Urgent Call for Action

In response to the destruction and desecration of Armenian religious and cultural heritage property by the Azerbaijani Armed Forces and the denial and erasure of Armenian cultural heritage

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I. Background of the Report

The Armenian Bar Association ("ABA") and the Mother See of Holy Etchmiadzin submit the following report regarding the need to safeguard Armenian cultural heritage in Nagorno Karabakh and provide access to worshippers seeking to visit Armenian religious sites now under Azerbaijan's control.

The ABA is an international non-profit organization of judges, attorneys, law professors, law students, and legal professionals that addresses and provides education on areas of legal concern to the Armenian community. Since the founding of the independent Republic of Armenia, the ABA has also undertaken steps to help encourage the growth of democratic institutions in Armenia.

The Mother See of Holy Etchmiadzin is the spiritual and administrative headquarters of the worldwide Armenian Church. The Armenian Church is one of the original ancient Churches and during the entire history of Christianity has remained a part of the "One, Holy, Universal and Apostolic Church" of Christ. Armenians officially adopted Christianity in 301 A.D. and the Armenian Church has existed for over 1,700 years.

As stated in our conclusions below, we respectfully urge the Special Rapporteurs to intervene to protect cultural heritage and the freedom to exercise religious rights in Nagorno Karabakh (also referred to by its historical name of "Artsakh") in the aftermath of the devastating military aggression, which was initiated by Azerbaijan on 27 September 2020. The intervention and efforts of the Special Rapporteurs are critical to the establishment of the foundation for sustainable peace in the region.

On 9 November 2020, Azerbaijan, Armenia, and Russia announced a ceasefire statement to end military hostilities in the region of Nagorno Karabakh (the "Ceasefire Statement"). Nagorno Karabakh is a predominantly Armenian-populated enclave. The Ceasefire Statement officially ended a 44-day long offensive, which was initiated by Azerbaijan and its military and cultural ally, Turkey, against Nagorno Karabakh, to gain *de facto* territorial control of the region.

Due to its strategic location at the crossroads of the European and Asian continents, Nagorno Karabakh has served as a vassal state, buffer area, and semi-autonomous region throughout most of its history. Despite the numerous peoples that passed through the region—including the Mongols, Arabs, Seljuk Turks, Russians, and Caucasian Tatars—Nagorno Karabakh has maintained a majority Armenian population and unique Armenian cultural heritage for over two millennia, since it (Artsakh) became part of the Kingdom of Armenia in 189 BC. The most recent conflict over Nagorno Karabakh has its roots in the Soviet era, during which Joseph Stalin created the Nagorno Karabakh Autonomous Oblast ("NKAO") and placed it within the borders of the newly created Azerbaijani Soviet Socialist Republic ("SSR"). Before the breakup of the Soviet Union, Nagorno Karabakh's population voted to secede from the Azerbaijani SSR (in accordance with the Soviet Union's Constitution), which decision for self-determination neither the Azerbaijani SSR nor the later Republic of Azerbaijan accepted.

Nagorno Karabakh and the surrounding territories that came under Azerbaijani control after the Ceasefire Statement contain a deeply rich cultural history and cultural landscape, including thousands of cultural and religious sites and monuments. These sites and monuments include archaeological sites dating back millennia, masterpieces of medieval architecture, ancient and more recent cemeteries, and modern architecture. While we believe that all cultural and religious sites must be protected, this report focuses on sites associated with Armenian history, language, and culture, and sites under the religious jurisdiction of the Armenian Apostolic Church as these are especially threatened and endangered in the wake of Azerbaijan's recent military aggression.

The Armenian monasteries, archaeological sites, and fortresses of Artsakh, still standing after hundreds of years of conquest are inseparable from Artsakh's geographic and cultural landscape. Their surviving presence poses a formidable challenge to modern competing territorial claims: for Azerbaijan to lay exclusive claim to this territory it must explain its ties to these cultural monuments (which coexist with but predate the creation of Azerbaijan) or destroy/deface them to remove the evidence of the coexistence of other ethnic groups such as the Armenians.

Unfortunately, Azerbaijan has chosen a policy of misappropriation, intentional destruction, and desecration of sacred cultural and historical Armenian sites, interference with maintenance and care of these sites, and disruption and restriction of religious use of these sites and religious practices of the Armenian Church and its faithful. During Azerbaijan's 44-day offensive, Azerbaijani forces used precision-guided weapons (such as drones), as well as internationally sanctioned weapons (such as cluster munitions) to target and destroy civilian infrastructure, including Armenian cultural and religious sites.[1]

[1] In preparation for and in the implementation of its offensive, Azerbaijan received direct support from Turkey in the form of military material and personnel, logistical assistance, and through Turkey's recruitment and organized deployment of Syrian mercenary groups aligned with extremist organizations. These events and apparent violations of international humanitarian law were reported in the international media and documented in the official statements of several states,

The hostilities resulted in many thousands of casualties and the displacement of tens of thousands of ethnic Armenians from their ancestral homes.[2] Since the beginning of the 44-day offensive, and continuing to this day, Azerbaijani forces have engaged in the deliberate destruction and desecration of Armenian cultural heritage sites, including "movable and immovable cultural heritage, objects of worship, education, and cultural practices."[3]

The Ceasefire Statement mandated that Armenians (governed by the Republic of Artsakh) cede to the control of Azerbaijan two-thirds of Nagorno Karabakh (including all of the Karvachar/Kalbajar, Kashatagh/Lachin, and Aghdam districts, most of the Hadrut district (the rest of which Azerbaijani forces later fully conquered after the Ceasefire Statement), some of the Martakert/Aghdara and Martuni/Khojavend districts, and the strategically and historically important town of Shushi). This land transfer threatens many Armenian monuments and religious places of worship, which are now within the borders of Azerbaijan—a country that has a documented history of destroying Armenian cultural heritage within its borders. While Russian Peacekeeping Forces have been deployed and monitor some Armenian places of worship and monastic complexes, they do not, and cannot, provide protection for all the Armenian religious sites in Nagorno Karabakh. For example, while Russian Peacekeeping Forces provide security for clergy remaining at Dadivank, a 7th-9th century monastic complex with a cathedral rebuilt in the 13th century located in Karvachar/Kalbajar, other areas such as Hadrut/Khojavend reportedly have no Russian Peacekeeping presence whatsoever.

Despite pleas from international organizations and NGOs, there have been no assurances that Armenian cultural heritage sites will be protected in territories that are now controlled by Azerbaijan. Moreover, there are no clear mechanisms in place to monitor those sites on an ongoing basis or to allow for Christian pilgrims to use the Armenian religious sites for their intended purposes. The actions and statements of Azerbaijani officials during this recent armed conflict and its immediate aftermath, as well as in times of peace, have shown Azerbaijan's intent to: (1) erase any evidence of Armenian presence in Artsakh, (2) deny the historical existence of Armenians in the region generally, (3) make it impossible for Armenian Christians to return to the territories under Azerbaijani control, and (4) prevent Armenian worshippers and pilgrims from accessing churches and sacred sites for religious rituals and Liturgical obligations. These actions and statements increase the urgency of intervention.

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including France, Russia, Iran, Syria, as well as in the statements of Congressional members and MPs from the United States, European Parliament, and the United Kingdom, and several United Nations groups, such as the UN OHCHR Working Group on Mercenaries. *See* "Complaint to the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination" (9 Oct. 2020), https://prwb.am/wp-content/uploads/2020/10/Complaint-to-the-Working-Group-on-the-use-of-mercenaries-as-a-means-of-violating-2.pdf; United Nations Human Rights Office of the High Commissioner, "Mercenaries in and around the Nagorno-Karabakh Conflict Zone Must Be Withdrawn – UN Experts" (11 Nov. 2020), *available at* www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26494; *see also* Annex A: Collection of articles regarding the recent war.

[2] Artsakh Ombudsman, "The Updated Edition of the Second Interim Report on the Azerbaijani Atrocities Against the Artsakh Population in September to October 2020" (18 Oct. 2020), https://www.artsakhombuds.am/en/document/735.

[3] "A Brief Review of Cultural Heritage Violations in Nagorno Karabagh (Artsakh) in September-November of 2020," International Council of Museums Armenia (26 Nov. 2020), http://icom-armenia.mini.icom.museum/a-brief-rewiev-of-cultural-heritage-violations-in-nagorno-kharabagh-artsakh-in-september-november-of-2020/.

II. History of Cultural Sites in the Region

Nagorno Karabakh's rich, multi-faceted cultural history is undeniable. It is home to many complexes, fortresses, religious sites, and antiquities dating back centuries. Nagorno Karabakh's cultural landscape also has an indelible Armenian presence, as Armenians have inhabited Artsakh continuously for over two millennia.

For example, Nagorno Karabakh's Aghdam region—which was ceded to Azerbaijan under the Ceasefire Statement—contains the partially excavated Tigranakert archaeological site. This site is known as the "best preserved city of the Hellenistic and Armenian civilizations" of the Caucasus, was founded in the second to first century BC, and later was a major hub for early Christianity, with over 10 inscriptions discovered to date in the Armenian and Greek languages dating to the fifth and seventh centuries CE.[4]

Nagorno Karabakh is also home to many important sites for Armenian religious and cultural heritage. For example, the Amaras Monastery, located in Martakert (which, depending on the final line of demarcation, may be ceded to Azerbaijan), was founded in the fourth century CE, upon the burial place of St. Gregory the Illuminator's (who converted the Armenian nation to Christianity in 301 CE) grandson, St. Grigoris, who was the Catholicos of New Albania (as Artsakh was called at the time after it came under the Sassanid Empire's rule). Notably, Amaras is also where St. Mesrop Mashtots—inventor of the Armenian alphabet—opened the first-ever Armenian language school, in the fifth century.[5] The cultural significance of Amaras Monastery cannot be overstated. It is connected to the earliest and holiest figures of the Armenian Apostolic Church. Given the close relationship between the Armenian language and alphabet and the Armenian Church, it was also one of the earliest medieval scholastic institutions.

Indeed, Nagorno Karabakh is culturally and religiously important for Armenians. "The historical monuments of Karabakh, a mountainous territory in the South Caucasus, collectively testify to the millennia-long Armenian character of the region. While the Hellenistic and Armenian archaeological site of Tigranakert, the fifth-century tomb at Amaras and basilica of Tzitzernavank, the medieval monastery of Dadivank, and the 19th-century Cathedral of Shushi are most cited in scholarship, they represent only a small fraction of the extant Armenian structures, many of which date to the medieval period. For example, the north-west province of Karvajar alone contains 22 major sites, each of which comprises several monuments and tombstones."[6]

Cultural and religious sites suffered during the Soviet period as a result of the Soviet Union's policies, in particular its hostility to organized religion. Consequently, many cultural and religious sites throughout the South Caucasus, whether Christian, Islamic, or other, were forced to cease their functions, suffered from a lack of maintenance, or were outright transformed into industrial spaces,

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[4] Simon Maghakyan, "Archeologist Raises Alarms Over Azerbaijan's Shelling of an Ancient City," HyperAllergic (5 Nov. 2020), https://hyperallergic.com/592287/tigranakert-artsakh-nagorno-karabakh-war/.

[5] Victor A. Shnirelman, *The Value of the Past: Myths, Identity and Politics in Transcaucasia*, *Suita*, Japan 2001, 26-27.

[6] Christina Maranci, "The Medieval Armenian Monuments in Nagorno-Karabakh Must be Protected," Apollo Magazine (9 Dec. 2020), https://www.apollo-magazine.com/medieval-armenian-monuments-nagorno-karabakh/.

agricultural storage facilities, or collective farms. There was tremendous resistance to those impositions, notably by the Armenian community—the first people to adopt Christianity as their official religion in 301 A.D. For example, Amaras Monastery, one of the world's oldest Christian monuments as discussed above, became part of the collective farm of the nearby Armenian village of Sos during the Soviet period. "The authorities of Soviet Azerbaijan, to which [Nagorno Karabakh Autonomous Oblast] was forcibly attached in 1921, did everything they could to condemn Amaras to oblivion, decay and the tyranny of the so-called 'black archeologists'—criminally-minded treasure-hunters. Persistent appeals of the people of Karabakh to open Amaras for worship were rejected by Azerbaijan's authorities. The fact remains that Soviet Azerbaijan's Nagorno Karabakh Autonomous Oblast was the USSR's only territory with [a] Christian majority that did not have a single functioning church."[7]

After the fall of the Soviet Union and the Nagorno Karabakh War of the 1990s, through which the Armenians of Nagorno Karabakh gained their independence and established the Republic of Artsakh, their newly formed state undertook the restoration and preservation of numerous religious and cultural heritage sites. The Armenians in Nagorno-Karabakh have made efforts to restore Azerbaijani (or Caucasian Tatar/Turk as they were called pre-1918) and Muslim sites, including the Gohar Agha Mosque in Shushi.[8] They have also embraced the diversity of cultures in the region, for instance through the opening of an Armenian-Iranian Scientific Cultural Center.[9]

III. History of Azerbaijani Efforts to Erase Evidence of the Existence of Armenians in the Caucasus

Azerbaijan has a historical record of intentionally destroying Armenian cultural heritage sites within its borders.[10]

From 1997 to 2006, Azerbaijan erased nearly all traces of prevalent Armenian culture in the Azerbaijani exclave of Nakhichevan, with more than 89 medieval churches, 5,840 carved cross-stones (khachkars), and 22,000 historical tombstones vandalized and, ultimately, vanishing.[11]

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[7] "History and Architecture," Amaras (last visited: 10 January 2021), https://www.amaras.org/history-and-architecture/.

[8] "Preserve Artsakh: An Open Letter to the World Community," GlobeNewswire (12 Nov. 2020), https://www.globenewswire.com/news-release/2020/11/12/2125920/0/en/Preserve-Artsakh-An-Open-Letter-to-the-World-Community.html; *see also* "Gohar Agha Upper Mosque restored in Shushi" (October 4 2019), Lragir Newspaper, available at: https://www.lragir.am/en/2019/10/04/73365.

[9] "Artsakh President attends opening of Armenian-Iranian Scientific-Cultural Center" (14 October 2019) available at: https://armenpress.am/eng/news/991615.html.

[10] *See supra* note 4.

[11] Christina Maranci, "The Medieval Armenian Monuments in Nagorno-Karabakh Must be Protected," Apollo Magazine (9 Dec. 2020), https://www.apollo-magazine.com/medieval-armenian-monuments-nagorno-karabakh/.

Cross-stones, which represent Jesus Christ's crucifixion and salvation through that crucifixion, "carry inscriptions, including a date, names of sponsors and family members, and pleas for salvation," making them "not only aesthetically appealing markers of a general Armenian presence [and also] specific documentary sources that, along with manuscripts, constitute a remarkable resource for reconstructing the history of the region."[12] They are also used for devotional and worship purposes by Armenian Christians and pilgrims. For all of these reasons, they are on UNESCO's Representative List of the Intangible Heritage of Humanity.[13]

12 *Ibid*.

13 *See* "Armenian cross-stones art. Symbolism and craftsmanship of Khachkars," UNESCO, https://ich.unesco.org/en/RL/armenian-cross-stones-art-symbolism-and-craftsmanship-of-khachkars-00434.

Video footage from 2005 depicts Azerbaijan "destroying what was left of Djulfa, a medieval necropolis that once housed tens of thousands of khachkars dating back to the sixth century A.D."[14] Azerbaijan's campaign of cultural heritage destruction, unprecedented in the modern world, has been referred to as the "worst cultural genocide of the 21st century"[15] and would later be closely compared to the culturally-calamitous desecration carried out by the Islamic State in the Syrian city of Palmyra.[16]

[14] Nora McGreevy, "Why Scholars, Cultural Institutions Are Calling to Protect Armenian Heritage," Smithsonian Magazine (24 Nov. 2020), https://www.smithsonianmag.com/smart-news/metropolitan-museum-scholars-call-protection-cultural-heritage-nagorno-karabakh-180976364/. *See* also: Alexandre de Rhodes, Divers voyages et missions du père Alexandre de Rhodes de la Compagnie de Jésus en la Chine et autres royaumes de l'Orient, avec son retour en Europe par la Perse et l'Arménie (Various voyages and missions of Father Alexander of Rhodes of the Society of Jesus in China and other kingdoms of the East, with his return to Europe through Persia and Armenia) (in French), Paris: Sébastien Cramoisy, 1653, Part 3, 63.

[15] Dale Berning Sawa, "Monumental loss: Azerbaijan and 'The Worst Cultural Genocide of the 21st Century,'" The Guardian (1 Mar. 2019), https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars.

[16] "Azeri Soldiers Vandalized a Cemetery in Nagorno Karabakh, Rekindling Fears of Destruction of Armenian Heritage," Archyde (27 Nov. 2020), https://www.archyde.com/azeri-soldiers-vandalized-a-cemetery-in-nagorno-karabakh-rekindling-fears-of-destruction-of-armenian-heritage/.

The destruction has also been documented in numerous other publications.[17]

Azerbaijan claims, despite a bedrock of factual and historic evidence to the contrary, that Nakhichevan never contained any Armenian cultural heritage or presence.[18] In fact, Azerbaijan claims, without any basis, that the cross-stones (khachkars) found in Artsakh were artificially planted, oxidized, and greased with vinegar to look old and to serve, speciously so, as proof of Armenian presence in the land. No sources, credible or otherwise, are cited for this outlandish proclamation.

Against the backdrop of such systemic eradication of Armenian cultural heritage sites for well over a decade, the fate of cultural sites in the territories handed over as a result of Azerbaijan's recent military aggression is even more concerning.

While Azerbaijan has enacted national laws that purport to protect cultural heritage of all people in Azerbaijan, if Azerbaijan denies the existence of Armenian cultural heritage in the region and fails to

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17 "Destruction of the Armenian Cemetery of Djulfa" Article in ICOMOS Heritage at Risk, available at: https://www.icomos.org/risk/world_report/2006-2007/pdf/H@R_2006-2007_09_National_Report_Azerbaijan.pdf; "Azerbaijan: Famous Medieval Cemetery Vanishes: IWPR reporter confirms that there is nothing left of the celebrated stone crosses of Jugha" available at Institute for War & Peace Reporting: https://iwpr.net/global-voices/azerbaijan-famous-medieval-cemetery-vanishes; "When the World Looked Away: The Destruction of Julfa Cemetery" Radio Free Europe (10 December 2020), available at: https://www.rferl.org/a/armenia-azerbaijan-julfa-cemetery-destruction-unesco-cultural-heritage/30986581.html?fbclid=IwAR38guzAYkn3_fnSCPl3XoD8iBeNxJOdcjcw4fb4V8HW9ZvNLzNKn-uwM0M; Simon Maghakyan and Sarah Pickman, "A Regime Conceals Its Erasure of Indigenous Armenian Culture," Hyperallergic (18 Feb 2019), available at: https://hyperallergic.com/482353/a-regime-conceals-its-erasure-of-indigenous-armenian-culture/; Kate Fitz Gibbon, "World Heritage Committee Meeting in Baku Will be Hosted by Cultural Destroyers," Cultural Property News (19 Mar. 2019), available at: https://culturalpropertynews.org/unesco-exposed/.

18 For example, an Azeri Parliamentarian, Rafael Huseynov is quoted as saying "There are no Armenian graves in the territory of Nakhchivan. This is just an Armenian farication." *See* "World Heritage Committee Meeting in Baku Will be Hosted by Cultural Destroyers," *supra* note 19.

prosecute the destruction or desecration of that heritage, those national laws will not serve their intended purpose.

IV. Azerbaijan's Intentional Destruction of Cultural and Religious Sites During and After the War and Continued Active Denial of the Existence of Armenian Cultural Heritage in the Region Warrants Immediate Action

During the hostilities, in direct violation of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, to which both Armenia and Azerbaijan are signatories,[19] as well as customary international humanitarian law, Azerbaijan intentionally demolished and desecrated Armenian historical and cultural heritage sites. Such destruction continued following the war. Under Azerbaijani national laws (1998 Law on the Protection of Historical Monuments and 1998 Law on Culture), cultural heritage and monuments must be protected even in times of peace, or ceasefire.

1. Destruction of Immovable Cultural Heritage and Objects of Worship

Significant examples of the destruction, desecration and erasure of Armenian immovable cultural heritage and objects of worship during Azerbaijan's 2020 military campaign and even after the ceasefire include:

- Multiple intentional assaults with high precision weaponry on the Holy Savior Ghazanchetsots Cathedral, a landmark of Armenian cultural and religious identity in Shushi—a city whose Armenian population was massacred in 1920 by the Turks and Caucasian Tatars (later Azerbaijanis) but again became inhabited by Armenians during the Soviet Period and after the first Nagorno Karabakh War. On 8 October 2020, Azerbaijan using precision weaponry (drones) shelled the cathedral twice, with the two attacks taking place within hours of each other.[20] Civilians were sheltering in the Cathedral at the time of the attacks, and three journalists who had come to the scene to document the first strike were injured in the second attack.[21] A "gaping hole" can now be seen in the masonry vaults, and "the floor and pews are covered in debris."[22] The same cathedral was destroyed in the 1920 massacre of Armenians in Shushi, and damaged again in the Nagorno Karabakh War of the early 1990s. Human Rights Watch referred to the attacks as a possible war crime.[23] The damage to the interior and exterior of the cathedral was extensively documented.[24]

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19 The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) and its two additional Protocols.

20 Artsakh Ombudsman, "Artsakh Ombudsman Second Interim Public Report on the Azerbaijani Atrocities Against the Artsakh Population in September to October 2020" (18 Oct. 2020), https://artsakhombuds.am/en/document/735.

21 "Azerbaijan: Attack on Church Possible War Crime," Human Rights Watch (16 Dec. 2020), https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime.

22 *See supra* note 4.

23 *See supra* note 21.

24 Artsakh Infocenter (13 Oct. 2020). Available at: https://bit.ly/2SVJ13Y.

Further acts of vandalism of the Holy Savior Ghazanchetsots Cathedral were documented after the Ceasefire Statement and included graffiti and the destruction of key features on the outskirts of the cathedral portraying angels and other Christian religious imagery.[25]

[25] Rob Lee, Twitter (14 Nov. 2020), https://twitter.com/RALee85/status/1327791527507144705?s=20.

- Shelling of the Tigranakert archaeological site, "the best-preserved city of the Hellenistic and Armenian civilizations" of the Caucasus, founded in the 2nd to 1st centuries B.C., and later a "major hub for Early Christianity" with over 10 inscriptions discovered to date in Armenian and Greek dating to the 5th and 7th centuries CE. [Damage to the archaeological camp is shown below.]

- The removal of the Armenian cross and rounded, pointed dome (a key feature of Armenian church architecture) from the "Kanach Zham" (Green Chapel) Armenian Church of St. John the Baptist. Azerbaijan falsely claims that the Kanach Zham Church is not Armenian but Russian Orthodox. Regardless of its origin, destruction of a church is unacceptable and in violation of national and international laws and conventions. The following photos appear to show the Church before and after the act of vandalism.[26]

[26] Sascha Duerkop, Twitter (20 Nov. 2020), https://twitter.com/saschadueerkop/status/1329754063064489986?lang=en.

- The intentional destruction of a cross-stone with a military truck, in the village of Arakel in the Hadrut region under Azerbaijan control, captured on video.[27] The personnel in the video appear to be military personnel.

[27] Siranush Ghazanchyan, "Azerbaijanis destroy Armenian cross-stone in occupied Artsakh village," Public Radio of Armenia (12 Jan. 2021), https://en.armradio.am/2021/01/12/azerbaijanis-destroy-armenian-cross-stone-in-occupied-artsakh-village/.

54.6K views
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- The vandalism of Armenian cemeteries, funeral or other monuments captured in numerous photos or on video. In one instance, Azeri armed forces pummel a grave, laugh, and vandalize the tombstone until it falls.[28]

[28] "Azeri Soldiers Vandalized a Cemetery in Nagorno Karabakh, Rekindling Fears of Destruction of Armenian Heritage," Archyde (27 Nov. 2020), https://www.archyde.com/azeri-soldiers-vandalized-a-cemetery-in-nagorno-karabakh-rekindling-fears-of-destruction-of-armenian-heritage/.

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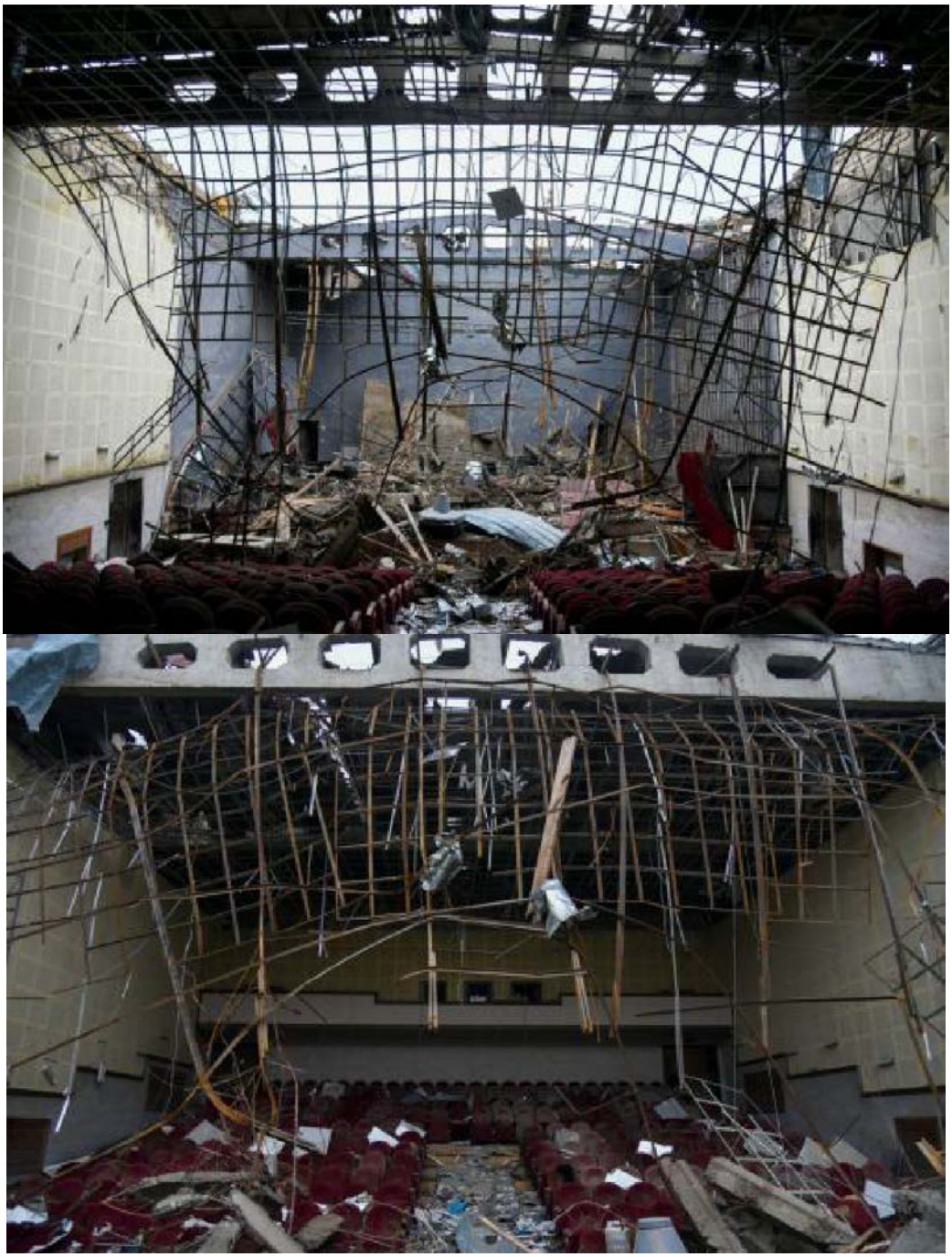
- Shelling and destruction of the Cultural and Youth Center in Shushi on 7 October 2020.[29]



[29] *See* Ghahramanyan, D. (7 Oct. 2020). 24 News. Available at: https://bit.ly/34ZsktJ; See also Shushi After he Shelling: The Cultural Center, EVN Video Report: Available at: https://www.youtube.com/watch?v=6yjgDSdeHBE; Shushi Cultural Center before the war: Armenia Fund Video: https://www.youtube.com/watch?v=Ut-uvp9sYqg

- Shelling and destruction of schools and kindergartens.[30]

[30] *See* The Republic of Artsakh Human Rights Ombudsman. (12 Oct. 2020). *Second Interim Report on the Azerbaijani Atrocities against the Artsakh Population in September-October 2020.* Available at: http://bit.ly/OmbudsReport; The Government of Armenia. (14 Oct. 2020). Available at: https://bit.ly/311rDPF

Notably, the photographs and video stills from the above images (and countless other images on Azerbaijani social media) are from *Azerbaijani* military personnel; in many images, one can see *multiple* Azerbaijani officers recording the intentional destruction of Armenian cultural heritage on their mobile phones—presumably because they believe such acts can be carried out with impunity and will be outright praised.

Moreover, the destruction and erasure of the centuries-long Armenian (Christian) presence in the region is further complicated by the rise in jihadist extremism that was introduced into the region by Turkey's recruitment of northern Syrian mercenaries to fight for Azerbaijan. On 14 November 2020, Armenia's Ambassador to the Netherlands, Tigran Balayan, shared on Twitter a video of a jihadist mercenary pronouncing the Islamic call to prayer while standing on the bell tower of Saint Mary Church, located near the village of Mekhakavan (Jebrayil) in Artsakh.[31]

2. Azerbaijan Seeks to Deny the Presence or Evidence of Armenians in Nagorno Karabakh by Claiming Such Sites Were Founded By "Caucasian Albanians"

Azerbaijan's intentional destruction has been combined with official efforts to rewrite history and engage in cultural erasure, which efforts began in the 1950s when Azerbaijani scholars first claimed that Nagorno Karabakh's earliest inhabitants were not Armenian but rather Caucasian Albanian (a confederacy of semi-nomadic tribes that lived near the banks of the Caspian Sea).[32] Numerous Azerbaijani government officials, public figures, and society leaders repeat the unfounded claim that religious and cultural heritage sites in Nagorno Karabakh and its surrounding districts are the creation of Caucasian Albanians, and not Armenians, and, therefore, Armenians should be excluded from these sites

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31 Tigran Balayan, Twitter (14 Nov. 2020), https://twitter.com/tbalayan/status/1327676346315706369?s=20.

32 *See* Thomas De De Waal, Black Garden: Armenia and Azerbaijan Through Peace and War, New York, 2003, 152-154; Nora C. Dudwick, "The Case of the Caucasian Albanians; Ethnohistory and Ethnic Politics," Cahiers du Monde russe et soviétique, Vol. 31, No. 2/3, 377-83; Strabo, *Geography* Ulubabian/Hasratian, *Gandzasar*, Harace Leonard Jones trans, Cambridge 1969, 378; Robert H. Hewson, Ethno-History and the Armenian Influence Upon the Caucasian Albanians, Pennsylvania, 1982, 27-35.

and all Armenian signs, inscriptions or architectural features are to be removed. Even if a site could be shown to be part of Caucasian Albanian heritage as well, it still should not be subject to destruction, desecration, or mutilation, and should not justify the exclusion of Christian Armenians from continuing to practice their religion at such sites, as they have done for years.

The Azerbaijani Ministry of Defense released a video of Dadivank, a monastery complex dating from the 7-9th and 13th centuries, located in the Karvajar/Kalbajar District of Nagorno Karabakh now under the jurisdiction of Azerbaijan, after Russia announced its peacekeepers were present at Dadivank; notably missing from the many scenes in the video was one of the most recognizable features of Dadivank's cathedral: its donor portraits of Armenian nobles and founding inscriptions engraved in the Armenian language—presumably because such portraits and inscriptions undermine Azerbaijan's claims of the monastery's Caucasian Albanian origin. Despite Azerbaijan's unsubstantiated claims that Dadivank and similar cultural heritage are not Armenian but rather *exclusively* "Caucasian Albanian" (proto-Azerbaijani), such claims have not stopped Azerbaijan from destroying cultural heritage that it labels as "Caucasian Albanian," such as in Nakhichevan. Notably, in the case of Nakhichevan, Azerbaijan not only denies its conduct—which was captured on video—but denies that the churches, cross-stones, and Christian cemeteries it destroyed ever existed at all.

3. Moveable Cultural Heritage at Risk

Before Azerbaijan's recent aggression, movable heritage had been preserved in twenty-one museums in different regions of Artsakh.[33] Twelve of those museums are located in Shushi, Hadrut, and other regions currently under the control of Azerbaijan.[34] These museums "preserved a vast collection of the history, arts, religion, everyday life, nature and culture of the region."[35]

Given the unexpected nature of the attacks by Azerbaijan beginning on 27 September 2020, museum staff had no opportunity to prepare or secure their collections.[36] Moreover, because all major towns were under constant shelling with the use of internationally-sanctioned weapons, it was nearly impossible for museum staff to leave the bomb shelters where they sought refuge to preserve the collections during Azerbaijan's military hostilities.[37] Since the execution of the Ceasefire Statement, the Armenians have had no access to, and no information on, the fate of the museum collections.[38]

The museums in the cities of Martuni and Hadrut are reported to have suffered the most.[39] The Old District in the city of Hadrut, where a museum was located, is said to have been burned to the ground by Azerbaijani armed forces.[40] In the aftermath of the war, "[t]he collections of some museums could be exposed to illicit trafficking."[41]

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33 *See supra* note 4.
34 *Ibid.*
35 *Ibid.*
36 *Ibid.*
37 *Ibid.*
38 *Ibid.*
39 *Ibid.*
40 *Ibid.*
41 *Ibid.*

Depending on the final demarcation of the line of contact and whether peacekeeping forces will be available to offer protection, many ancient Armenian cultural and religious treasures face risk of destruction, vandalism, and defacement. Nagorno Karabakh's 4,000 Armenian cultural heritage sites and monuments (including nearly 400 churches) will be at constant risk of the same vandalism, demolition, and cultural erasure seen in the exclave of Nakhichevan—which destruction Azerbaijan denies.

V. Armenian Christians No Longer Have Access to Their Religious Sites

After the Ceasefire Statement, Azerbaijan arrested ethnic Armenian civilians, including humanitarian aid workers and individuals who returned to the territories under Azerbaijani control to attempt to retrieve their belongings and personal effects left behind when they fled the hostilities. As but one example, the European Court of Human Rights ("ECHR") recently confirmed that a civilian, Maral Najarian, a resident of Nagorno-Karabakh and a citizen of Lebanon, is imprisoned in Azerbaijan, after being kidnapped in Shushi by Azerbaijani forces on 10 November 2020.[42] Women's rights groups and other organizations are extremely concerned about her treatment in captivity, particularly because of the documented torture and mutilation of other Armenian civilian bodies that have been recovered. Under these conditions, along with videos and images of civilians being beheaded by Azerbaijani forces, even apparently *after* the Ceasefire Statement, it is difficult to imagine how Armenians will be able to practice their religion in Nagorno Karabakh and visit religious sites now under Azerbaijani control.[43] Indeed, one person who was able to visit Dadivank in December to be present at a wedding and mass held there, explained the process of visiting Dadivank accompanied by Russian Peacekeepers and provided witness to the following:

"*During our time there, multiple Azerbaijani soldiers walked by just mere walking distance from where we were standing and multiple times at that. This particular moment is critical to understand the psychological intimidation and infliction that can be caused and was caused by this. I understand that Azeris are close by and there can be several opportunities to see them. However, what is the purpose of walking by several times and even driving a vehicle, clearly labeled as an Azerbaijani car, by these people? It was evident that there was a special service and visit going on that day and that there would be Armenians present paying their respects and visiting this holy site. It's also clear that these soldiers knew the affect their simple stroll near these people would leave and what type of impact it would presumably have . . . On one hand, I have extreme difficulty comprehending this and accepting the reality that this is the process of how we must visit various regions of our homeland. It hurts because it's wrong and unimaginable on so many levels. All I have left to say is that, we can't stop these visits. We can't stop praying. And we can't stop honoring. If we stop, Dadivank will just be another site that Azerbaijanis culturally erase, destroy, desecrate, and raise an Azeri and Turkish flag [upon].*"

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[42] "ECHR confirms Armenian woman imprisoned in Azerbaijan, says MP," PanArmenian.Net (11 January 2021), https://www.panarmenian.net/eng/news/289241/ECHR_confirms_Armenian_woman_imprisoned_in_Azerbaijan_says_MP.

[43] *See* The Human Rights Ombudsman of Artsakh "Fifth Ad Hoc Report On Torture and Inhuman Treatment of Members of Artsakh Defense Army and Captured Armenians by Azerbaijani Armed Forces" (From Nov. 19-Dec. 2, 2020) (available upon request; certain of these reports are not disseminated publicly, given the disturbing images and content they display).

As is apparent from the above witness, even for the religious sites that certain Armenians can arrange to visit, with the assistance of Russian Peacekeepers, such visits are not free from psychological intimidation. These worshippers are subjected to the presence of armed Azerbaijani military personnel and are targeted and harassed because they are Armenians.

In addition to creating risks in terms of the preservation of religious sites, the current situation therefore also interferes with the freedom of religion and use of these Armenian sacred sites, which were previously freely accessible to worshippers and actively used for religious purposes (pilgrimage, services, monastic life, custodianship).

VI. International Organizations and NGOs Are Struggling to Address the Issues Without Azerbaijan's Cooperation

Many UN and international organizations have decried the destruction of cultural heritage sites.[44] While numerous organizations, including UNESCO, have called for Azerbaijan's cooperation to protect Armenian cultural heritage in Nagorno Karabakh, Azerbaijan and Azerbaijani cultural professionals have repeatedly declined to permit entry to or to cooperate with any fact-finding or technical initiative. Such cooperation is necessary because in peacetime, any monitoring mission requires Azerbaijan's permission; before Azerbaijan's recent military aggression and more recently, Azerbaijan has blacklisted and attempted to prosecute individuals who entered Nagorno Karabakh without Azerbaijan's express permission, including members of the European Parliament, other foreign dignitaries, and humanitarian aid workers.

On 11 December 2020, the Committee for the Protection of Cultural Property in the Event of Armed Conflict of the Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, issued a Declaration that, among other things, welcomed a UNESCO initiative "taken in conformity with Article 23 of the 1954 Hague Convention, to carry out as soon as possible an independent technical mission, with the agreement of all concerned Parties, with the aim of assessing the status of the cultural property in all its forms as a prerequisite for the effective protection of heritage."[45] However, despite reaching out to Azerbaijan, UNESCO has yet to hear from

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[44] Blue Shield Statement available at: https://theblueshield.org/blue-shield-statement-on-fighting-in-nagorno-karabakh/; UNESCO Statement available at: https://en.unesco.org/news/situation-nagorno-karabakh-conflict-zone-unesco-statement; WMF Statement available at: https://www.wmf.org/blog/wmf-statement-safeguarding-cultural-heritage-nagorno-karabakh; Getty Trust Statement available at: https://blogs.getty.edu/iris/getty-trust-statement-on-the-need-to-protect-armenian-cultural-heritage/?fbclid=IwAR2Rn7yueo6_yYjGq43VhT0H8_rMFXhNg7SUA8g4nn0Z2Dh69vZwRA2qgAM; ICOM International Statement available at: https://icom.museum/en/news/icom-nagorno-karabakh/; Metropolitan Museum of Art Statement available at: https://www.metmuseum.org/press/news/2020/statement-about-armenian-cultural-heritage; Europa Nostra Statement available at: https://www.europanostra.org/europa-nostra-statement-related-to-the-armed-conflict-in-and-around-the-nagorno-karabakh-region/; World Council of Churches Statements available at: (1) https://www.oikoumene.org/news/wcc-calls-for-immediate-end-to-military-actions-in-nagorno-karabakh-region, (2) https://www.oikoumene.org/news/wcc-makes-urgent-call-for-lasting-peace-founded-on-justice-and-human-rights-for-people-of-nagorno-karabakh, (3) https://www.oikoumene.org/resources/documents/wcc-letter-to-unesco-on-nagorno-karabakh/artsakhs-armenian-historical-religious-and-cultural-heritage; The Middle East Council of Churches Statement available at: https://www.mecc.org/mecc/2020/11/23/justice-for-artsakh?rq=artsakh.

[45] "Declaration of the Committee for the Protection of Cultural Property in the Event of Armed Conflict of the Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict – ensuring

Azerbaijan about authorizations to participate in such a technical mission.[46] In fact, Azerbaijan has accused UNESCO of being partisan and allowing the issue of protection of cultural heritage to be politicized.[47]

Finally, Azerbaijan is not a signatory of the International Criminal Court, which decreases the avenues for accountability for those who intentionally destroy Armenian cultural heritage and/or kidnap, torture, and kill ethnic Armenians who visit the areas of Nagorno Karabakh under the Azerbaijani government's control.

VII. Conclusion

We acknowledge that (1) *intentional* destruction and desecration of cultural heritage is a violation of human rights; (2) the right of access to, and the enjoyment of, cultural heritage forms part of the right to take part in cultural life; (3) cultural rights are at the core of human identity and enable many other civil, economic, political and social rights; and (4) the right to freely exercise one's religion is an essential human right.

Acknowledging that respect for, and recognition of, cultural and religious rights and diversity are key to building lasting peace in the region, we urge the Special Rapporteur in the field of cultural rights and the Special Rapporteur on freedom of religion and belief to respond to this information through constructive action, including by implementing the following measures in cooperation with state parties (e.g. Armenia, Azerbaijan, Turkey, Russia), international organizations, Ministries of Culture and cultural heritage professionals in Azerbaijan and Armenia:

- Engage with the Government of Azerbaijan and call for an immediate end to the targeting of moveable and immovable cultural heritage sites and demand the respect and protection of all such sites under the control of Azerbaijani authorities in accordance with UN Resolution 2347 on the protection of the cultural heritage located in conflict zones;

- Request information from Azerbaijan on what measures have been taken to record information on the destroyed, desecrated or demolished sites of cultural heritage by Azerbaijani forces and what measures have been taken to find and prosecute persons engaged in such actions;

- Request information on the measures taken to prevent the recurrence of racist and xenophobic speech and acts, to foster tolerance, mutual understanding and social harmony, and promote respect for cultural diversity of all people (including the Armenian people) in Azerbaijan;

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cultural property protection in and around Nagorno-Karabakh and setting-up an independent technical mission" available at: https://en.unesco.org/sites/default/files/en_15_com_declaration_haut-karabakh_final_1.pdf.

[46] "UNESCO is awaiting Azerbaijan's Response regarding Nagorno-Karabakh mission," UNESCO (21 Dec. 2020), https://en.unesco.org/news/unesco-awaiting-azerbaijans-response-regarding-nagorno-karabakh-mission.

[47] "No:479/20, Commentary of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan to the UNESCO press release on sending of a mission to Azerbaijan," MFA of Azerbaijan (22 Dec. 2020), https://mfa.gov.az/en/news/7102/view.

- Request that Azerbaijan recognize the existence of Armenian cultural heritage as an undeniable part of the region's diverse cultural heritage and as covered under the protection of Azerbaijani national laws;

- Request information on the status of museums in the territories controlled by Azerbaijan: buildings and grounds, their collections, the museum archives, databases and libraries;

- Explore and facilitate the potential for a memorandum of understanding among relevant state actors or cultural heritage professionals that would set up procedures for dealing with destruction (including defacement and change of character) of monuments;

- Explore and facilitate the potential for other collaborative projects in the area of culture and religion between Armenian and Azerbaijani cultural and religious leaders;

- Explore the establishment of monitoring mechanisms, including satellite imagery and security cameras to monitor acts of destruction or defacement;

- Draw the attention of the Human Rights Council and the General Assembly to the cultural erasure by the Azerbaijani armed forces against the Armenians of the Artsakh Republic;

- Draw the attention of the Human Rights Council and the General Assembly to the misappropriation, intentional destructions, and desecration of Armenian religious, cultural and historical sites, the interference with the maintenance and care of these sites, the restriction of access and religious freedom to use these sites, and the disruption of religious practices of the Armenian Church and other Christians and their faithful; and

- Engage with local authorities (including the Republic of Artsakh) in order to create and maintain a comprehensive database of the objects of the global cultural heritage on the territories that were transferred to Azerbaijan.

We are available to discuss these issues with you at your convenience and look forward to working with you to protect and preserve all the cultural heritage of the region, an intrinsic part of world and Christian history.

Submitted by:

Armenian Bar Association
Mother See of Holy Etchmiadzin

Additional Articles Related to Protection of Cultural Heritage During and After the War

- **Asia Times: 16 November 2020** – "**Cultural erasure may spark next Nagorno-Karabakh war**" by Simon Maghakyan, available at: https://asiatimes.com/2020/11/cultural-erasure-may-spark-next-nagorno-karabakh-war/?fbclid=IwAR1z2lGE1umdKH3ey1XMKVeaSmUThrPzAxhOHf_cEILXt1XBMaDOy7881z4

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