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Re: Call for input on conflict and racial discrimination

A. Introduction

1. The Armenian Bar Association ("ABA") welcomes the opportunity to contribute to your call for input on conflict and racial discrimination. The ABA is an international non-profit organization comprised of judges, attorneys, law professors, and law students dedicated to addressing and educating on legal issues impacting the Armenian community worldwide.
2. This submission focuses on Azerbaijan's policies and practices of racial discrimination against ethnic Armenians. Despite repeated findings by international human rights bodies, including the Committee on the Elimination of Racial Discrimination (CERD), confirming concerns about Azerbaijan's conduct, these discriminatory policies have not only persisted but intensified—particularly during Azerbaijan's 2020 military offensive against the predominantly Armenian-populated Republic of Artsakh (also referred to as Nagorno-Karabakh or Artsakh) and the Republic of Armenia.
3. On 27 September 2020, Azerbaijan launched air and ground attacks against its neighbors, the Republics of Artsakh and Armenia (the "Nagorno-Karabakh Conflict")[1], seeking to

[1] See "Azerbaijan: Unlawful Strikes in Nagorno-Karabakh," Human Rights Watch (11 Dec. 2020), https://www.hrw.org/news/2020/12/11/azerbaijan-unlawful-strikes-nagorno-karabakh#:~:text=On%20September%2027%2C%20Azerbaijan%20began,agreement%20to%20end%20the%20hostilities.

resolve the dispute through military force rather than negotiation under the OSCE Minsk Group framework. This military campaign violated United Nations Security Council Resolutions 822 (1993), 853 (1993), 874 (1993), and 884 (1993), as well as the UN Charter, all of which prohibit the use of force against sovereign states.

4. While Azerbaijan claims that it cannot implement international human rights obligations in the territories it refers to as "occupied" (Nagorno-Karabakh), its obligation to prevent and investigate hate speech and racial discrimination remains. The International Court of Justice has clarified that the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) imposes obligations that apply extraterritorially, including Article 2's prohibition on racial discrimination and Article 5's guarantee of security and protection from violence.[2] Accordingly, Azerbaijan's failure to fulfill these duties, particularly during military operations involving its armed forces, constitutes a violation of its international obligations.

B. United Nations Committee Against Torture Findings and Recommendations.

5. On 5 June 2024, the United Nations Committee Against Torture (CAT) published its Concluding Observations following the fifth periodic review of Azerbaijan. The report is available here https://digitallibrary.un.org/record/4050492?v=pdf and attached hereto and incorporated herein as Exhibit 1.

[2] See ICJ, Georgia v. Russia, Case Concerning Application of the International Convention on the Elimination of All Forms of Racial Discrimination, Request for the Indication of Provisional Measures, Order of 15 October 2008, para. 109; see general Committee Against Torture, Convention Against Torture and other Cruel, Inhuman or Degrading Treatment, General Comment No. 2, CAT/C/GC/2, Jan. 24, 2008, para. 7 (explaining a State's obligation to prevent torture applies to "all persons who act, de jure or de facto, in the name of, in conjunction with, or at the behest of the State party," regardless of where the torture occurs).

6. The Committee expressed deep concern over Azerbaijan's conduct in the Nagorno-Karabakh conflict, specifically regarding its military operations described as "anti-terrorism operations," which resulted in the ethnic cleansing of Nagorno-Karabakh between 19-20 September 2023. The Committee also condemned the continued detention of 23 individuals connected with the conflict, including former Nagorno-Karabakh leaders.
7. Paragraphs 24 and 25 of the Committee's Observations address the nexus between hate crimes, hate speech, and normalization of violence against ethnic Armenians:
    - **Paragraph 24** highlights concern about discriminatory statements by high-level Azerbaijani officials in both online and offline media, which create an environment conducive to violence against Armenians and other minorities. It also notes the insufficient prosecution under Article 283 of Azerbaijan's Criminal Code, which neither criminalizes incitement to violence nor explicitly includes color, language, citizenship, or ethnic origin as protected grounds.
    - **Paragraph 25** urges the Azerbaijani State to publicly condemn hate speech and violence at the highest levels, investigate promptly and thoroughly all incidents, and ensure perpetrators are held accountable consistent with the gravity of their actions.
8. These paragraphs should be read alongside paragraphs 22-23, which emphasize the severity of violence—including torture, extrajudicial killings, and other grave human rights violations—committed during the Nagorno-Karabakh conflict. The CAT Committee explicitly links racist hate speech to the conflict's escalation and severity, recommending prompt, impartial investigations into all alleged violations by Azerbaijani military and law enforcement personnel.

9. The Committee further noted the dissemination of videos depicting acts such as beheadings, mutilation of corpses, and confessions by perpetrators who appear unafraid of accountability. Despite this, prosecutions remain limited, and sentences do not reflect the gravity of offenses, with none involving imprisonment for extrajudicial killings or torture.
10. The Committee also recommended that Azerbaijan clarify at the highest levels its rejection of all violations of international humanitarian and human rights law in the region, fully apply international law concerning the treatment and immunity of combatants, and consider accession to the International Criminal Court.
11. Most importantly, it urged Azerbaijan to publicly condemn hate speech and violence against Armenians and all minorities, and to refrain from any action or omission that could be seen as endorsing such conduct.

C. Conclusion and Significance

12. The Committee's findings confirm the existence of state-sponsored hatred against ethnic Armenians in Azerbaijan, manifested through torture and a culture of impunity. This international recognition underscores the urgent need for protections for displaced Nagorno-Karabakh residents, who cannot safely be subjected to Azerbaijani authority without risk of discrimination and violence.
13. We respectfully urge you to incorporate these findings and recommendations from the Committee Against Torture's 2024 review of Azerbaijan into your forthcoming report, highlighting the profound link between racial discrimination and conflict in this context.

Thank you for your consideration of this submission.

Armenian Bar Association

Exhibit 1

5 June 2024

Concluding observations on the 5th periodic report of Azerbaijan: Committee against Torture

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
5 June 2024

Original: English

Committee against Torture

Concluding observations on the fifth periodic report of Azerbaijan*

1. The Committee considered the fifth periodic report of Azerbaijan[1] at its 2084th and 2087th meetings,[2] held on 23 and 24 April 2024, and adopted the present concluding observations at its 2101st meeting, held on 6 May 2024.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and the responses provided to the questions and concerns raised during the consideration of the fifth periodic report.

B. Positive aspects

4. The Committee welcomes the ratification by the State party, in 2019, of the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, including the adoption of the following:

(a) Amendments to the Migration Code, regulating the placement of foreigners and stateless persons in detention centres for migrants, on 16 December 2014;

(b) Presidential Order of 10 February 2017, improving the functioning of the prison system and expanding the use of alternative forms of punishment and non-custodial measures;

(c) Presidential Decree No. 1257 of 23 February 2017, increasing protections for unaccompanied migrant children;

(d) Amendments to the Code of Criminal Procedure of 1 December 2017, restricting the use of preventive detention and increasing the availability of alternatives to detention;

* Adopted by the Committee at its seventy-ninth session (15 April–10 May 2024).

[1] CAT/C/AZE/5.

[2] See CAT/C/SR.2084 and CAT/C/SR.2087.

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(e) Law on Psychological Assistance of 7 December 2018, providing access for victims of trafficking in persons to free psychological support;

(f) Amendments of 7 December 2018 made to the Status of Refugees and Internally Displaced Persons Act and the Rights of the Child Act, improving access to education for individuals with refugee status;

(g) Presidential Decree No. 387 of 10 December 2018 on ensuring continuous and effective activities of the Social Service Agency, providing for the social rehabilitation of victims of trafficking in persons;

(h) Amendments of 5 March 2019 made to the Youth Policy Act, aimed at protecting young people considered to be at risk.

6. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater protection of human rights and to apply the Convention, in particular the following:

(a) Establishment of the Probation Service, within the Ministry of Justice, to facilitate the effective enforcement of non-custodial sentences, in 2018;

(b) State programme for the development of Azerbaijani justice, 2019–2023;

(c) National action plan on combating domestic violence, 2020–2023;

(d) National action plan on combating trafficking in persons in Azerbaijan, 2020–2024;

(e) Strategy on children in Azerbaijan, 2020–2030, and the associated action plan for its implementation, 2020–2025;

(f) Establishment of the Department for the Social Rehabilitation of Victims of Domestic Violence, in 2021;

(g) National action plan on gender equality, 2023–2025.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its concluding observations on the fourth periodic report of the State party, the Committee requested the State party to provide information on its implementation of the Committee's recommendations on the eradication of widespread torture and ill-treatment, the eradication of arbitrary imprisonment and alleged torture of human rights defenders and the respect of fundamental legal safeguards.[3] In the light of the information included on those matters in the information received from the State party on follow-up to the concluding observations,[4] and with reference to the Committee's letter to the State party dated 20 August 2018, in which the Committee considered that initial steps towards the implementation of the recommendations included in paragraphs 9 and 11 of the previous concluding observations had been taken and that substantive steps had been taken towards the implementation of the recommendations included in paragraph 13, although further action was needed. The outstanding issues addressed in the previous concluding observations are covered in paragraphs 12, 16 and 20 of the present concluding observations.

Definition and criminalization of torture

8. While noting the prohibition of acts of torture in the State party's Criminal Code, inter alia, under article 133, the Committee is concerned that the Code does not fully incorporate within domestic law the obligations related to the criminalization of acts defined as torture under the Convention (arts. 1, 2, 4 and 16).

[3] CAT/C/AZE/CO/4, para. 40.
[4] CAT/C/AZE/CO/4/Add.1.

9. **The Committee recommends that the State party amend its legislation to ensure compliance with all relevant provisions of the Convention, including by ensuring that:**

(a) **The prohibition of torture, as defined in the Convention, is established as absolute and non-derogable in national legislation and that no exceptional circumstances, including a state of emergency or threat of war, can be used to justify the use of torture;**

(b) **An order from a superior officer or public authority may never be invoked as a justification for torture and that there is no exception to this rule, including in cases where such orders are not "obviously illegal";**

(c) **Legislation clearly provides criminal liability for any attempt to commit torture or any act which constitutes support for or complicity in torture, including liability for any superior or commander who is, or should be, aware that a subordinate is carrying out or may carry out an act of torture but fails to take appropriate action to prevent the act;**

(d) **The law establishes penalties for those responsible for the crime of torture that are commensurate with the gravity of the crime, as set out in article 4 (2) of the Convention;**

(e) **In order to safeguard against the possibility of impunity for the investigation of acts of torture and the prosecution and punishment of perpetrators, the offence of torture is not subject to any statute of limitations.**

National human rights institution and national preventive mechanism

10. While appreciating the statements made by the State party regarding recent legislative reforms aimed at increasing the independence and effectiveness of the Office of the Human Rights Commissioner (Ombudsman) and the National Preventive Group, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), the Committee remains concerned regarding reports, including from the Global Alliance of National Human Rights Institutions, that the Office of the Human Rights Commissioner has not effectively carried out its functions in a manner that promotes protection for human rights in response to credible allegations of serious human rights violations committed by government authorities and that the failure to do so reflects a lack of independence (arts. 2, 11 and 16).

11. **The State party should take all measures needed to guarantee the independence of its national human rights institution, including by ensuring its full compliance with the Paris Principles. In doing so, the Committee invites the State party to seek technical and capacity-building support and advice from the Office of the United Nations High Commissioner for Human Rights and, in the case of its activities relating to the work of the National Preventive Group, from the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

Fundamental legal safeguards

12. The Committee expresses its serious concerns about widespread reports regarding the State party's failure, in practice, to afford all persons deprived of their liberty with all fundamental legal safeguards from the very outset of their deprivation of liberty, notwithstanding the existence of legislation that would appear to provide for such safeguards as a matter of law, including serious concerns about the following:

(a) Failures to inform individuals of their rights and any charges against them and, from the very outset of their deprivation of liberty, of the rights and obligations that they have upon entering remand centres and prisons, including in a language that they understand;

(b) Denials of access to a lawyer of one's own choice, refusals of the authorities to accept the documentation needed from lawyers to gain access to their clients, failures to respect confidentiality between lawyers and their clients, including situations in which clients are only able to meet with lawyers in front of officials who are alleged to have abused them, delays in allowing lawyers access to their clients, including until after the authorities have

questioned the client or until after the client has signed a confession, and the ineffectiveness of ex officio lawyers, including complaints that the system of ex officio legal aid fails to operate as an effective legal safeguard against torture and ill-treatment. The Committee is further concerned by reports of lawyers representing clients who allege torture or ill-treatment being disbarred or reprimanded by the Bar Association, which lacks sufficient independence from the Government, or being detained on other charges, such as tax evasion or abuse of authority, and of other allegations of the physical and judicial harassment of lawyers representing clients who allege being subject to torture or ill-treatment or who are otherwise involved in politically sensitive cases;

(c) Failures to provide individuals the opportunity to inform their family members, legal counsel or other persons of their choice of their detention and the holding of persons incommunicado or in undisclosed locations;

(d) Failures to respect the right of persons to request and receive an examination by an independent medical doctor free of charge or by a medical doctor of their own choice, in full confidentiality, noting reports, inter alia, that medical examinations provided by the State, if and when performed, are habitually perfunctory, routinely fail to adequately record and report injuries and are performed in a manner that does not respect the principle that such examinations should be conducted out of hearing and sight of police officers and prison staff, unless the doctor involved explicitly requests otherwise;[5]

(e) Routine reliance on evidence obtained through torture or ill-treatment in the course of judicial proceedings (arts. 2, 15 and 16).

13. **The State party should ensure that all fundamental legal safeguards are guaranteed, both in law and in practice, for all detained persons from the outset of their deprivation of liberty, including the following:**

(a) **The right to be informed of their rights, how to exercise those rights, the reason for their arrest and any charges against them, in a language that they understand and in an accessible manner, and to be fully informed of their rights and obligations, including avenues to lodge complaints, in a language that they understand, immediately upon entry into places of deprivation of liberty, including pretrial detention centres and prisons;**

(b) **The right to access to and to consult with a lawyer of their own choosing and to have the confidentiality of private meetings guaranteed, including prior to interrogation, and, if necessary and applicable, to access to free, independent and effective legal aid. In this regard, the State party should ensure the independence of lawyers, including by ensuring that the Law on Lawyers and Legal Practice is brought fully into line with the Basic Principles on the Role of Lawyers and other relevant international standards and promptly investigating and prosecuting all acts of harassment against lawyers, and should take effective measures to ensure against reprisals of any kind against lawyers for representing persons who allege being tortured or ill-treated or who are otherwise involved in politically sensitive cases;**

(c) **The right to notify a relative or another person of their choice of their detention immediately upon apprehension;**

(d) **The right to request and receive, from the very outset of their deprivation of liberty, an examination by an independent medical doctor free of charge, or by a medical doctor of their own choice, in full confidentiality. In this regard, the State party should ensure that all alleged cases of torture and ill-treatment are promptly medically documented in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised, and that registers containing information on the injuries and other medical conditions of detainees are carefully maintained and should consider placing all health-care personnel under the responsibility of the Ministry of Health;**

[5] *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, second edition, para. 16 (a) (iii).

(e) **The right not to be subjected to torture or ill-treatment, including as a means for being compelled to make a confession or any other statement, and the right not to have any such statement used as evidence against the victim in any proceeding. In this regard, the State party should deliver a clear and effective message at the highest possible level that the use of such tactics will not be tolerated and should review cases in which convictions may have been based on such statements or evidence derived from such statements.**

D. Principal subjects of concern and recommendations

Principle of non-refoulement

14. The Committee is concerned that the Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act does not provide protections against refoulement for individuals at risk of being subjected to torture unless they also fit within the definition of "refugee" as defined by that Act. The Committee expresses its deep concern in particular over extraditions and renditions of individuals with perceived or real affiliations to the Hizmet/Gülen movement to Türkiye, including in cases where such individuals had pending asylum claims or in cases where extradition proceedings had not been concluded or where the case was the subject of a request for interim measures by the Committee, despite the existence of substantial grounds for believing that they would be in danger of being subjected to torture, as evidenced by decisions of the European Court of Human Rights,[6] the Working Group on Arbitrary Detention[7] and the Committee itself, including its decision in *A and B v. Azerbaijan*[8] (arts. 2, 3, 11, 13, 14 and 16).

15. **The State party should ensure that no person is expelled, returned or extradited to another State where there are substantial grounds for believing that they would be in danger of being subjected to torture. In particular, the State party should:**

(a) **Ensure that domestic law prohibits expulsion, return or extradition where there are substantial grounds for believing that a person would be in danger of being subjected to torture, regardless of whether the person fits within the definition of refugee under the Status of Refugees and Forcibly Displaced Persons (Persons Resettled in Azerbaijan) Act;**

(b) **Immediately cease all extrajudicial extraditions and renditions, including of individuals with perceived or real affiliations with the Hizmet/Gülen movement;**

(c) **Ensure that, in all cases where requests for extradition are received, individuals forming the object of such requests are provided with the opportunity to judicially challenge their extradition and appeal extradition decisions and that such challenges and appeals have suspensive effect;**

(d) **Ensure that each individual case is thoroughly assessed, taking into account both the overall situation with regard to torture in the country of return or extradition and the individual risk that an individual may face upon return;**

(e) **Ensure the implementation of the interim measures and decisions of international human rights mechanisms in good faith, including in cases such as *A and B v. Azerbaijan*.**

Allegations of torture and ill-treatment

16. The Committee is alarmed by widespread and persistent reports of the routine use of torture and ill-treatment in the State party, most notably by members of the State Security Service and by personnel of the Main Department for Combating Organized Crime of the Ministry of Internal Affairs. According to the information available to the Committee,

[6] European Court of Human Rights, *Shenturk and others v. Azerbaijan*, Application No. 41326/17 and others, Judgment, 10 March 2022.

[7] A/HRC/WGAD/2019/10.

[8] *A and B v. Azerbaijan* (CAT/C/74/D/905/2018).

including the reports of international monitoring mechanisms and decisions of the European Court of Human Rights, detained individuals appear to be frequently beaten by law enforcement officials with the aim of extracting confessions. In more harrowing cases, allegations include the use of electric shocks, beatings on the soles of the feet (*falaka*), binding with ropes in contorted positions, simulated suffocation, extraction of fingernails and sexual violence as a means of torture. The Committee is also concerned about reports of excessive use of force by law enforcement officials in the context of demonstrations, for instance, in connection with events in Soyudlu village in 2023. While noting at least one instance where authorities have publicly acknowledged the use of torture, the Committee is concerned by repeated high-level statements that appear to support the excessive use of force by law enforcement and promote impunity (arts. 2, 4, 11–13, 15 and 16).

17. **The State party should:**

(a) **Adopt an approach of zero tolerance of torture and ill-treatment and issue a clear and effective message from the highest possible level that torture and ill-treatment are unacceptable in all circumstances, so as to ensure individual accountability and protection against acts of torture and ill-treatment;**

(b) **Carry out prompt, impartial, thorough and effective investigations into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;**

(c) **Prosecute all persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims and/or their family members are afforded appropriate redress and compensation in a timely manner;**

(d) **Make and maintain video recordings of all interrogations and install closed-circuit television in all areas of places of deprivation of liberty where detained individuals may be held, except where doing so would give rise to violations of detainees' right to privacy or the confidentiality of their conversations with their counsel or doctor, and ensure that persons who have made allegations of torture and ill-treatment and their representatives are provided with access to recordings concerning complaints or allegations that they wish to substantiate;**

(e) **Provide all police officers, especially those deployed to control demonstrations, with systematic training on the use of force based on the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. The State party should also consider incorporating the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests**[9] **into its training curricula and should ensure that those responsible for excessive use of force are held to account.**

Conditions of detention

18. While noting recent efforts to improve conditions of detention in the State party, including through the construction of new penitentiary facilities in Zabrat, Umbaki and Lankaran and through reforms implemented through Presidential Order No. 2668 of 10 February 2017, the Committee remains concerned that:

(a) Several prisons and pretrial detention centres continue to have poor material conditions, including crumbling walls, humidity, poor ventilation, lack of access to natural light and insalubrious conditions, notably Ganja Pretrial Detention Facility No. 2 and Shuvalan Pretrial Detention Facility No. 3;

(b) In many places of deprivation of liberty, detainees continue to suffer from high rates of overcrowding, such as in Baku Pretrial Detention Facility;

[9] A/HRC/55/60.

(c) Prisons and pretrial detention centres lack sufficient medical equipment and medicines and do not have adequate programmes to tackle drug use among detainees, including opioid substitution therapy, or infections associated with narcotic consumption;

(d) Comprehensive data regarding the number and causes of deaths in custody, along with investigations and prosecutions regarding deaths in custody, was not provided to the Committee;

(e) In prisons and pretrial detention centres, detainees suffer from shortages in custodial and medical staff, including nurses and staff qualified in the provision of psychological and psychiatric assistance;

(f) Corruption among prison guards remains a problem and prisoners are sometimes required to pay for access to basic services that they should be entitled to free of charge;

(g) Prisons and pretrial detention centres lack sufficient meaningful activities, such as educational or vocational training, which contribute to the social reintegration of detainees, or the ability to engage in work while in detention;

(h) Solitary confinement may continue for periods beyond 15 days and medical doctors are involved in certifying prisoners as fit to undergo punishment, having a detrimental effect on their relationship with patients. In addition, while the Committee welcomes information that solitary confinement is no longer used on children in practice, it is concerned that the placement of children in solitary confinement is still permitted by law (arts. 2, 3, 11 and 16).

19. **The State party should:**

(a) **Continue its efforts to improve the conditions of detention in all places of deprivation of liberty and alleviate the overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures and the recruitment of an adequate quantity of trained staff. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **Ensure that all necessary measures are taken to ensure the right of persons deprived of their liberty to the highest attainable standard of health, inter alia, through the provision of the necessary human, material and financial resources, including the hiring of an increased number of physicians, nurses, psychiatrists and other medical personnel, and through the introduction of drug rehabilitation programmes, which provide not only psychological and social assistance, but also provide effective and continued medical interventions for detainees suffering from different forms of addiction;**

(c) **Adopt measures to ensure that all deaths in custody are investigated in a prompt and impartial manner by an independent body, taking into account the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and maintain up-to-date and disaggregated data on deaths in custody as a measure by which to more effectively prevent them;**

(d) **Assess the effectiveness of strategies and programmes for the prevention of suicide, self-harm and violence, evaluate the existing programmes for the prevention, detection and treatment of chronic, degenerative and infectious diseases in prisons and continue improving medical treatment in places of deprivation of liberty, in particular in pretrial and temporary detention facilities;**

(e) **Take judicial and disciplinary proceedings, as well as preventive measures, against officials and other custodial personnel responsible for corruption in the penitentiary system;**

(f) **Take steps to strengthen access to rehabilitation and reintegration programmes in all places of deprivation of liberty, including by providing all detainees with meaningful activities, vocational training and education, with a view to supporting their rehabilitation and reintegration into the community;**

(g) **Use solitary confinement only in exceptional cases as a last resort, for the shortest duration possible (no more than 15 days) and subject to independent review, and only upon authorization by a competent official, in accordance with rules 43 to 46 of the Nelson Mandela Rules. The use of solitary confinement on children should be prohibited by law.**

Harassment of human rights defenders and journalists

20. The Committee is concerned that human rights defenders and journalists continue to face both physical and judicial harassment and, in some cases, are subjected to torture and ill-treatment. In this regard, the Committee notes the allegations concerning the torture of human rights defender Tofig Yagublu, the violent abduction and torture of human rights defender Bakhtiyar Hajiyev, and the arrests of and denial of medical treatment for journalists Avaz Zeynalli and Alasgar Mammadli and is concerned that full, independent and effective investigations into these allegations and prosecutions of the perpetrators of these and other incidents have not taken place. The Committee is also concerned about allegations regarding shrinking civic space and the suppression of independent voices in the State party more generally, including the arrests of journalists associated with Abzas Media and Toplum TV, the imposition of burdensome or prohibitive legal, financial and administrative requirements for civil society and media organizations, such as those contained in the Law on Media, and the high number of arrests and detentions in the State party that are reported to have been made on the basis of alleged political motives (arts. 2, 4, 11–13 and 16).

21. **The State party should ensure that all human rights defenders and journalists are able to carry out their legitimate work in an enabling environment, free from threats, reprisals, violence or other forms of harassment and, mindful that a free and vibrant civil society is a key element in the prevention of torture and ill-treatment, the State party should amend its legislation in line with international standards regarding the regulation of civil society and media organizations, respecting their rights to freedom of expression, association and peaceful assembly. The Committee recalls and reiterates its previous recommendations[10] to release all human rights defenders and journalists who are arbitrarily detained as a result of exercising their rights to defend rights and freely express themselves and investigate promptly, thoroughly and impartially all allegations of arbitrary arrest, the denial of adequate medical treatment and other torture or ill-treatment of human rights defenders and journalists, including those listed above, prosecute and punish appropriately those found guilty and provide victims with redress.**

Nagorno-Karabakh conflict

22. The Committee is deeply concerned by reports of severe and grave violations of international humanitarian law and human rights law committed by Azerbaijani military forces against prisoners of war and other protected persons of Armenian ethnic or national origin, including extrajudicial killings, torture and other ill-treatment, and the recording and dissemination of videos that appear to depict horrifying acts involving beheadings of living individuals, the desecration and mutilation of corpses and acknowledgment on camera by the perpetrators of responsibility for such abuses in a manner that strongly suggests that they did not fear being held accountable. The Committee notes the information provided by the State party regarding efforts to prosecute five cases, however, according to the information provided, none of the sentences imposed in those cases were for extrajudicial killings, torture or ill-treatment and no sentence required the imprisonment of any offender. The Committee underscores the need for independent, impartial, transparent and effective investigations into allegations of extrajudicial killings, torture and ill-treatment and the prosecution of those responsible. The Committee also expresses its deep concern regarding the State party's

[10] CAT/C/AZE/CO/4, paras. 11 (a) and (b).

conduct of what it describes as anti-terrorism operations, including its concern regarding the continued detention of what the State party describes as 23 individuals in connection with terrorism and related offences (arts. 2, 4, 11–13, 15, 16).

23. **The Committee underscores that the prohibition of torture is non-derogable, that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture and that the obligations stemming from this prohibition are not subject to reciprocity. The Committee recalls that the Geneva Convention relative to the Treatment of Prisoners of War applies to all cases of armed conflict between two high contracting parties, including outside of cases of declared war. In this regard, the Committee recommends that the State party:**

(a) **Make clear at the highest levels that any violations of international humanitarian law and human rights law related to the conflict in the region, or otherwise related to the treatment of ethnic or national Armenians, are completely unacceptable, conduct prompt, independent, impartial, transparent and effective investigations into all allegations of violations of international humanitarian law and human rights law committed by Azerbaijani service members and law enforcement officials in the context of hostilities in the region and the capture of combatants, including allegations of extrajudicial executions, torture and ill-treatment, prosecute and punish appropriately those determined to be responsible and provide victims or their families with redress and compensation;**

(b) **Ensure that investigations and prosecutions include the acts of any persons in a position of command or superior responsibility who knew or should have known that his or her subordinates had committed, or were likely to commit, extrajudicial executions, torture or ill-treatment or other war crimes and failed to take reasonable and necessary preventive measures;**

(c) **Ensure that international humanitarian law is applied during all international and non-international armed conflicts to which the State party is a party, including the relevant and applicable provisions relating to the detention, immunity and release of combatants, the establishment of a central tracing agency and access for the International Committee of the Red Cross to all premises where prisoners of war may be held;**

(d) **Consider acceding to the Rome Statute of the International Criminal Court or, at a minimum, accepting the jurisdiction of the Court by making a declaration under article 12 (3) of the Rome Statute and otherwise cooperating with the Court.**

Hate crimes, hate speech and discrimination

24. The Committee is concerned about the effect that discriminatory statements made by high-level officials and disseminated in both online and offline media may have in creating an environment that greatly increases the likelihood of the commission of violence against persons of Armenian national or ethnic origin and other minority groups. The Committee is similarly concerned about the low number of prosecutions and convictions under article 283 of the Criminal Code and regrets that article 283 does not criminalize incitement to violence, nor does it expressly include the grounds of colour, language, citizenship or ethnic origin as bases for discrimination (arts. 2, 4, 11–13 and 16).

25. **The State party should publicly condemn, at the highest levels, hate speech, threats and attacks against persons of Armenian national or ethnic origin and all other minority groups and refrain from endorsing, through action or omission, such threats and attacks by ensuring their prompt, thorough and effective investigation, whoever the perpetrator may be, including any alleged discriminatory motives that may provoke such actions, guaranteeing that those responsible are tried and punished in accordance with the gravity of their acts.**

Lesbian, gay, bisexual and transgender persons

26. The Committee is concerned about reports of violence, hate crimes and discrimination against lesbian, gay, bisexual and transgender persons in the State party, including violence and acts of humiliation carried out by State officials. The Committee is similarly concerned about information it has received indicating that complaints of violence against, and harassment and ill-treatment of, lesbian, gay, bisexual and transgender persons are not adequately investigated or prosecuted. The Committee is also concerned that no provision in the State party's legislation expressly criminalizes hate crimes, hate speech or discrimination on the grounds of sexual orientation or gender identity.

27. **The State party should take measures to prevent violence and discrimination against lesbian, gay, bisexual and transgender persons on the basis of their sexual orientation and gender expression or identity and ensure that all acts of violence against lesbian, gay, bisexual and transgender persons, including those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims or their families receive redress, including adequate compensation and rehabilitation. The State party should also consider expressly criminalizing hate crimes and hate speech targeted at lesbian, gay, bisexual and transgender persons and consider including sexual orientation and gender identity as a prohibited form of discrimination in its domestic legislation.**

Gender-based and domestic violence

28. The Committee is concerned that gender-based and domestic violence continue to pose problems in the State party, that there is an environment that adversely affects the willingness of victims to come forward with complaints and that the complaints of victims that do come forward often do not lead to investigations or prosecutions. The Committee is also concerned that, in the studies carried out by the authorities in 2023, they failed to uncover any cases of sexual violence in the State party (arts. 2, 12–13 and 16).

29. **The State party should ensure that all acts of gender-based and domestic violence, including those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, including through the initiation of ex officio investigations, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims or their families receive redress, including adequate compensation and rehabilitation. The State party should also take the measures necessary to prevent all forms of violence against women, provide mandatory training on sexual and gender-based violence for law enforcement officials, social workers, medical personnel, lawyers, prosecutors and judges and consider becoming a party to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.**

Corporal punishment

30. While welcoming the fact that corporal punishment is considered unlawful in schools, the Committee is concerned that the State party's legislation has not been interpreted as prohibiting corporal punishment in all settings, including the home, alternative care settings and early childhood care settings, despite recommendations accepted by the State party to this effect during the first, second and third cycles of the universal periodic review (arts. 2 and 16).

31. **The State party should explicitly prohibit the use of corporal punishment in all settings, including at home and in institutional childcare and day-care centres where adults exercise parental authority over children, and raise public awareness of positive, participatory and non-violent forms of discipline. It should also consider adopting the draft law on the protection of children from corporal punishment and ensure its conformity with international standards.**

Training

32. The Committee welcomes the efforts of the State party to include the Istanbul Protocol, as revised, into its training curricula for medical professionals, judges and law enforcement officials. It similarly welcomes the incorporation of training on the Convention into such training. It regrets, however, that instruction on the Convention does not form part of the mandatory initial and ongoing training of all law enforcement personnel (art. 10).

33. **The Committee recommends that the State party provide mandatory training on the provisions of the Convention for all law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. It also recommends that the State party ensure that the Istanbul Protocol, as revised, forms an essential part of the training of all medical professionals and other public officials working with persons deprived of their liberty. In this regard, the State party should develop methodologies to assess the impact of these training programmes. The State party should also consider incorporating the Principles on Effective Interviewing for Investigations and Information-Gathering into future initiatives to review and revise interrogation techniques.**

Publication of reports

34. The Committee regrets that several reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, remain unpublished and underscores that the enhanced transparency that can be achieved through the publication of such reports can serve to greatly enhance trust in the criminal justice system and confidence in the commitment of the authorities to combat all traces of torture and ill-treatment.

35. **The Committee urges the State party to agree to the publication of all past, pending and future reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Subcommittee on Prevention of Torture.**

Investigation and prosecution of acts of torture and ill-treatment

36. The Committee regrets that the State party did not provide detailed statistical information regarding the number of complaints, investigations, prosecutions and convictions regarding torture and ill-treatment, along with detailed information on the sentences handed down. Regarding the effectiveness of independent investigations, the Committee is concerned that law enforcement officials implicated in acts of torture and ill-treatment may be involved in the collection of evidence related to the alleged offence. It is also concerned about allegations that prison administration and detention centre officials monitor correspondence with judicial authorities and the Ombudsman involving complaints of torture and ill-treatment, supervise lawyer-client meetings and have limited lawyers from bringing documents in and out of detention centres (arts. 2, 4, 11–13 and 16).

37. **The State party should ensure that all complaints of torture or ill-treatment are investigated promptly and impartially by an independent institution, that suspected officials are suspended from duty immediately for the duration of the investigation, in particular where there is a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim, interfere in the collection of evidence or otherwise obstruct the investigation, subject to the principle of the presumption of innocence, and ensure that the alleged perpetrators are duly prosecuted and, if found guilty, given a sentence commensurate with the gravity of their acts. The State party should similarly ensure, in both law and practice, that authorities are empowered and obliged to open an investigation ex officio in the absence of a complaint whenever there are reasonable grounds for believing that an act of torture or ill-treatment has been committed. The Committee recommends that the State party ensure the availability of an independent, effective, confidential and accessible complaint**

mechanism in all places of detention, including prisons and police custody facilities, and protect victims and witnesses and members of their families from any risk of reprisals.

Redress

38. While the Committee notes information provided by the State party regarding access to compensation for victims of torture, it regrets that no information was provided regarding the number of instances in which victims of torture and ill-treatment have received monetary compensation or on the amounts received (art. 14).

39. **The State party should ensure that all victims of torture and ill-treatment obtain redress, including by ensuring an enforceable right to fair and adequate compensation and the means for as full a rehabilitation as possible. The State party should compile and provide to the Committee information on redress, including means of rehabilitation, ordered by the courts or other State bodies and actually provided to victims of torture or ill-treatment. The State party may consider contributing to the United Nations Voluntary Fund for Victims of Torture.**

Data collection

40. The Committee regrets the failure of the State party to provide the Committee with comprehensive and disaggregated statistical data on cases of torture and other cruel, inhuman or degrading treatment or punishment, including allegations of police violence and excessive use of force, and on other matters for which the Committee requested such data. The Committee notes that a focused and coordinated system of data compilation and analysis is necessary to effectively monitor the State party's implementation of its obligations under the Convention (arts. 2, 11–13 and 16).

41. **The State party should intensify its efforts to compile and publish comprehensive disaggregated statistical information on all matters relevant to its obligations under the Convention, including on all complaints and reports received of torture, ill-treatment, excessive use of force and abuse of power concerning public officials, including information on whether such complaints led to investigations and, if so, by which authority, whether the investigation resulted in the imposition of disciplinary measures or prosecutions and whether the victims obtained redress.**

Follow-up procedure

42. **The Committee requests the State party to provide, by 10 May 2025, information on follow-up to the Committee's recommendations on access to and the independence of lawyers, the adoption of an approach of zero tolerance of torture, the protection of human rights defenders and journalists and the investigation and prosecution of violations of international humanitarian and human rights law in connection with hostilities in the region concerned (see paras. 13 (b), 17 (a), 21 and 23 (a) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, the remaining recommendations in the present concluding observations.**

Other issues

43. **The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.**

44. **The Committee requests the State party to submit its next periodic report, which will be its sixth, by 10 May 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its sixth periodic report under article 19 of the Convention.**