

# CONVENTION AGAINST TORTURE AND OTHER CRUEL INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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Prepared based on the fourth periodic report of the **Republic of Armenia** related to UN **Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment**



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## **The situation related to the cases of torture and mistreatment**

Though Armenia has joined the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and its optional protocol, as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, systematic and massive violations are observed regarding inhuman treatment and humiliation both at places of detention and during mass actions.

The key facts proved that the country does not comply with the Convention:

- Detention facilities are not compatible with the minimum standards, including the European Prison Rules;
- The number of suicides is high at detention facilities;
- Most Azerbaijani citizens captured and taken hostage die or lose their health forever because of severe torture;
- Inadequate forces are applied during mass actions and as a result people are subject to torture and other types of cruel treatment.

The government almost has no effective legislation and practical activities in prevention of torture.

"The fact that torture is not duly criminalized in Armenia, as well as failure to ensure effective investigation into allegations of torture results in one more problem: torture perpetrators are not brought to justice. This contributes to impunity amongst law-enforcement agents for torture. As torture in terms of the UN Convention is criminalized under different articles of the ACC, it is not possible to ensure that amnesty is not granted to torture perpetrators. In light of the frequency of granting amnesties in Armenia, it becomes a pending issue. Moreover, the SIS has the following practice: criminal prosecution is discontinued on the ground of the "change of the situation," if the police officers in question are fired. Importantly, in such a case police officers are not banned from rejoining the police service in the future. The case presented below took place in 2012-2013. It is a perfect illustration of the actual situation with the fight against torture and impunity for it in Armenia"<sup>1</sup>.

Intolerable conditions and cases of mistreatment lead to increase of suicides (as well as they cause injuries to their bodies) among prisoners at penitentiary institutions.

The report titled "**Armenian Prisoners in Extreme Protests**" signed by the **Institute for War and Peace Reporting** reads that "Armenia's prison system has been rocked by an outbreak of protests, as inmates engage in extreme acts such as self-mutilation in an attempt to draw attention to poor conditions. Some prisoners have sewn up their mouths, and one man cut off a finger, in what human rights activists say is a desperate response to a system that denies convicts basic rights and conditions. Avetik Iskhanyan, head of the Armenian Helsinki Committee, says that while there are no statistics for the number of prisoners harming themselves, it is a common occurrence." "I myself witnessed one prisoner nailing his foot to the floor in the Goris prison, and in both Nubarashen and Goris, I have seen prisoners who have sewn up their eyes and mouths," Iskhanyan told IWPR. "If we hadn't visited these prisons, we would never have found out"<sup>2</sup>

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<sup>1</sup>Source: <http://hra.am/i/up/torturereport2601eng.pdf>

<sup>2</sup> Institute for War and Peace Reporting. Source: <http://www.refworld.org/topic,50ffbce582,50ffbce5ee,5108e8ff2,0,IWPR,,ARM.html>

It is a common case for Armenian penitentiary institutions that persons captured and taken hostage face torture, degrading treatment and lack access to medicine, and there are a lot of information in various sources about it.

The Working Group of the State Committee for citizens captured, lost and taken hostage reported many facts in this respect. For instance, though Guliyeva Samaye Mammad taken hostage together with her two minor children during the acquisition of Kelbejer district is under the supervision of the ICRC, she was subject to violence of Armenian militants and caught tuberculosis because of being forced to work regularly with cold water for more than a year, but she was not provided any medical aid and her disease developed to the open form of TB. Samaya's children were also infected to this disease. It was defined that **554** Azerbaijani citizens, including **104** women who were captured and taken hostage, were killed in captivity-hostage and died as a result of inhuman treatment.

The above facts were recorded before the reporting period, but the cases of torture, degrading and mistreatment against captives and hostages are continued in Armenia.

### **Treatment with captives and hostages**

#### ***Regarding violation of the requirements of the articles 1,2,5,6, 11, 12 and 15 of the Convention***

Dilgam Asgarov who was born in the Republic of Azerbaijan went to visit the graves of his parents in Shaplar village (where he was born) of Kelbejer district of the Republic of Azerbaijan together with Hasan Hasanov and Shahbaz Guliyev on May 20, 2014 and was taken hostage by Armenian armed forces. Those persons live in Russian Federation and visit Azerbaijan during their vacations every year. In vacations, they visited the graves of Dilgam's parents in Kelbejer district controlled by the armed forces of the Republic of Armenia. During their last visit to the graves of his parents, Dilgam Asgarov was taken hostage together with his friends.

It was reported on the media of the Republic of Armenia on July 14, 2014. According to the information disseminated by the Armenian side, as if they were detained while attempting to sabotage in the direction of Kelbejer district<sup>3</sup>.



Dilgam Asgarov while visiting his mother's grave in Shaplar village of Kelbejer district controlled by the armed forces of the Republic of Armenia

<sup>3</sup> <http://www.panorama.am/en/news/2014/07/15/crim-case-azeri/243175>

Kelbejer district was seized by the troops of the Republic of Armenia in 1993<sup>4</sup>. Kelbejer district is located within the administrative territory of Nagorno Karabakh Autonomous Region, but the district has never been a part of this region. The armed forces of the Republic of Armenia arrested those three friends outside the boundaries of the so-called “NKR”.

They were taken hostage in a territory that is not effectively controlled by Azerbaijan as it was annexed by the armed forces of the Republic of Armenia, and exposed to severe tortures, inhuman and degrading treatment. As a result of harsh tortures, 36-year-old Hasan Hasanov, one of the hostages, lost his life.

Though Azerbaijan has joined the UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment<sup>5</sup> and its Optional Protocols, it is not possible to fulfill the requirements of the Convention in the territories of Nagorno Karabakh Region and surrounding seven districts was seized by the Republic of Armenia. Those areas are controlled by Armenian force.

The illegitimate court of the management unit established in the territories of the Republic of Azerbaijan seized by the Republic of Armenia sentenced *Dilgam Asgarov to life imprisonment and Shahbaz Guliyev to 22 years of imprisonment*. Another Azerbaijani citizen Hasan Hasanov was savagely killed while taking hostage.

The only “sin” of those people was to go to their motherland and visit the destroyed graves of their parents.

The requirements of the Geneva Convention on the “Protection of Civilian Persons in Time of War” adopted on 12 August 1949 were roughly violated with respect to the civilian population during the acquisition of the district, civilian population were forced to leave their homes and all possessions and escape to other places of the country. During the annexation, all those, who were not leave the district, were taken hostage and most of them were killed brutally being exposed to severe tortures, however few people were returned to Azerbaijan after a long period of captivity.

According to the requirements of the Geneva Convention, the country exercising effective control over the seized territories has to bear special responsibilities and ensure their inviolability and safety. In this regard, some people are to visit their native places in a hidden way and face the risk of being held hostage. Like others, Dilgam Asgarov, Shahbaz Guliyev and Hasan Hasanov went to the village of their birth to visit the ruined graves of their parents without crossing the borders of any state and were taken hostage by Armenian armed forces over there. One of the hostages was killed with special cruelty.

Other two persons – Dilgam Asgarov and Shahbaz Guliyev were tried on spurious charges at a fake court.

The taking of hostages is prohibited in accordance with the article 34 of the Geneva Convention on the “Protection of Civilian Persons in Time of War” adopted on 12 August 1949.

### ***Hostages are subject to torture***

Armenian media circulated a video, which shows how people in masks, harshly wrung the arms of Mr Askerov pointing the gun on him and dragged him into somebody’s office. As it is clearly seen from another video footage released by Armenian media, both Azerbaijani hostages were brought to the court blindfolded. Such treatment can be considered degrading since it was such

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<sup>4</sup>See: UN Security Council Resolution 822 (1993): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N93/247/71/IMG/N9324771.pdf?OpenElement>

<sup>5</sup>Source: <http://e-qanun.gov.az/framework/4087>

as to arouse in their victims feelings of fear, anguish and inferiority capable of humiliating and debasing them and possibly breaking their physical or moral resistance. Military and masked Special Forces personnel presenting at the court further aggravated their psychological state. This also demonstrates further evidence of lack of fair trial proceedings.



While being taken to the illegitimate trial





### Illegitimate trial

As regards the applicant's conditions of detention, it should be noted that Guliyev and Askerov are kept in very strict isolation. They have no contact with other inmates, no news from the outside – not permitted to send or receive mail, except during ICRC visits (pressured by the Azerbaijani government, the contents of the letters received remain the same), and no right to contact independent lawyers or receive visits from their families. The whereabouts and conditions of their cells are unknown. The video footage shows that hostages were also deprived of food and that in any event, given the restrictions on receiving parcels, even the food they received is unfit for consumption. The video, filmed in the courtroom, shows that these men appear to have lost a lot of weight. Before the capture 95-110 kg, now up to 50-65 kg. They hardly speak, answering the questions of the court, while remaining virtually without movement. Below the eyes of detainees "bags" can be seen clearly. This is a sign that they are already in danger of serious diseases of internal organs, nervous system, kidneys, heart, intestines or stomach. The fact that they cannot move on their own and hardly pronounce the words may indicate that their body is completely exhausted.

Thus, they did not receive proper care, having been deprived of regular medical examinations and treatment and dietetically appropriate meals. In addition, owing to the restrictions on receiving parcels, they could not be sent medicines and food to improve their health.

During the long period the hostages spent in detention, they live in the constant fear of sentence by the illegal and hostile authorities. Mr Askerov is facing life-imprisonment while Mr Guliyev 22 years of imprisonment. Unable to exercise any remedy, they are being forced to live in bad conditions of detention likely to remind them on prospect to receive life imprisonment for crimes he has been accused of. Without any public control and monitoring their resistance to cooperate with separatist authorities can directly lead to ill-treatment.

It can be concluded that the treatment they suffer must accordingly be considered inhuman and degrading treatment within the meaning of Article 1 of the Convention.

Armenia has violated the requirements of the articles 1,2,5,6, 11, 12 and 15 of the Convention against the hostages.

The Republic of Armenia applied torture, degrading treatment and punishment to civilians taken hostage in the past and as a result many people died of tortures in previous years, as well.

**554** out of **877** persons (including 27 children, 99 women and 114 elderly people) taken captive and hostage were killed in previous years. The persons died of inhuman treatment included **104** women.

### **Recommendation**

The Republic of Armenia should create effective mechanisms preventing torture, degrading treatment and punishments applied to civilians taken hostage.

It should be noted that Armenia are responsible for murders, tortures and degrading treatments committed in the territories of the Republic of Azerbaijan under the effective control of the Republic of Armenia.