



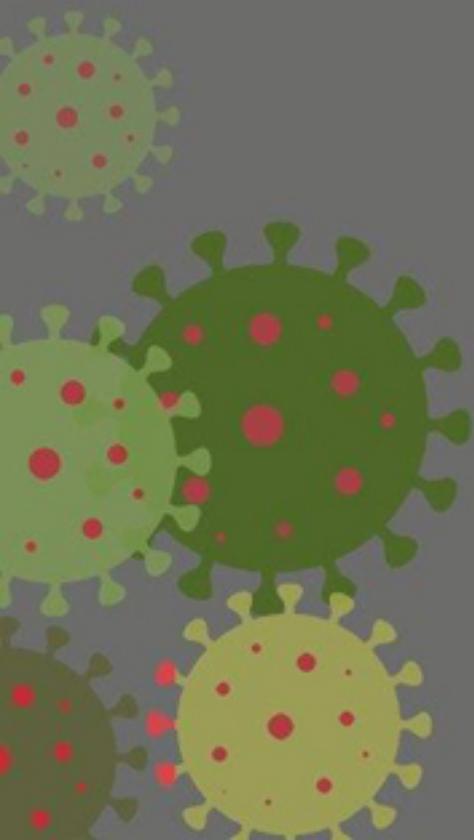
THE HUMAN RIGHTS DEFENDER OF  
THE REPUBLIC OF ARMENIA



## AD HOC PUBLIC REPORT

# ON THE AZERBAIJAN'S CRIMES AGAINST HUMANITY IN THE CONTEXT OF HUMAN-MADE DISASTER DURING COVID-19

(The war against Artsakh and Armenia,  
September-November 2020)



YEREVAN 2021



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## **INTRODUCTION**

This report discusses the issue of launching a wide-scale aggressive war against Artsakh (Nagorno Karabakh) and Armenia by Azerbaijan during the COVID-19 pandemic, in opposition to a call for global ceasefire by the UN Secretary-General and the demand of the UN Security Council for a general and immediate cessation of hostilities in all situations. It discusses the Azerbaijani state policy to make a human-made disaster during the pandemic to accelerate the rapid spread of the deadly virus, to achieve the eventual collapse of the health care system, causing increased deaths, other serious injuries and great sufferings to the population. This offensive policy was accompanied with the use of banned weapons against civilians and civilian infrastructure, use of explosive weapons in populated areas and mass displacement of the population, further deteriorating the pandemic situation. The report discusses concrete cases of death and justifies herewith that Azerbaijani authorities have committed a crime against humanity.

## I. UN GLOBAL CEASEFIRE RESOLUTION

On 23 March 2020, the UN Secretary-General issued an urgent appeal for a global ceasefire in all corners of the world, by emphasizing that people suffering in conflict zones are particularly vulnerable to the pandemic<sup>1</sup>.

The UN High Commissioner for Human Rights also underscored the direct threat of wars during the pandemic to public health and lives<sup>2</sup>.

In July 2020, the UN Security Council adopted Resolution S/RES/2532 (2020) and expressed grave concern about the devastating impact of the COVID-19 pandemic across the world, especially in countries ravaged by armed conflicts, or in post-conflict situations, or affected by humanitarian crises. It recognized that conditions of violence and instability in conflict situations can exacerbate the pandemic, and that inversely the pandemic can exacerbate the adverse humanitarian impact of conflict situations.

Thus, the Security Council demanded a general and immediate cessation of hostilities in all situations, called upon all parties to armed conflicts to engage immediately in a durable humanitarian pause.

180 countries, regional organizations, civil society groups, peace advocates and millions of global citizens have also endorsed the ceasefire call.

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<sup>1</sup><https://www.un.org/en/globalceasefire>

<sup>2</sup><https://news.un.org/en/story/2020/11/1076672>

## II. DEFINITION OF THE CRIME AGAINST HUMANITY

A crime against humanity is among the most serious crimes of concern to the international community as a whole. Through the jurisdictions of international courts, such as the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, the notion of crimes against humanity has evolved under international customary law. The prohibition of crimes against humanity, similar to the prohibition of genocide, is considered a peremptory norm of international law, from which no derogation is permitted, and which is applicable to all States.

The 1998 Rome Statute establishing the International Criminal Court reflects the latest consensus among the international community on crimes against humanity and offers the most extensive list of specific acts that may constitute that crime. According to Article 7, “crime against humanity” means any of the following acts, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

1. Murder;
2. Extermination;
3. Enslavement;
4. Deportation or forcible transfer of population;
5. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
6. Torture;
7. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
8. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
9. Enforced disappearance of persons;
10. The crime of apartheid;
11. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

### III. ELEMENTS OF THE CRIME AGAINST HUMANITY

Article 7(1) of the Rome Statute defines “crime against humanity” as “any of the following acts when committed as part of a widespread or systematic attack directed against civilian population, with knowledge of the attack” and also lists, under Article 7(1)(k), the catch-all provision of “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.” In the view of the Chamber of the International Criminal Court, accordance to Article 7(1)(k) of the Statute and the principle of *nullum crimen sine lege*, inhumane acts are to be considered as serious violations of international customary law and the basic rights pertaining to human beings, drawn from the norms of international human rights law, which are of a similar nature, and gravity to the acts referred to in Article 7(1) of the Statute<sup>3</sup>.

Thus, a physical element includes the commission of enlisted acts, including “other inhumane acts”. The contextual element determines that crimes against humanity involve either large-scale violence in relation to the number of victims or its extension over a broad geographic area (widespread), or a methodical type of violence (systematic). In addition, Article 7(2)(a) of the Rome Statute determines that “attack directed against any civilian population” means a course of conduct involving the multiple commission of acts referred to above against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.

Importantly, the notion of “attack”, does not require the act in question to constitute a military attack. Article 7(2)(a) of the Statute merely defines it very broadly as a “course of conduct”. In *Akayesu*, the International Criminal Tribunal for Rwanda noted that an “attack may also be non-violent in nature, like imposing a system of apartheid”<sup>4</sup>.

This suggests that State policies could very well constitute an “attack”. “Policy to commit such attack” requires that the State or organization actively promote or encourage such an attack against a civilian population. The plan or policy does not need to be explicitly stipulated or formally adopted and can, therefore, be inferred from the totality of the circumstances.

A mental element is “with knowledge of the attack”. A *mens rea* element requires that the perpetrator must have acted intentionally to inflict great suffering or serious injury, as well as aware of the factual circumstances.

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<sup>3</sup>ICTY, *The Prosecutor v. Kupreskic et al.*, Case No. IT-95-16-T, Trial Judgment, 14 January 2000, para. 566; ICTY, *The Prosecutor v. Stakić*, Case No. IT-97-24-T, Trial Judgment, 31 July 2003, para. 721, Also ICC, Pre-Trial Chamber, Decision on the confirmation of charges, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, para. 448

<sup>4</sup>ICTR, *The Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Trial Judgment, para. 581

Crimes against humanity do not need to target a specific group. In the case of crimes against humanity, it is not necessary to prove that there is an overall specific intent. It suffices for there to be a simple intent to commit any of the acts listed (with the exception of the act of persecution, which requires additional discriminatory intent). The perpetrator must also act with knowledge of the attack against the civilian population, and that the action is part of that attack. This means that the proof that the perpetrator had knowledge of all the characteristics of the attack or the precise details of the plan or policy of the State or organization is not required. In the case of an emerging widespread or systematic attack against a civilian population, the intent clause of the last element indicates that this mental element is satisfied if the perpetrator intended to further such an attack.

#### IV. THE LAUNCH OF A HUMAN-MADE DISASTER DURING THE COVID-19 PANDEMIC BY AZERBAIJAN

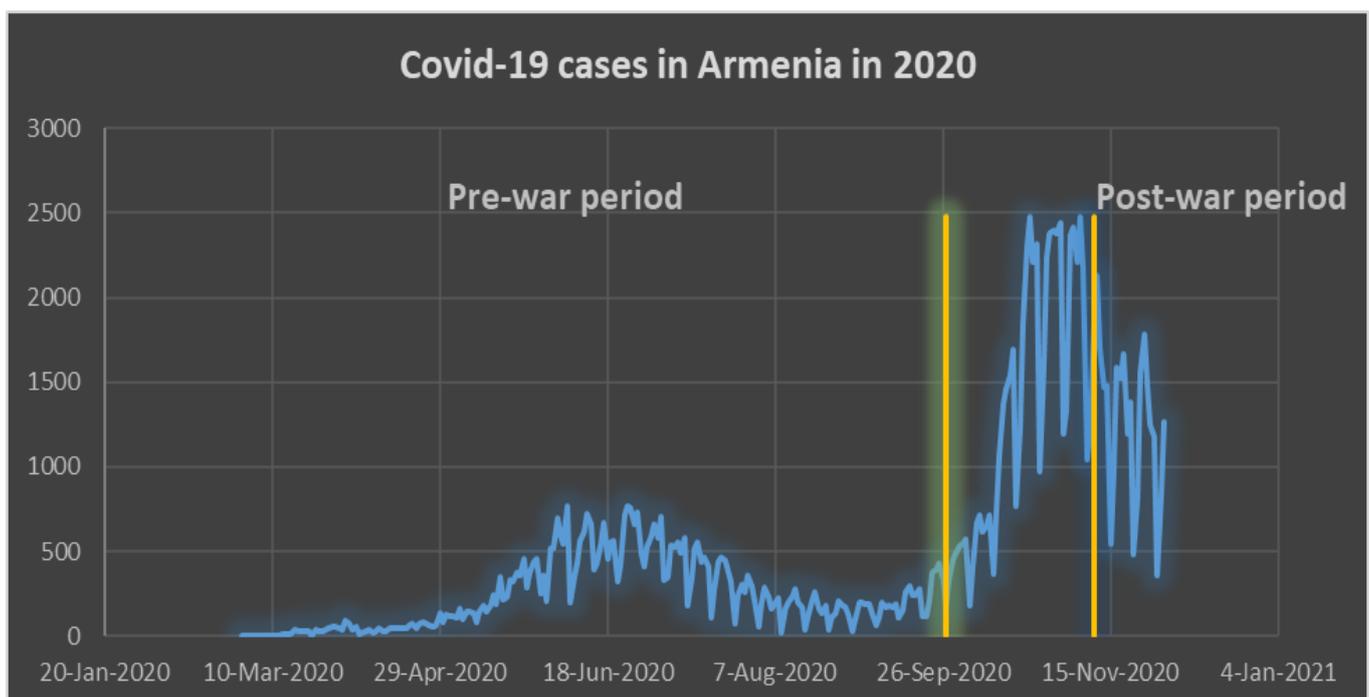
In the early morning hours of 27 September 2020, during the global pandemic, armed forces of Azerbaijan, with the direct participation of Turkey and the deployment of mercenaries, launched a large-scale attack against Artsakh, at the entire length of the contact line. The use of force by the Azerbaijan was in violation of the UN charter and turned into a full-scale war.

Azerbaijani armed forces initiated a human-made disaster (war) against Artsakh, and also Armenia, in full disregard of the UN Security Council demand for immediate cessation of hostilities during COVID-19, intentionally causing increased deaths and other sufferings among the population. The disastrous political decision to enter into a well-planned war during the pandemic amounts to “inhumane acts”.

As part of a widespread and systematic attack, affecting not only the entire Armenian population, but also its own population, Azerbaijani armed forces intentionally accelerated the rapid spread of the deadly virus, instigated the collapse of the health care system, thus causing increased great sufferings.

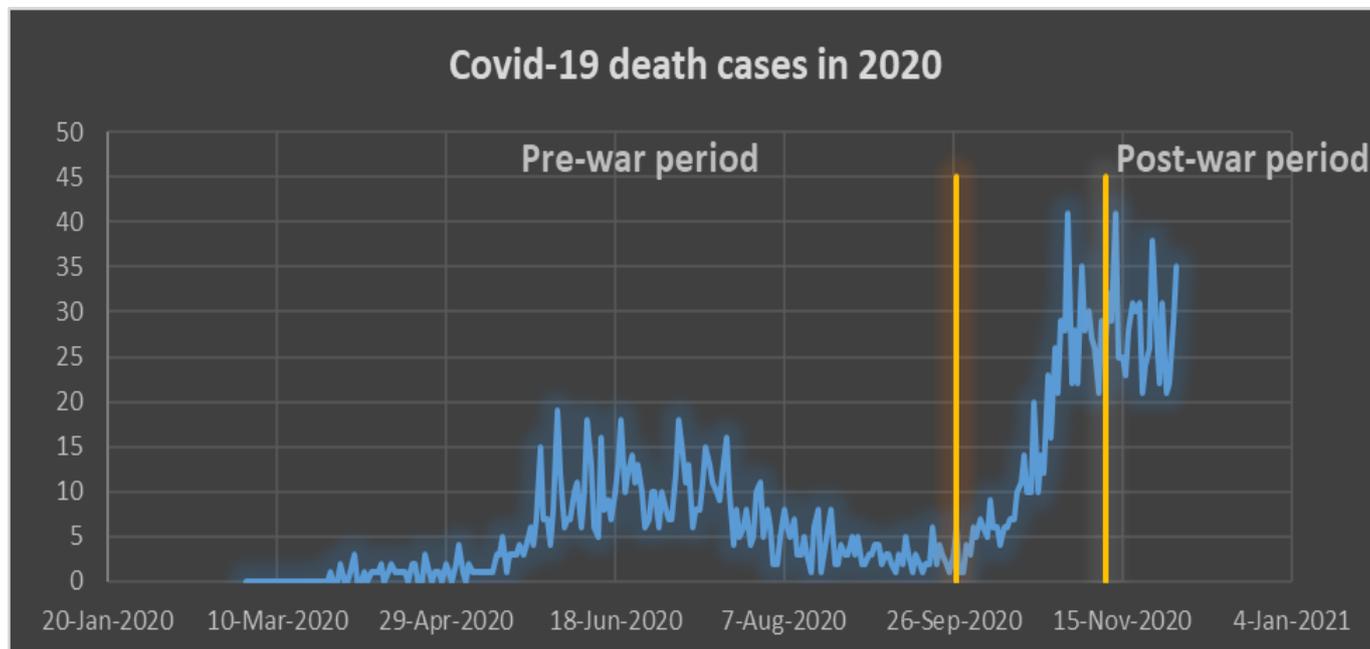
Thus, from 1<sup>st</sup> March to 26<sup>th</sup> September (seven-month period), 49400 cases of the COVID-19 were reported, whereas during the war, 27<sup>th</sup> September to 9<sup>th</sup> November (one-and-a-half-month period), this number reached to 59287, and, at the post-war period, from 10<sup>th</sup> to 30<sup>th</sup> November (a half-month period), the number was 27280 (see Figure 1).

**Figure 1**



As for death rates, 951 deaths were reported during the seven-month pre-war period, while during the war this number reached to 658, and during the post-war half-a-month period the number was 584 (See Figure 2).

**Figure 2**



In light of the human-made disaster, which was accompanied with mass displacement of the population and the use of banned weapons against civilians, Azerbaijani authorities' steps were aimed at increasing pandemic cases, causing "great suffering" and "serious injury" to the physical health of the Armenian population. Thus, the instigation and continuation of the war remained a crucial factor for the worsening of the situation.

According to the official information provided to the Human Rights Defender of Armenia by the RA Ministry of Health, in the period from 27 September to 9 November overall 1997 cases of COVID-19 among displaced persons from Artsakh to Armenia due to the war were recorded. The description of outcomes among those patients indicates the high amount of fatality.

**During and after the war there were overall 52 displaced persons from Artsakh to Armenia who died as a result of COVID-19<sup>5</sup>.**

Please see below the numbers of deaths of displaced persons from Arstakh per month:

<sup>5</sup> These numbers are based on the official data received from the Ministries of Health of Artsakh and Armenia.

<b>MONTH</b>	<b>CASES</b>
<b>October 2020</b>	14
<b>November 2020</b>	30
<b>December 2020</b>	6
<b>January 2021</b>	2

Below are just few cases showing consequences of the Azerbaijani military attacks against civilians during COVID-19 pandemic.

For example, 70 y/o S. G. from Khndzristan village of Artsakh (Nagorno-Karabakh) has been forced to flee from his hometown in the beginning of October as a result of Azerbaijani attacks. During the displacement he felt that had got infected with COVID-19 since had relevant symptoms (fever, cough). Because of the ongoing war he could not receive the necessary treatment or get any medication in Artsakh (Nagorno-Karabakh), since all medical centers were extremely overloaded with the patients injured during the war and there were almost no operating pharmacies. Moreover, the central hospital of the capital city Stepanakert was bombed heavily by the Azerbaijani armed forces. He could reach Yerevan only several days later. In Yerevan he was tested positive for COVID-19. Medical doctors provided urgent medical treatment. However, as the doctors reported, it appeared to be very late since his health status had already deteriorated irreversibly. S.G. died on 26 October.

Another similar case was reported with regard to the civilian from town Martuni of Artsakh (Nagorno-Karabakh). In particular, 65 y/o A. H. was supposed to leave her hometown with the COVID-19 infection. The reasons leaving were the same as in the previous case: inadequate medical care and treatment due to the overloaded practice of the medical centers in Artsakh (Nagorno-Karabakh) and the continuous attacks of Azerbaijan, including against the civilian communities of Martuni. After displacement to Yerevan, on 30 November she was admitted to the St. Grigor Lusavorich Hospital. Though A. H. received medical treatment by the specialists, however, since it was already too late, she died on 10 November.

D. T., a 67 y/o civilian from Stepanakert, the capital city of Artsakh (Nagorno-Karabakh), being infected with COVID-19, was supposed to flee to Yerevan due to the war and overloaded practice of the medical facilities in place. After being admitted to the National Center for Infectious Diseases in Yerevan, he received the urgent medical treatment. As it was reported by the medical staff of the hospital, it was already late, since his health condition was worsened. D. T. died on 9 November.

84 y/o N. B. from Dahrav village, of Askeran Region of Artsakh (Nagorno-Karabakh), who have got infected with COVID-19 was displaced to Yerevan, due to the same reasons as in the previous cases. On 24 October she transferred to the St. Grigor Lusavorich Hospital. There N. B. received the

maximum possible medical treatment, but since her health status was already very bad due to the delay of medical treatment, she died on 6 November.

The disastrous situation created for health care systems in Armenia and Artsakh was being largely documented by local and international mass media<sup>6</sup>.

### *The COVID-19 situation on the ground*



<sup>6</sup> These video materials reflect the situation on the ground:  
[https://www.youtube.com/watch?v=Z5i6Fabkbw4&fbclid=IwAR3\\_EFvV2QgoBFtXJfk3I5Xnxw5IiTyoA2npXdLn7WAYlp9k84SSx6XMGhA](https://www.youtube.com/watch?v=Z5i6Fabkbw4&fbclid=IwAR3_EFvV2QgoBFtXJfk3I5Xnxw5IiTyoA2npXdLn7WAYlp9k84SSx6XMGhA) - 21.10.2020;  
[https://www.youtube.com/watch?v=nLyI1g68gbM&fbclid=IwAR3cXo3Wa5hYUMc2za1n03ANeUmhmeOWHC9OSv\\_vQD2d71mBB5d\\_NuX9F\\_uU](https://www.youtube.com/watch?v=nLyI1g68gbM&fbclid=IwAR3cXo3Wa5hYUMc2za1n03ANeUmhmeOWHC9OSv_vQD2d71mBB5d_NuX9F_uU) - 22.10.2020

### *The bombing of the Stepanakert maternity hospital*



In this regard, there are a number of studies on the seriousness of the new Coronavirus and its impact on human lives. ILO, FAO, IFAD and WHO made a Joint statement on the Impact of COVID-19 on people’s livelihoods, their health<sup>7</sup>. They clearly confirmed that “the COVID-19 pandemic has led to a dramatic loss of human life worldwide and presents an unprecedented challenge to public health, food systems and the world of work. The economic and social disruption caused by the pandemic is devastating and internationally acknowledged”.

Thus, it is evident that the seriousness of the consequences of COVID-19 was clear for Azerbaijan, and the policy was intentional, directed to bring disastrous consequences, with the resulting intensification of the spread of the illness, completely straining health services, disabled to meet the minimum conditions to assist the population, causing deaths without further controls. Particularly, the following consequences of war can be mentioned:

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<sup>7</sup> <https://www.who.int/news/item/13-10-2020-impact-of-covid-19-on-people's-livelihoods-their-health-and-our-food-systems>

1) The war increased the number of infected people with COVID-19, by exposing the life and health of population to direct and imminent danger (see Figures 1 and 2). It is notable that the risk of dying from COVID-19 is greater for people in danger, security threats and poor sanitary situation. In the meantime, Azerbaijani armed forces attacked civilians and civilian infrastructure, who had taken refuge in shelters, not meeting the required sanitary standards for the prevention of the affection with the coronavirus.

2) The war overburdened the health system and significantly reduced its efficiency. Due to the high number of wounded, hospital structures and physical facilities were restructured, while the medical staff reassigned. Particularly, about 32 medical organizations have been partially or completely re-profiled in rear hospitals to provide medical care and services to people wounded as a result of hostilities. 1280 people were involved in the ambulance service to transport the wounded servicemen and the dead bodies. 272 doctors, 227 nurses, 67 clinical residents, 138 medical students and 194 drivers were involved in transporting the wounded servicemen. In order to provide medical care and services to servicemen, the following specialists were re-directed: 58 general surgeons, 68 anesthesiologists, 52 traumatologist-orthopedists, 10 plastic microsurgeons, 17 urologists, 6 proctologists, 12 neurosurgeons, 10 breast surgeons, 16 vascular surgeons, 11 maxillofacial surgeons, 13 radiologists and 98 mediums medical staff.

3) In order to control the pandemic, beds, supplies, medications, respirators, staff in adequate numbers to meet demand for care and cover shift rotations, trained staff, and the sufficient quantity of tests were required. However, the war incapacitated provision of the required resources for COVID-19 treatment, as a result of which patients faced a higher risk of death and enduring health problems. For example, as of 26<sup>th</sup> of September 2020, no single case of patients with coronavirus waiting at home to be hospitalized, was registered. However, as of 10<sup>th</sup> November, the number of patients with coronavirus disease waiting to be hospitalized was 445. In result, the health sector became unassisted and strangled, while the advance of contamination-uncontrolled.

4) Due to the overburdened health system, provision of proper health care became intricate, which increased deaths and other health complications among patients. Moreover, intentional strikes by Azerbaijan on hospitals further decreased the medical capacities of the country.

5) The war has impacted healthcare workers. Rapid increase of cases caused shortage of employees. Being overworked healthcare workers also became victims to diseases, with a high rate of infection, which affected their physical and psychological health and consequently the overall health conditions in the country.

## **CONCLUSION**

In violation of the principle of non-use of force, and in full disregard of the UN Security Council demand for immediate cessation of hostilities during COVID-19, Azerbaijani authorities made a disastrous political decision to initiate a human-made disaster (war) against Artsakh and Armenia during COVID-19, intentionally causing deaths and other sufferings among the population.

Azerbaijani armed forces acted in an offensive and irresponsible manner, exposed the Armenian and Azerbaijani population to the contagion of COVID-19, with the risk of death or other irreversible consequences, adversely affecting particularly those who were more sensitive in condition of vulnerability. Azerbaijani actions had a serious effect on the physical and mental health of the population, placing them at risk for a highly-lethal virus, with uncontrolled spreading capacity, which suggests that Azerbaijani authorities committed crimes against humanity.

