

Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Ref.: AL AZE 3/2024
(Please use this reference in your reply)

29 July 2024

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 51/8, 54/14, 53/4 and 54/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **enforced disappearance of 23 Armenian soldiers and one civilian following their captivity by armed forces of Azerbaijan in Zangilan on 21 October 2020, followed by alleged torture, and unlawful killing of some of them.**

Previous communications under references AL [AZE 1/2021](#), sent on 2 February 2021, and UA [AZE 4/2020](#), sent on 11 December 2020, expressed concerns in relation to the alleged torture and ill-treatment of prisoners of war ('POWs') during the armed conflict in and around the former Nagorno-Karabakh conflict zone and the return of captives and bodies of the dead to their respective countries of origin and to their families. We regret that we have not received a response to the first-mentioned communication. We thank your Excellency's Government for the [reply](#) to the second-mentioned communication received on 30 December 2020. While we welcome the opening of criminal investigations into the alleged violations raised in UA AZE 4/2020, we note that we are yet to receive information on the results of such investigations, the factual and legal reasons for the continued detention of the POWs after the cessation of hostilities, and the measures taken to inform families of the disappeared about their fate and the exact whereabouts.

According to the information received:

On 27 September 2020, large-scale military hostilities broke out in and around the former Nagorno-Karabakh conflict zone. The ensuing 44 days of the full-scale hostilities were marked by alleged grave violations of international human rights and humanitarian law.

Combat engagement in Zangilan

On 20 October 2020, an Azerbaijani YouTube channel circulated a video showing a group of some 25 armed men in military uniform resembling to the uniform of the State Border Guard Service of Azerbaijan standing in front of the school in Zangilan, claiming that they have taken control over the city. The following day, 66 Armenians, of which 62 were soldiers and four civilians, were deployed from the military base in Kapan towards Zangilan in three

buses. Near the entrance to the city, the Armenian soldiers were reportedly ambushed by soldiers of the State Border Guard of Azerbaijan. Thirteen Armenian soldiers were presumably killed in action on the outskirts of Zangilan, their bodies were returned; 24 managed to escape and returned to their positions. According to sources, 29 were captured and of those, five have been subsequently repatriated to Armenia.¹ Three of them have reportedly been detained in the place informally known as the “military police building” or the National Security Service Isolator in Baku.

Enforced disappearance of Armenian soldiers

The fate and whereabouts of 24 Armenians, including 23 servicemen and one civilian, reportedly captured by the Azerbaijani State Border Guard Service remain unknown. Their captivity by the soldiers of the State Border Guard Service of Azerbaijan has been confirmed either by the subsequently repatriated Armenian soldiers, or by video footage published on social media.

Three of the repatriated POWs, captured on 21 October 2020, confirmed the captivity of **Mr. Erik Nersesov** and another Armenian soldier.² On 21 October 2020, they were reportedly brought to the Zangilan Middle School, serving as the headquarters of the Azerbaijani armed forces in the area. Together with the three subsequently repatriated soldiers, the latter was transferred to the “military police building” where he was last seen in late October 2020. Mr. Erik Nersesov was last seen in the Zangilan Middle School.

The captivity of fifteen other Armenian soldiers has been confirmed by video footages published by Azerbaijani Telegram channels. Messrs. **Arsen Karapetyan** and another Armenian soldier appear being questioned by Azeri soldiers in separate videos. In particular, an analysis of a video circulated on the Internet revealed Mr. Arsen Karapetyan in military attire. In the footage, he responds to an inquiry about his name in Russian, confirming it as Arsen Karapetyan. Subsequently, individuals behind the camera repeatedly mention “Karabakh” in a questioning manner, to which another person nearby asks Mr. Arsen Karapetyan, “Who Karabakh belongs to?” In response, Mr. Arsen Karapetyan states, “Karabakh is Azerbaijan.”

Another video circulated on the Azerbaijani Telegram channel “Karabah_news” depicts the above Armenian soldier being interrogated by Azerbaijani servicemen. The person filming the video and another accompanying person utter the phrase “Karabakh” several times, in response to which Mr. Norik Arakelyan utters the phrase “Karabakh is Azerbaijan”.

Thirteen other Armenian soldiers appear as a group in a separate video, and then in other videos, they appear walking and some of them being executed.

¹ One soldier (captured on 21 October 2020) was released on 14 December 2020, four others (two captured on 21 October 2020, one captured on 31 October 2020 and one captured on 6 November 2020) were released on 12 June 2021.

² Many of the soldiers deployed to Zangilan on 21 October 2020, were not familiar with each other and therefore did not know each other’s names.

Group of 13 POWs

The videos featuring thirteen captured Armenian soldiers were published by Azerbaijani Telegram channels sometime between 31 October and 6 November 2020. Three videos show from different angles the captured Armenian soldiers marching, presumably on the Kapan-Zangilan road, at the entrance to Zangilan. Another video shows 13 soldiers kneeling on the ground side by side, with their arms tied behind their backs.

The poor quality of the video does not allow to identify them with absolute certainty. However, based on the information from relatives of the soldiers missing in that context, all of them have been identified. These are (from left to right) Messrs. **Karapet Harutyunyan, Edgar Nahapetyan, Davit Sargsyan, Grigor Rostomyan, Shavarsh Avdalyan, Artur Aloyan, Harutyun Hakobyan, Gevorg Karapetyan, Karen Hovhannisyanyan, Yurik Gasparyan, Garik Melkonyan, Samvel Piroyan and Hayrapet Gevorgyan.**

Analysis of the videos allows to establish that they had been recorded after their disappearance in Zangilan, at that time controlled by Azerbaijani armed forces. The comparative analysis of pictures of some of the identified captives taken shortly before their deployment to Zangilan (soldiers are clearly shaved) and their appearance on those videos (soldiers appear with heavy facial hair) suggests that they have been made at least a few days apart. The analysis of the vegetation as well as the buildings that get into the frame, suggest that the videos were filmed in Zangilan, in front of the middle school.

Another video related to the 13 captured Armenian soldiers shows at least eight corpses of allegedly Messrs. **Artur Aloyan, Harutyun Hakobyan, Gevorg Karapetyan, Karen Hovhannisyanyan, Yurik Gasparyan, Garik Melkonyan, Samvel Piroyan and Hayrapet Gevorgyan** on the ground, and a shot being fired at one of the captives. All videos were presumably recorded on the same day and in the same location.

The quality of the videos does not allow to establish whether five other captives were executed as well. It is possible, however, that some of them could have been transmitted to Baku, to the National Security Service Isolator. One of the Armenian soldiers repatriated on 12 June 2021, testified that while being detained in the National Security Service Isolator, he heard the surname “Rostomyan” and the only person among the disappeared Armenian soldiers was Mr. Grigor Rostomyan.

It should be noted that no information has been received regarding the alleged capture, enforced disappearance or other circumstances regarding the fate or whereabouts of the remaining seven persons, including Messrs. **Rudik Hrachyayi Aleksanyan, Gevorg Vaniki Balayan, Arghishti Aramaisi Gabrielyan, Lyudvig Rubeni Hayrapetyan, Albert Meliki Melkonyan, and Maxim Martuni Sargsyan.**

While we do not wish to prejudge the accuracy of these allegations, we would like to express our grave concern over reports of the extrajudicial killings, enforced disappearances and acts of torture and other cruel, inhuman or degrading treatment or punishment of civilians and persons deprived of their liberty or otherwise *hors de*

combat in the hostilities in and around the former Nagorno-Karabakh conflict zone. Should the facts alleged above be confirmed, they would amount to a violation of the right to life, liberty and security and the prohibition of torture and enforced disappearances, as set out in articles 6, 7, 9 and 16, read along and in conjunction with article 2.3 of the International Covenant on Civil and Political Rights (ICCPR), to which Azerbaijan is party, and articles 2 and 16 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which your Excellency's Government is also a State party. We would also like to stress on the absolute prohibition of enforced disappearances both by international humanitarian law (Customary IHL, rule 98) and international human rights law (United Nations Declaration on the Protection of All Persons from Enforced Disappearance, article 7). Furthermore, each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate (Customary IHL, rule 117).

Furthermore, the above allegations may amount to various war crimes in contravention of the Geneva Conventions of 1949, to which Azerbaijan is a party. The killing of POWs captured during or in the context of combat, is strictly prohibited under international humanitarian law, and if confirmed, may constitute a war crime.

The issue of accountability for the alleged human rights violations described above is of paramount importance. Impunity for such grave violations of international human rights and humanitarian law only perpetuates a cycle of violence and encourages further atrocities. Ensuring that those responsible are held accountable is essential not only for justice for the victims and their families but also for preventing future violations and fostering long-term peace and stability in the region.

We would like to bring to the attention of your Excellency's Government common article 3 to the 1949 Geneva Conventions which prohibits "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" in respect of all persons not taking an active part in the hostilities. Under international human rights law and international humanitarian law, States have the obligation to promptly, thoroughly, and independently investigate all suspected violations of the right to life and the universal prohibition of torture, as well as any other acts that may constitute war crimes, committed either by their own nationals or armed forces or on their territory by a foreign State and to prosecute perpetrators and afford full reparation for the harm caused. In doing so, we advise that such investigations be guided by the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)),³ and the Revised Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022).⁴ Noteworthy are obligations related to the treatment of the dead (Customary IHL, rules 112-116).

We appeal to your Excellency's Government to take all necessary measures concerning the prompt release of captives and guaranteed safe return, as well as to facilitate the urgent return of bodies to their families. We remind your Excellency's Government of Azerbaijan's obligations under both international human rights law and international humanitarian law to effectively, promptly, thoroughly, impartially and impartially investigate the alleged violations, and to hold accountable those

³ [MinnesotaProtocol.pdf \(ohchr.org\)](#).

⁴ [Istanbul-Protocol_Rev2_EN.pdf \(ohchr.org\)](#).

responsible.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the measures taken to search for the disappeared persons. Please advise whether the search activities have been carried out in Zangilan.
3. Please provide information on whether the referenced video clips have been examined and whether their authenticity has been confirmed. Please also advise whether the source of the video, as well as the persons appearing in the video have been identified.
4. Please provide information on whether the military unit deployed to Zangilan on 20-21 October 2020 has been identified. Please also advise whether necessary investigative actions have been carried out to identify if any of the Azerbaijani soldiers has been involved in the alleged execution of captured Armenian soldiers.
5. Please provide information on the measures undertaken to ensure the dignified return of bodies and remains of the deceased POWs, as required by international humanitarian law.
6. Please provide information on steps taken to investigate extrajudicial killings of POWs and soldiers *hors de combat*, in accordance with the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and with a view to prosecute perpetrators.

We also call on your Excellency's Government to return captives and bodies of the dead to their families.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any

opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

We would like to inform your Excellency's Government that a copy of this letter is being sent to the Government of Armenia.

Please accept, Excellency, the assurances of our highest consideration.

Ganna Yudkivska
Vice-Chair on communications of the Working Group on Arbitrary Detention

Aua Baldé
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Bernard Duhaime
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the following:

Absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment

Article 5 of the Universal Declaration of Human Rights (UDHR); article 7 of the International Covenant on Civil and Political Rights (ICCPR); and at least articles 1 and 2 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) establish the absolute prohibition of torture or other cruel, inhuman or degrading treatment or punishment.

Attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute or extradite suspects, to punish those responsible and to provide remedies to victims.⁵

States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) have explicit treaty duties to establish all acts of torture as offences under domestic law (art. 4), to exercise jurisdiction over said offences (art. 5), to receive complaints and examine them promptly and impartially (art. 13), and to investigate those allegations promptly and impartially (art. 12).

Defendants cannot rely on orders of a superior or public authority, or states of emergency, to exonerate their actions (art. 2 (3) and 2 (2)), while any legal mechanisms which interfere with that obligation, such as statutes of limitations, immunities or amnesties, are considered contrary to the non-derogable nature of the prohibition (art. 2(2)). Amnesties provided at domestic law do not remove criminal liability pursuant to international tribunals or universal jurisdiction. Prosecutors and courts have a duty to refuse evidence obtained, or suspected of having been obtained, through torture or other illicit means (art. 15).

Victims are to be protected from reprisals or intimidation during said investigations (art. 13) and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (art. 14). States are to establish jurisdiction over all acts of torture on territoriality, flag State, active nationality, passive nationality and universal jurisdiction principles (art. 5). The CAT further imposes duties to extradite alleged offenders when they are not prosecuted (arts. 5 (2) and 7 (1)).

At no time shall torture be used to extract information or a confession (art. 1), and any statement which has been obtained via such methods, shall be excluded from any proceedings except against a person accused of torture as evidence that the

⁵ For full explanation of the obligations to criminalize, investigate and prosecute the crimes of torture and related ill-treatment, see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/77/502.

statement was made (art. 15).

States parties to CAT have overarching obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment via effective legislative, administrative, judicial and other measures (articles 2 and 16), to educate and train relevant personnel including military officials on the prohibition (article 10) and to keep all rules, instructions, methods and practices relating to interrogation, custody and treatment under systematic review (article 11).

Under international humanitarian law, torture and related ill-treatment is likewise absolutely prohibited. This prohibition is contained in the customary (rule 90), as well as in the treaty-based international humanitarian law.

Article 17, fourth paragraph, of the 1949 Geneva Convention III provides: “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.” – Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 17, fourth para.

Article 87, third paragraph, of the 1949 Geneva Convention III provides: “Any form of torture or cruelty is forbidden.” – Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 87, third para.

Article 89 of the 1949 Geneva Convention III provides: “In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.” – Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 89.

Article 32 of the 1949 Geneva Convention IV provides: “The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering ... of protected persons in their hands. This prohibition applies not only to ... torture ... but also to any other measures of brutality whether applied by civilian or military agents.” – Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, article 32.

According to article 50 of the 1949 Geneva Convention I, article 51 of the 1949 Geneva Convention II, article 130 of the 1949 Geneva Convention III and article 147 of the 1949 Geneva Convention IV, “torture or inhuman treatment” and “wilfully causing great suffering or serious injury to body or health” are grave breaches of these instruments. Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949, article 50; Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva, 12 August 1949, article 51; Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949, article 130; Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, article 147.

Also under international humanitarian law, similar investigative obligations exist as those under CAT. As a grave breach of each of the four Geneva Conventions of 1949, the High Contracting Parties are obliged: to enact legislation to provide penal

sanctions for persons committing, or ordering to be committed, torture and inhuman treatment, including biological experiments; to search for such persons in order to bring them to justice; and to prosecute suspects of acts of torture as grave breaches under universal jurisdiction, which is considered obligatory. States may discharge their obligation to investigate war crimes and prosecute the suspects by setting up international or mixed tribunals.

The duty to investigate and prosecute torture as genocide, war crimes or crimes against humanity is also determined to be customary law, applicable for crimes committed in international and non-international armed conflict, which requires States to establish jurisdiction and investigate war crimes allegedly committed by its nationals or armed forces, or including outside their territory, and, if appropriate, to prosecute the suspects. Customary law has also established that soldiers have a duty to disobey orders of a superior for grave breaches and that there is no relief for following superior orders. Also considered customary norms are the rules against amnesties and statutes of limitation.

Absolute prohibition of enforced disappearances

Enforced disappearance is prohibited under both international human rights and humanitarian law, and such a prohibition has attained the status of *jus cogens*. According to the UN Declaration on the Protection of all Persons from Enforced Disappearance (Declaration), States shall not practise, permit or tolerate enforced disappearances (article 2) and that no circumstances whatsoever, including the state of war can justify enforced disappearances (article 7). The prohibition of enforced disappearances and the corresponding obligation to investigate them has attained the status of *jus cogens*.

The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. In particular, the Working Group on Enforced or Involuntary Disappearances recalls that the Declaration sets out the necessary protection by the State, in particular articles 9, 10, 11 and 12, which relate to the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; to access of competent national authorities to all places of detention; to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons. Article 13 also stipulates that steps shall be taken to ensure that all involved in the investigation, including the complainant, relatives, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

Enforced disappearance is also prohibited under the customary international humanitarian law (Customary IHL – rule 98). Furthermore, each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate (rule 117).

Furthermore, we would like recall that under the international humanitarian law, States parties to the conflict have obligations to: whenever circumstances permit, and particularly after an engagement, take all possible measures to search for, collect and evacuate the dead without adverse distinction; take all possible measures to prevent the dead from being despoiled, and to refrain from mutilation of bodies, which is prohibited; facilitate the return of the remains of the deceased upon request of the party to which they belong or upon the request of their next of kin; dispose of the dead in a respectful manner and to respect and properly maintain their graves; and to record all available information prior to disposal and mark the location of the graves in order to ensure the identification of the dead (Customary IHL, rules 112-116).

Enforced disappearance, which, under certain circumstances, may amount to a crime against humanity, entails violations of articles 6, 7, 9, 10 and 16, read alone and in conjunction with article 2(3) of the ICCPR with regard to the disappeared person and of article 7, read alone and in conjunction with article 2(3), of the ICCPR with regard to family members.

Prohibition of arbitrary deprivation of life

We also remind that article 3 of the UDHR and article 6 of the ICCPR recognize and protect the right to life of all human beings.

The right to life is the supreme right from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of the nation. The right to life has crucial importance both for individuals and for society as a whole. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, the effective protection of which is the prerequisite for the enjoyment of all other human rights and the content of which can be informed by other human rights.⁶

Article 6 of the ICCPR is included in the list of non-derogable rights in article 4 (2) of the Covenant. Hence, the guarantees against arbitrary deprivation of life contained in article 6 continue to apply in all circumstances, including in situations of armed conflict and other public emergencies.

Wars and other acts of mass violence [are] a scourge of humanity resulting in the loss of many thousands of lives every year. Efforts to avert the risks of war and any other armed conflict, and to strengthen international peace and security, are among the most important safeguards of the right to life.

Under IHL, persons who have surrendered or are otherwise *hors de combat* must be treated humanely. Any attacks against them, including wilfully killing or murdering such persons constitutes a war crime. States have an obligation to investigate all potentially unlawful killings committed by their armed forces or nationals or committed on their territory. Where there is sufficient evidence of the commission of the offence, States have a duty to prosecute those responsible. A State responsible for such violations must make full reparation for the loss suffered.

⁶ See Human Rights Committee, General comment No. 36, Article 6: right to life, CCPR/C/CG/36.

Treatment of prisoners of war

The treatment of prisoners of war (POWs) is specifically regulated by the Third Geneva Convention relative to the treatment of POWs and applicable customary international humanitarian law. States have a fundamental obligation to treat all POWs in their power humanely at all times, from the moment of their capture until their release and repatriation.⁷

Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited and will be regarded as a serious breach of the Third Geneva Convention relative to the treatment of prisoners of war (article 13).⁸

The obligation of humane treatment is the cornerstone of the protection conferred by the four Geneva Conventions. The specific prohibitions under article 13(1) derive from this obligation. It is further reflected in many of the provisions of the Third Convention that deal with the treatment during captivity and conditions of internment of prisoners of war. As a correlative of the obligation to treat all prisoners of war humanely, article 13(2) comprises an obligation on the Detaining Power to protect prisoners of war at all times, in particular against acts of violence or intimidation and against insults and public curiosity. This obligation involves protecting them from any physical or psychological abuse or threat thereof, and encompasses a prohibition on humiliating them, in particular by way of insults or exposure to public curiosity.

Article 121 complements article 13, by adding a procedural safeguard that requires the Detaining Power to open an official enquiry as soon as the death or serious injury of a prisoner of war is caused or suspected to have been caused by a sentry, a prisoner of war or any other person.⁹

Duty to investigate, prosecute and sanction perpetrators.

Concerning the obligation to prosecute persons allegedly responsible for grave breaches of International Humanitarian Law, we would like to recall article 146 of the Geneva Convention (IV) according to which the High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the Convention defined in article 147. In addition, each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a 'prima facie' case. Furthermore, each Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in article 147. In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949.

⁷ See <https://ihl-databases.icrc.org/ihl/full/GCIII-commentary>.

⁸ See ICRC, Prisoners of war: what you need to know: [Prisoners of war: What you need to know | ICRC](#).

⁹ See [Prisoners of war | How does law protect in war? - Online casebook \(icrc.org\)](#).

In addition, article 2 of the ICCPR sets out the duty of States to ensure that any person whose rights were violated has an effective remedy, and that the competent authorities enforce such remedies. As established by the Human Rights Committee in its general comment No. 31, States have an obligation to investigate and punish serious human rights violations, such as torture, extrajudicial killings and enforced disappearances. Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties (paragraph 18). Impunity for such violations can be an important element contributing to the recurrence of violations.

Similarly, the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, to undertake prompt, thorough, independent and impartial investigations of violations of human rights and international humanitarian law and to ensure that those responsible for serious crimes under international law are prosecuted, tried and duly punished (principle 19).