# ALTERNATIVE REPORT ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS BY AZERBAIJAN

### SUBMITTED BY ARMENIAN ATLANTIC ASSOCIATION (AAA) NGO IN COOPERATION WITH PUBLIC COUNCIL FOR FOREIGN AND SECURITY POLICY (FSPC) NGO IN SEPTEMBER, 2016

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# **Introduction**

This alternative report is to be submitted to the UN Human Rights Committee has been developed by the Armenian Atlantic Association (AAA) NGO active in the Republic of Armenia in cooperation with Public Council for Foreign and Security Policy NGO based in the Nagorno Karabakh Republic.

The **Armenian Atlantic Association** (AAA) (website: <u>http://euro-atlantic.am/</u> tel: (+374 10) 582638; (+374 10) 528321; Fax (+374 10) 527082) is a non-governmental organization established on October 30, 2001 that aims to foster Armenia's links with the North Atlantic Treaty Organization (NATO) and promote better understanding within Armenia of NATO's mission and activities in the changing international environment. The AAA engages in security and other related policy research and advocacy, providing analysis and research of Armenia's subsequent policies by placing those within regional and global security scenes. Policy monitoring is another pivot of its activities. AAA regularly organizes national and international conferences, seminars, panel discussions, and public lectures. For years it has been an active contributor to NATO rallies in Armenia, thus reaching out to the Armenian public nationwide. Prioritizing transparency and accountability, AAA also organizes public discussions on relevant policy issues at both local and national levels.

**Public Council for Foreign and Security Policy (FSPC)** (website: <u>http://FSPC-Artsakh.org/</u>) is a Stepanakert-based non-governmental partnership and think-tank, dealing with the Nagorno Karabakh and other conflicts, Armenian-Turkish relations as well as Caucasus regional issues.

These two organizations work regularly with people who face discrimination and associated disadvantage. The contributions cite extensive research to demonstrate areas where the Azerbaijani government fails to meet its obligations under the Covenant.

This report considers anti-Armenian manifestations in Azerbaijan in light of implementation of its commitments under relevant articles of the Covenant.

# <u>Article 1</u> <u>Right of self-determination</u>

Although Azerbaijan tries to "reaffirm its commitment to recognize the right of peoples to self-determination", it is evident that Azerbaijan manifestly violates provisions of Article 1 of the International Covenant on Civil and Political Rights. The violation is stipulated in Article 11 of the Constitution of the Republic of Azerbaijan:

"The territory of the Azerbaijan Republic is sole, inviolable and indivisible. [...] No part of territory of the Azerbaijan Republic may be estranged. The Azerbaijan Republic will not give any part of its territory to anybody; state borders of the Azerbaijan Republic might be changed only by free decision of its people made by way of referendum declared by Milli Majlis of the Azerbaijan Republic"<sup>1</sup>.

In fact, the Azerbaijani Constitution rejects the right of self-determination of its ethnoterritorial entities by stipulating that the borders can be changed *only* by the Parliament on the basis of the will of the Azerbaijani people. This approach clearly reflects Azerbaijan's unconstructive stance on Nagorno-Karabakh conflict where Azerbaijan tries to impose its own viewpoints concerning the question of self-determination of the people of Nagorno-Karabakh.

The Human Rights Committee in its Concluding observations (see CCPR/C/79/Add.38) "is concerned by the status of the Covenant within the Azerbaijani legal system and by the lack of clarity regarding the resolution of possible conflicts between the Covenant and national law".

Nothing is changed in Azerbaijani approaches regarding implementation of the right to self-determination after Committee's position when it "regrets Azerbaijani position in its initial report regarding the principle of self-determination. In that connection, it recalls that, under article 1 of the Covenant, that principle applies to all peoples and not merely to colonized peoples (see CCPR/C/79/Add.38).

In reality the right to self-determination is the right of a people to determine its own destiny. According to this principle that allows a people to choose its own political status and to determine its own form of economic, cultural and social development, on 10 December 1991, the people of Nagorno-Karabakh established an independent state – the Nagorno-Karabakh Republic (NKR) – by a referendum held in full compliance with USSR laws and norms of public international law. Thus, the people of Nagorno-Karabakh exercised their right to self-determination. This decision came as a result of decades-long policy of ethnic cleansings, blatant violations of human rights and the strategy of hampering social, economic and cultural development conducted by Azerbaijani SSR authorities in the Armenian populated Nagorno-Karabakh Autonomous Oblast (NKAO) which was illegally and forcibly transferred to the Azerbaijani SSR by the leadership of the Soviet Russia in 1921 (See Annex 1). Thus, historic justice was restored as Nagorno-Karabakh had never been the part of the independent Azerbaijan

As an answer to the will of Nagorno-Karabakh's people to freely determine their political status, Azerbaijan unleashed pogroms in Azerbaijani towns with large Armenian communities (Baku, Sumgait, Kirovabad, etc.) and aggression against the people of Nagorno-Karabakh, which resulted in the war of 1992-1994. Since the establishment of the trilateral ceasefire in 1994 between Azerbaijan, NKR and Armenia, Azerbaijani authorities have followed a destructive policy of dismissal of the people's right to self-determination by all means including threats to resort to military means and provocations of hostilities on Armenia-Azerbaijan state border and Nagorno-Karabakh-Azerbaijan line of contact (*see information on Article 20*). Those actions

<sup>&</sup>lt;sup>1</sup> The Constitution of the Republic of Azerbaijan - <u>http://en.president.az/azerbaijan/constitution</u>

have been conducted despite the ongoing peace negotiations and international community's calls to refrain from use of force or threats of use of force in conflict resolution.

The peace negotiations on the Nagorno Karabakh conflict settlement are currently under the auspices of the OSCE Minsk Group Co-chair countries (France, Russia, USA), which is the only internationally mandated body dealing with the NK conflict resolution. Minsk Group Co-Chairs have recognized the right of self-determination of the people of Nagorno-Karabakh repeatedly stating that the conflict should be settled on the basis of principles of non-use of force or threat of force, territorial integrity, and the equal rights and self-determination of peoples<sup>2</sup>. However, in their official statements Azerbaijani authorities attempt to subordinate the right of self-determination to the principle of territorial integrity and, in some cases, completely reject the significance of self-determination thus undermining the peace process and breaching core international instruments, including Article 1 of the Covenant. Unfortunately, Azerbaijani authorities do not realize that there is no hierarchy in international law between the principles of territorial integrity of the state and the peoples' right to self-determination, and that the suppression or rejection of the latter, as well as violence and use of force cannot bring the resolution of the conflict any closer.

Nagorno-Karabakh Republic (NKR) turns a 25-year-old *de facto* independent entity in 2016, with its fully-functioning state administration, democratic state institutions and permanent population. NKR has a clearly defined territory and essential capabilities to ensure security of its borders and living conditions of its population. The people of Nagorno-Karabakh freely exercise their political and civil rights through direct elections and referenda, which are overseen by international observers<sup>3</sup>. Moreover, NKR has successfully established contacts with political figures, statesmen and parliamentarians of various countries (France, Russia, Germany, Uruguay, Switzerland, Lithuania, etc.), as well as the European Parliament. NKR has representative offices in Armenia, France, Germany, USA, Russia, Lebanon and Australia. As of today, the right of self-determination of the people of Nagorno-Karabakh and/or the independence of NKR was recognized by legislative bodies of several entities<sup>4</sup>.

# <u>Article 2, 26, 27</u> <u>Non discrimination, equal protection and ensuring of minorities rights</u>

The Government of Azerbaijan in its Report declares that various ethnic minorities have been living in peace along with Azerbaijani people and any discrimination or intolerance base on ethnicity, religion, language and cultural differences have not been recorded. This is another obvious attempt to mislead the international community through concealing the fact of

<sup>4</sup> List of legislative bodies that recognized the right of self-determination of the people of Nagorno-Karabakh and/or the independence of NKR: the House of Representatives of the US State of Rhode Island (on 17.05.2012), the House of Representatives of the Commonwealth of US State of Massachusetts (on 6.08.2012), the House of Representatives and Senate of the US State of Maine (10.04.2013), the US Senate of Louisiana (30.05.2013), the US

<sup>&</sup>lt;sup>2</sup> See the Statements of the heads of delegation of the Minsk Group Co-chairs Countries of December 1, 2009 (Athens); of December 6, 2011 (Vilnius); of December 6, 2012 (Dublin); the OSCE Ministerial Council Statements of Helsinki (2008), Athens (2009), Astana (2010) and Basel (2014); the statements of the Presidents of the OSCE Minsk Group Co-Chair Countries at the Summits in L'Aquila (July 2009); Muskoka (June 2010); Deauville (May 26, 2011); Los Cabos (June 19, 2012); Enniskillen (June 18, 2013).

<sup>&</sup>lt;sup>3</sup> See Annexes 12-14 in "Nagorno-Karabagh: Legal Aspects" by Shahen Avakian, Moscow 2015, p. 77-111 - <u>http://karabakhfacts.com/wp-content/uploads/2010/01/Legal-Aspects\_Nagorno-Karabagh\_en\_2015.pdf</u>

California State Senate (28.04.2014), Legislative Council of New South Wales Parliament, Australia (25.10.2012), Board of Supervisors of Fresno County, California, US (23.04.2013), the City Council of Los Angeles, US (28.01.2014), the Basque Parliament (12.09.2014) etc.

extermination of the Armenian population of Azerbaijan, which once formed a sizable community in the country, particularly in Baku, Kirovabad (Gandzak) and Sumgait.

Since late 1980s Azerbaijani authorities launched the policy of intentional extermination of Armenian population, which at that time amounted to 450.000<sup>5</sup>. This constituted a blatant violation of core international instruments, including the International Covenant on Civil and Political Rights, in particular, its articles 2, 26 and 27.

Sumgait tragedy and its bloody repetitions in Azerbaijan in 1988-1991 led to the total disappearance of the Armenian minority of Azerbaijan and the military aggression against the people<sup>6</sup> of Nagorno Karabakh in 1992-1994, in response to their peaceful demand for self-determination.

Currently no Armenians live in Azerbaijan, although on different occasions the Azerbaijani authorities cite false numbers, often contradicting each other. That delusional approach was also noted by the Advisory Committee of the Council of Europe Framework Convention for the Protection of National Minorities in its Third opinion on Azerbaijan<sup>7</sup> adopted in October, 2012, stating that only 306 persons indicated an ethnic Armenian origin in the 2009 census. Therefore, any information contained in the report regarding activities aimed at protection of rights of Armenians is obviously deceitful (for instance, information on the implementation of Article 27 of the Covenant). International bodies, including various UN treaty bodies, consistently expressed concern that information provided by the State party in this regard contrasts with information received from numerous national and international non-governmental sources.

State-sponsored Armenophobia is manifested in Azerbaijan in various forms, such as glorification of a murderer of an Armenian, dissemination of anti-Armenian hatred, vandalism against Armenian cultural monuments, persecution of persons calling for reconciliation with Armenians, prohibition for people with Armenian surnames, as well as those resembling Armenian ones to enter the country, regardless of their citizenship, etc.

#### Safarov case cultivating a sense of impunity for the perpetrators of racist offence

The most appalling evidence of manifestation of extreme racism was pardoning, release and state-public glorification of Ramil Safarov in 2012, an Azerbaijani officer who brutally murdered a sleeping Armenian officer with an axe during a NATO seminar in Budapest, Hungary in 2004. Immediately after he had been transferred from Hungary to Azerbaijan in order to continue life imprisonment imposed by a Budapest court, he was pardoned, receiving hero's welcome. The murder was clearly ethnically motivated and Safarov himself had expressed no remorse in the court, defending his action on the ground that the victim was Armenian. After extradition from Hungary to Azerbaijan, instead of serving the rest of his sentence, Safarov was pardoned by the president, greeted as a hero, glorified by the leaders and politicians of that country, granted a new apartment, eight years of back pay and got a promotion from lieutenant to the rank of major. The reaction to this racist murder in Azerbaijan was even more shocking.

<sup>&</sup>lt;sup>5</sup> In February, 1988 a massive pogrom was carried out in Sumgait during which the Armenian population of the city was brutally slaughtered and expelled. The Sumgait massacre was followed by pogroms against Armenians in 1988 in Kirovabad (Gandzak, today - Ganja), from where all the Armenians were either massacred or expelled. The bloody campaign continued and soon embraced the entire territory of Azerbaijani SSR, reaching its high point in January of 1990 in Baku, where hundreds of Armenians were beaten, tortured or murdered, and their apartments raided, robbed or burned. This resulted in fleeing of almost all the Armenians from the city.

<sup>&</sup>lt;sup>6</sup> Nagorno Karabakh was and is still inhabited mainly by Armenians; however there is sizeable presence of Russians, Jews, Greeks, Yezidis and other ethnic groups.

<sup>7</sup> http://www.coe.int/t/dghl/monitoring/minorities/3\_FCNMdocs/PDF\_3rd\_OP\_Azerbaijan\_en.pdf

Elmira Suleymanova, the Ombudsperson of Azerbaijan, stated, "Ramil Safarov must become an example of patriotism for the Azerbaijani youth"<sup>8</sup>.

Agshin Mehdiyev, Ambassador, Permanent Representative of Azerbaijan to the Council of Europe stated that he "does not advise Armenians to sleep safely until the Karabakh conflict is settled. Incidents like the one in Budapest cannot be ruled out"<sup>9</sup>.

Nadir Aliyev, an Azerbaijani businessman established a special fund for Safarov.

Siyavush Novruzov, member of the ruling "Yeni Azerbaijan" party stated, "If the conflict is not solved in the near future, then the incidents similar to the one that happened in Budapest may happen everywhere where there are Armenians and Azerbaijanis, including the Council of Europe"<sup>10</sup>.

The young members of the Azerbaijani terrorist "Organization for Liberation of Karabakh" marched in the downtown Baku holding banners with the words "Well done Ramil".

Over 50 Azerbaijani government-sponsored NGO's organized a "Committee for the Defense of Ramil Safarov". One of its members suggested naming new-born Azerbaijani babies after him.

Safarov's pardoning and further glorification was strongly condemned by various countries and international institutions and bodies, including Russia, US, France, UN Secretary General and High Commissioner for Human Rights, the European Commission (which adopted a relevant resolution), ECRI, the OSCE Minsk Group etc. Disregarding the calls to redress the situation and adhere to international standards and principles of the rule of law, the Government of Azerbaijan pursued its usual policy of irresponsibility and impunity.

# <u>Article 7, 9, 10</u>

#### Prohibition of torture, security and liberty of person

Unfortunately, perpetrators of torture and ill-treatment in Azerbaijan not only are not prosecuted for committing such inhuman acts but rather they become "hero" with the consent and support of Azerbaijani government. The Government of Azerbaijan for many years cultivates open racism towards Armenians. It manifests itself also in various cases of torture. There are many facts about brutality and murders made by pathological cruelty towards Armenians (burning live people, raping, cruel insults). All those Armenians who did not manage to leave Azerbaijan and were captured by Azeri authorities after anti-Armenian pogroms in 1988-1991, have gone through torture (torture by hoops, buried alive, torture by hungry dogs). Many of them have succumbed and signed false charges of crime and have been thrown in Azeri prisons and Gobustan camp, which has gained a notorious reputation of a death camp. Various independent sources have mentioned about fabrication of presented accusations. Independent expert Hugh Templton has written about this in his report presented to the 52<sup>nd</sup> session on UN Commission on Human Rights.

The continuation of impunity of Azerbaijani policy once again manifested itself when Azerbaijani soldiers attacked a bordering Talish village in Nagorno Karabakh Republic on 2 April 2016. Azerbaijani soldiers killed an elderly couple Valerik Khalapyan and Razmela Vardanyan and completely destructed their house in Talish. They were shot in their home and were tortured and their ears cut off. Azerbaijani soldiers also murdered Valerik Khalapyan's 92-year-old-mother Marousya Khalapyan. All the killed persons were aged and infirm<sup>11</sup>.

<sup>&</sup>lt;sup>8</sup> Source: "Zerkalo", 28 February, 2004

<sup>&</sup>lt;sup>9</sup> Source: "Zerkalo", 23 February, 2004

<sup>&</sup>lt;sup>10</sup> Source: "Zerkalo", 27 February, 2004

<sup>&</sup>lt;sup>11</sup> Human Rights Defender (Ombudsman) Interim Public Report, Shushi, April 2016, pp. 18-19

Another example of such Azerbaijani practice is the fact how Azerbaijani soldiers decapitated three soldiers of the Nagorno-Karabakh Republic - Hayk Toroyan, Kyaram Sloyan and Hrant Gharibyan during the latest (April 2016) aggression by Azerbaijan, while launching a massive attack on the Line of Contact between Nagorno-Karabakh and Azerbaijan.

International Federation for Human Rights in its report on Nagorno-Karabakh noted that Kyaram Sloyan was killed in combat. The video and pictures of his severed head later appeared on social networks. Soldiers and civilians were shown holding up his head as a military trophy and as a sign of victorious act. Additionally, to being absolutely prohibited by national and International law, such inhuman treatment reinforces the inter-ethnic hatred and contributes to further conflict escalation<sup>12</sup>.

It should be mentioned that no one of Azerbaijani social users condemned this act. On the contrary reading Azerbaijani users' posts and comments on Instagram, Facebook, Twitter and other social networks it was made clear that almost everyone without exception liked and even praised that horrible act as a symbol of heroism which is the result of demonization of Armenians.

Azerbaijan returned the bodies of 18 soldiers of the Nagorno-Karabakh Republic Defense Army on 10 April 2016. All of them without exception had signs of torture and mutilation which was registered by the NKR State Commission on Prisoners of War, Hostages and Missing persons at the presence of the representatives of the International Committee of the Red Cross as stated on the NKR Ministry of Foreign Affairs<sup>13</sup> website.

The Azerbaijani military aggression against the Nagorno-Karabakh Republic and its peaceful population of April 2-5, 2016, was accompanied by mutilation and other forms of maltreatment of dead bodies, as mentioned above. These acts have been explicitly encouraged by the Azerbaijani authorities. There are cases when (both civilians and soldiers) were tortured while alive through beheading, dismemberment and other acts of hostility and brutality (ears and arms cut off).

Moreover, those Azeri soldiers committed these crime against humanity were rewarded by the Azerbaijani President, which is clear evidence of the state sponsored policy of racism and hatred.

Azerbaijan absolutely disregards its obligations as a UN member state and grossly violates both International Covenant on Civil and Political Rights and Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

There are many examples of torture and ill-treatment of civilians. Particularly, the cases of Mamikon Khojoyan, Karen Petrosyan, Manvel Saribekyan and, Gor Manasyan should be mentioned. All of them were citizens of Armenia and have crossed the Armenian-Azerbaijan border by accident. All of them were arbitrary detained and subjected to inhuman torture and ill-treatment (with the exception of Mamikon Khojoyan, all were killed in the course of detention). Mamikon Khojoyan died 2 months after his repatriation to Armenia. A forensic examination showed traces of petroleum and psychotropic (perception-altering) drugs in his blood and urine<sup>14</sup>. It should be mentioned that the endeavors of Azerbaijan to present Mamikon Khojoyan as an Armenian "subversive agent" was criticized even in the Azerbaijani media. Azerbaijani news agency haqqin.az published an article where it was mentioned that an old man suffering from a mental disorder cannot be "a subversive agent"<sup>15</sup>. Uzeir Jafarov, an Azerbaijani military analyst, who dismissed the official Azerbaijani version of Khojoyan's capture, told RFE/RL's

<sup>&</sup>lt;sup>12</sup> FIDH, Nagorno-Karabakh: Affected civilians of both sides of conflict wait for peace and justice to come, p. 4.

<sup>&</sup>lt;sup>13</sup> <u>http://www.nkr.am/en/news/2016-04-11/806/</u>

<sup>&</sup>lt;sup>14</sup> <u>http://en.a1plus.am/1226884.html</u>

<sup>&</sup>lt;sup>15</sup> http://haqqin.az/news/16313

Azerbaijani service that "this man has nothing to do with the sabotage group. He is an old man who seems to have health problems. There is not a single sign that the Defense Ministry's claims are true"<sup>16</sup>. Karen Petrosyan, 31, a resident of Chinari village of Armenia's Tavush region was killed in detention the day after he was detained on 7 August 2014. He went to a nearby forest to gather wood, lost his way and wandered into Azerbaijani territory. Azerbaijani Defense minister issued a statement on 8 August announcing his death because of "heart problems". While being detained Karen Petrosyan was subjected to public humiliation widely disseminated by Azerbaijani mass media. Manvel Saribekyan, was detained and according to Azerbaijani official statements, hung himself in the Azerbaijani prison in 2010. The corpse of Manvel Saribekyan was handed over to Armenian authorities. After the medical examination of his body it was made clear that marks of torture existed on his body. Serviceman Gor Manasyan lost the way and found himself in the Azerbaijani territory where he was killed being subjected to inhuman torture in 2008. In this case, once again, Azerbaijan's Defence Ministry stated that Gor Manasyan was killed while attempting to cross into Azerbaijani western border as part of a "reconnaissance group". It should be mentioned that Gor Manasyan was not wearing helmet and/or any other necessary military equipment for conducting such kind of activities.

It is worth mentioning that those in Azerbaijan who object anti-Armenian approach led by the Azerbaijani government, including free media representatives and human rights defenders such as Leyla Yunus, Arif Yunus, Ilgar Mammadov, Intigam Aliev, Mahamad Azizov, Rashadat Akhundov and Rashad Hassanov are also being subjected to ill-treatment. This fact was also touched upon by CAT in its concluding observations on the fourth periodic report of Azerbaijan. Particularly it says that "the Committee regrets the State party's categorical position that all the above allegations are unfounded, despite the existence of reports of the United Nations, other international organizations and human rights mechanisms indicating otherwise"<sup>17</sup>.

# <u>Article 12</u> <u>Freedom of movement</u>

With regard to the freedom of movement, it should be noted that for many years Azerbaijan has banned the entry for ethnic Armenians, even those who are not Armenian residents or nationals, thus creating obstacles for participation of Armenians in international events, including conferences, seminars and sports competitions. Several such cases are presented below, but the list is far from being exhaustive:

1. In 2011, Diana Markosyan, a press photographer of Bloomberg agency and citizen of Russia and the United States, was deported from Baku to Istanbul because of her Armenian origin, which was later confirmed by the Ministry of Foreign Affairs of Azerbaijan. Press Department of Azerbaijan's MFA particularly stated that it would be problematic to provide Markosyan's security because of her Armenian origin.

2. In 2011, two football players of Armenian origin of the Russian club "Torpedo" were immediately deported from Gyanja's airport upon their arrival.

3. In 2012, Russian journalist Sufian Zhemukhov was about to be deported upon his arrival at the Baku airport, as his first name (Suf<u>ian</u>) reminded the Azerbaijani border guards ending of Armenian surnames.

4. The latest case of harassment and persecution of persons having Armenian roots is the detention of Russian citizen Marat Ueldanov (original surname is Galustyan), who is an employee of the Austrian DO & CO company engaged in outdoor catering. According to the

<sup>&</sup>lt;sup>16</sup> <u>http://www.panarmenian.net/m/eng/news/175539</u>

<sup>&</sup>lt;sup>17</sup> CAT/C/AZE/CO/4 Para 10

information provided by his sister Marianna Galustyan, on June 6, 2016, DO & CO had sent him on a business trip to the Formula 1 circuit in Baku, after which he didn't make any contact.

Marat Ueldanov-Galustyan was charged with illegal manufacturing, production, acquisition, storage, transportation, shipment, or sale of drugs, psychotropic substances or precursors upon the Article 234.4.3 of the Criminal Code of Azerbaijan. Such accusations are commonly used in Azerbaijan against members of opposition parties, youth activists and persons. Together with Ueldanov-Galustyan his colleague Yelena Makarenko was detained for 15 days. As Makarenko reported later, she had been detained only because she knew Marat, and Azerbaijani policemen had told her that "she should carefully choose friends, and not be friends with people of Armenian origin".

When Ueldanov's sister sent an inquiry to the Embassy of the Russian Federation in Azerbaijan, the latter asked her to take into consideration peculiarities of that country, where, according to the official letter of the Head of the Embassy's Consular circulated also through social networks, "the Armenian origin of her brother extremely impedes his defense".

Another dimension of intentional violation of the Article 12 by Azerbaijani authorities is the restriction of the freedom of movement for people from all over the world who have visited Nagorno Karabakh (it continues to lay down precondition to enter this territory through Azerbaijan well knowing that border between Azerbaijan and Nagorno Karabakh is closed, *inter alia* because Azerbaijan has mined the territory).

During 2009-2013 there have been a number of cases when people including famous artists, musicians, politicians, and journalists were banned to enter Azerbaijan after having visited Nagorno Karabakh. The Azerbaijani Government officially "blacklists" people that have visited Nagorno Karabakh (Azerbaijani Foreign Ministry has published a list of Personae non Gratae, based merely on the fact of their visit to Nagorno Karabakh).

The list of "blacklisted" persons include Spanish operatic soprano Montserrat Caballé, Spanish tenor Plácido Domingo, Russian journalist Sergey Buntman ("Ekho Moskvy" Radio), astronauts Charles Duke (USA) and Claude Nicollier (Switzerland), Will England ("Washington Post" reporter), Margarita Akhlediani (Georgian journalist), Timur Temirov (Daghestani singer), Senators and MP from dozens of countries of the world and many others<sup>18</sup>.

#### Article 19

#### Freedom of expression

Notwithstanding legal reforms and other initiatives of the Azerbaijani authorities listed in the Report, which are supposed to provide freedom of expression in the country, situation on the ground is apparently contradicting. Pressure, harassments, persecutions and false charges against independent journalists, civil society activists and intellectuals criticizing the government are widely exercised and constitute a blatant infringement of the Article 19 of the Covenant prescribing that everyone shall have the right to hold opinions without interference and the right to freedom of expression.

Propaganda in Azerbaijan becomes an instrument to establish authoritarianism, distorting not just pluralism of the media but other basic foundations of a democracy, human rights and rule of law in the country.

Authorities especially target activists and journalists who support reconciliation with Armenians and try to engage in dialogue with Armenian NGOs. Such persecutions were unleashed towards famous civil society activists Rauf Mirgadirov, Hadija Ismayilova, Leyla Yunus and Arif Yunus. In the case of Arif Yunus, the main reason of persecution was the Armenian origin of his mother.

<sup>&</sup>lt;sup>18</sup> <u>http://www.mfa.gov.az/files/file/Updated 12.04.16..pdf</u>

During the reporting period the most demonstrative example of intolerance towards Armenians and restrictions of the freedom of expression was the situation around the famous Azerbaijani writer Akram Aylisli. Aylisli published his novel "Stone dreams" in 2012, in which he depicted pogroms of Armenians by Azerbaijanis in Sumgait and Baku and described Armenians and Armenian culture in positive light, which substantially contradicted the official propaganda carried out by the Azerbaijani authorities. Afterwards the authorities started aggressive campaign of suppression against the writer. By the Decree of the president of Azerbaijan, Aylisli was stripped of the title "People's writer" and the presidential pension. His books were publicly burnt. High-level officials, public and cultural figures strongly criticized and insulted Aylisli accusing him of being Armenian.

Vice-speaker of the Milli Majlis (Parliament) Bahar Muradova notes: "Akram Aylisli is a coward who has played over long years an actor's role in Azerbaijan. He claims to write the "truth" in the interests of the Azerbaijani people. You are the one who needs this "truth" to mask your real face and nature, to consider yourself above the people among whom you live"<sup>19</sup>.

Allahshükür Pashazadeh, the head of the Caucasian Muslims Office also condemned the writer: "This novel is a heresy, and its author is a godless person"<sup>20</sup>. The campaign of intimidation toward Aylisli was condemned by many human rights NGOs. In particular Human Rights Watch demanded to stop persecutions emphasizing that "the government of Azerbaijan is making a mockery of its international obligations on freedom of expression"<sup>21</sup>.

Azerbaijani society went as far as calling on its own people to catch Akram Aylisli and cut off the writer's ears.

#### <u>Freedom of expression under the ICCPR should be interpreted as not including war</u> propaganda and hate speech that constitutes incitement to discrimination, hostility or violence.

# <u>Article 20</u>

#### Propaganda for war

In the report Azerbaijan provides no information on the implementation of Article 20. Instead, the report merely refers to the paragraphs 481-492 of Azerbaijan's Third Periodic report submitted in 2007. However, the mentioned paragraphs only provide general information on the legal acts that punish the propaganda of war and advocacy of hatred. Consequently, in the current report Azerbaijan fails to provide any evidence of implementation of respective obligations in practice. It is obvious, that Azerbaijani government hasn't taken actions to combat propaganda of war and dissemination of hatred also because the leadership of Azerbaijan is constantly calling for a military solution for the Nagorno Karabakh issue. Moreover, there are a large number of facts demonstrating that Azerbaijan systematically and roughly violated provisions of the Article 20.

# Propaganda of war is, in fact, a form of incitement to violence based on advocacy of national, racial or religious hatred. Such kind of propaganda fuels and contributes to the escalation of conflict.

Most of the facts are related to the propaganda for war against Armenia and Nagorno-Karabakh, along with the dissemination of hatred towards Armenians. The issue was repeatedly raised by international human rights monitoring bodies, such as UN Committee on the

<sup>&</sup>lt;sup>19</sup> Роман Акрама Айлисли наносит большой моральный удар по азербайджанскому народу – Али Ахмедов. 1news.az. 01.02.2013 [Электронный ресурс] <u>http://1news.az/politics/20130201124841041.html</u>

<sup>&</sup>lt;sup>20</sup> Шейх: Айлисли оскорбил Гейдара Алиева. Turan.13.02.2013 [Электронныйресурс] <u>http://contact.az/docs/2013/Social/021300028297ru.htm</u>

<sup>&</sup>lt;sup>21</sup> Azerbaijan: Stop Harassing Writer. <u>https://www.hrw.org/news/2013/02/12/azerbaijan-stop-harassing-writer</u>

Elimination of Racial Discrimination (CERD), European Commission against Racism and Intolerance (ECRI) and Advisory committee on the Framework convention for the protection of national minorities (FCNM):

<u>CERD, 13.05.2016</u>	"The Committee expresses concern at the repeated and unpunished use of inflammatory languages by politicians regarding the Nagorno-Karabakh conflict and at its adverse impact on the public's view of ethnic Armenians in the State party (arts. 4, 5 and 7)" <sup>22</sup> .
<u>ECRI, 17.03.2016</u>	"Political leaders, educational institutions and media have continued using hate speech against Armenians; an entire generation of Azerbaijanis has now grown up listening to this hateful rhetoric" <sup>23</sup> .
	"On the other hand, a study on hate speech in the media in Azerbaijani, Armenian and Georgian in October 2014 concluded that 342 (3.9%) out of the 8 679 Azerbaijani news items examined contained such statements. Hate speech was found in 8.8% of printed news items, 4.9% of electronic items and 2% of television programmes. Almost all of the 196 hate speech items dealing with ethnic conflicts were targeted at Armenians. Politicians and civil servants were the main disseminators of hate speech, followed by journalists" <sup>24</sup> .
	"According to other sources, there is a conflict-ridden domestic political discourse and Azerbaijan's leadership, education system and media are very prolific in their denigration of Armenians. Political opponents are accused of having Armenian roots or of receiving funds from Armenian sources. An entire generation of Azerbaijanis has now grown up listening to constant rhetoric of Armenian aggression. According to a 2012 survey, 91% perceived Armenia as Azerbaijan's greatest enemy" <sup>25</sup> .
	"Concerning the many instances of hate speech directed at Armenians it is obvious that they are part of a policy of hardening confrontation with regard to the conflict over Nagorno-Karabakh" <sup>26</sup> .
FCNM, 10.10.2012	"At the same time, the Advisory Committee notes a very persistent public narrative surrounding the Nagorno Karabakh conflict that identifies variably 'Armenia' or 'Armenians' as "the enemy" and openly promulgates hate messages, in particular on the Internet" <sup>27</sup> .
	"[] the Advisory Committee is deeply concerned by the levels of official involvement in endorsing and disseminating such views, as they are often directed also against Azerbaijani citizens of ethnic Armenian origin as well as anybody else who may be seen as affiliated with Armenia" <sup>28</sup> .

Without doubt, the most alarming and distinctive phenomenon of war propaganda and hate dissemination in Azerbaijan is the highest level of state sponsorship. High level officials, including President Ilham Aliyev, regularly and without obstruction make Anti-Armenian

<sup>&</sup>lt;sup>22</sup> Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan adopted by the Committee at its eighty-ninth session, 13.05.2016, CERD/C/AZE/CO/7-9, para. 27.

<sup>&</sup>lt;sup>23</sup> European Commission against Racism and Intolerance (ECRI) report on Azerbaijan (fifth monitoring cycle), CRI(2016)17, 17 March 2016, p. 9.

<sup>&</sup>lt;sup>24</sup> Ibid., p. 16.

<sup>&</sup>lt;sup>25</sup> Ibid., p. 17.

<sup>&</sup>lt;sup>26</sup> Ibid., p. 18.

 <sup>&</sup>lt;sup>27</sup> Advisory committee on the framework convention for the protection of national minorities Third Opinion on Azerbaijan adopted on 10 October 2012, 10ACFC/OP/III(2012)005, Strasbourg, 3 September 2013, p. 15.
<sup>28</sup> Ibid., p. 16:

statements and propaganda of war against Armenia. The following are the most illustrative examples of such statements made by President Aliyev:

"Our political influence and economic power are growing. This is seen by those who like us and those who don't. [...] But there are forces that don't like us, our detractors. They can be divided into several groups. First, our main enemies are Armenians of the world and the hypocritical and corrupt politicians under their control."<sup>29</sup>.

"It is no secret that along with other spheres Azerbaijan places a particular emphasis on its military. It is our only approach since Azerbaijan is at war. The war is not over. The first phase of war was just completed. We must do it so that we could liberate our lands by military means at any moment"<sup>30</sup>.

"Armenia is a fascist state. [...] The region is a source of danger, and the initiator of all the negative developments in the region is Armenia. [...] Not only Nagorno-Karabakh but also a significant part of present-day Armenia is ancient Azerbaijani lands"<sup>31</sup>.

The president of Azerbaijan regularly uses social media tools, particularly his personal Twitter account to attack Armenians with inflammatory and belligerent language and threats of military action against Armenia and Nagorno-Karabakh:

"I have often talked about it, I want to say it again without fearing anyone – our enemy is the Armenian lobby"  $^{32}$ 

"Armenia as a country is of no value. It is actually a colony, an outpost run from abroad, a territory artificially created on ancient Azerbaijani lands"<sup>33</sup>.

"Of course, our army is capable of fulfilling any task. Relevant instructions have been issued to the military, so that Azerbaijan could restore its territorial integrity soon"<sup>34</sup>.

"The Azerbaijani army is showing its strength, which is having an impact on the talks. The enemy is clearly seeing that it can't cope with us"<sup>35</sup>.

"We will restore our territorial integrity either by peaceful or military means. We are ready for both options"<sup>36</sup>.

"Just as we have beaten the Armenians on the political and economic fronts, we are able to defeat them on the battlefield"<sup>37</sup>.

Anti-Armenian war rhetoric and hatred are common components of Zakir Hasanov's statements, Azerbaijani Minister of Defense:

"The war is not over, it continues and we should liberate our occupied territories by all means. [...] We always say to them: if you do not want to die, then leave

<sup>30</sup> President Ilham Aliyev holds military build-up meeting, 23.04.2010 -

<sup>&</sup>lt;sup>29</sup> "Ilham Aliyev attended a conference on the results of the third year into the "State Program on the socioeconomic development of districts for 2009-2013", 28.02.2012 <u>http://en.president.az/articles/4400</u>

http://azertag.az/en/xeber/PRESIDENT ILHAM ALIYEV HOLDS MILITARY BUILD UP MEETING-590159 <sup>31</sup> Ilham Aliyev took part in nationwide festivities on the occasion of Novruz Bayram, 19 march 2014. Official website of president of Azerbaijan Republic - <u>http://en.president.az/articles/11216</u>

<sup>&</sup>lt;sup>32</sup> Ilham Aliyev, @presidentaz, 20 Nov 2012 - <u>https://twitter.com/presidentaz/status/270826367992610816</u>

<sup>&</sup>lt;sup>33</sup> Ilham Aliyev, @presidentaz, 20 Nov 2012 - <u>https://twitter.com/presidentaz/status/270827003521929216</u>

<sup>&</sup>lt;sup>34</sup> Ilham Aliyev, @presidentaz, 7 Aug 2014 - <u>https://twitter.com/presidentaz/status/270827003521929216</u>

<sup>&</sup>lt;sup>35</sup> Ilham Aliyev, @presidentaz, 7 Aug 2014 - <u>https://twitter.com/presidentaz/status/497362942061334528</u>

 <sup>&</sup>lt;sup>36</sup> Ilham Aliyev, @presidentaz, 7 Aug 2014 - <u>https://twitter.com/presidentaz/statuses/497364299908542464</u>
<sup>37</sup> Ilham Aliyev, @presidentaz, 7 Aug 2014 - <u>https://twitter.com/presidentaz/status/497364369986945024</u>

*Nagorno-Karabakh and other occupied lands. Otherwise, Armenia will continue to live in constant fear, anxiety, hysteria*"<sup>38</sup>.

"I'm clearly saying that we'll destroy 70% of enemy in the first attack. We have many weapons and equipments that if we strike blow to Armenia they will not be able to revive for hundreds of years. [...] Every serviceman of Armed Forces must destroy enemy by seizing any occasion day and night. The enemy must not be convenient, live under fear in our occupied territories. Our lands must be liberated, revenge of our martyrs must be taken<sup>39</sup>"

The representatives of legislative and executive bodies periodically make intolerant statements as well:

"It is hard to purge the 'Armenian' pest. The longer it remains without cure, the harsher its consequences are"<sup>40</sup> - Ziyafat Asgarov, First Vice-Speaker of the Parliament.

"They shamelessly accuse us of provocations. What is their purpose? It is clear that in this way the perfidious enemy is trying to plant a false idea in the minds of the Azerbaijani people. Lying is in their blood"<sup>41</sup> - Colonel Eldar Sabiroglu, head of the press-service of the Ministry of Defense.

"Armenia is a gray spot on the map of the South Caucasus. It is "cancer" of the region  $[...]^{"42}$  - Elnur Aslanov, Chief of the political analysis and information provision department of the Azerbaijani Presidential Administration

One of the foremost indicators of precarious level of dissemination of hatred in Azerbaijani society is the fact that high-level spiritual leaders of Azerbaijan encourage the state policy of dissemination of hatred. The most striking examples of such behavior are public speeches of Allahshukur Pashazadeh, the Caucasus spiritual leader of Muslims:

"We do everything possible to settle this conflict in a peaceful way. [...] However, we don't see the results of these meetings because the lie and treachery sit in the blood of Armenians. They sat at our tables, they ate our bread, but when they went out, they spoke against us" <sup>43</sup>

The Azerbaijani press and media play a crucial role in the process of disseminating anti-Armenian hatred. If open any Azerbaijani website, one can find articles full of racism. Azerbaijan was enlisted by Amnesty International<sup>44</sup> and Freedom House<sup>45</sup> as a country with non-

<sup>44</sup> Amnesty International Reports 2009-2013 https://www.amnesty.org/en/countries/europe-and-central-

<u>asia/azerbaijan/</u> and <u>https://www.amnesty.org/en/countries/europe-and-central-asia/azerbaijan/report-azerbaijan/</u> <sup>45</sup>Freedom in the world reports 2009-2013 - <u>https://freedomhouse.org/country/azerbaijan</u> and

<sup>&</sup>lt;sup>38</sup> Zakir Hasanov: Armenia realized that Azerbaijan is now real military power. 01.06.2015 - <u>http://news.az/articles/politics/98405</u>.

<sup>&</sup>lt;sup>39</sup> Azerbaijani Defense Minister: "We'll destroy 70% of enemy in the first attack", 23.03.2015 <u>http://en.apa.az/azerbaijan-military/azerbaijan-army-azerbaijani-armed-forces/azerbaijani-defense-minister-we-ll-destroy-70-of-enemy-in-the-first-attack-photosession.html</u>

<sup>&</sup>lt;sup>40</sup> Ziyafet Askerov "Armenia is included in the list of dead end countries" 16.04.2013. APA News Agency. [Original in Russian] Зияфет Аскеров: «Армения входит в список бесперспективных государств». Ара. 16.04.2013. <u>http://ru.apa.az/news/245450</u>

<sup>&</sup>lt;sup>41</sup> Eldar Sabiroglu expressed his attitude towards the statement of the Ministry of Defense of Armenia. APA News Agency. 11.04.2013. [Original in Russian] Эльдар Сабироглу выразил отношение к заявлению Минобороны Армении. <u>http://ru.apa.az/news/245115</u>.

<sup>&</sup>lt;sup>42</sup> "Armenia is a gray spot on the map of the South Caucasus", 17 May 2013 - <u>http://news.az/articles/politics/79810</u>

<sup>&</sup>lt;sup>43</sup> Spiritual leader of the Muslims of the Caucasus: "Lie and betrayal is in blood of Armenians". 22.08.2008 [Original in Russian] Глава духовного управления мусульман Кавказа: «Ложь и предательство в крови у армян». Day.az. - http://news.day.az/society/125166.html

https://freedomhouse.org/report/freedom-world/freedom-world-2016

free and government controlled media. Therefore, Azerbaijani press and internet media are a tool for the government to disseminate anti-Armenian hate speech. The following are extracts from Azerbaijani media that include hate speech, intolerance and insults towards Armenians:

"But since we brought up the subject of culture, we won't waste the time of our readers by describing the filth, unscrupulousness, greed, cowardice, baseness, treachery, cruelty, envy, cynicism and all the abomination that fills the inner world of Armenians"<sup>46</sup>

"The Armeniandom is like a variety of flu. There is the swine flu, and there is the Armenian flu. Indeed, why there should be no 'true Armenian flu', if there is the Armenian vacuum cleaner, Armenian corn or Armenian coat? All would have been fine, if this contagion had not turned into an epidemic which must be fiercely fought off. We started by comparing Armenians with a contagion for a reason. I have repeatedly written that killing this virus is possible only by understanding its nature, becoming immune to it and destroying it without mercy<sup>47</sup>"

"It is known that the jackal is a quite timid animal, which, though, stands out as a sly and cheeky beast feeding on scraps, stealing occasionally poultry and scavenging the fields. Jackal is a typical rubbish animal, the carrier of infection and parasite and in the Orient, it is associated with petty flattery, sycophancy and bootlicking. It is also the embodiment of cowardice and meanness. In these countries, the word 'jackal' or the 'son of jackal' are gross insults. Doesn't the description of this animal look familiar? You are right; this is a one-to-one description that matches the lifestyle and behavior of Armenians. Just like Armenians, the jackals are cowardly, base, cheeky and crafty. It unwittingly occurs to one who observes their behavior that in late 19th century that the image of Kipling's Tabaqui was fashioned to mimic Armenians who had settled down in the Southern Caucasus only recently"<sup>48</sup>.

«Depraved and ill-mannered women can be found in any nation. However, the depravity of the Armenian women, representatives of the oldest profession, is known worldwide. In fact, I'm not the only one who says so. For instance, Vasili Velichko, a famous Russian historian, wrote: "Armenian women have always been in relationships with other nations, even if it was sometimes by force and coercion..." [...] The Armenian Constitution does not proscribe prostitution. Actually, the women of this nation are prostitutes, while the men are just "good-looking"<sup>49</sup>

Public statements made by high level officials and media publications should have been punished under Article 101 ("Public appeals to incitement of aggressive war") and Article 283 ("Incitement of national, racial or religious hostility") of the Criminal Code of the Republic of Azerbaijan, as well as Article 10 ("Propagation of war, violence and cruelty, national, racial, social hate or intolerance") of the Law of the Republic of Azerbaijan on Mass Media of 7 December 1999. However, no action was taken and no perpetrator was brought to the court or charges brought before them under the abovementioned articles.

<sup>&</sup>lt;sup>46</sup> Medal "for bravery" should be handled to Armenians who will come to Eurovision contest in Baku. [Original in Russian] Орден «За отвагу» необходим для армян, которые приедут на «Евровидение» в Баку. Vesti.az. 31.05.2011 <u>http://vesti.az/news/78758</u>

<sup>&</sup>lt;sup>47</sup> Unlike Azerbaijan Georgia should declare quarantine against Armenian infection on time. [Original in Russian] В отличие от Азербайджана, Грузия должна успеть ввести карантин против армянской заразы. Vesti.az.1.08.2011. http://vesti.az/news/84919

<sup>&</sup>lt;sup>48</sup> Karabakh Government allocated 46.000 USD to fight with those like them. 09.02.2012. [Original in Russian] Правительство Карабаха выделило 46 000 долларов на борьбу с себе подобными. <u>http://vesti.az/news/106317</u>

<sup>&</sup>lt;sup>49</sup>Çinarə Vüqar. Metronun "28 May" stansiyasının ətrafındakı masaj salonlarını erməni əsilli qadınlar işlədir. Gundelik-Baki 18.10.2011 [Original page is removed, see the archived copy - <u>http://peeep.us/9778e43b</u>] <u>http://gundelik-baku.com/index.php?newsid=5892</u>

As time revealed, the concerns of aforementioned human rights bodies were not without ground. Azerbaijan's war rhetoric and Armenophobic policy led to a large scale military offensive against Nagorno-Karabakh in early April of 2016. During four day clashes Azerbaijani military flagrantly violated human rights and international humanitarian law. In particular, Azerbaijani heavy artillery and rocket stations shelled civilian settlements, resulting in the death of a12 year-old schoolboy and wounding of two other children, as well as in destruction of civilian infrastructure (schools, hospitals, etc.). In addition, Azerbaijani military brutally tortured and killed three elderly civilians in an Armenian village, mutilated bodies of killed servicemen of NKR Defense Army and savagely beheaded three Armenian soldiers. This act was publicly celebrated in Azerbaijani villages and shared through social networks and media accompanied with hate speech<sup>50</sup>.

UN General Assembly in its resolutions (110(II), 290(IV), 380(V)) that addressed the issue of dangerous propaganda and affirmed condemnation of "propaganda against peace" stating that such propaganda includes not just incitement to conflicts or acts of aggression, but also "measures tending to isolate the peoples from any contact with the outside world, by preventing the Press, radio and other media of communication from reporting international events, and thus hindering comprehension and understanding between peoples".

#### Article 22

#### Freedom of associations

Azerbaijani NGOs became a tool in the hand of authoritarian regime that dictates them its will.

In particular, the members of the Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan which was created in 2007 are appointed by the head of the state, proving the fact that they cannot conduct unbiased and objective activities without taking into account the official position of Azerbaijan. The current chairman of the Council is Azay Guliev who is also member of the Azerbaijani Parliament. One of the priorities of the Council is to use Azerbaijani NGOs for anti-Armenian propaganda and to spread the official position of Azerbaijan on Nagorno-Karabakh conflict, Armenian Genocide (in collaboration with Turkish NGOs).

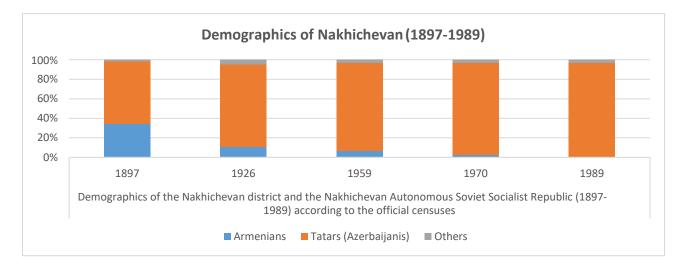
For example, Azerbaijan Democratic Student Youth Organization has executed the project named "Baku Assembly of foreign partners of "Freedom to Shusha" international campaign funded by the Council with the participation of the representatives of 19 foreign NGOs. In his welcoming remarks Azay Guliev repeated Azerbaijani postulates on Nagorno-Karabakh conflict and called on civil society institutions to take the lead against the "injustice".

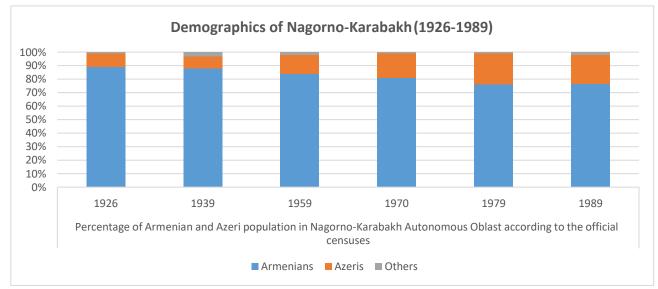
In 2015 there was an exhibition dedicated to the 23<sup>rd</sup> anniversary of so called Khojaly genocide held in Milan, with the support of the Council. Chairman of the Council, Azay Guliyev, other members of National Parliament Bakhtiyar Aliyev and Azer Karimli, head of the APA holding Vusala Mahirgizi, representatives of Azerbaijani and Turkish diasporas in Milan, academic staffs of universities, urban community members, and the representatives of local Media also participated in that exhibition presenting the official position of Azerbaijan on the above mentioned issue. Moreover, The Council invites NGOs to apply for participation in the competition preferring the projects which can promote and protect Azerbaijan's "fair position around the Nagorno-Karabakh conflict" in foreign countries and international organizations.

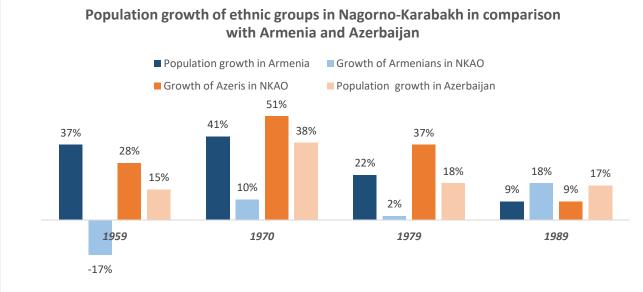
The lack of plurality, free media and free civil society is an attributes of autocratic control which used its potential for incitement to national and racial hatred.

<sup>&</sup>lt;sup>50</sup> Interim public report of NKR Ombudsman, <u>http://www.ombudsnkr.am/Interim Public Report NKR Omb FINAL.pdf</u>

# <u>Annex 1.</u> <u>Policy of ethnic cleansing in Nakhichevan and Nagorno-Karabakh by Azerbaijani</u> <u>authorities</u>







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