

Response to Armenian Government Letter on the town of Khojaly, Nagorno-Karabakh

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As Executive Director of Human Rights Watch/Helsinki (formerly Helsinki Watch), I wish to respond to the March 3 Ministry of Foreign Affairs statement regarding the 1992 slaughter of Azeri civilians in the town of Khojaly in Nagorno Karabakh. In it, the Ministry argues that the Popular Front of Azerbaijan was responsible for the civilian deaths, supporting this argument by referring to an interview with former President Ayaz Mutalibov and, incredibly, to a 1992 report by our organization.

The Ministry statement reads: ". . . the militia of the Azerbaijani National Front actively obstructed and actually prevented the exodus of the local population through the mountain passages specifically left open by Karabakh Armenians to facilitate the flight of the civilian population. On this matter, the September 1992 Helsinki Watch non-governmental organization report quotes an Azerbaijani woman who says that Armenians had notified the Azerbaijani civilian population to leave the town with white flags raised, in fact the Azerbaijani militia shot those who attempted to flee."

Our report indeed found that many residents of Khojaly may have had advance warning of the impending military operation, since Armenian forces had given an ultimatum to Alif Gajiyev, then head of the Khojaly militia, who in turn warned civilians. Our research and that of the Memorial Human Rights Center found that the retreating militia fled Khojaly along with some of the large groups of fleeing civilians. Our report noted that by remaining armed and in uniform, the Azerbaijani militia may be considered as combatants and thus endangered fleeing civilians, even if their intent had been to protect them.

Yet we place direct responsibility for the civilian deaths with Karabakh Armenian forces. Indeed, neither our report nor that of Memorial includes any evidence to support the argument that Azerbaijani forces obstructed the flight of, or fired on Azeri civilians. For clarity's sake I cite our 1992 report (page 24):

" . . . Thus, a party that intersperses combatants with fleeing civilians puts those civilians at risk and violates its obligation to protect its own civilians. . . .[T]he attacking party [i.e., Karabakh Armenian forces] is still obliged to take precautionary measures to avoid or minimize civilian casualties. In particular, the party must suspend an attack if it becomes apparent that the attack may be expected to cause civilian casualties that are excessive in relation to the concrete and direct military advantage anticipated."

"The circumstances surrounding the attack . . . on those fleeing Khojaly indicate that [Karabakh] Armenian forces and the troops of the 366th CIS regiment . . . deliberately disregarded this customary law restraint on attacks. Nagorno Karabakh officials and fighters clearly expected the inhabitants of Khojaly to flee since they claim to have informed the town that a corridor would be left open to allow for their safe passage. . . Under these circumstances, the killing of fleeing combatants could not justify the foreseeable large number of civilian casualties."

Please allow me to clarify another reference to our 1992 report, regarding the 1988 Sumgait pogrom. Our report reads: "The most brutal of these events was the anti-Armenian pogrom in Sumgait, Azerbaijan, which took the lives of thirty-two Armenians, wounded hundreds more, and intensified the fears of ethnic Armenians living in other parts of Azerbaijan," which differs from the citation used in the Ministry statement. We further cited the estimate of 300,000-350,000 ethnic Armenians who fled Azerbaijan, not 600,000 as the Ministry statement seemed to attribute to our report.

We welcome the use of our reports by governments and intergovernmental organizations, and we sincerely hope that there will be no further misrepresentation regarding the contents of our 1992 report.

I thank you for your attention.

Yours sincerely,

Holly Cartner

Executive Director

Human Rights Watch/Helsinki