

118TH CONGRESS  
1ST SESSION

# H. RES. 861

Calling on Azerbaijan to immediately comply with international commitments regarding the release and treatment of prisoners of war, hostages, and other detained persons.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2023

Mr. SCHIFF (for himself, Mr. PALLONE, Mr. BILIRAKIS, and Mr. VALADAO) submitted the following resolution; which was referred to the Committee on Foreign Affairs

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## RESOLUTION

Calling on Azerbaijan to immediately comply with international commitments regarding the release and treatment of prisoners of war, hostages, and other detained persons.

Whereas, on September 27, 2020, Azerbaijan launched a military assault on Artsakh (Nagorno-Karabakh), resulting in thousands of deaths, the displacement of tens of thousands of ethnic Armenian residents, and the detention of an estimated 200 Armenian prisoners of war (POWs), hostages, and other detained persons by Azerbaijan;

Whereas, on November 9, 2020, Azerbaijan, Armenia, and Russia signed a tripartite cease-fire statement, in which all parties agreed that the “exchange of prisoners of war,

hostages and other detained persons and corpses of deceased persons shall be carried out”;

Whereas the Third Geneva Convention, of which Azerbaijan is a signatory, and customary international law require the release of prisoners of war and captured civilians upon the cessation of hostilities;

Whereas, despite Azerbaijan’s international legal obligations, more than three years after signing the November 2020 statement, it has not released all relevant persons and instead continues to detain new prisoners of war (POWs), hostages, and captured civilians;

Whereas, in September 2022, Azerbaijan launched another unprovoked assault on sovereign Armenian territory, resulting in the deaths of at least 222 soldiers according to the Armenian Government, as well as additional POWs taken hostage;

Whereas, in one example, on May 27, 2023, an Azerbaijani armed group crossed into sovereign Armenian territory and abducted two Armenian soldiers delivering food in Syunik Province, who are now imprisoned by Azerbaijani authorities and face unsubstantiated terrorism charges;

Whereas, for nearly 10 months starting in December 2022, in further Azerbaijani and Russian violation of the November 2020 tripartite ceasefire statement, international law, and multiple International Court of Justice orders, Azerbaijan illegally blockaded Artsakh and restricted the unimpeded movement of persons, vehicles, and cargo along the Lachin Corridor, the only road linking Artsakh and Armenia, including kidnapping or detaining ethnic Armenian civilians on arbitrary, unfounded charges;

Whereas, in one of several cases, 68-year-old Vagif Khachatryan was being transported on July 29, 2023, under International Committee of the Red Cross protection for emergency medical treatment in Armenia when Azerbaijani authorities detained him at the illegally installed checkpoint on the Lachin Corridor on alleged charges related to the first Nagorno Karabakh War in the 1990s, which the Artsakh Human Rights Ombudsman stated was “a false and far-fetched pretext for his abduction”, and on November 7 was convicted and sentenced to 15 years in prison after a trial in which he was denied internationally recognized guarantees including adequate legal representation in accordance to several draconian Azerbaijani laws;

Whereas after systematically, and in at least one case fatally, starving the 120,000 ethnic Armenians of Artsakh with the months-long blockade, on September 19, 2023, Azerbaijani forces launched an unprovoked, large-scale military attack on Artsakh that killed at least 200 and wounded 400, and forced nearly the entire population of ethnic Armenians to flee for their lives, completing Azerbaijan’s ethnic cleansing of Artsakh;

Whereas, in the days after the September 19, 2023, offensive began and the people of Artsakh attempted to flee to safety, Azerbaijan prevented several former Artsakh civilian and military officials from leaving and detained them on spurious charges related to terrorism, participation in illegal armed groups, and illegal border crossing, including former Artsakh presidents Arkadi Ghukasyan (1997 to 2007), Bako Sahakyan (2007 to 2020), and Arayik Harutyunyan (2020 to 2023), former Artsakh Foreign Minister David Babayan, speaker of Artsakh’s legislature

Davit Ishkhanyan, former Artsakh State Minister Ruben Vardanyan, and former Artsakh military commanders Levon Mnatsakanyan and David Manukyan;

Whereas under Article 4 of the Third Geneva Convention, Armenian servicemembers, Artsakh servicemembers, and many others detained by Azerbaijan meet the criteria to be considered POWs, which include being “members of the Armed Forces of a Party to the conflict as well as militias or volunteer corps forming part of such Armed Forces”, belonging to “regular Armed Forces who profess allegiance to a government or an authority not recognized by the Detaining Power”, and “persons who accompany the Armed Forces without actually being members thereof”, and charging such detainees as “terrorists” would constitute violations of international law by Azerbaijan;

Whereas at least 55 prisoners of war and hostages were still detained illegally by Azerbaijan as of November 2023 according to the Armenian Government, though the true number is unknown and likely much higher given the many individuals that are still missing, the limited reliable information about the condition or treatment of prisoners of war and captured civilians in Azerbaijan, and the Azerbaijan’s misrepresentations of their status in an attempt to justify their continued captivity;

Whereas there are serious concerns that due process rights of Armenian POWs, captured civilians, and political prisoners will be violated, as the Department of State’s Human Rights Report released on March 20, 2023, documents that Azerbaijan’s judiciary is corrupt, lacks independence, and routinely fails to provide due process, noting “many verdicts were legally unsupportable and large-

ly unrelated to the evidence presented during a trial”, and that in politically motivated cases, such as those involving ethnic Armenians or the conflict, “criminal defendants were often denied the right to a presumption of innocence; a fair, timely, and public trial; to communicate with an attorney of their choice; to have adequate time and facilities to prepare a defense; to confront witness and present one’s own witnesses and evidence; and not be compelled to testify or confess guilt”, in violation of the Universal Declaration of Human Rights and international human rights law;

Whereas Azerbaijan is bound by the International Covenant on Civil and Political Rights and the European Convention on Human Rights, to which it is a party, as well as the Third Geneva Convention, to treat those in custody humanely in all circumstances;

Whereas Human Rights Watch reported in March 2021 that Azerbaijani forces had abused ethnic Armenian prisoners of war and subjected them to “cruel and degrading treatment and torture either when they were captured, during their transfer, or while in custody at various detention facilities”, including electrical shocks, prolonged and repeated beatings, and prodding with sharp metal rods;

Whereas international human rights organizations based in Armenia released a fact-finding report in August 2022 titled “Human Rights Violations during the 44-Day War in Artsakh”, documenting 19 cases of illegal, extrajudicial execution of Armenian POWs and others detained by Azerbaijani Armed Forces;

Whereas a December 2021 International Court of Justice ruling ordered Azerbaijan to protect from violence and bodily harm Armenians detained during or since the 2020

war and provide for their security and equality before the law;

Whereas a September 2022 United Nations Committee on the Elimination of Racial Discrimination report highlighted deep concern over “Allegations of severe and grave human rights violations committed during the 2020 hostilities and beyond 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 arbitrary detention”;

Whereas a video authenticated by Human Rights Watch showed the extrajudicial execution of at least seven Armenian POWs, apparently by Azerbaijani forces in September 2022, “a war crime for which there needs to be accountability”;

Whereas there is significant concern that female detainees in particular could be subject to sexual assaults and other mistreatment, with video footage from September 2022 showing one horrific example of a female Armenian soldier who was raped, dismembered, stripped, and mutilated by Azerbaijani troops;

Whereas the Department of State’s Human Rights Reports released in March 2023 documented “credible reports of unlawful killings involving summary executions of Armenian soldiers in Azerbaijani custody” and concerns regarding lack of due process in Azerbaijani trials of Armenian civilians and servicemen;

Whereas Armenia has fulfilled its obligations under the November 9 statement and international law by returning Azerbaijani prisoners of war;

Whereas Azerbaijan's continued detainment, torture, extrajudicial execution, and other serious human rights violations against prisoners of war and captured civilians calls into serious question their commitment to human rights and negotiating an equitable, lasting peace settlement;

Whereas the United States, along with France and Russia, has been a co-chair of the Organization for Security and Co-operation in Europe Minsk Group which was created to seek a durable and peaceful solution to the conflict; and

Whereas in the context of recent peace talks involving Armenia, Azerbaijan, the United States, the European Union, and Russia, there have been calls for the release of prisoners of war as soon as possible, and a decision by Azerbaijan to release all remaining prisoners of war in its custody could represent an important confidence-building measure: Now, therefore, be it

1       *Resolved*, That the House of Representatives—

2               (1) calls upon Azerbaijan to immediately return  
3       all Armenian prisoners of war, hostages, and other  
4       detained persons, provide information on the whereabouts  
5       of servicemen and civilians who were last  
6       seen in Azerbaijani custody but whose status is unknown,  
7       and allow independent monitoring and public  
8       reporting on the current health and wellbeing of  
9       those detained, and when applicable, details on their  
10      cause of death and the precise location of their remains;  
11

1           (2) calls on the President to impose sanctions  
2           under the Global Magnitsky Human Rights Account-  
3           ability Act on Azerbaijani Government officials re-  
4           sponsible for the illegal detention, torture, and  
5           extrajudicial killing of Armenian prisoners of war,  
6           civilian detainees, hostages, political prisoners, and  
7           other detained persons, and to urge credible inves-  
8           tigations and prosecutions of the perpetrators in  
9           these cases;

10           (3) calls on the President to immediately sus-  
11           pend any new, current, or pending military or secu-  
12           rity assistance from the United States to Azerbaijan,  
13           and to fully enforce section 907 of the FREEDOM  
14           Support Act, in light of Azerbaijan’s violation of  
15           internationally recognized human rights, including  
16           under the Third Geneva Convention;

17           (4) urges the Secretary of State to engage at all  
18           levels with Azerbaijani authorities, including through  
19           bilateral talks and cooperation with the Organization  
20           for Security and Co-operation in Europe Minsk  
21           Group or other partners, to make clear the impor-  
22           tance of adhering to their obligations under inter-  
23           national law and commitments made under the No-  
24           vember 9 statement, to immediately release and



1       treat humanely all prisoners of war, hostages, and  
2       other detained persons; and

3           (5) urges the Secretary of State to regularly  
4       provide substantive updates to the Committee on  
5       Foreign Affairs of the House of Representatives and  
6       Committee on Foreign Relations of the Senate re-  
7       garding the progress and outcomes of engagement  
8       with Azerbaijan on the status of prisoners of war,  
9       hostages, and other detained persons.

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