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Professor Alena Douhan

Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights

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Re: “The impact of unilateral coercive measures on the right to health”

To Special Rapporteur, Prof. Alena Douhan,

The Armenian Bar Association (“ABA”) welcomes your call for input on the UN Human Rights Council Report, “The impact of unilateral coercive measures on the right to health.” 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.

We write to bring to your attention the full-fledged humanitarian crisis caused by Azerbaijan’s blockade of the only highway connecting Nagorno-Karabakh (also called Artsakh) to the rest of the world, effectively placing the 120,000 residents of that region under siege. The blockade arises in a context of Azerbaijan’s state-sanctioned anti-Armenian racism and creates grave implications for the rights of Nagorno-Karabakh’s ethnic Armenian residents to the highest attainable standard of health. This report responds to the specific questions raised by your call for input.

While we acknowledge that the blockade is not a traditional “unilateral coercive measure,” the impact on human rights is analogous and even more egregious. In the case of the blockade of the Armenians of Nagorno-Karabakh, there is no underlying justification that the coercive measures would be achieving a positive change in policy. Rather, the blockade is a brute application of coercive tactics to terrorize a population and force it to leave its homeland.

I. Overview of the Blockade

On December 12, 2022, Azerbaijan closed the only road connecting Nagorno-Karabakh to Armenia and the rest of the world.¹ The Goris-Stepanakert highway from Armenia to Nagorno-

¹ See Updated Joint Ad Hoc Report on the Humanitarian Consequences of Blocking the Only Road Connecting Artsakh with Armenia and the World, Human Rights Defender of Armenia & Human Rights Defender of Artsakh,

Karabakh passes through the Lachin Corridor, which is used for the passage of people and essential goods to the primarily ethnic Armenian residents of Nagorno-Karabakh, and which under the provisions of the trilateral statement ending the 2020 Nagorno-Karabakh War, is to remain open and under the control of Russian peacekeepers.²

Like other unilateral coercive measures, the over-two-month blockade has mercilessly created a humanitarian disaster and matters are only getting worse by the day.³ The healthcare system has been severely compromised, due to a lack of medicine and other issues which will be discussed below.⁴

The blockade is being executed under the watch of the Azerbaijani state.⁵ The self-styled Azerbaijani “activists” effectuating the blockade are acting with the logistical coordination, if not full backing, of the Azerbaijani regime, which is, ironically, usually quick to suppress any other civil society demonstrations.⁶ Journalists have reported that among the protest group are Azerbaijani civil servants,⁷ and that the Azerbaijani government has provided these “activists” food, tents, and other support.⁸ Fact-finding missions have confirmed that these individuals are members of organizations financed by the Azerbaijani state, and compiled information about their names and positions.⁹

The international community has called for remedial action to prevent further deepening of the crisis. “It is Azerbaijan’s obligation to undertake to ensure that the population in Nagorno-Karabakh is not denied access to food and other essential goods and medications,” said Marie Struthers, Amnesty International’s Director for Eastern Europe and Central Asia.¹⁰

Jan. 13, 2023, <https://artsakhombuds.am/en/document/985>; Rayhan Dymetrie, *Nagorno-Karabakh: Empty shops and blockade pile pressure on Armenians*, BBC (Jan. 6, 2023), <https://www.bbc.com/news/world-europe-64174164>.

² Joint Ad Hoc Report, *supra* note 1 at 3.

³ Joint Ad Hoc Report, *supra* note 1 at 3. *See also* Artsakh Human Rights Defender, Interim Report on the Violations of Human Rights of Artsakh People as a Result of the Deliberate Disruption of Critical Infrastructure in the Midst of the Blockade of Artsakh by Azerbaijan Since December 12, 2022 (2023), <https://artsakhombuds.am/en/document/987>.

⁴ Lilit Shahverdyan, *Blackouts and food rationing as Karabakh blockade enters second month*, EURASIANET (Jan. 12, 2023), <https://eurasianet.org/blackouts-and-food-rationing-as-karabakh-blockade-enters-second-month>.

⁵ *See* The Azerbaijani Government’s “Eco-Activist” Who Blocked the Only Road of Life Connecting Artsakh to Armenia and the Rest of the World, Center for Law and Justice, Tatoyan Foundation, & Human Rights Ombudsman of Artsakh 7 (Feb 2023), <https://artsakhombuds.am/en/document/995>.

⁶ *See* Dymetrie, *supra* note 1; *see also* Ryan Grim, et al., *The Hidden Siege of Nagorno-Karabakh, The Intercept* (Jan. 6, 2023), <https://theintercept.com/2023/01/20/deconstructed-armenia-azerbaijan-nagorno-karabakh/>.

⁷ Bachir Kitachayev, *Azerbaijani roadblock cuts tens of thousands off from food, fuel and medicine*, Open Democracy (Dec. 16, 2022), <https://www.opendemocracy.net/en/odr/nagorno-karabakh-azerbaijan-armenia-roadblock/>.

⁸ Grim, *supra* note 6.

⁹ Joint Ad Hoc Report, *supra* note 1 at 15-16.

¹⁰ *Azerbaijan: Blockade of lachin corridor putting thousands of lives in peril must be immediately lifted*, AMNESTY INTERNATIONAL (Feb. 13, 2023), <https://www.amnesty.org/en/latest/news/2023/02/azerbaijan-blockade-of-lachin-corridor-putting-thousands-of-lives-in-peril-must-be-immediately-lifted/>

In February 2023, U.S. Representative Adam Schiff declared, “[t]he humanitarian crisis in Artsakh grows dire by the day, with widespread shortages of food, medicine, and other necessities, rolling blackouts amid freezing winter temperatures, and tens of thousands of people cut off from their families, loved ones, and livelihoods. Families and children are suffering, and the United States must take decisive action to assist them.”¹¹

II. Impacts on Right to Health

a. Question One: The Impact of the Unilateral Coercive Measure on the Right to Health on the Population of Artsakh

Azerbaijan’s nearly 3-month long blockade and disruption to electricity, gas, and medical supplies, have caused persistent threats to the healthcare system in Artsakh.¹² These disruptions to urgent treatments, planned surgeries and operations, laboratory tests, periodic examinations and regular health check-ups, have obstructed the realization of the Artsakh people’s right to healthcare.¹³

Hospitals in Artsakh have been undersupplied with medicine since the start of the blockade.¹⁴ On rare instances, the International Committee of the Red Cross (“ICRC”) has been able to squeeze through the blockade, transporting 10 tons of medicine, baby formula, and food for health facilities in response to the shortage during the first month of the blockade.¹⁵ While that tonnage may sound substantial, these supplies are insufficient to meet medical needs.¹⁶ Prior to the blockade, 400 tons of food and medicine used to arrive in Artsakh from Armenia *every day*.¹⁷

The medicine shortage has become especially difficult for seniors and those with disabilities.¹⁸ In some cases, treatment for certain patients has ceased altogether.¹⁹ Without critical medicine, those with chronic illnesses have no chance of survival.²⁰

¹¹ Adam Schiff, *Schiff announces Nagorno Karabakh Republic representative to the U.S. as his State of the union guest* (Feb. 6, 2023), <https://schiff.house.gov/news/press-releases/schiff-announces-nagorno-karabakh-republic-representative-to-the-us-as-his-state-of-the-union-guest>.

¹² Interim Report, *supra* note 3 at 12.

¹³ *Id.* at 12-13.

¹⁴ Tamara Qiblawi, *'Potatoes are a luxury': Vital supplies dwindle as 'eco-activists' blockade a breakaway region guarded by Russia*, CNN (Jan 12, 2023), <https://www.cnn.com/2023/01/12/europe/armenia-azerbaijan-nagorno-karabakh-lachin-intl/index.html>.

¹⁵ Qiblawi, *supra* note 14.

¹⁶ Amnesty International, *supra* note 10.

¹⁷ Gabriel Gavin, *Europe watches on as humanitarian crisis unfolds in Nagorno-Karabakh*, POLITICO (Jan. 6, 2023), <https://www.politico.eu/article/europe-stalemate-humanitarian-crisis-nagorno-karabakh/>.

¹⁸ Amnesty International, *supra* note 10.

¹⁹ *Id.*

²⁰ Mané Babajanyan, *The crisis of the Lachin Corridor: On the verge of another humanitarian catastrophe*, The Armenian Weekly (Feb. 16, 2023), <https://armenianweekly.com/2023/02/15/the-crisis-of-the-lachin-corridor-on-the-verge-of-another-humanitarian-catastrophe/>.

A cardiologist at a hospital in Stepanakert noted that they are only able to complete about 10% of the normal number of procedures, due to the lack of stents resulting from the blockade.²¹ He reported that there are a large number of individuals having heart attacks at home, and that many patients die daily due to the lack of care.²²

A neurologist in Artsakh reported that a child with epilepsy, who needed urgent medication, was left entirely defenseless due to the blockade because the medicine could not get through the Lachin Corridor.²³ A week of negotiations with the ICRC was required before the medicine was able to be brought to Artsakh from Armenia.²⁴

Maternal health and newborn health are also at serious and constant risk given the lack of medical supplies. A woman from Martakert, Artsakh, who was eight-months pregnant, reported that due to the rolling blackouts during the blockade, the hospital could only operate one incubator at a time, and three premature babies had to take turns using it.²⁵

Quantitatively, as of January 20, 2023, 113 people, including 35 children, were being treated at impacted medical institutions in Artsakh.²⁶ Seven newborns and 23 pregnant women were being treated at the maternity hospital.²⁷

b. Questions Three and Four: Medicine, Equipment and Services Impeded by the Blockade

Access to Medicines: Due to the blockade, individuals in Artsakh are struggling to access medicines to manage blood pressure, heart conditions, epilepsy, and asthma as well as pain medication and antibiotics.²⁸ When individuals are seldom able to find these medicines, their prices are often prohibitive because of the scarcity caused by the blockade.²⁹

Medical Equipment and Essential Services: Due to the rolling blackouts and intermittent gas shut-offs, health facilities have suffered. Individuals cannot access services such as urgent treatments, planned surgeries, and other tests and exams.³⁰ Appropriate heating of health facilities has been impossible, even with the use of alternate power sources.³¹

²¹ Amnesty International, *supra* note 10.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Interim Report, *supra* note 3 at 13.

²⁷ *Id.*

²⁸ Amnesty International, *supra* note 10.

²⁹ *Id.*

³⁰ Interim Report, *supra* note 3 at 13.

³¹ *Id.*

Maternity wards lack sufficient heating during blackouts, and premature babies are forced to take turns using the incubator.³² There is also a lack of stents, resulting in a significant drop in access to heart healthcare; before the blockade, one cardiologist reported attending to 30-40 patients, he now sees five or six.³³ The lack of supplies has resulted in all non-emergency operations being put on hold.³⁴

c. Question Five: Humanitarian Exemptions are Ineffective

Humanitarian exemptions, in the form of the International Committee of the Red Cross's applications to pass through the Lachin Corridor, are not sufficient to mitigate the destruction wrought by the blockade to the right to health.

Transporting Individuals: Although the ICRC has been able to transport some individuals in need of care from Artsakh to Armenia,³⁵ the ICRC only transports individuals in "stable condition."³⁶ Thus, patients in critical condition cannot be transported, which has resulted in several preventable deaths.³⁷ Additionally, even patients who could benefit from ICRC transport through the blockade sometimes choose not to, to avoid indefinite separation from their families while the blockade is in place.³⁸ Between December 19, 2022 and February 1, 2023, the ICRC had to transport 60 patients to Armenia due to the lack of medical supplies in Artsakh.³⁹

Access to Medicine: The ICRC transported 10 tons of medicines, baby formula and food for health facilities between the start of the blockade and mid-January,⁴⁰ but these shipments are not sufficient. Prior to the blockade, 400 tons of food and medicine used to arrive in Artsakh from Armenia every day.⁴¹ Individuals in Artsakh are struggling to access medicines to manage blood pressure, heart conditions, epilepsy, and asthma as well as pain medication and antibiotics.⁴²

III. Legal Framework

Azerbaijan's blockade of Artsakh, including the recurrent shut-offs of gas and electricity, amount to violations of Azerbaijan's international human rights obligations.

³² Amnesty International, *supra* note 10.

³³ *Id.*

³⁴ Shahverdyan, *supra* note 4.

³⁵ International Committee of the Red Cross, *Operational update - Situation along the Lachin Corridor* (Feb. 1, 2023), <https://www.icrc.org/en/document/operational-update-situation-along-lachin-corridor>.

³⁶ Amnesty International, *supra* note 10.

³⁷ *Id.*

³⁸ *Id.*

³⁹ ICRC, *supra* note 35; see also ICRC facilitates transfer of six patients from blockaded Artsakh to Armenia, ARMENPRESS (Feb. 7, 2023), <https://armenpress.am/eng/news/1103509.html>.

⁴⁰ Qiblawi, *supra* note 14.

⁴¹ Gavin, *supra* note 17.

⁴² Amnesty International, *supra* note 10.

Article 12.1 of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”) explains that the right to “the highest attainable standard of physical and mental health” should not be restricted to the right to health care, but expanded to include various socio-economic factors that promote and act as determinants of individual health.⁴³ Individuals have the right to functioning public health and health-care facilities, goods and services, as well as programs.⁴⁴ The obligation to respect requires states refrain from interfering directly or indirectly with the enjoyment of the right to health.⁴⁵

By directly interfering with individuals’ access to essential medicines, urgent treatments, and other forms of healthcare, Azerbaijan has violated the right of the residents of Artsakh to the highest attainable standard of health.

IV. Conclusion

The nearly three-month blockade undertaken and overseen by Azerbaijan against the residents of Nagorno Karabakh has precipitated a dire humanitarian crisis. We hope you take this harrowing example of a disastrous unilateral coercive measure into account in your forthcoming report, “The impact of unilateral coercive measures on the right to health.”

We thank you for your consideration of this matter.

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⁴³ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3; S. Exec. Doc. D, 95-2 (1978); S. Treaty Doc. No. 95-19; 6 I.L.M. 360 (1967); Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000) para. 4.

⁴⁴ General Comment 14, *supra* note 43, at para. 20(a).

⁴⁵ *Id.* at para. 33.