



## Nagorno-Karabakh: An Update

# Emergency Hearing of the Tom Lantos Human Rights Commission

**Rep. Chris Smith (R-NJ)**

### Excerpt of Remarks

Good afternoon and welcome to everyone joining us today for this Emergency Hearing on Nagorno-Karabakh, where 120,000 ethnic Armenians have been sealed off from food and medicine and are being starved to death by the government of Azerbaijan.

In a few minutes I will introduce our distinguished witnesses – right now I'd like to recognize Her Excellency Lilit Makunts, Ambassador of the Republic of Armenia. Thank you for attending the hearing today.

In the past week feature articles in some of the world's leading newspapers have documented how, in Nagorno-Karabakh, the starvation process has been advancing at a terrifying rate. This includes, Nicholas Kristof's column, "Another Ethnic Cleansing Could be Underway—and We're Not Paying Attention" which was published in the Washington Post, on September 2<sup>nd</sup>.

This crime – it is the crime of genocide – was planned, tested, and imposed by the government of Azerbaijan, that is to say by President Ilham Aliyev, who rules Azerbaijan as a dictator.

I have met with President Aliyev, twice, in Baku—in 2013 and again in 2014. I talked to him about human rights abuses – abuses his government commits against Azerbaijanis and the abuse of his campaign to threaten and incite hatred against the Armenians of Nagorno-Karabakh. I will say these were tense conversations.

In 2015, I chaired a hearing on President Aliyev's unjust imprisonment of RFE reporter Khadija Ismayilova.

Also in 2015, I authored the [Azerbaijan Democracy Act](#), and I am currently preparing a Nagorno-Karabakh human rights act. I have and will continue to advocate for the human rights of Azerbaijanis and Armenians – the government of President Aliyev abuses them both. And right now the most terrible threat of all hangs over the Armenians of Nagorno-Karabakh.

On June 21 of this year I chaired a hearing on this same crisis. The purpose then was to consider what could be done to *safeguard* and *sustain* the people of Nagorno-Karabakh. We will continue to ask that question – and to demand urgent and emergency action on their behalf. At the same time we must recognize that the situation in Nagorno-Karabakh is *much more desperate now*, and that two-and-a-half more months of inaction raises the question whether there is, within our own government, any *will* to help.

Our first witness, Luis Moreno Ocampo, Chief Prosecutor of the International Criminal Court from 2003 to 2012, issued on August 7 an Expert Opinion. He applied the Convention on the Prevention and Punishment of the Crime of Genocide. Article II (c) of the Convention provides that genocide constitutes “Deliberately inflicting on the group conditions of life calculated to bring about its destruction”. And he showed that all the elements of that crime were in early August actively present. He concluded: “There is a reasonable basis to believe that a Genocide is being committed against Armenians living in Nagorno-Karabakh in 2023.” His report received a great deal of attention and comment – deservedly so.

In August, Mr. Ocampo reminded us also that the Genocide Convention contains a “duty to prevent”. He stated that, in order to secure jurisdiction to investigate and charge President Aliyev and other officials of his government with genocide, the procedure was for the U.N. Security Council to refer the matter to the International Criminal Court, via a U.N. Security Council resolution –as happened in the cases of Darfur in 2005 and Libya in 2011. Since genocide was already present, he recommended this referral should happen immediately.

Yet in August, when the Security Council met in special session to discuss the crisis neither the U.S. nor any other member took this action.

As many of you know, Armenians have lived in Nagorno-Karabakh for over two thousand years. As the Soviet Union collapsed and the states of Armenia and Azerbaijan emerged out of it, Armenians and Azerbaijanis fought a war. The war was driven in part by the fact that the boundaries of the new Armenian and Azerbaijani states did not correspond to the ethnic boundaries. Since 1994, Nagorno-Karabakh has been an enclave within Azerbaijan, in which the Armenians have defended and governed themselves. They have been connected to the outside world only by a limited access road called the Lachin Corridor to Armenia, as per international agreements. Their independence has not been recognized by any other country – not even by the Republic of Armenia.

The government of Azerbaijan does not accept this and seeks to fully integrate Nagorno-Karabakh into Azerbaijan. Whatever we think of the goal of integration into Azerbaijan, what is totally *unacceptable* is to achieve that through genocide. The government of Azerbaijan has never worked toward a solution that would address the fears of the Armenians of Nagorno-Karabakh that integration really meant they would be genocided or ethnically cleansed.

Azerbaijan has repeatedly violated cease fires and attacked Nagorno-Karabakh. The most aggressive attack came in 2020. Working together with the government of Turkey, Azerbaijan achieved military dominance over Nagorno-Karabakh, and shrank the size of the Nagorno-Karabakh enclave. Since December 12, 2022, Azerbaijan has drastically reduced and then completely cut access to the outside world with the evident intention is to starve the Armenians of Nagorno-Karabakh into submission.

So it is very clear why the Armenians of Nagorno-Karabakh do not accept to be effectively integrated into the state of Azerbaijan – this would be a ***death sentence***. The government of Azerbaijan has toward them ***murderous intentions***. If at one time people doubted that in good faith, this is impossible today.

But it never should have been doubted. The record establishing the murderous deeds and intent of the Government of Azerbaijan, over the past 30 years, is vast and shocking. Nothing has changed in recent years. We will hear testimony on this point from David L. Phillips. He is Director of Columbia University's Artsakh Atrocities Project – I invite you to visit the website, [Atrocities Artsakh](#). The many horrific and sickening atrocities committed in recent years, and documented on that website bear witness to the depths to which humanity can descend when a government subjects its people to a campaign of incitement to hatred. The International Court of Justice referred to this as “obsessive and continuing expressions of hatred for persons of Armenian national or ethnic origin emanating from Azerbaijani officials... including the President.” In fact, that government taunts the very people it is starving, as when President Aliyev said his blockade is necessary to deal with the smuggling of cigarettes and iPhones, and Azerbaijan's ambassador to the UN held up photos of supposed Karabakh residents partying and enjoying the high life.

So, as our government is leading discussions with Azerbaijani and Armenian leaders, Congress has a responsibility to ask several questions – 1. whether this is genocide? 2. What is the U.S. government's “duty to prevent” as provided in the Genocide Convention? 3. Does the U.S. have an additional level of responsibility in the “duty to prevent” that comes with having undertaken a mediating role, so that it does not become guilty of “complicity in genocide” under Article III(e) of the convention?

I note that Mr. Ocampo's written testimony says that “The risk of complicity is expanded by the U.S. active role in the negotiation... Any assistance from the U.S. to President Aliyev... that could be deemed to ‘facilitate’ the blockade... could be considered complicity in genocide.” U.S. complicity would not require genocidal intention, rather knowledge that the government of Azerbaijan has this intention, as well as “some positive action” to aid or assist the blockade,

which could include actions encouraging the government of Azerbaijan in its genocidal course, such as pressure on the Armenians.

These are legal standards – we have very little information on what the U.S. government is, in fact, doing. Opaqueness that has been created around the U.S. government’s involvement in this crisis. This appears to be by design. For example, this is a hearing of **two empty chairs** – those of the *U.S. State Department and USAID*. I requested that both provide a witness for this hearing. Despite repeated requests, by phone and email, neither responded. Not even a response – since 1995 I have chaired hundreds of hearings with State Department or USAID witnesses, and this is a unique case of absolute non-response.

Also, for many years Congress has been appropriating significant sums for humanitarian assistance in Nagorno-Karabakh, but USAID will not respond to inquiries as to when it last delivered assistance into Nagorno-Karabakh. Armenian sources report that assistance was last delivered in 2020. This was a very significant signal to President Aliyev.

The government of Azerbaijan has been testing the will of the U.S. government. It conducted a test on December 12, 2022, when President Aliyev permitted Azerbaijanis without formal ties to the state apparatus to block the Lachin Corridor – at that point he still denied his involvement, and some times some food and medicine was permitted to transit the corridor; President Aliyev tested us again on June 15 when he escalated, completely sealing off the Lachin Corridor. Our government has utterly failed both tests – each time the U.S. government made no significant response. *Requests in bland bureaucratic language do not count*. Today the State Department issued a “Readout” of Secretary Blinken’s September 1 call with President Aliyev: *“Concern over the deteriorating humanitarian situation ... reiterated our call to reopen... underscored the need for a dialogue and compromise.”* This is completely inadequate and insulting. One side is committing genocide against the other – and the State Department expresses “concern” urging the victim to “dialogue and compromise.”

Of course we know the Biden administration *does not want* this genocide to advance to a horrible consummation in the death of the people of Nagorno-Karabakh, or to their ethnic cleansing. Yet that is where events are headed, and, the administration having failed so many tests, the course will now be difficult to reverse. ***I urge the administration to wake up, recognize the absolutely grave responsibility it has here, and focus on finding and implementing a humane solution. And this must mean that the blockade is lifted and the people continues to live in its ancient homeland. This situation is now a three-alarm fire.***

If people in Nagorno-Karabakh are able to watch this hearing, I promise you that we will do everything in our power for you – as will, I am sure, everyone joining me this morning in this hearing, the representatives of so many Armenian-American groups who are working around the clock on your behalf. May God be with you in these terrible days.