

# **TOM LANTOS HUMAN RIGHTS COMMISSION**

## **NAGORNO KARABAKH: UPDATE**

### **TESTIMONY BY BRYAN ARDOUNY**

#### **EXECUTIVE DIRECTOR, ARMENIAN ASSEMBLY OF AMERICA**

Co-Chairman Smith, Co-Chairman McGovern, and members of the Commission, in the face of ongoing existential threats, intimidation, and blockade, the Armenian Assembly of America commends you for convening this emergency hearing on Nagorno-Karabakh and extends its gratitude for holding the initial hearing on *Safeguarding the People of Nagorno-Karabakh* in June of this year. We also express our appreciation to Ambassador Sam Brownback, Dr. Michael Rubin, and David Phillips who testified in June, and to Messrs. Luis Moreno-Ocampo and David Phillips who are before the Commission today.

Unfortunately, matters have only deteriorated since June with a man-made humanitarian crisis at our doorstep. Today's hearing, therefore, comes at a critical time as the Armenian people yet again are confronted with the specter of genocide. The Armenian American community feels this deeply and sees this as a continuation of the 1915 Armenian Genocide. After all, it was Turkey's Erdoğan, who fully supported Azerbaijan's reckless war in the Fall of 2020 against Nagorno-Karabakh and who stated that "we do not allow terrorist leftovers of the sword in our country." The term "leftover of the sword" has been utilized pejoratively by Turkish authorities during the past century to stigmatize the Armenians in Turkey, who survived the 1915 Genocide. The Assembly warned then in a public statement that the "rhetoric of Turkey's President Recep Tayyip Erdoğan" was "both a fresh admission of the Armenian Genocide and an early warning sign of immediate threats to Armenians, Greeks, Christians, Kurds, as well as other minorities in the region," and called "on the United States government and its NATO allies, and all other concerned governments to counteract these threats and safeguard innocent lives."

However, under the cover of a global health pandemic, Azerbaijan brazenly launched an unprecedented 44-day war in the Fall of 2020 killing thousands of Armenians, including innocent civilians. Since the war, genocidal threats emanating from Turkey and Azerbaijan have continued, including Turkish parliamentarian Mustafa Destici directly threatening Armenia at a press conference in Turkey in September of 2022, stating "I remind you once again that the Turkish nation has the power to erase Armenia from history and geography, and that they stand at the limit of our patience." Not to be outdone, autocrat Ilham Aliyev of Azerbaijan has stated that "There is no Nagorno-Karabakh" and that "Western Azerbaijan (an expansionist term for the Republic of Armenia) is our historical land" while also making it a point to remind the Armenian people that "The Iron Fist is in place; let no one forget about that."

As delicate negotiations have intensified over the last weeks and months, autocrat Aliyev has demanded that the Armenians of Artsakh forgo their democratic institutions and that their leaders "turn themselves in" further warning that everyone knows that Azerbaijan has "the necessary capabilities to launch any type of operation in the region."

In the Assembly's testimony before the House Appropriations Committee earlier this year, we urged Congress to help prevent a second Armenian Genocide and note that our statement about another Genocide is buttressed by Genocide Watch, which has declared a "genocide emergency," the Lemkin Institute for Genocide Prevention, which has issued an "active genocide alert," and the International Association of Genocide Scholars, which has warned about "the risk of genocide." In addition, the [University Network for Human Rights](#) in collaboration with lawyers, academics and students from Harvard, Oxford, UCLA, Wesleyan and Yale and also signed by the UCLA Law Promise Institute for Human Rights submitted a timely document to the United Nations Special Adviser on the Prevention of Genocide titled: "Risk of Ethnic Cleansing and Possible Genocide in Nagorno-Karabakh – Results from Applying the Framework for Analysis of Atrocity Crimes. Moreover, Mr. Luis Moreno-Ocampo has rightly highlighted that "starvation is the invisible genocide weapon," adding even greater urgency. Article 2(c) of the Genocide Convention makes clear that starvation is an act of genocide: "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

Azerbaijan, as part of the 2020 cease-fire terms\*, which it signed, specifically assumed the obligation to "guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions." Instead and despite its signed commitment, Azerbaijan seeks to starve the Armenian people and has not only denied the International Committee of the Red Cross, Armenia and France the ability to deliver humanitarian supplies along the Lachin Corridor to the people of Artsakh, but has also disrupted the electricity and gas supplies to Nagorno-Karabakh further exacerbating the crisis resulting in the death of a 40-year old individual due to starvation with many more suffering from malnutrition.

Just last month at a United Nations Security Council discussion on Famine and Conflict-Induced Global Food Insecurity, Secretary of State Antony Blinken quoted President Biden highlighting the importance of providing food for our families and children: "In every country in the world...if parents cannot feed their children, nothing else matters." To paraphrase another U.S. president, we say: President Biden tear down this blockade. Having recognized the Armenian Genocide, it is incumbent that the Administration utilize all tools at its disposal to safeguard the Armenian people and not allow another genocide on its watch.

To start, the Administration can enforce Section 907 of the FREEDOM Support Act, which Congress adopted in 1992 in a principled stand against Azerbaijani aggression. Section 907 states that U.S. funds "may not be provided to the Government of Azerbaijan until the President determines and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh." The ongoing and blatant attacks by Azerbaijan against Armenian civilians both in Armenia and Artsakh are exactly the opposite of ceasing offensive uses of force. In the aftermath of the September 11, 2001, terrorist attack on American soil, a national security waiver was added to Section 907. The exercise of the waiver is valid so long as it "will not undermine or hamper ongoing efforts to negotiate a peaceful settlement" to the Nagorno Karabakh conflict or "be used for offensive purposes against Armenia."

In exercising the waiver, Congress required a report within 60 days "specifying in detail the following: (A) the nature and quantity of all training and assistance provided to the Government of Azerbaijan [pursuant to the waiver]; B) the status of the military balance between Azerbaijan and Armenia and the

impact of United States assistance on that balance; and (C) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations.” A 2022 U.S. Government Accountability Office Report requested by Senate Foreign Relations Committee Chairman Bob Menendez found that the State Department did not “provide Congress with all required information – such as the impact of aid on the military balance between Azerbaijan and Armenia.”

In addition to Section 907, the principles of the Humanitarian Aid Corridor Act can also be applied, and we applaud Co-Chair Chris Smith for his leadership in introducing H.R. 942, the Humanitarian Aid Corridor Act in 1995. While that Bill was not adopted, elements therein have subsequently been codified. Specifically, 22 USC 2378-1 states that “no assistance shall be furnished under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.”

Finally, with respect to the atrocities committed by Azerbaijan, they are well-documented by Columbia University’s Institute for the Study of Human Rights and its “Project on Atrocities in Artsakh,” under the leadership of David Phillips. The targeting of Armenian cultural and religious heritage sites by Azerbaijan has been thoroughly documented by the Caucasus Heritage Watch and condemned by the European Parliament. As for the failure by Azerbaijan to abide by the cease-fire terms and return “internally displaced persons and refugees...under the supervision of the United Nations High Commissioner for Refugees,” as well as “the exchange prisoners of war, hostages and other detained persons, and dead bodies,” the Administration has at its disposal, the Global Magnitsky Human Rights Accountability Act, and notes with appreciation that the legislation was introduced in the House by Co-Chair Smith in January of 2015. The Assembly also welcomes Co-Chair McGovern’s efforts to strengthen the Act, including a House-passed amendment to the Fiscal Year 2022 National Defense Authorization Act to authorize “the President to impose sanctions on individuals accused of committing human rights abuses or engaging in corruption.” The level of corruption and repression of the Aliyev regime in Azerbaijan is well-known and widely reported from the Azerbaijani laundromat scheme with a \$2.9 billion slush fund to whitewash its human rights record to the Pandora Papers revelations exposing even further its breadth-taking scope.

In conclusion, history has shown that appeasing dictators only serves to further embolden them. President Biden has repeatedly stated in his State of the Union addresses that we must stand in defense of democracies in the face of autocrats who want nothing more than to see democracy fail. The U.S. has taken a strong stand in support of democracy in Ukraine and should do so for Artsakh and Armenia, of which Armenia was the first nation to adopt Christianity in 301 A.D.

The Assembly’s position is clear: stand up for democracy and human rights and oppose genocide; end the blockade of Artsakh by imposing sanctions starting with the enforcement of Section 907 of the FREEDOM Support Act along with the principles of the Humanitarian Aid Corridor Act and application of the Global Magnitsky Human Rights Accountability Act. It is also clear that Russia has not fulfilled its obligations to maintain open transit along the Lachin Corridor, nor prevent Azerbaijani atrocities. In these circumstances, we are sure Americans would strongly support the United States providing Armenians with the means to defend themselves to prevent another Armenian Genocide.

Finally, we welcome the introduction of new mechanisms and legislation to hold human rights violators and corrupt leaders accountable, to safeguard and protect vulnerable populations, to assert America's leadership for the betterment of humanity, and uphold the fundamental principles of democracy, the right to self-determination, and the universal human rights of the people of Artsakh.

Thank you for your consideration. The Armenian Assembly looks forward to working with you and the Commission during this critically important time.

---

\* We, President of the Republic of Azerbaijan Ilham Aliyev, Prime Minister of the Republic of Armenia Nikol Pashinyan and President of the Russian Federation Vladimir Putin, state the following:

1. A complete ceasefire and termination of all hostilities in the area of the Nagorno-Karabakh conflict is declared starting 12:00 am (midnight) Moscow time on November 10, 2020. The Republic of Azerbaijan and the Republic of Armenia, hereinafter referred to as the "Parties," shall stop in their current positions.

2. The Agdam District shall be returned to the Republic of Azerbaijan by November 20, 2020.

3. The peacemaking forces of the Russian Federation, namely, 1,960 troops armed with firearms, 90 armoured vehicles and 380 motor vehicles and units of special equipment, shall be deployed along the contact line in Nagorno-Karabakh and along the Lachin Corridor.

4. The peacemaking forces of the Russian Federation shall be deployed concurrently with the withdrawal of the Armenian troops. The peacemaking forces of the Russian Federation will be deployed for five years, a term to be automatically extended for subsequent five-year terms unless either Party notifies about its intention to terminate this clause six months before the expiration of the current term.

5. For more efficient monitoring of the Parties' fulfilment of the agreements, a peacemaking centre shall be established to oversee the ceasefire.

6. The Republic of Armenia shall return the Kalbajar District to the Republic of Azerbaijan by November 15, 2020, and the Lachin District by December 1, 2020. The Lachin Corridor (5 km wide), which will provide a connection between Nagorno-Karabakh and Armenia while not passing through the territory of Shusha, shall remain under the control of the Russian Federation peacemaking forces.

As agreed by the Parties, within the next three years, a plan will be outlined for the construction of a new route via the Lachin Corridor, to provide a connection between Nagorno-Karabakh and Armenia, and the Russian peacemaking forces shall be subsequently relocated to protect the route.

The Republic of Azerbaijan shall guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions.

7. Internally displaced persons and refugees shall return to the territory of Nagorno-Karabakh and adjacent areas under the supervision of the United Nations High Commissioner for Refugees.

8. The Parties shall exchange prisoners of war, hostages and other detained persons, and dead bodies.

9. All economic and transport connections in the region shall be unblocked. The Republic of Armenia shall guarantee the security of transport connections between the western regions of the Republic of Azerbaijan and the Nakhchivan Autonomous Republic in order to arrange unobstructed movement of persons, vehicles and cargo in both directions. The Border Guard Service of the Russian Federal Security Service shall be responsible for overseeing the transport connections.

Subject to agreement between the Parties, the construction of new transport communications to link the Nakhchivan Autonomous Republic with the western regions of Azerbaijan will be ensured.

— [\*President of the Republic of Azerbaijan Ilham Aliyev, Prime Minister of the Republic of Armenia Nikol Pashinyan and President of the Russian Federation Vladimir Putin, "The Statement by the President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia and President of the Russian Federation"\*](#) (source: Wikipedia).