

URGENT REPORT

PROPOSED OPENING OF THE AKNA (AGHDAM) ROAD IS AN EXISTENTIAL THREAT TO ARTSAKH ARMENIANS AND NOT AN ALTERNATIVE TO THE BERDZOR (LACHIN) CORRIDOR



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CONTENTS

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|---|----|
| WHY THE OPENING OF THE AKNA ROAD IS UNACCEPTABLE..... | 2 |
| I. THE OPENING OF THE AKNA ROAD WILL UNDERCUT THE CORE PURPOSES OF THE BERDZOR CORRIDOR. | 3 |
| II. THE AKNA ROAD WILL BE USED BY AZERBAIJAN IN FURTHERANCE OF ITS ANTI-ARMENIAN POLICIES..... | 7 |
| III. THE AKNA ROAD INVITES THE VERY REAL PROSPECT OF ARBITRARINESS AND UNHINDERED CONDUCT BY AZERBAIJAN. | 11 |

WHY THE OPENING OF THE AKNA ROAD IS UNACCEPTABLE

A massive humanitarian catastrophe is imminent in Artsakh. 120.000 ethnic Armenians are under the Azerbaijani blockade for 262 days. People—especially children, pregnant women and the elderly—are facing severe healthcare problems due to malnutrition. Artsakh is lacking the most essential foodstuffs and vitally important products.

Azerbaijan's fascist policy of Armenophobia, and the impunity it has gained from its previous humanitarian and human rights violations, triggers further and more severe conduct against ethnic Armenians residing in Artsakh. Ethnic cleansing and genocide in Artsakh are the main priorities of Azerbaijani authorities.

Azerbaijan's disrespect and ignorance of the core values of International Human Rights Law and International Humanitarian Law has reached the highest possible level. They are even abducting civilians during an ICRC-facilitated or Russian peacekeepers' facilitated transfers, transfers to which the Azerbaijani side had given its prior consent to and approval.

The current situation around the Artsakh blockade is not only about the life and security of 120.000 ethnic Armenians living there, but it is also the unfolding and protection of humanitarian values and national identity.

Azerbaijan's openly criminal activities, and the lack of any meaningful reaction from the international community and its absolute lack of responsibility, have allowed Artsakh to become an open-air prison, where people are being subjected to massive starvation through genocidal policies.

It is against this backdrop that Azerbaijani authorities recently made a proposal to replace the Berdzor (Lachin) road with an Akna (Aghdam) road.

The Center for Law and Justice TATOYAN foundation considers Azerbaijan's proposal for the Akna road not acceptable—and indeed existentially catastrophic—for the safety and security of the Artsakh Armenians¹.

¹ This urgent report was prepared for the Foundation in a working collaboration with international lawyer Mr. Karnig Kerkonian, criminal lawyer Mr. Garo Ghazarian, and human rights lawyer Mr. Arman Tatoyan.

There are three main reasons:

1. The opening of the Akna road will undercut the core purposes of the Berdzor (Lachin) Corridor (“Corridor”), which serves a purpose well beyond merely humanitarian access.
2. The opening of the Akna road will be used by Azerbaijan in furtherance of its anti-Armenian policy as an enhanced tool for the oppression of the Artsakh Armenians.
3. The opening of the Akna road invites the very real prospect of arbitrariness and unfettered conduct by Azerbaijan, without any checks and balances.

While the Akna road proposal may appear inviting on its face, a closer inspection demonstrates plainly that it neither serves a humanitarian initiative nor provides a stabilizing step in the dispute. In fact, the opening of the Akna road will assuredly exacerbate the dispute, swiftly isolate the population, and further alienate international oversight concerning the condition, security, and survival of the Artsakh Armenians.

I. THE OPENING OF THE AKNA ROAD WILL UNDERCUT THE CORE PURPOSES OF THE BERDZOR CORRIDOR.

The Corridor serves several complex and crucial purposes. The road through the Corridor is not only a humanitarian road. It is a road secured for communication, connection, and cultural, familial, and social development with the Armenians of Armenia. The Corridor is also the Artsakh Armenians' connection to their extended and even immediate family members in Armenia. It is their link to the outside world.

These essential purposes of the Corridor are manifested in several ways, all of which will be bankrupted and devalued with the opening of an Akna road. The Corridor has a broad bandwidth that is not replaceable, and will be deconstructed, by the opening of an Akna road. The Akna road will also institutionalize Azerbaijan’s circumvention of its non-interference obligations in the Corridor and render any security promises fleeting, if not ridiculous on its face.

A. The Corridor Guarantees the Preservation of Ethnic Armenian Identity.

1. The Corridor is a physical guarantee for the preservation of the ethnic Armenian identity of the Artsakh Armenians. This, of course, is an internationally guaranteed right, as the Artsakh Armenians have the right to maintain, protect, develop, and enjoy their very identity as ethnic Armenians. The Corridor serves to physically secure the Artsakh Armenians' ability to preserve their ethnic Armenian identity.
2. The security and survival of the Artsakh Armenians must take into consideration their security and survival *as ethnic Armenians*. The Corridor should be understood and protected such, and it should not be devalued in the current crisis imposed by Azerbaijan as only a humanitarian road.
3. When understood in this light, the Akna road is in fact a direct threat to the security and survival of the Artsakh Armenians *as ethnic Armenians*. This is why Azerbaijan insists on proposing it as an "alternative".
4. An Akna road cannot be, and it is not, an alternative to the Corridor. Ethnic Armenians have no personal, cultural, linguistic, religious, familial, or developmental reasons to use an Akna road to travel to Azerbaijan. The Corridor serves all of these purposes for the Artsakh Armenians—an Akna road serves none of them.

B. An Akna Road Would Circumvent the Legal Prohibitions Against Azerbaijan as Established in the Corridor.

1. The Corridor is regulated by an international political and legal regime. This regime imposes limitations on Azerbaijan's conduct with respect to the Artsakh Armenians. The Corridor has an international legal and political character that *prohibits* Azerbaijan's interference with the movement of persons, vehicles and goods in both directions.

2. Indeed, this is *precisely* what is stated in the Trilateral Statement and, in an even broader context, by the International Court of Justice: movement shall be “unhindered” by Azerbaijan in both directions.
3. The regime in the Corridor, established by the agreement of the parties to the Trilateral Statement and the International Court of Justice, necessitates the *exclusion* of Azerbaijani interference with the movement of persons, vehicles, and cargo.
4. These international protections would be devalued immediately by the opening of the Akna road, as it will allow Azerbaijan direct access to the Artsakh Armenians without the legal and political limitations imposed on it by the legal and political regime in the Corridor.
5. As such, the very purpose of the Corridor and the guarantees it provides—namely *Azerbaijani non-interference* in the connection between Artsakh Armenians and Armenia—would be devalued and ultimately deconstructed.
6. An international control mechanism to ensure the connection between the Artsakh Armenians and Armenia would be lost and, with it, international interest in maintaining that relationship for the people of Artsakh. Given the anti-Armenian policies, actions and rhetoric from Azerbaijan, the diffusion of international interest and attention may cause quite devastating consequences for the Artsakh Armenians.

C. Azerbaijan’s Circumvention of its International Security Obligations as to the Corridor Will Derail Any Negotiated Resolution.

1. Azerbaijani non-interference obligation with the movement of people, vehicles and cargo in the Corridor in both directions with Armenia is, as is plainly evident after 8 months of blockade, the single most significant security guarantee for the survival of the Artsakh Armenians as ethnic Armenians.

2. One of the central issues—if not *the* central issue—in any prospective talks between Stepanakert and Baku specifically involves the issue of security guarantees. If Azerbaijan is permitted to circumvent its promises and international obligations by suggesting the Akna road “alternative”—*despite* its own assumed legal obligations, *despite* the order of the International Court of Justice, and *despite* the direct calls of numerous states and international institutes to end the blockade—its promises regarding the security of the Artsakh Armenians cannot, and will not, be considered with any reliability or credibility whatsoever.
3. This would have a devastating impact on the prospect of a just and dignified solution to the dispute as it exposes the fact that Azerbaijan is unable to adhere to its promises and obligations when it concerns the security, safety and indeed survival of the Artsakh Armenians.
4. By its own actions, Azerbaijan directly caused conditions in which it introduced its “alternative” solution, which, to no surprise, would extricate it from its own assumed international obligations concerning the safety, security and survival of the Artsakh Armenians as ethnic Armenians.
5. Facilitating the untethering of Azerbaijan from its international obligations in the Corridor by allowing an Akna road “end run” only discredits any future Azerbaijani proposal or promise as to guaranteeing the security of Artsakh Armenians.
6. The security and safety of the Artsakh Armenians, and even the prospect of a negotiated resolution, depends on the Corridor’s functioning within the international framework established by the Trilateral Statement, the ICJ order and the demands of several key players in the international community.

The Akna road “alternative” undermines several key purposes of the Corridor. It is not merely a humanitarian road, and it cannot have an “alternative” given its unique bandwidth, both

current and prospective. The opening of the Akna road will only lead to the Corridor's devaluation, Azerbaijan's strategic side-stepping of its international obligations as to the Artsakh Armenians and, with that, a devastating precedent irreversibly derailing Azerbaijan's credibility in any discussions relating to any "security guarantees" as to the Artsakh Armenians.

II. THE AKNA ROAD WILL BE USED BY AZERBAIJAN IN FURTHERANCE OF ITS ANTI-ARMENIAN POLICIES.

Azerbaijan's proposal of the Akna road is, at its core, an additional and powerful tool in furtherance of Azerbaijan's anti-Armenian policies. It is *not* a humanitarian gesture; it is quite the opposite.

The easiest humanitarian gesture would be to unblock the Corridor as demanded by the United States and several other countries. Accordingly, it is clear that the proposal of the Akna road *has other purposes for Azerbaijan.*

D. Azerbaijan Will Use the Akna Road to Make the Corridor Obsolete.

1. The Akna road will ultimately be Azerbaijan's *only* road if it opens. Azerbaijan will argue that it will provide for "its own residents" through the Akna road and that there is no reason to use the Corridor at all.
2. Azerbaijan will force use the Akna road (where it has no international legal limitations) *instead of* the Corridor which, in its view, is plagued by international obligations and requirements with which it does not want to comply. *The Akna road will be the only road Azerbaijan will allow third parties to use.*
3. In fact, Azerbaijan will likely close the Corridor altogether upon the opening of an Akna road, arguing that since there is no demarcation and delimitation between Armenia and Azerbaijan, and therefore there is no reason to allow the Corridor to operate.

4. At that point, Azerbaijan may even leverage the opening of the Corridor with its aspirations to have a “corridor” in Syunik. Since the Corridor has comprehensive and multifold value to the Artsakh Armenians, as noted above, the need for the Corridor will not dissipate, allowing for Azerbaijan to leverage it for other military/political aspirations that will only further destabilize the region.

E. Azerbaijan Will Use the Akna Road to Effectuate the Complete Dependence of the Artsakh Armenians on Azerbaijan.

1. The opening of an Akna road would lead to the complete dependence of Artsakh Armenians on Azerbaijan for food, energy, supplies, and even movement. It will be a valve which Azerbaijan can turn on and off at its whim. It will lead to Azerbaijan’s complete political/military dominance over the Artsakh Armenians.
2. This will obviate the need for any talks aimed at securing a “just and dignified” solution for the Artsakh Armenians, since it will lead to the outright *imposition* of conditions by Azerbaijan.
3. Actual conditions on the ground indicate that these imposed conditions will not allow for any security guarantees whatsoever and will be oppressive. In fact, this prospect of complete domination will directly fuel the ethnic cleansing or genocide of the Artsakh Armenians.

F. The Akna Road Will Become a Tool for Azerbaijan’s Oppression of the Artsakh Armenians.

1. To be clear, in the climate in which Azerbaijani racial enmity against Artsakh Armenians (and Armenians in general) is so charged and pervasive, the Akna road will simply become a tool to oppress the people of Artsakh. The government of Azerbaijan would be to introduce any restrictions, any limitations, and do so at any time.

2. Azerbaijan can open or close the road based on unsubstantiated pretexts (like it did to close the Corridor arguing that Armenians were transporting munitions)—or no pretexts at all—to demand concessions, detentions, and worse.
3. Furthermore, the prospect of unhindered free movement, safety and security of Artsakh Armenians compelled to use an Akna road is unconvincing given that it is not able to be guaranteed now in the Corridor despite the international political and legal framework *requiring* such free movement in both directions.

G. Azerbaijan Will Use the Akna Road to Execute Military Operations Inside Artsakh Proper.

1. Azerbaijan’s oppression will be magnified because it will use the Akna road to deploy military forces into the Armenian-inhabited parts of Artsakh.
2. The Akna road will enable Azerbaijan to deploy armed forces and equipment in furtherance of the so-called “integration” framework, under labels “security forces” or even for the purpose of “liberating” “its residents” from the “separatist junta”.
3. Armed forces deployed in the Armenian-inhabited parts of Artsakh will increase the risk of military force, violence and oppression.
4. Access through the Akna road will also be an invitation to “security” raids in the Armenian-inhabited parts of Artsakh for special operations which will open the door to further subjugation, abductions, and likely atrocities.

H. Azerbaijan Will Use the Akna Road to Conduct Unfettered Abductions of Artsakh Armenians.

1. In the case of the opening of an Akna road, the Azerbaijani government will be able to conduct unfettered operations against Artsakh Armenian individuals without limitation. The Akna road would give Azerbaijan the

opportunity, capability, and infrastructure to conduct the abductions of Artsakh Armenians.

2. Azerbaijan has repeatedly issued statements labeling entire categories of Artsakh Armenians as “criminals”, “separatists”, participants in the so-called "Khojalu Genocide". The Akna road would be a physical inroad to effectuate military operations to abduct Artsakh Armenians.
3. Middle-aged and older groups in the Artsakh Armenians population would be especially vulnerable and targeted, as they would have been military aged in the 1990s and possible participants in the first Artsakh war. These now elderly men would be illegally arrested, imprisoned, and tortured, and evidence of such abductions and torture is omnipresent and well documented.
4. Indeed, the abduction of Artsakh citizen Vagif Khachatryan from the illegal Lachin checkpoint is a case point, as Azerbaijan executed this abduction directly from an ICRC convoy.

The Akna road will be used by Azerbaijan to render the Corridor obsolete, tighten its isolation of the Artsakh Armenians from Armenia and employ a myriad of oppressive methods aimed at domination not “integration” and a life of ongoing oppression, not one of “justice and dignity.”

Azerbaijan’s conduct is clear: impose a self-serving blockade engineered to shift the narrative to a humanitarian one and provide an opening for a “humanitarian” “alternative road” that serves its underlying campaign to oppress and ethnically cleanse the Artsakh Armenians. The humanitarian pretext of an Akna road proposal is a convenient cover for Azerbaijan to capitalize on its anti-Armenian agenda, unhindered by the international community.

The *humanitarian* gesture is to open the Corridor as demanded by the international community. The Akna road proposal serves another agenda altogether—and that agenda only invites further oppression, violence and indignities on the Artsakh Armenians.

III. THE AKNA ROAD INVITES THE VERY REAL PROSPECT OF ARBITRARINESS AND UNHINDERED CONDUCT BY AZERBAIJAN.

Azerbaijan has demonstrated its willingness to act arbitrarily, and the very nature of its political system means that there are no internal checks and balances to limit or curtail arbitrary action by its leadership and the military establishment that serves him.

The Akna road only provides Azerbaijan direct access to the very people Azerbaijan has already openly attacked—physically and in racist rhetoric—and continues to attack right now. Such direct access is neither conducive to a just and dignified resolution, nor is it humane at this juncture.

In this context of abject arbitrariness, the Akna road proposal simply introduces yet another opportunity, and likely an irreversible one, for more unhindered conduct by Azerbaijan targeting Artsakh Armenians. It *removes* controls, rather than *reinforces* them, against Azerbaijan's clear ability and demonstrated conviction to act unobstructed and uncontrolled against the safety and security of the Artsakh Armenians.

I. The Akna Road Would Have No Third Party Checks and Balances on Azerbaijani Authority or Conduct.

1. The movement of people, vehicles, and goods along the Akna road will be fully regulated, policed and controlled by Azerbaijani authorities. This is *unlike* the legal and political arrangement of the Corridor, where Azerbaijani legislation does not apply.
2. Azerbaijan's willingness to act illegally in regulating, policing and controlling movement within the Corridor, suggests that there will be no ability of any third party to circumscribe Azerbaijan's conduct in the Akna road.
3. Azerbaijani bodies will be able to act on the spot, without oversight or controls, through border guards, customs bodies, police, and even military. The opportunities by which an unchecked Azerbaijan can impose demands

on Artsakh Armenians will expand astronomically, as will instances of abuse, humiliation, indignities, and violence.

4. Even the external check provided by access to certain tribunals for justice will be impacted tremendously as Artsakh Armenians will be forced to turn Azerbaijani authorities, courts and institutions— notoriously corrupt, and in a society in which anti-Armenian hatred has been institutionalized and state-sponsored even—to address instances of wrongdoing.
5. Access to international judicial protection such as the European Court of Human Rights will be likewise thwarted for incidents suffered by Artsakh Armenians by Azerbaijani authorities on the Akna road, because of the requirement to exhaust legal remedies. Artsakh Armenians will no longer be able to immediately apply to the ECHR but will have to apply to Azerbaijani courts first and in this climate of state-sponsored hate speech and oppression in order to exhaust their “domestic” resources.
6. The opening of the Akna road is, in fact, irresponsible, reckless and inhumane in the context of Azerbaijan’s abject arbitrariness and anti-Armenian policies where there will be no third-party checks and balances on Azerbaijani authority and conduct.

J. There Will Be No *Internal* Controls on Arbitrariness Either.

1. The context is only further exacerbated by the fact that Azerbaijan, as an authoritarian state, does not even have sufficient *internal* checks and balances to prevent abject arbitrariness in its treatment of the Artsakh Armenians.
2. The arbitrariness invited by the Akna road proposal must be understood in context of Azerbaijan’s anti-Armenian policy, its ongoing wrongful subjection of the Artsakh Armenians to mass starvation, and its rhetoric of hate, ethnic cleansing and even genocide emanating from Baku, *from the*

highest levels of government—and the fact that it is a unitary authoritarian dictatorship.

3. The Azerbaijani government will have absolute discretion in its actions at the Akna road. This will ultimately include how and when humanitarian aid is permitted, how and when food is distributed, what products are supplied and not supplied—such as low-quality food, tampered food, and control over medicines.
4. The backdrop to this suggested “alternative” in which Azerbaijan will have *greater if not complete* control, and certainly not less, should be shocking given that it has had no qualms about inducing food, medicine, and product shortages to cause extreme human suffering, death, and miscarriages already.
5. Azerbaijan sees the Akna proposal as an “out”: a mechanism by which to reduce international outrage at the ongoing starvation it has imposed on the Artsakh Armenians, shift and reduce international focus, and then ultimately rid itself of the international obligations that are woven into the very purpose of the Corridor.
6. The Akna road invites, even institutionalizes, the lack of controls on Azerbaijan’s conduct against the Artsakh Armenians and, in doing so, assists Azerbaijan’s subjugation policy. It is not a humanitarian gesture, and it should not be misunderstood as one.

K. The Opening of the Akna Road Will Legitimize Azerbaijan’s Impunity and Remove Transparency as the Only Remaining Check Against Arbitrariness.

1. Transparency can sometimes serve as a check against illegal state conduct, albeit a slow one. Where neither external nor internal checks exist, transparency may be the only hope for even a retardant against unhindered state action. However, transparency will be diffused with the opening of the Akna road.

2. The opening of the Akna road will advance Azerbaijan's thesis that the "Karabakh" issue is "resolved", that there is no separate Armenian population problem, and that the issues are now "internal".
3. This unilateral transformation of the conflict to an "internal" matter should be monumentally concerning as it will mark the beginning of the end of international transparency as to Azerbaijan's conduct against the Artsakh Armenians—just at the time when mass starvation is likely and the existence of genocidal intent has been noted by international law experts and watchdogs.
4. Azerbaijan's long-standing policy of opposing any international presence in Artsakh will mean that Artsakh Armenians will be left alone in a transparency desert. Ultimately, Azerbaijan will eject the ICRC itself, removing the only international organization now operating in Artsakh and upon which even the United Nations relies for information.
5. In this darkness, Azerbaijan certainly will be able to ignore the Artsakh Armenians' rights to self-determination, protected status, and/or security concerns and impose conditions unilaterally without the need to engage in any dispute resolution or abide by any international obligations or standards.
6. The consequences will be devastating, as it will be clear to Azerbaijani that there are no consequences to what it believes should be the final solution of the Artsakh Armenians.
7. Azerbaijan will force the displacement and emigration of the local Armenian population, and those Artsakh Armenians remaining will be either destroyed or deprived of personal security and any reasonable prospect of living as ethnic Armenians.
8. The opening of the Akna road will mean the legitimization of Azerbaijan's unfettered right to impose inhuman conditions on the Artsakh Armenians

amidst an institutionalized environment of anti-Armenian hate without any oversight or even admonition, let alone accountability and punishment for Azerbaijani deprivations, war crimes and crimes against humanity.

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Azerbaijan's proposal of opening an Akna road is not a humanitarian gesture. It is an invitation to the imposition of political and military dominance and oppression over the Artsakh Armenians without international oversight, without the possibility of any security guarantees, and without the prospect of a just and dignified negotiated resolution.

It is intended to rid Azerbaijan of international attention as to its treatment of the Artsakh Armenians and to rid Azerbaijan of its international obligations as to the Corridor. For Azerbaijan, the Akna road is a crucial mechanism to carry out the direct subjugation and final solution of the Artsakh Armenians without the red tape of international oversight.

The opening of an Akna road will likely mean the end of the ability of the people of Artsakh to live in their homeland as ethnic Armenians and, in furtherance of that openly-espoused Azerbaijani goal, it will plague the next several years with an unfathomable human suffering, starvation, abductions, oppression, torture, indignities and far worse.