Article 2 of the ECHR. These attacks include the bombing of civilian settlements using unguided artillery, aerial bombs and inherently indiscriminate cluster munitions, and have resulted in 20 civilian deaths, multiple injuries and the destruction of civilian housing, shops and other infrastructure. These attacks constitute grave breaches of the Geneva Convention and may be prosecuted as war crimes.<sup>297</sup> These attacks violate Article 15 of Azerbaijan's Law concerning the Protection of Civilian Persons and the Rights of Prisoners of War and Article 116(1) and (10) of Azerbaijan's Criminal Code.

The Government of Azerbaijan is under international obligations to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva Conventions,<sup>298</sup> and violations of the right to life. Failure to do so constitutes a breach of the Geneva Conventions and a violation of the right to life under Article 2 of the ECHR. To date, there is no indication that the Government of Azerbaijan has complied with these obligations.

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## ARMENIA:

There is a reasonable basis to believe that nine incidents of bombing of civilians by the armed forces of Armenia/Nagorno-Karabakh qualify as indiscriminate and/or disproportionate attacks in violation of IHL and the right to life under Article 2 of the ECHR. These attacks include the bombing of civilian settlements using highly inaccurate 'SCUD' ballistic missiles, unguided artillery and inherently indiscriminate cluster munitions, and have resulted in 80 civilian deaths, multiple injuries and the destruction of civilian housing, shops and other infrastructure. These attacks constitute grave breaches of the Geneva Convention and may be prosecuted as war crimes.<sup>299</sup> The attacks also violate Article 390.3(2) of Armenia's Penal Code.

The Government of Armenia is under international obligations to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva Conventions,<sup>300</sup> and violations of the right to life. Failure to do so constitutes a breach of the Geneva Conventions and a violation of the right to life under Article 2 of the ECHR. To date, there is no indication that the Government of Armenia has complied with these obligations.

<sup>297</sup> Additional Protocol I, Article 85(3)(a).

<sup>298</sup> Geneva Convention III, Article 129; Geneva Convention IV, Article 146.

<sup>299</sup> Additional Protocol I, Article 85(3)(a).

<sup>300</sup> Geneva Convention III, Article 129; Geneva Convention IV, Article 146.

# EXTRAJUDICIAL EXECUTION OF CAPTIVES

The extrajudicial killing of unarmed civilians, wounded soldiers and prisoners of war is strictly prohibited under IHL. IPHR/Truth Hounds has documented the execution of three captured Armenian combatants, the murder of three Armenian civilians and the enforced disappearance of two other Armenian civilians attributed to Azerbaijani armed forces. Another Armenian civilian has died in Azerbaijani custody as a result of the conditions of his detention. IPHR/Truth Hounds have also seen unverified evidence of two episodes of executions of wounded Azerbaijani

combatants by Armenian/Nagorno-Karabakh soldiers. To date, there is no indication that any of the documented incidents have been independently, promptly, publicly and effectively investigated by the relevant authorities.<sup>301</sup> Where investigations have been nominally launched – no one has been held to account. All documented killings and enforced disappearances constitute grave breaches of the Geneva Conventions and a violation of the right to life.

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<sup>301</sup> According to information released by the Prosecutor General's office of Azerbaijan, the office reviews all videos of alleged abuses by Azerbaijani forces, but has determined that the majority of these are fake. The Office has launched criminal prosecutions against four Azerbaijani servicemen for desecration of graves and outrages against dead bodies: <https://apa.az/en/social-news/4-military-servicemen-committing-offensive-acts-on-corpses-of-Armenian-servicemen-and-Armenian-graves-arrested-337840>.



# A Legal Framework

Violence to life and person, and in particular murder of civilians and captured and wounded soldiers who are no longer capable of posing a threat to life is strictly prohibited, constitutes a grave breach of the Geneva Conventions and may be prosecuted as a war crime.<sup>302</sup> In the context of detention, the prohibition of violence to life extends to any act or omission on the part of the detaining authority (e.g.: denial of medical care or adequate conditions of detention).<sup>303</sup> Every death of a civilian or enemy combatant in custody must be thoroughly investigated and those responsible held to account.<sup>304</sup>

Under human rights law, the use of lethal force in the context of detention is only permitted in a limited set of circumstances – namely to defend a person from unlawful violence, effect a lawful arrest, prevent the escape of a person lawfully detained or to quell a riot or insurrection through action lawfully taken for that purpose (see Article 2(2) ECHR). Crucially, any such action must be no more than absolutely necessary for achieving the above-stated aims. An enforced disappearance constitutes a violation of the right to life, where the victim is abducted by or on behalf of the State and is not seen again for a prolonged period of time – raising a rebuttable presumption that the

victim has been killed in State custody. Similarly, the right to life is violated where a detained or abducted victim was last seen alive in life-threatening circumstances, and the respondent State fails to provide a plausible explanation for the victim's fate or whereabouts. Any loss of life in a state's custody requires an independent, prompt, public and effective official investigation.<sup>305</sup> A state's failure to conduct such investigations is in and of itself a gross violation of the right to life under Article 2 of the EHCR.<sup>306</sup>

Under Article 390.1(1) of Armenia's Penal Code (2003), murder committed during an armed conflict constitutes a crime against the peace and security of mankind. Similarly, Articles 7 and 21 of Azerbaijan's Law concerning the Protection of Civilian Persons and the Rights of Prisoners of War (1995) prohibits "violence to life" and "murder" of civilian persons and prisoners of war in the context of conflict, whilst Article 115.4 of Azerbaijan's Criminal Code (1999) provides that "wilful killing" of protected persons is a violation of the laws and customs of war.

<sup>302</sup> Geneva Conventions 1949, common Article 3(1); Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Additional Protocol I of 1977, Article 41(1); Article 85(3)(e).

<sup>303</sup> Geneva Convention III, Article 13.

<sup>304</sup> Geneva Convention III, Article 121; Geneva Convention IV, Article 131.

<sup>305</sup> See McCann, para. 161 et seq.; *Kaya v. Turkey*, para. 91.

<sup>306</sup> *Jordan v UK*; *Edwards v. UK*.

# B Extrajudicial Executions by Azerbaijani Forces

## I. OVERVIEW

IPHR/Truth Hounds has documented the execution of four captured Armenian combatants, the murder of three Armenian civilians and the enforced disappearance of an Armenian civilian following abduction by Azerbaijani Special Forces. At least one Armenian civilian has died in Azerbaijani custody as a result of the conditions of his detention.

## II. MURDER OF TWO ARMENIAN PRISONERS OF WAR: YURI ADAMYAN AND BENIK HAKOBYAN

Two Armenians – Yuri Adamyan, a 25-year old armed combatant and Benik Hakobyan, a 73-year old man in a camouflage jacket – were captured by a unit of the Azerbaijani Marine Special Forces in the town of Hadrut in Nagorno-Karabakh on 14 October 2020.<sup>307</sup> Videos, verified by the BBC and Bellingcat, show their capture and subsequent execution in the town by firing squad, after being wrapped in the flags of Armenia and the unrecognised Republic of Artsakh.<sup>308</sup> In the first video, Azerbaijani servicemen are seen taking the two Armenian prisoners. The voice of the man behind the scenes in Russian (with a strong Azerbaijani accent) tells them to raise their hands up and walk towards him. He also addresses the soldiers with weapons in Azerbaijani and asks them not to beat the prisoners. Adamyan takes off his helmet and camouflage jacket, and then raises his arms up and out of the frame. Hakobyan is also

wearing a camouflage jacket, but it cannot be said with certainty that he was also a soldier. The video captured what appear to be Azerbaijani soldiers pushing him to the ground and he moans in pain.

The second video purports to show the moment of the execution of Adamyan and Hakobyan. Judging by the footage, the prisoners' hands are tied. On their shoulders are the flags of Armenia and the unrecognised Republic of Artsakh. They sit on the steps and barely move. A voice-over gives the order: "Aim for the head!" Shots are heard and the bodies of the men fall to the ground.

The videos have been studied by the BBC, which confirmed the veracity of the evidence 'with confidence'.<sup>309</sup> The BBC confirmed that the person behind the scenes giving the orders is a native Azerbaijani speaker with a regional accent. Analysing clothes and facial features it can be reasonably concluded that the captured Armenians in the first video and the victims of the execution in the second are the same people.<sup>310</sup> According to BBC landscape and geo-location analysis, the first video was filmed on a hill near the roadside in the north of Hadrut.<sup>311</sup> It shows four buildings that are easily recognisable in satellite imagery. And the video of the execution was most likely recorded in a park on Mkrtchyan Street in the south of the city.<sup>312</sup> The BBC also showed the tapes to a former British military intelligence officer who confirmed: "These are real bullets, and this is a real murder. This is real [the moment of the shooting], and I see no reason to

307 BBC News, "Execution Video Prompts War Crimes Probe", 24 Oct 2020, at <https://www.bbc.com/news/world-europe-54645254>; Bellingcat, 15 October 2020, "An Execution in Hadrut" at <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/> ("Bellingcat Investigation")

308 BBC News, "Execution Video Prompts War Crimes Probe" at <https://www.bbc.com/news/world-europe-54645254>

309 BBC News "Who killed Benik and Yuri? BBC analyzes video of execution of prisoners in Karabakh", 23 October 2020, available at <https://www.bbc.com/russian/features-54630739>

310 BBC News "Who killed Benik and Yuri? BBC analyzes video of execution of prisoners in Karabakh", 23 October 2020, available at <https://www.bbc.com/russian/features-54630739>

311 Coordinates: 39°31'25.9 "N 47°01'40.8"E.

312 Coordinates: 39°30'53.4 "N 47°02'01.8"E.





Freeze frame from  
“Execution Video  
Prompts War  
Crimes Probe”  
video. Source: BBC..

consider it staged”.<sup>313</sup> He drew attention to the fact that after the shots, the cerebral fluid of one of the killed appears in the frame.

According to analysis of videos and open-source investigations conducted by Bellingcat and IPHR/Truth Hounds, the perpetrators of the capture and execution of Adamyan and Hakobyan are combatants of the Azerbaijan Marines Special Forces unit. The camouflage and helmets seen in the video are Israeli-made “Fibro-tex-tech” uniforms which have been identified on members of the Azerbaijan Marines Special Forces unit. One of the combatants whose face can be seen in the video matches open-source photographs of a member of the unit.<sup>314</sup>

The evidence clearly shows that Adamyan and Hakobyan presented no threat to life or security following their capture and at the time of their execution. Their extrajudicial execution by Azerbaijani combatants has no justification

in IHL or human rights law. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no indication that investigations into this incident, if any, have been independent, prompt, public and effective or resulted in any criminal prosecutions. Consequently, the murders of Adamyan and Hakobyan constitute a grave breach of the prohibition of violence to life in IHL and a gross violation of the right to life.

### **III. EXECUTION OF A WOUNDED UNIDENTIFIED ARMENIAN COMBATANT**

A video verified by IPHR/Truth Hounds reveals a member of the Azerbaijani Special Forces firing dozens of shots at a wounded Armenian combatant on an unknown date in November 2020. In the video, the Armenian

<sup>313</sup> BBC News “Who killed Benik and Yuri? BBC analyzes video of execution of prisoners in Karabakh”, 23 October 2020, available at <https://www.bbc.com/russian/features-54630739>

<sup>314</sup> <https://spyurk.am/p/4598103>.

soldier, wearing an Armenian army uniform (identified as a member of mechanised or tank units of the Armenian armed forces) is seen on the floor next to a trench struggling to move. A soldier speaking Azerbaijani stands over him and fires dozens of shots at point blank range into his neck, head and chest.<sup>315</sup>

According to analysis by IPHR/Truth Hounds, the uniform and the way the soldier carries his weapons is characteristic of Azerbaijani Special Forces (rather than infantry). The executioner can be clearly heard receiving orders from a commander off screen, before shots are fired.

The video clearly shows that the Armenian soldier presented no threat to life or security prior to his execution. His execution by an Azerbaijani Special Forces combatant has no

justification in IHL or human rights law. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no indication that investigations into this incident, if any, have been independent, prompt, public and effective or resulted in any criminal prosecutions. Consequently, the murder of a wounded unidentified Armenian combatant constitutes a grave breach of the prohibition of violence to life in IHL and a gross violation of the right to life.

#### **IV. DECAPITATION OF CIVILIAN: GENADIY PETROSYAN**

On 27 October 2020, a group of Azerbaijani soldiers captured and decapitated a 69-year old

*Freeze frame from the "Azerbaijanis have finished wounded Armenian" video. Source: Kolorit 18+ Telegram channel.*



<sup>315</sup> Telegram video [https://t.me/kolorit\\_18/392](https://t.me/kolorit_18/392)





*Stills from the video of decapitation of a civilian.*

civilian, Genadiy Petrosyan, in the Madatashen village of Nagorno-Karabakh.<sup>316</sup>

A video of the attack purports to show an Azerbaijani combatant cutting Petrosyan's head off while others hold and kick him. Others are laughing and talking excitedly in the background. The video subsequently shows his head being placed on a dead pig's corpse. A voice, in Azerbaijani, states "this is how we get revenge". Witness A-001 identifies the victim as Genadiy Petrosyan – a civilian not involved in hostilities.<sup>317</sup> Another resident of Madatashen village also identified Petrosyan in one of the videos.<sup>318</sup> The Guardian has also seen a photograph of Petrosyan that closely resembles the victim in

the video. Artak Beglaryan, human rights ombudsman for the de facto Nagorno-Karabakh authorities, said Petrosyan had been identified by combing 35 missing persons reports for the region and then contacting acquaintances, who confirmed his identity.<sup>319</sup>

According to Witness A-001, on 27 October Azerbaijani forces invaded Madatashen and Avetaranots villages and other surrounding settlements.<sup>320</sup> In the video, individuals in the foreground and background are clearly speaking Azerbaijani and wearing Azerbaijani military uniforms. The individuals speak to each other in Azerbaijani. According to IPHR/Truth Hounds analysis, the uniforms of those soldiers visible in the videos belong to the Azerbaijani Marines Special Forces unit.<sup>321</sup>

There is clearly no evidence that Genadiy Petrosyan – a civilian – presented a threat to life or security at the point of his brutal execution. His murder by an Azerbaijani Marines Special Forces combatant has no justification in IHL or human rights law. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no indication that investigations into this incident, if any, have been independent, prompt, public and effective or resulted in any criminal prosecutions. Consequently, the brutal murder of civilian Genadiy Petrosyan constitutes a grave breach of the prohibition of violence to life in IHL and a gross violation of the right to life.

## **V. DECAPITATION OF CIVILIAN: YURI ASRYAN**

A video taken on or after 20 October 2020 in Azokh village, Nagorno-Karabakh, shows two

<sup>316</sup> The Guardian, "Two men beheaded in videos from Nagorno-Karabakh war identified" 15 December 2020, available at [https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN\\_NzbBHe\\_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg](https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN_NzbBHe_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg)

<sup>317</sup> Witness A-001 was interviewed by IPHR/Truth Hounds in December 2020.

<sup>318</sup> The Guardian, "Two men beheaded in videos from Nagorno-Karabakh war identified" 15 December 2020, available at [https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN\\_NzbBHe\\_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg](https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN_NzbBHe_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg)

<sup>319</sup> The Guardian, "Two men beheaded in videos from Nagorno-Karabakh war identified" 15 December 2020, available at [https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN\\_NzbBHe\\_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg](https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN_NzbBHe_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg)

<sup>320</sup> Witness A-001 was interviewed by IPHR/Truth Hounds in December 2020.

<sup>321</sup> Analysis conducted by IPHR/Truth Hounds: The camouflage and helmets seen in the video are Israeli-made "Fibrotex-tech" uniforms which have been identified on members of the Azerbaijan Marines Special Forces unit.

soldiers in Azerbaijani Marine Special Forces uniforms pinning down and decapitating Yuri Asryan, an 82-year-old civilian.<sup>322</sup> The victim's head begins to separate from the neck before the video ends.

Three residents of the village of Azokh identified the victim in this video as Asryan, a reclusive pensioner who had refused to leave the village on 20 October as Azerbaijani forces approached.<sup>323</sup> The current head of the village stated: "I received calls from many people from the village, and even people who had moved from the village to Armenia many years ago saying it looked like Asryan in the video."<sup>324</sup> A third villager who recognised Asryan said: "I felt terrible after watching it, my blood pressure was high, I couldn't compose myself for a week after seeing that."<sup>325</sup> Beglaryan, an Armenian human rights ombudsman, and Sahakyan, a human rights lawyer, also confirmed Asryan's identity. Asryan's niece also confirmed to the Guardian that it was him in the video.<sup>326</sup>

The soldiers responsible for this execution are heard speaking to each other in Azerbaijani throughout the footage. According to IPHR/Truth Hounds analysis, the uniforms of those soldiers visible in the videos belong to the Azerbaijani Marines Special Forces unit.<sup>327</sup>

There is no evidence that Yuri Asryan – a civilian – presented a threat to life or security at the point of his brutal execution. His murder by an Azerbaijani Marines Special Forces combatant has no justification in IHL or human rights law. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no indication that investigations into this incident, if any, have been independent, prompt, public and effective or resulted in any criminal prose-

cutions. Consequently, the brutal murder of Yuri Asryan constitutes a grave breach of the prohibition of violence to life in IHL and a gross violation of the right to life.

## **VII. EXECUTION AND/OR ENFORCED DISAPPEARANCE OF CIVILIANS: BORYA BAGDASARYAN AND KAREN PETROSYAN**

On 27 October 2020, Azerbaijani forces took Avetaranots village in Nagorno-Karabakh.<sup>328</sup> The remaining residents – five or six civilians – were rounded up and detained by the Azerbaijani forces.<sup>329</sup> According to an eyewitness, Borya Bagdasaryan – a civilian resident – was executed



*Freeze frame from the video of decapitation of a civilian.*

<sup>322</sup> The Guardian, "Two men beheaded in videos from Nagorno-Karabakh war identified" 15 December 2020, available at [https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN\\_NzbBHe\\_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg](https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN_NzbBHe_Y1PXXjiYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg)

<sup>323</sup> *Ibid.*

<sup>324</sup> *Ibid.*

<sup>325</sup> *Ibid.*

<sup>326</sup> *Ibid.*

<sup>327</sup> Analysis conducted by IPHR/Truth Hounds: The camouflage and helmets seen in the video are Israeli-made "Fibrotex-tech" uniforms which have been identified on members of the Azerbaijan Marines Special Forces unit.

<sup>328</sup> Witness A-001 was interviewed by IPHR/Truth Hounds in December 2020.

<sup>329</sup> A video shared with IPHR/Truth Hounds shows Azerbaijani soldiers detaining a 90 year old resident of the village.



on the spot. Another civilian resident – Karen Petrosyan – was last seen in a video tied up in the back of a vehicle being beaten by masked men.<sup>330</sup> Petrosyan has not been seen since and Azerbaijani authorities have not provided any information on his fate or whereabouts. Other civilians were detained for up to 44 days, and subsequently released as part of a prisoner exchange.<sup>331</sup>

A video of Azerbaijani soldiers detaining a resident of the village on 27 October 2020, has been widely circulated. According to analysis of the uniforms worn by the soldiers, the detentions were conducted by officials of the Azerbaijani Special Forces. There is a reasonable basis to believe that the same unit is directly or indirectly responsible for the subsequent murder and/or enforced disappearance of Borya Bagdasaryan and Karen Petrosyan.

There is no evidence that civilians Borya Bagdasaryan and Karen Petrosyan presented a threat to life or security at the point of their

abduction. The absence of information about the fate and whereabouts of Karen Petrosyan raises the presumption that he was murdered. Their murder by the Azerbaijani Special Forces combatant has no justification in IHL or human rights law. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no indication that investigations into this incident, if any, have been independent, prompt, public and effective or resulted in any criminal prosecutions. Consequently, the murder of Borya Bagdasaryan and enforced disappearance of Karen Petrosyan constitute a grave breach of the prohibition of violence to life in IHL and a gross violation of the right to life.

#### **VII. ENFORCED DISAPPEARANCE/MURDER OF CAPTURED SOLDIER: ARSEN GARAHANYAN**

On or around 10 October 2020, Azerbaijani forces entered Hadrut and detained Arsen Gara-



Source: panarmenian.net.

<sup>330</sup> Video available at: [https://t.me/kolorit\\_18/533](https://t.me/kolorit_18/533).

<sup>331</sup> Witness V-005 interviewed by IPHR/Truth Hounds in November 2020.

hanyan and his father. The father was ill-treated in detention and subsequently released.<sup>332</sup> The son – a former combatant – disappeared with no information provided to family who actively searched for him.<sup>333</sup> In January 2021, his body was discovered in the Hadrut region and identified by his spouse. He is reported to have been shot multiple times at close range, including in the heart.<sup>334</sup>

According to analysis by IPHR/Truth Hounds, the Azerbaijani takeover of Hadrut was carried out by the Azerbaijani Special Forces.<sup>335</sup> Arsen Garahanyan's abduction and subsequent disappearance or denial of knowledge as to his fate and whereabouts, has no justification in IHL or human rights law. His injuries indicate that he was murdered. There is a strong presumption that the murder took place while he was in Azerbaijani custody. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no indication that investigations into this incident, if any, have been independent, prompt, public and effective or resulted in any criminal prosecutions. Consequently, the enforced disappearance and murder of Arsen Garahanyan constitutes a grave breach of

the prohibition of violence to life in IHL and a gross violation of the right to life.

### **VIII. DEATH IN CUSTODY: EDIK SHAHKEDZIAN**

On 27 October 2020, Azerbaijani forces took Avetaranots village in Nagorno-Karabakh.<sup>336</sup> The remaining residents – five or six civilians – were rounded up and detained by the Azerbaijani forces.<sup>337</sup> A witness confirms that Edik Shahkedzian was taken into custody by the Azerbaijani Special Forces. At some point between 27 October and 14 December 2020, Shahkedzian died in Azerbaijani custody. All deaths in custody must be thoroughly investigated and are presumed to be responsibility of an act or omission by the detaining authorities unless proven otherwise. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no indication that investigations into this incident, if any, have been independent, prompt, public and effective or resulted in any criminal prosecutions. Consequently, the death of Edik Shahkedzian in Azerbaijani custody constitutes a grave breach of the prohibition of violence to life in IHL and a gross violation of the right to life.

<sup>332</sup> Witness V-010 interviewed by IPHR/Truth Hounds in November 2020.

<sup>333</sup> <https://asbarez.com/199200/10-people-missing-from-hadrut-villages-after-azeri-attacks/>

<sup>334</sup> RFE Armenia, "В Гадруте обнаружено тело пленного. По словам представителя Армении в ЕСПЧ, он был убит недавно", 20 January 2021, available at: <https://rus.azatutyun.am/a/31055451.html>.

<sup>335</sup> Analysis conducted by IPHR/Truth Hounds.

<sup>336</sup> Witness A-001 was interviewed by IPHR/Truth Hounds in December 2020.

<sup>337</sup> A video shared with IPHR/Truth Hounds shows Azerbaijani soldiers detaining a 90 year old resident of the village.



# C Extrajudicial Executions by Forces of Armenia/ Nagorno-Karabakh

At least two videos purporting to show extrajudicial killings of Azerbaijani soldiers by what appears to be Armenian/Nagorno-Karabakh soldiers have been posted on social media. IPHR/Truth Hounds was unable to confirm the authenticity of these videos.

In a video posted on Telegram on 7 December 2020, a soldier wearing Azerbaijani border patrol uniform<sup>338</sup> is seen lying on the ground, with his mouth gagged.<sup>339</sup> Another man approaches, holding a knife, and speaking to the victim in Armenian. He begins to cut the throat of the gagged soldier with the knife. The man appears to die and the victim is kicked in the head. The sleeve of the perpetrator resembles that worn by the Armenian military.

Another video,<sup>340</sup> published by Nagorno-Karabakh soldiers and geo-located to Martuni/Khojavend on 4 November 2020,<sup>341</sup> appears to show soldiers belonging to the forces of Nagorno-Karabakh executing wounded Azerbaijani soldiers at point-blank range. The affiliation of the soldiers is based on analysis of their uniforms and the language spoken on the video.<sup>342</sup>

The execution of wounded soldiers who present no discernible threat to safety and security is a grave breach of the prohibition of violence to life in IHL and a gross violation of the right to life. Armenian authorities have a duty to carry out an independent, prompt, public and effective investigation into these incidents. The continuing absence of such an investigation is a breach of Armenia's obligation under the

Geneva Conventions and a violation of the right to life.



Freeze frame from the video. Source: Карнаухов для тебя Telegram channel.

<sup>338</sup> See example of the same uniform here: <http://interfax.az/view/672787>.

<sup>339</sup> Telegram video: <https://t.me/zverstvaarmyan/2>

<sup>340</sup> Telegram video: [https://t.me/karabakh\\_news/3032](https://t.me/karabakh_news/3032).

<sup>341</sup> See third-party geolocation analysis here: <https://twitter.com/DalanyMokus/status/1324333416775647234?s=20>.

<sup>342</sup> Analysis conducted by IPHR/Truth Hounds.

# D Conclusion

## AZERBAIJAN:

For the foregoing, there is a reasonable basis to believe that members of Azerbaijani armed forces have unlawfully executed at least four Armenian prisoners of war and three Armenian civilians. Furthermore, at least one Armenian civilian detained by Azerbaijani armed forces has subsequently disappeared, with no information available on the captive's fate or whereabouts. At least one other Armenian civilian taken into Azerbaijani custody is reported to have died as a result of poor conditions of detention.

All nine documented deaths violate the IHL prohibition on violence to life and person and constitute grave breaches of the Geneva Conventions.<sup>343</sup> The cases further violate Articles 7 and 21 of Azerbaijan's Law concerning the Protection of Civilian Persons and the Rights of Prisoners of War and constitute criminal offences under Article 115.4 of Azerbaijan's Criminal Code. In the absence of lawful justification, these deaths equally constitute gross violations of the right to life under Article 2 of the EHCR.

The Government of Azerbaijan is under international obligations to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva Conventions,<sup>344</sup> and violations of the right to life. Failure to do so constitutes a breach of the Geneva Conventions and a violation of the right to life under Article 2 of the ECHR. To date, there is no indication that the Government of Azerbaijan has complied with these obligations.

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## ARMENIA:

Based on the foregoing, there is prima facie evidence of two extra-judicial executions of wounded Azerbaijani combatants by Armenian/Nagorno-Karabakh soldiers. If these killings are confirmed through further investigations, they would clearly violate the IHL prohibition on violence to life and person and would constitute grave breaches of the Geneva Conventions.<sup>345</sup> The killings of wounded Azerbaijani soldiers would equally violate Article 390.1(1) of Armenia's Penal Code and constitute gross violations of the right to life under Article 2 of the EHCR.

The Government of Armenia is under international obligations to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva Conventions,<sup>346</sup> and violations of the right to life. Failure to do so constitutes a breach of the Geneva Conventions and a violation of the right to life under Article 2 of the ECHR. To date, there is no indication that the Government of Armenia has complied with these obligations.

<sup>343</sup> Geneva Conventions 1949, common Article 3(1); Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Additional Protocol I of 1977, Article 41(1); Article 85(3)(e).

<sup>344</sup> Geneva Convention III, Article 129; Geneva Convention IV, Article 146.

<sup>345</sup> Geneva Conventions 1949, common Article 3(1); Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Additional Protocol I of 1977, Article 41(1); Article 85(3)(e).

<sup>346</sup> Geneva Convention III, Article 129; Geneva Convention IV, Article 146.



# TORTURE AND INHUMAN TREATMENT

The principles of humanity in IHL requires that all civilians, captives and wounded combatants must be treated humanely. Torture and cruel, inhuman and degrading treatment ('CIDT') are strictly prohibited under IHL and human rights law. There is no justification for torture and other forms of ill-treatment of captives under any circumstances, including inadequate conditions of detention. IPHR/Truth Hounds has documented the physical and psychological abuse of Armenian prisoners of war by Azerbaijani authorities, three instances of ill-treatment and violence against Armenian civilians by Azerbaijani soldiers, and

at least seven incidents of severe ill-treatment of Azerbaijani captives by Armenian/Nagorno-Karabakh forces. To date, there is no indication that any of the documented incidents have been independently, promptly, publicly and effectively investigated by the relevant authorities.<sup>347</sup> Even where investigations have been nominally launched – no one has to date been held to account. All documented cases of torture and CIDT constitute grave breaches of the Geneva Conventions and a violation of the prohibition on torture and CIDT under Article 3 of the ECHR.

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<sup>347</sup> According to information released by the Prosecutor General's office of Azerbaijan, the office reviews all videos of alleged abuses by Azerbaijani forces, but has determined that the majority of these are fake. The Office has launched criminal prosecutions against four Azerbaijani servicemen for desecration of graves and outrages against dead bodies: <https://apa.az/en/social-news/4-military-servicemen-committing-offensive-acts-on-corpses-of-Armenian-servicemen-and-Armenian-graves-arrested-337840>.

# A Legal Framework

The overarching principle of IHL is that “persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely”.<sup>348</sup> Common Article 3 to the Geneva Conventions explicitly prohibits “violence to life and person, in particular [...] cruel treatment and torture [and] outrages upon personal dignity, in particular humiliating and degrading treatment” with respect to persons taking no active part in the hostilities, including civilians and members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause.<sup>349</sup> Acts of torture or inhuman treatment and the wilful causing of great suffering or serious injury to body or health are grave breaches of the Geneva Conventions and may be prosecuted as war crimes.<sup>350</sup>

Torture is defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any

kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>351</sup> Whether ill-treatment meets the threshold of torture will depend on the circumstances, including the nature and context of the treatment or punishment, the manner and method of its execution, its duration, its physical and mental effects, and the characteristics of the victim.<sup>352</sup> There is no definitive list of acts that may constitute torture (the threshold will fluctuate with duration and individual circumstances<sup>353</sup>) – however electrocution, severe prolonged beatings, rape and heinous humiliation may all constitute acts of torture (separately or cumulatively).<sup>354</sup>

With respect to CIDT, the European Court of Human Rights described it as “treatment that deliberately causes severe suffering, mental or physical, which in the particular situation is unjustifiable<sup>355</sup> and as involving a violation of human dignity. The threat of severe beatings and rape may constitute inhuman treatment, or contribute to torture in combination with other forms of abuse.<sup>356</sup> The ECtHR has previously found that Article 3 is triggered whenever an inmate is taken into custody in good health, but leaves with injuries (reversing the burden of proof onto the State to disprove inhuman treatment or torture).<sup>357</sup> The ECtHR has also

<sup>348</sup> Common Article 3 to the Geneva Conventions; Additional Protocol I, Article 75(1).

<sup>349</sup> Geneva Convention III, Article 87 and 89; Geneva Convention IV, Article 32.

<sup>350</sup> Geneva Convention III, Article 130; Geneva Convention IV, Article 147; Additional Protocol I, Article 11.

<sup>351</sup> UN Convention Against Torture, Article 1.

<sup>352</sup> *Ireland v. UK*, para. 162, *Soering v. UK*, para. 100.

<sup>353</sup> *Price v UK*, para. 30 – whilst there was no intention to humiliate, disregard for health conditions or disability of an inmate can trigger Art. 3.

<sup>354</sup> *Selmouni v. France*, para. 102-103; See also *Cesaro v Italy* (dec.) – a riot police attack and severe beating of a protestors’ sleeping camp was found to have reached the level of ‘torture’.

<sup>355</sup> The “Greek Case” (ECHR 1969) (Application No. 3321/67, Denmark vs. Greece; No. 3322/67, Norway vs. Greece; No. 3323/67, Sweden vs. Greece; No. 3344 Netherlands vs. Greece); Debra Long, “Guide to Jurisprudence on Torture and Ill-treatment. Article 3 of the European Convention for the Protection of Human Rights”, June 2002, p. 23.

<sup>356</sup> *Gäfgen v Germany*, para.108: a threat of torture can amount to torture, as the nature of torture covers both physical pain and mental suffering. In particular, the fear of physical torture may itself constitute mental torture. However, there appears to be broad agreement, and the Court likewise considers, that the classification of whether a given threat of physical torture amounted to psychological torture or to inhuman or degrading treatment depends upon all the circumstances of a given case, including, notably, the severity of the pressure exerted and the intensity of the mental suffering caused.; See also *Selmouni v. France*, para. 102-103.

<sup>357</sup> *Aksoy v Turkey*, para. 61.



held that the State has an obligation to ensure the health and well-being of persons in custody – and that the failure to monitor and treat an inmate whose health is deteriorating is a violation of Article 3.<sup>358</sup>

The absence of an effective investigation into credible allegations of torture and inhuman/degrading treatment amount to a violation of the prohibition on torture and CIDT.<sup>359</sup>

Under Article 390.1(2)-(3) of Armenia's Penal Code (2003), "torture and inhuman treatment", and "wilfully causing great suffering or other actions threatening physical or mental health", during an armed conflict, constitute

crimes against the peace and security of mankind. Similarly, Article 17 and 21 Azerbaijan's Law concerning the Protection of Civilian Persons and the Rights of Prisoners of War (1995) prohibit torture, cruel treatment and outrages against personal dignity of civilians and prisoners of war, while Articles 113 and 115.2 of Azerbaijan's Criminal Code (1999 as amended in 2007) make torture and CIDT in the context of armed conflict a criminal offence.

<sup>358</sup> *Aleksanyan v Russia*, para. 158; ECtHR, *McGlinchey v UK*, para. 52-58.

<sup>359</sup> *Assenov v. Bulgaria*, para. 102.

# B Torture and Inhuman Treatment Perpetrated by Azerbaijani Authorities

## I. OVERVIEW

IPHR/Truth Hounds has documented the physical and psychological abuse of Armenian prisoners of war by members of Azerbaijani Military Police and State Security. Additionally, IPHR/Truth Hounds has documented at least three instances of ill treatment and violence against Armenian civilians by members of the Azerbaijani armed forces. Whilst Azerbaijani authorities state that all reported allegations of extrajudicial killings and abuse of captives are investigated, there is no clear indication that the investigations are conducted in an effective manner and no information as to whether the investigations have resulted in criminal prosecutions.

## II. TORTURE AND INHUMAN TREATMENT OF ARMENIAN PRISONERS OF WAR

IPHR/Truth Hounds have interviewed two Armenian prisoners of war (“POWs”) who were subjected to torture and inhuman treatment during their detention and interrogation by Azerbaijani authorities. The POWs were detained alongside other Armenian soldiers, who experienced comparable treatment. Both captives were transferred to the Military Police Department of the Azerbaijani Ministry of Defence, where they were subjected to extreme physical and psychological violence, and subsequently detained and ill-treated by the Azerbaijani State Security. The circumstances, duration and nature of the ill-treatment described by the witnesses meets the threshold of torture and CIDT.

Witness V-001 is a conscript in the Armenian armed forces who was taken prisoner along with six others by Azerbaijani Special Forces on 22 October 2020 near the town of Talish, Nagorno-Karabakh. He was captured by members

of the Azerbaijani Special Forces and handed over to regular armed forces. He and other captives were then transferred to Military Police headquarters in Baku on 23 October. He describes their treatment during the arrest and transfer as ‘humane’ and ‘polite’. On arrival at the Military Police all the captives were taken out of the vehicle, handcuffed, thrown to the floor and repeatedly kicked, punched and beaten with bats by members of the Military Police, overseen by a commanding officer. After ten minutes of constant battery, they were dragged up two flights of stairs and repeatedly kicked and punched along the way. Witness V-001 was then placed in solitary confinement, where he was handcuffed to a radiator. He could hear other detainees screaming down the corridor. For over 24 hours, Military Police staff entered his cell at 15-minute intervals to deliver blows to his body. His body ached and the skin on his wrists was torn “to the bone” by the handcuffs. He was not given any food or water for 24 hours. Over the next two days, he was taken out of his cell and taken to another building where he was interviewed in front of television cameras, then taken back to his cell and handcuffed to the radiator. On 25 October, he was transferred into the custody of Azerbaijan’s State Security with four other Armenian captives. During his “medical examination”, he was stripped naked and punched and beaten with a truncheon on his face and buttocks. He was then taken to a cell inside the State Security building. Fifteen minutes later, two State Security officers entered his cell and started to punch and kick his face and his ribcage. He was made to strip off his clothes, drench them in water and told to “clean the floors”. Ten minutes later, two others walked in and beat him severely “for having sat on the bed”. He was told to salute everyone who came in and to shout “Karabakh is Azerbaijan”. Subse-



quent medical examinations revealed that he had suffered multiple fractures to his ribs and leg bones and had bruised kidneys. On 26 October, he was taken to an interrogation room, where he was physically abused by eight State Security officers: kicked, punched, shocked with a Taser and whipped with electric cables. He was interrogated again on 27 and 28 October. During one interrogation, a State Security officer placed a plastic bag over his head in order to suffocate him. Witness V-001 says he was unable to walk independently after the interrogations. On 29 December, Witness V-001 and other captives were taken to a military prison in Baku, where he was kept in isolation until 14 December 2020.<sup>360</sup>

Witness V-002 was an Armenian conscript wounded as a result of a drone strike on his convoy on 23 October near the town of Kashunik/Kubatli. Several days later, he was found and captured by Azerbaijani armed forces and transferred to the Military Police headquarters in Baku. On arrival he was beaten with truncheons and confined in isolation – handcuffed and wearing nothing but his underwear. He was interrogated on several occasions by officers in Military Police uniform and people in ‘civilian clothes’, and severely beaten during his interrogations, which resulted in head trauma (he describes the symptoms of a severe concussion). He was denied medical treatment for his injury (a dislocated leg as a result of the drone strike) for at least five days during his captivity. He was subsequently taken to the hospital where he was further kicked and punched by a man in civilian clothes. He was then transferred into the custody of Azerbaijan’s State Security services where he was kept in isolation and interrogated further. Following interrogation, he was taken to the military prison, where he was kept until his release on 14 December 2020.<sup>361</sup>

For the foregoing, there is a reasonable basis to believe that Armenian POWs were subjected to torture and CIDT at the Military Police Department of the Ministry of Defence of Azerbaijan and Azerbaijan’s State Security. According to the Office of the Prosecutor General of Azerbaijan – a criminal case has been initiated under Article 115.2 of the Criminal Code (torture, cruel or inhuman treatment) and “the perpetrators of such illegal acts will be identified and brought to justice, and the public will be provided with detailed information on the progress and results of the investigation”.<sup>362</sup> Nevertheless, to date, there has been no information as to whether any of the perpetrators have been identified and brought to account. The treatment described by the witnesses amounts to a grave breach of the Geneva Conventions and the violation of the prohibition against torture and CIDT under Article 3 of the ECHR.

### **III. TORTURE AND INHUMAN TREATMENT OF ARMENIAN CIVILIANS BY AZERBAIJANI ARMED FORCES**

IPHR/Truth Hounds has seen prima facie evidence of at least four instances of abuse and ill-treatment of civilians by members of Azerbaijani armed forces. In all four cases, the ill-treatment appears to meet the threshold of torture.

A civilian from Verin Sznek/Yukhary Emishchan village in Nagorno-Karabakh was subjected to severe beatings and interrogations under conditions that may reach the threshold of torture. In a widely-circulated video of the ordeal, men in Azerbaijani uniforms speaking Azerbaijani abuse and interrogate the man about the position of Armenian troops in the area.<sup>363</sup> The video has not been independently verified by the IPHR/Truth Hounds team and requires further investigation.

<sup>360</sup> Witness V-001 interviewed by IPHR/Truth Hounds in December 2020.

<sup>361</sup> Witness V-001 interviewed by IPHR/Truth Hounds in December 2020.

<sup>362</sup> Azerbaijan Prosecutor General’s Office, “Baş Prokurorluq tərəfindən vətəndaşlarımıza Xəbərdarlıq”, 21 November 2020, available at: <https://genprosecutor.gov.az/az/post/3219>.

<sup>363</sup> <https://azeriwarcrimes.org/2020/12/14/18-civilian-from-sznez-artsakh-tortured-while-interrogated-by-azerbaijani-soldiers/>; See also *Guardian*, “Two men beheaded in videos from Nagorno-Karabakh war identified”, 15 December 2020, available at: [https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN\\_NzbBHe\\_Y1PXjYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg](https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified?fbclid=IwAR2IfQbIRN_NzbBHe_Y1PXjYRZKcmMbh4GSmcH91g8H2qR801YK2--tOg).

A 90-year-old civilian from Avenneranots was dragged across the settlement – his legs were permanently injured from the ordeal leading to mobility issues. He subsequently spent 44 days in internment in a cell that he says was so cold that one of his cellmates died. IPHR/Truth Hounds can confirm the nature and seriousness of the victim's injuries.<sup>364</sup> Given the age of the victim and its effect, the ill-treatment may reach the torture threshold in this instance.

A video has been widely circulated of a civilian having his ear cut off by men wearing what appears to be Azerbaijani border patrol uniforms.<sup>365</sup> The video has not been independently verified. In another unverified video taken in Shushi/Shusha, Nagorno-Karabakh, a group of Azerbaijani soldiers are shown frog-marching

an elderly man without shoes, kicking him on the legs.<sup>366</sup>

According to the Office of the Prosecutor General of Azerbaijan – a criminal case has been initiated under Article 115.2 of the Criminal Code (torture, cruel or inhuman treatment) and “the perpetrators of such illegal acts will be identified and brought to justice, and the public will be provided with detailed information on the progress and results of the investigation”.<sup>367</sup> Nevertheless, to date, there has been no information as to whether any of the perpetrators have been identified and brought to account. In all three cases, the treatment amounts to a grave breach of the Geneva Conventions and the violation of the prohibition against torture and CIDT under Article 3 of the ECHR.

<sup>364</sup> Witness V-005 was interviewed by IPHR/Truth Hounds in December 2020.

<sup>365</sup> Telegram, available at: [https://t.me/karabah\\_news/3790](https://t.me/karabah_news/3790).

<sup>366</sup> <https://www.facebook.com/artak.beglaryan/posts/3730559550315588>

<sup>367</sup> Azerbaijan Prosecutor General's Office, “Baş Prokurorluq tərəfindən vətəndaşlarımıza Xəbərdarlıq”, 21 November 2020, available at: <https://genprosecutor.gov.az/az/post/3219>.



# C Torture and Inhuman Treatment Perpetrated by forces of Armenia/ Nagorno-Karabakh

IPHR/Truth Hounds has documented seven incidents of ill treatment of Azerbaijani captives by Armenian/Nagorno-Karabakh forces that meet the threshold of torture and CIDT. A further three cases of ill-treatment have been captured on video and require further investigation. In one of the latter cases, the ill-treatment may have resulted in the victim's death, although this has not been independently confirmed. There is no indication that the authorities have conducted prompt, public and effective investigations into these incidents, or that the investigations, if any, have resulted in criminal prosecutions.

A video widely circulated on social media on 10 November purports to show two soldiers dressed in Azerbaijani military uniforms lying on the ground. They were captured in Martuni/Khojavand Shusha region, forcibly restrained and severely beaten on the head and torso by soldiers wearing Armenian military uniforms and speaking Armenian.<sup>368</sup> In a subsequent interview, one of the victims, V-014 confirmed the beatings and described how he was held in a windowless basement for several weeks, handcuffed to an iron bed. He was repeatedly interrogated and viciously beaten.

Other interviewed Azerbaijani POWs recount comparable treatment in Armenian/Nagorno-Karabakh custody. Witness V-016 – described how he was repeatedly kicked, punched

and insulted throughout the ordeal. After having been wounded in the leg, he was dragged by his legs down the hill and was repeatedly kicked in the wounded leg, without being offered medical assistance (a Russian reporter bandaged his leg). On the way to the hospital, V-016 continued to be battered on the face and wounded leg with a stick and splashed with boiling water.<sup>369</sup> Witness V-018 describes how he was beaten in custody and at the hospital, and only given three meals over a 14-day period.<sup>370</sup> Witness V-019 reports that he was kicked on his wound and tormented with needles and other implements whilst awaiting surgery in hospital.<sup>371</sup> Witness V-020 describes how he was denied adequate food, beaten during interrogations and had one of his fingers crushed using pliers.<sup>372</sup> Witness V-021 describes how he had fingers inserted into his bullet wounds.<sup>373</sup> Witness V-022 describes how he was tied with a rope and viciously beaten.<sup>374</sup>

A video published on 7 December 2020, shows a badly wounded Azerbaijani soldier being shouted at in Russian by a man speaking with an Armenian accent, stating “Yashma? Are you from Yashma? This is our land, bitch! This is our land, Karabakh! We are from Sargsyan's army.” ((Sargsyan was the deputy commander of the Karabakh Defence Army until he was killed in action).<sup>375</sup> In another video circulated on social media, an Azerbaijani soldier is

<sup>368</sup> Telegram video, <https://t.me/zorxeber/9922>

<sup>369</sup> Witness V-016 interviewed by IPHR/Truth Hounds in January 2021.

<sup>370</sup> Witness V-018 interviewed by IPHR/Truth Hounds in January 2021.

<sup>371</sup> Witness V-019 interviewed by IPHR/Truth Hounds in January 2021.

<sup>372</sup> Witness V-020 interviewed by IPHR/Truth Hounds in January 2021.

<sup>373</sup> Witness V-021 interviewed by IPHR/Truth Hounds in January 2021.

<sup>374</sup> Witness V-022 interviewed by IPHR/Truth Hounds in January 2021.

<sup>375</sup> Telegram video, <https://t.me/zverstvaarmyan/3>

shown lying on the floor of an ambulance and being repeatedly kicked and sworn at, amongst screaming and shouting, after asking where they are going.<sup>376</sup> A video, taken on 22 October 2020, shows what appears to be an Azerbaijani soldier lying on the side of the road.<sup>377</sup> A man wearing Armenian army uniform approaches and hits him hard on the head with a Kalashnikov rifle. After moaning for a short while, he falls silent despite still being repeatedly hit, suggesting that he may have died. The assailant speaks to the filmmaker in Armenian. These videos have not been independently verified by the IPHR/Truth Hounds team and require further investigation.

Systematic beatings, inhuman conditions of detention, denial of medical care and other basic needs, cruelty and humiliation described by witnesses or captured on video amounts to a grave breach of the Geneva Conventions and the violation of the prohibition against torture and CIDT under Article 3 of the ECHR. The leadership of Armenia and the leadership of de facto authorities of Nagorno-Karabakh have an obligation to investigate the above-described conduct with a view to prosecuting those responsible. Failure to do so constitutes a violation of Armenia's international obligations and a breach of the prohibition against torture and CIDT.



Freeze frame from the video. Source: Zorxeber Telegram channel.

<sup>376</sup> Telegram video <https://t.me/zverstvaarmyan/4>

<sup>377</sup> Telegram video <https://t.me/zverstvaarmyan/5>

# C Conclusion

## AZERBAIJAN:

For the foregoing, there is a reasonable basis to believe that Armenian POWs were subjected to torture and CIDT in the custody of Azerbaijani Military Police and State Security. Furthermore, there is prima facie evidence that members of the Azerbaijani armed forces subjected at least four civilians to torture and CIDT in the course of military operations.

All documented cases of torture and CIDT violate the IHL prohibition against cruel treatment and torture.<sup>378</sup> These cases further violate Article 17 and 21 Azerbaijan's Law concerning the Protection of Civilian Persons and the Rights of Prisoners of War (1995) and Articles 113 and 115.2 of Azerbaijan's Criminal Code. The use of torture and CIDT have no justification in human rights law and therefore constitute violations of Article 3 of the ECHR.

The Government of Azerbaijan is under international obligations to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva Conventions,<sup>379</sup> and violations of the prohibition of torture and CIDT. Failure to do so constitutes a breach of the Geneva Conventions and a violation of Article 3 of the ECHR. Whilst a criminal case has been reportedly initiated under Article 115.2 of the Criminal Code (torture, cruel or inhuman treatment),<sup>380</sup> to date, there has been no information as to whether any of the perpetrators have been identified and brought to account.

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## ARMENIA:

For the foregoing, there is a reasonable basis to believe that at least seven Azerbaijani POWs were subjected to torture and CIDT at the hands of Armenian/Nagorno-Karabakh armed forces. Furthermore, there is prima facie evidence of a further three cases of torture perpetrated against Azerbaijani POWs that require further investigation. All documented cases of torture and CIDT violate the IHL prohibition against cruel treatment and torture.<sup>381</sup> The alleged conduct equally violates Article 390.1(2)-(3) of Armenia's Penal Code.

The Government of Armenia is under international obligation to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva Conventions,<sup>382</sup> and violations of the prohibition of torture and CIDT. Failure to do so constitutes a breach of the Geneva Conventions and a violation of Article 3 of the ECHR. To date, there is no indication that the Government of Armenia has complied with these obligations.

<sup>378</sup> Geneva Convention III, Article 87 and 89; Geneva Convention IV, Article 32, Common Article 3.

<sup>379</sup> Geneva Convention III, Article 129; Geneva Convention IV, Article 146.

<sup>380</sup> Azerbaijan Prosecutor General's Office, "Baş Prokurorluq tərəfindən vətəndaşlarımıza Xəbərdarlıq", 21 November 2020, available at: <https://genprosecutor.gov.az/az/post/3219>.

<sup>381</sup> Geneva Convention III, Article 87 and 89; Geneva Convention IV, Article 32, Common Article 3.

<sup>382</sup> Geneva Convention III, Article 129; Geneva Convention IV, Article 146.



# OTHER DOCUMENTED VIOLATIONS

In addition to indiscriminate bombings of civilians and cases of extrajudicial executions and torture, the warring parties have committed a number of other IHL violations which require full investigation by the relevant authorities. IPHR/Truth Hounds has seen multiple accounts of mutilations and despoliation perpetrated against Azerbaijani soldiers by members

of the Armenian/Nagorno-Karabakh forces. Azerbaijani authorities have launched investigations into similar conduct perpetrated by Azerbaijani soldiers. Azerbaijani armed forces also appear to have deliberately targeted IHL-protected objects such as hospitals and places of religious or cultural significance.

## A Despoliation of the Dead

### I. OVERVIEW

Members of both warring parties have been accused of offences against the dead – the mutilation or other forms of despoliation of dead bodies. This practice is banned under the Geneva Conventions and Protocols and may be prosecuted as a war crime of committing outrages upon personal dignity. IPHR/Truth Hounds has documented eight instances of despoliation of the dead perpetrated by the armed forces of Armenia/Nagorno-Karabakh. At least two Azerbaijani soldiers are accused of committing similar offences against deceased Armenian/Nagorno-Karabakh soldiers. The Office of the Prosecutor General of Azerbaijan has confirmed that the two Azerbaijani soldiers in question have been charged with war crimes in relation to this conduct. IPHR/Truth Hounds is not aware of any investigations or prosecutions by Armenian authorities in rela-

tion to alleged crimes committed by Armenian/Nagorno-Karabakh soldiers.

### II. LEGAL FRAMEWORK

Article 16 of the Fourth Geneva Convention obliges all parties to a conflict to facilitate protection of the dead against ill-treatment. According to Article 34(1) of Additional Protocol I: “The remains of persons who have died for reasons related to occupation or in detention resulting from occupation or hostilities ... shall be respected”. Any mutilation or desecration committed against the dead in the context of an armed conflict may amount to a war crime of “outrages upon personal dignity” – i.e. the perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons to a degree of outrage.<sup>383</sup> In 1993, the Ministry of the Interior of Azerbaijan ordered that its troops “must not desecrate the remains of enemies”.<sup>384</sup>

<sup>383</sup> ICC Elements of Crimes, Article 8(2)(b)(xxi), see footnote 49: For this crime, “persons” can include dead persons.

<sup>384</sup> Ministry of the Interior of Azerbaijan, Order No. 42, 9 January 1993.

### III. DOCUMENTED INCIDENTS OF DESPOLIATION OF DECEASED AZERBAIJANI SOLDIERS

IPHR/Truth Hounds have retrieved eight videos from social media which appear to show the ill-treatment and despoliation of dead Azerbaijani soldiers by members of Armenian/Nagorno-Karabakh armed forces. The videos have not been independently verified and the conduct that they purport to show requires further investigation. Nevertheless, the videos constitute *prima facie* of multiple cases of despoliation of the dead by Armenian/Nagorno-Karabakh forces:

- ▶ On 29 October 2020, a video posted on social media appears to show Armenian/Nagorno-Karabakh soldiers (based on analysis of uniform and language spoken) using a digger to shovel lifeless bodies wearing Azerbaijani uniforms into a trench.<sup>385</sup>
- ▶ Several videos posted on social media on 4 November 2020 appear to show Armenian/Nagorno-Karabakh combatants shooting, kicking and manhandling lifeless bodies wearing Azerbaijani military uniforms.<sup>386</sup>
- ▶ On 7 December 2020, a video shared on social media shows multiple bodies in Azerbaijani military uniforms and civilian clothes laid out on the ground.<sup>387</sup> The individuals are covered in blood with visible wounds and are lifeless. Some of their clothes have been partially removed. Towards the end of the video, pigs can be seen eating the bodies. It is not possible to establish any link between the contents of this video and the armed forces of Armenia/Nagorno-Karabakh.
- ▶ Also, on 7 December 2020, another video posted on social media shows a dead Azerbaijani soldier having his ear cut off by what appears to be an Armenian/Nagorno-Karabakh soldier.<sup>388</sup> The man filming the video can be heard speaking Armenian. The dead soldier is wearing an Azerbaijani uniform, whilst the man who cuts off his ear is wearing Armenian/Nagorno-Karabakh combat camouflage.
- ▶ A video posted on social media on 7 December 2020 appears to show two Armenian/Nagorno-Karabakh soldiers dragging a lifeless body dressed in an Azerbaijani uniform with ropes tied to the deceased's ankles. The men kick and roll the body with their feet and pile it on top of a heap of other dead Azerbaijani combatants.<sup>389</sup>
- ▶ A video posted on social media on 7 December 2020 appears to show the back of a vehicle filled with dead bodies of Azerbaijani soldiers.<sup>390</sup> Men in Armenian/Nagorno-Karabakh military uniforms walk on the bodies, expose intimate parts of the bodies, slap their faces and pull their ears.
- ▶ A video posted on social media on 29 December 2020 appears to show a group of Armenian/Nagorno-Karabakh soldiers dragging the lifeless body of a soldier in Azerbaijani military uniform with a rake, dousing the body in kerosene and setting it ablaze.<sup>391</sup>

<sup>385</sup> YouTube, "Dumping the dead Azeri soldiers", 29 October 2020, available at: <https://www.youtube.com/watch?v=4rAnVc5vfIs>.

<sup>386</sup> Telegram, @karabah\_news, 4 November 2020, available at: [https://t.me/karabah\\_news/3032](https://t.me/karabah_news/3032); Telegram, @kolorit\_18, 4 November 2020, available at: [https://t.me/kolorit\\_18/204](https://t.me/kolorit_18/204).

<sup>387</sup> Telegram, @zverstvaarmyan, 7 December 2020, available at: <https://t.me/zverstvaarmyan/8>.

<sup>388</sup> Telegram, @zverstvaarmyan, 7 December 2020, available at: <https://t.me/zverstvaarmyan/3>.

<sup>389</sup> Telegram, @zverstvaarmyan, 7 December 2020, available at: <https://t.me/zverstvaarmyan/11>.

<sup>390</sup> Telegram, @zverstvaarmyan, 7 December 2020, available at: <https://t.me/zverstvaarmyan/10>.

<sup>391</sup> Day.Az, "Очередное доказательство зверства армян в отношении азербайджанцев", 29 December 2020, available at: [https://news.day.az/politics/1302445.html?fbclid=IwAR3h8M9DtS3pxUaS6SmHoxOZZdL5B0GHqsteCX257vGeNap\\_yClEj2PXCBO](https://news.day.az/politics/1302445.html?fbclid=IwAR3h8M9DtS3pxUaS6SmHoxOZZdL5B0GHqsteCX257vGeNap_yClEj2PXCBO).

#### IV. DOCUMENTED INCIDENTS OF DESPOLIATION OF DECEASED ARMENIAN SOLDIERS

On 14 December 2020, the Azerbaijani Prosecutor General's Office announced that four Azerbaijani servicemen have been arrested and charged with "desecrating the bodies of dead Armenian soldiers and vandalising gravestones of Armenian cemeteries".<sup>392</sup> According to the statement, two sergeants, Rasad Aliyev and Qardasxan Abisov, are suspected of desecrating the corpses of Armenian soldiers killed during battles in the district of Zangilan. The Prosecutor General's Office also announced that "other videos with possible similar contents are being investigated [...] Such criminal acts committed by the servicemen of the Republic of Azerbaijan are inadmissible [...] and individuals who have committed similar violations will be brought to justice, in accordance with law". The current status or outcome of the investigations is not known.

#### V. CONCLUSION

##### ARMENIA:

For the foregoing, there is prima facie evidence of multiple incidents of despoliation of Azerbaijani servicemen (and possibly civilians) committed by Armenian/Nagorno-Karabakh forces. All credible allegations of despoliation of the dead require further investigation. If proven to the applicable standard, this conduct would violate the IHL prohibition on despoliation and degrading treatment and may also violate Article 390.1(2)-(3) of Armenia's Penal Code.

The Government of Armenia is under international obligation to conduct independent, prompt, public and effective investigations and prosecute all credible allegations of grave breaches of the Geneva Conventions,<sup>393</sup> and violations of the prohibition of CIDT. Failure to do so constitutes a breach of the Geneva

Conventions and a violation of Article 3 of the ECHR. To date, there is no indication that the Government of Armenia has complied with these obligations.

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##### AZERBAIJAN:

It is encouraging that the Azerbaijani authorities are willing and able to investigate and prosecute cases of despoliation of the dead and other violations of the laws and customs of war by members of their own armed forces. Pursuant to binding international obligations, it is crucial that these investigations are prompt, independent, public and effective, and result in prosecutions for those responsible. It is important that all alleged abuses are investigated and prosecuted – and that the enquiry does not end with the four individuals currently in custody. The probes must also include an inquiry into the responsibility of commanders to prevent and punish such conduct perpetrated by those under their command and control.

<sup>392</sup> Azerbaijan Prosecutor General's Office, "Erməni hərbi qulluqçularının meyitləri və ermənilərə məxsus qəbir daşları üzərində təhqiredici hərəkətlərə yol verməkdə təqsirləndirilən 4 nəfər hərbi qulluqçu həbs edilmişdir", 14 December 2020, available at: <https://genprosecutor.gov.az/az/post/3270>.

<sup>393</sup> Geneva Convention III, Article 129; Geneva Convention IV, Article 146.



# B Azerbaijani attacks on places of religious/cultural significance

IPHR/Truth Hounds has documented two incidents in which the armed forces of Azerbaijan appear to have deliberately targeted and damaged places of religious and/or cultural significance to ethnic Armenians: Ghazanchetsots Cathedral in Shusha/Shushi and the Chartar/Guneykhirman cross. Deliberate attacks on cultural or religious property are in violation of the special protective status granted to such places under the Hague Convention on the Protection of Cultural Property (1954) which has been signed and ratified by 133 states, including Azerbaijan and Armenia.<sup>394</sup> Deliberate attacks on places of significant cultural and religious value may be prosecuted as war crimes.<sup>395</sup>

## I. ATTACK ON GHAZANCHETSOTS CATHEDRAL

On 8 October 2020, the Ghazanchetsots Cathedral in the town of Shusha/Shushi in Nagorno-Karabakh was attacked twice by guided missiles launched by Azerbaijani armed forces. The cathedral is a place of cultural and religious significance for Armenian people. The attacks appear to have been deliberate and there were no military targets in or around the cathedral. The attacks resulted in injuries to three civilians (journalists) and the partial destruction of the cathedral.

The first attack on Ghazanchetsots Cathedral took place around midday. Witness P-001 saw smoke coming from the direction of Shusha/Shushi. He arrived within an hour of the

first attack. He searched in and around the cathedral and found remnants of unidentified missiles. Local residents reported seeing airplanes flying over Shusha/Shushi, followed by a missile that hit the roof of the cathedral. Witness P-001 did not see any military personnel or installations in or around the cathedral. Twenty minutes into his return journey, he heard another explosion. The cathedral had been attacked for a second time. Two journalists who had been covering the first attack were injured in the second attack.<sup>396</sup> The journalists who were present during the second attack reported that an Azerbaijani drone had flown over the area prior to the second strike, and would have seen a gathering of civilians and journalists in the targeted area.<sup>397</sup> HRW has also documented the attacks on Ghazanchetsots Cathedral, noting that the nature of the attack and choice of guided weapon “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>398</sup> Based on photographs of remnants documented at the site of the attack, HRW concluded that the cathedral was attacked with a “munition capable of being accurately directed at a specific target”, which would suggest a deliberate attack.

However, while the President of Azerbaijan has promised to investigate the attack, at the time of writing there is no information about the status or outcome of this investigation, or

394 N.B: Unlike Armenia, Azerbaijan is not a party to the Second Protocol of the Hague Convention on Cultural Property which provides for the criminal responsibility for making cultural property the object of attack (Article 15(1)).

395 ICC Statute, Article 8(2)(b)(ix).

396 Witness P-001 was interviewed by IPHR/Truth Hounds in December 2020.

397 Witness P-002 was interviewed by IPHR/Truth Hounds in January 2021.

398 HRW, “Azerbaijan: Attack on Church Possible War Crime”, 16 December 2020, available at: <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime>.



Documented remnants of a missile system, used in the attack on Ghazanchetsots Cathedral on 8 October 2020. Photo by IPHR/Truth Hounds team ().



Documented remnants of a missile system, used in the attack on Ghazanchetsots Cathedral on 8 October 2020. Photo by IPHR/Truth Hounds team ().



whether anyone has been brought to account. In an interview to the BBC, President Aliyev claimed that the attack 'may have been a mistake or a provocation by Armenia'.<sup>399</sup>

## II. ATTACK ON THE CHARTAR/GUNEYKHIRMAN CROSS

Another attack on a protected religious object took place near the town of Chartar/Guneykhirman. Prior to the 2020 war, a large illuminated Christian cross was erected on a hill to the south-west of Chartar/Guneykhirman, near the ancient Eghishevank Monastery.<sup>400</sup> According to two witnesses, the area was bombed on two occasions by Azerbaijani aviation.<sup>401</sup> The cross was destroyed in the second attack in October 2020, and the attacks ceased. The nearby television tower was not affected by the attack

and was not subsequently targeted. According to witnesses, there are no known military targets in the targeted areas. The attacks appear to have been deliberately targeted at the cross.

## III. CONCLUSION

The means and manner of the attacks on Ghazanchetsots Cathedral and the Chartar/Guneykhirman cross suggest that both places were deliberately targeted by Azerbaijani armed forces. Ghazanchetsots Cathedral and the Chartar/Guneykhirman cross are of religious and cultural significance for ethnic Armenians. Deliberate attacks against protected buildings or objects of religious and cultural significance violate IHL and may be prosecuted as a war crime.

<sup>399</sup> See relevant excerpt of the interview here: <https://t.me/bagramyan26/23017>.

<sup>400</sup> Coordinates: 39°44'20"N 47°0'54"E.

<sup>401</sup> Witnesses CH-001 and CH-002 were interviewed by IPHR/Truth Hounds in December 2020.





*Ghazanchetsots Cathedral. Impact sites of attack on 8 October 2020. Photo by IPHR/Truth Hounds team.*





*Ghazanchetsots Cathedral. Impact sites of attack on 8 October 2020. Photo by IPHR/Truth Hounds team.*

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# C Azerbaijani attacks on hospitals and medical personnel

IPHR/Truth Hounds has documented five incidents of what appear to be deliberate attacks by Azerbaijani armed forces against hospitals and medical personnel. Hospitals, medical personnel and medical transport – whether civilian or military – must be protected by all warring parties in all circumstances.<sup>402</sup> According to Article 19 of Geneva Convention I – Fixed establishments and mobile medical units may in no circumstances be attacked, but shall at all times be respected and protected by the parties to the conflict. Article 18 of Geneva Convention IV extends this strict prohibition to all civilian hospitals. Article 21 of Additional Protocol I extends the protection to medical transport. Medical units do not lose their special status and protection even where personnel carry light individual weapons, are guarded by armed sentries or provide medical care to members of the armed forces.<sup>403</sup> Attacks deliberately targeted against medical units, personnel and transport are serious violations of IHL and may be prosecuted as war crimes.<sup>404</sup>

IPHR/Truth Hounds has documented the following attacks on hospitals, medical transport and personnel by Azerbaijani armed forces:

- ▶ Attacks on a hospital in Martakert/Agdere on or around 15 October 2020.<sup>405</sup> According to witnesses, the main hospital in Martakert/Agdere was repeatedly attacked by Azerbaijani armed forces with unguided artillery and aerial bombs. The basement of the hospital had been

converted into a military field clinic and all civilian personnel had been relocated. The ICRC was informed of the use of the hospital building as a military field hospital. The hospital sustained damage to the children's unit, parking lot (and medical transport) and another wing of the building where medical equipment was destroyed. One ambulance driver was injured as a result of the attacks.<sup>406</sup> Remnants of MLRS 'Grad' rockets were documented by the IPHR/Truth Hounds team on the territory of the hospital.

- ▶ The shelling of a military field hospital in the village of Karmir Shuka/Qırmızı Bazar on or around 15 October 2020.<sup>407</sup> On 10 October 2020, the basement of a school in the village of Karmir Shuka/Qırmızı Bazar was converted into a military field hospital by armed forces of Armenia/Nagorno-Karabakh. According to witnesses, on or around 15 October, the school building was attacked using MLRS 'Grad' or 'Smerch' artillery. At least one witness reports that cluster munitions were used, although this allegation has not been verified.<sup>408</sup>
- ▶ An MLRS 'Grad' rocket attack on Martuni/Khojavend on 17 October 2020 resulted in damage to a civilian hospital. Two rockets landed in close proximity to the hospital (within 5-20 meters from

<sup>402</sup> Geneva Convention I, Articles 24-26; Geneva Convention IV, Article 20; Additional Protocol I, Article 15(1)

<sup>403</sup> Additional Protocol I, Article 13(2).

<sup>404</sup> ICC Statute, Article 8(2)(b)(ix)

<sup>405</sup> Coordinates: 40°13'2.23"N, 46°49'33.86"E

<sup>406</sup> Witnesses MH-001 and MH-002 interviewed by IPHR/Truth Hounds in December 2020.

<sup>407</sup> Coordinates: 9°40'37.93"N 46°57'13.28"E.

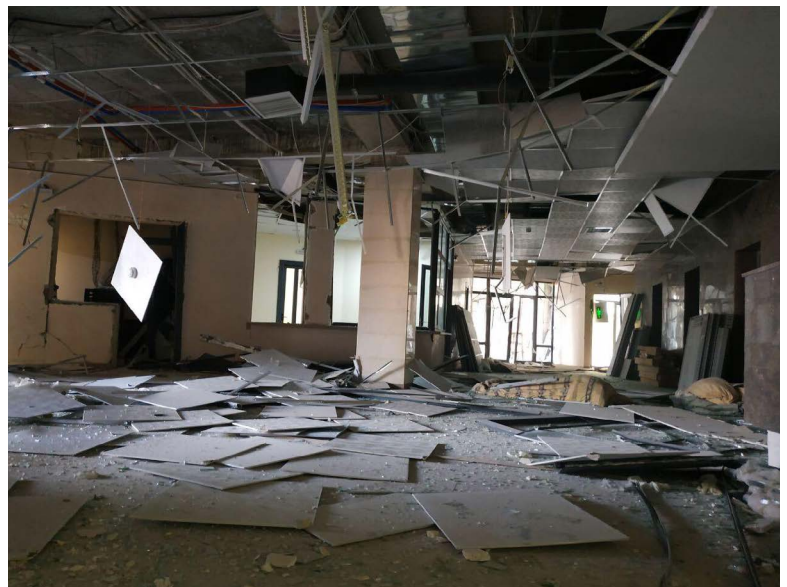
<sup>408</sup> Witness KS-001 was interviewed by IPHR/Truth Hounds in December 2020.

the hospital building).<sup>409</sup> According to a doctor working at the hospital, up to a third of all windows at the hospital were shattered as a result of the attack.<sup>410</sup>

- ▶ A tactical 'LORA' missile attack on the Republican Hospital in Stepanakert/Khankendi on 28 October completely destroyed the newly built maternity ward.<sup>411</sup> A witness who works at the hospital recalls a number of shells that fell in the vicinity of the hospital and suggests that based on the intensity of the attack, the hospital was deliberately targeted.<sup>412</sup> Remnants of an Israeli-made 'LORA' rocket were found at the attack site. The LORA is a guided semi-ballistic tactical missile with a CEP of 10 meters – implying that the attack on the hospital was deliberate.
- ▶ In late October 2020, three ambulances in and around Chartar/Guneykhirman were bombed by a suspected drone belonging

to the armed forces of Azerbaijan. At the time of the attack, the frontline was within less than 5km from Chartar/Guneykhirman. Three consecutive ambulances were called out to collect wounded Armenian soldiers, but none of the ambulances made it to the call-out position. All three were clearly marked with a red cross. According to witness C-005, the attack was carried out by a suspected Bayraktar TB-2 drone, capable of precision strikes.

On the face of it, the documented incidents constitute deliberate targeted attacks on hospitals and medical transport. The incidents require immediate and thorough investigation by relevant authorities. If the incidents are confirmed as deliberate attacks on protected objects, this would constitute a serious violation of IHL and those responsible should be investigated with a view to bringing those responsible to account.



*Photo from a hospital attacked by Azerbaijani forces. Photos by IPHR/Truth Hounds team (26 December 2020).*

<sup>409</sup> Witness M-002 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>410</sup> Witness M-004 was interviewed by IPHR/Truth Hounds in October 2020.

<sup>411</sup> Witness SH-001 was interviewed by IPHR/Truth Hounds in November 2020. Damage caused by the attack can be seen in a video available at: <https://armenianweekly.com/2020/10/28/azeri-war-crimes-mount-as-forces-bomb-maternity-hospital-in-stepanakert/>.

<sup>412</sup> Witness SH-002 interviewed by IPHR/Truth Hounds in November 2020.



# SUMMARY OF FINDINGS AND RECOMMENDATIONS

Based on investigation and analysis by IPHR/Truth Hounds, the following violations of IHL and fundamental human rights were perpetrated on the territories of Armenia and Azerbaijan during the six-week war between 27 September and 10 November 2020 (these findings are made to a 'reasonable basis to believe' standard unless otherwise specified):

- ▶ At least 32 documented bombings of civilians and civilian infrastructure qualify as indiscriminate and/or disproportionate attacks on civilians in violation of IHL and the right to life, of which 23 were perpetrated by Azerbaijani armed forces leading to 20 civilian deaths, and nine were perpetrated by the armed forces of Armenia/Nagorno-Karabakh resulting in 80 civilian deaths.
- ▶ Members of Azerbaijani armed forces are responsible for the extrajudicial executions of four captured Armenian combatants and three Armenian civilians, and are further responsible for the enforced disappearance of at least one Armenian civilian. Another Armenian civilian died in Azerbaijani custody as a result of the conditions of his detention. There is also prima facie evidence that members of Armenia/Nagorno-Karabakh armed forces are responsible for two episodes of executions of wounded Azerbaijani combatants.
- ▶ Azerbaijani authorities are responsible for the torture and cruel, inhuman or degrading treatment of Armenian prisoners of war. Furthermore, there is prima facie evidence that members of the Azerbaijani armed forces subjected at least four civilians to torture and cruel, inhuman or degrading treatment in the course of military operations.
- ▶ At least seven Azerbaijani prisoners of war were subjected to torture and cruel, inhuman or degrading treatment at the hands of Armenian/Nagorno-Karabakh armed forces. Furthermore, there is prima facie evidence of a further three cases of torture perpetrated against Azerbaijani prisoners of war.
- ▶ Members of the armed forces of Armenia/Nagorno-Karabakh are responsible for at least eight instances of despoliation of the dead. At least two Azerbaijani soldiers are accused of committing similar offences against deceased Armenian/Nagorno-Karabakh soldiers.
- ▶ Azerbaijani armed forces appear to have deliberately targeted and damaged places of religious and/or cultural significance to ethnic Armenians: Ghazanchetsots Cathedral in Shusha/Shushi and the Chartar/Guneykhirman cross.
- ▶ Azerbaijani armed forces appear to have deliberately targeted Armenia hospitals, medical transport and medical personnel in at least five documented incidents.

**CONSEQUENTLY, IPHR/TRUTH HOUNDS MAKES THE FOLLOWING RECOMMENDATIONS TO THE GOVERNMENTS OF ARMENIA AND AZERBAIJAN:**

- ▶ Conduct prompt, independent, public and effective investigations into all IHL and human rights violations documented in this report.
- ▶ Prosecute those responsible for committing, ordering and facilitating these violations, as well as those who had command and control over the direct perpetrators and failed to discharge their duties to prevent or punish this conduct.
- ▶ Conduct all necessary legislative and institutional reform and training to prevent future violations from occurring.
- ▶ Settle all future disputes by diplomatic means and avoid the use of armed force which inevitably leads to pain and suffering for the civilian population.

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Furthermore, IPHR/Truth Hounds calls on all signatories to the Geneva Conventions and Protocols and the United National Convention Against Torture to prosecute all persons present on their territories who bear responsibility for the conduct set forth in this report, or to extradite such persons to those nations that are willing and able to do so.