



**NHREI**

NATIONAL HUMAN RIGHTS AND EQUALITY  
INSTITUTION OF TURKEY



**ARMENIA'S  
ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND  
MONITORING THE VIOLATIONS**

ANKARA 2021



# **ARMENIA'S ACTIONS IN KARABAKH:** HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS

ANKARA 2021



## **ARMENIA'S ACTIONS IN KARABAKH: NATIONAL HUMAN RIGHTS AND EQUALITY INSTITUTION OF TURKEY**

### **NATIONAL HUMAN RIGHTS AND EQUALITY INSTITUTION OF TURKEY**

Address : Address: Yüksel Cad. No. 23/06650/ Kızılay ANKARA

Phone number: +90 312 422 78 00

Faks: +90 312 422 78 99

[www.tihek.gov.tr](http://www.tihek.gov.tr) [tihek@tihek.gov.tr](mailto:tihek@tihek.gov.tr)

This report has been prepared by a group of academics, acting as the Karabakh Human Rights Observation Group established by the Human Rights and Equality Institution of Turkey. The members of the Group are:

Prof. Dr. Yücel ACER (Ankara Yıldırım Beyazıt University, Faculty of Law)

Prof. Dr. Giray SADIK (Ankara Yıldırım Beyazıt University, Faculty of Political Sciences)

Doç. Dr. Yusuf SAYIN (Necmettin Erbakan University Faculty of Political Sciences)

Doç. Dr. Murat TÜMAY (İstanbul Medeniyet University, Faculty of Law)

All rights reserved. No part of this report may be reproduced or transmitted in any form or by any means without permission.

# CONTENT

<b>ABBREVIATIONS.....</b>	<b>4</b>
<b>Foreword .....</b>	<b>5</b>
<b>Introduction and the Note on the Report.....</b>	<b>7</b>
<b>I. The Occupation of Karabakh and Political Developments.....</b>	<b>9</b>
1. Developments Between 1994-2020.....	9
2. The Second Karabakh War .....	13
3. The Tripartite Declaration and Its Content.....	15
4. Possible Developments and Risks After the Tripartite Declaration .....	17
<b>II. Actions and Violations of Armenia During Karabakh Conflicts .....</b>	<b>23</b>
1. Basic Principles of the International Law of Armed Conflicts.....	23
1.1. Rules for Recoursing to Armed Force .....	23
1.2. Rules to be Followed in Armed Conflicts.....	25
2. Implementation of the European Convention on Human Rights in Armed Conflicts.....	31
3. Legal Evaluations on Violations in Karabakh Conflict .....	31
3.1. Evaluations in the Context of International Law of Armed Conflicts .....	32
3.2. Evaluations with Regard to the European Convention on Human Rights .....	56
<b>III. The Legal Consequences of Armenia's Acts and Trial of the Perpetrators.....</b>	<b>59</b>
1. Consequences of Violation of the Law of Armed Conflicts and Violations in Karabakh ..	59
2. Mechanisms for the Prosecution of the Offenders, and the Trial of Violations in Karabakh Region.....	62
3. Consequences of the Violation of ECHR and Relevant Legal Proceedings.....	66
3.1. Consequences of Violations of ECHR Provisions and Armenia's Violations in Karabakh .....	66
3.2. Legal Proceedings of the ECHR and Armenia's Violations in Karabakh.....	68
<b>IV. General Conclusions and Recommendations.....</b>	<b>70</b>
<b>Appendix: Press Release .....</b>	<b>73</b>

# ABBREVIATIONS

<b>AA</b>	: Anadolu News Agency
<b>OSCE</b>	: Organization for Security and Cooperation in Europe
<b>ECtHR</b>	: European Court of Human Rights
<b>ECHR</b>	: European Convention on Human Rights
<b>PACE</b>	: Parliamentary Assembly of the Council of Europe
<b>ANAMA</b>	: Azerbaijan National De-mining Agency
<b>UN</b>	: United Nations
<b>G.A</b>	: General Assembly (UN General Assembly)
<b>ICTY</b>	: International Criminal Tribunal for the Former Yugoslavia
<b>sec.</b>	: section
<b>p.</b>	: page
<b>TİHEK</b>	: Human Rights and Equality Institution of Turkey
<b>ICC</b>	: International Criminal Court
<b>UNTS</b>	: United Nations Treaty Series
<b>LOAC (IHL)</b>	: Law of Armed Conflicts (International Humanitarian Law)



## Foreword

The Nagorno-Karabakh Conflict, with historical origin corresponds to the last quarter of the twentieth century, emerges as one of the problems that cannot be resolved in the field of international law and in which human rights violations are observed. The “Minsk Group” was established by the Organization for Security and Cooperation in Europe (OSCE) on March 24, 1992 in order to deal with the Nagorno-Karabakh Conflict within the framework of the peaceful solution methodology. However, the OSCE Minsk Group, which was created to solve the problem, could not resolve the Nagorno-Karabakh Conflict. On September 27, 2020, attacks were carried out on the civilian settlements of Azerbaijan in this region, which has been under the occupation of Armenia for almost 30 years. With the Second Karabakh War, which started as a result of these attacks, a new era began in terms of the “Nagorno-Karabakh Conflict” and the war ended with the ceasefire agreement signed between Armenia and Azerbaijan with the mediation of Russia on November 10, 2020. With the Second Karabakh war, which resulted in the victory of Azerbaijan and lasted for 44 days, the Azerbaijani lands, which were under the occupation of Armenia in violation of international law, were liberated from occupation.

During the Second Karabakh War, as a result of the attacks of Armenia, disregarding International Humanitarian Law and International Human Rights Law, both in the Karabakh region and in other regions of Azerbaijan, serious human rights violations in terms of many categories of rights took place. Hundreds of civilians lost their lives and many dwellings became unusable in Armenia’s attacks on civilian settlements, places of worship, hospitals, schools and historical cultural places.

The Human Rights and Equality Institution of Turkey (TIHEK), took action within the scope of its duty “following and assessing international developments in areas of human rights and non-discrimination, cooperating with international organizations working in the field within the framework off relevant legislation” specified in the TIHEK Establishment

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

Law No. 6701. in order to observe, examine, report and announce to the world public the rights violations that took place in the “Nagorno-Karabakh Region” where severe human rights crisis observed. In this context, the “Karabakh Human Rights Observation Group” was established within TIHEK to discuss human rights violations in various regions of Azerbaijan, especially in the Nagorno-Karabakh region, with a thematic report and to conduct on-site investigations.

TIHEK Karabakh Human Rights Observation Group conducted online meetings with the participation of academicians who are experts in their fields in order to follow the current developments in the region and gave public information on the subject. In addition, the Observation Group held joint online meetings with the officials of the Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan and exchanged information about the events in the region. In addition, TIHEK Karabakh Human Rights Observation Group visited Azerbaijan between 28 June and 2 July 2021, upon the invitation of the Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan.

This Report, which was prepared within the scope of these studies, identifies the existing problems related to certain rights and freedoms originating from Armenia’s actions, reflected in the public during the occupation and conflicts, based on the investigations carried out by the Karabakh Human Rights Observation Group during and after the Karabakh War. In addition, the actions of Armenia during the war are evaluated within the framework of international conflict law. Violations of rights resulting from these actions of Armenia are addressed within the framework of both international law of armed conflicts and ECHR rules. The report is based on the information, documents and evaluations obtained directly from the Karabakh Human Rights Observation Group’s visit to Azerbaijan and from the meetings with the relevant official institutions and individuals. During the preparation of the report, academic studies, official reports and press releases on the Nagorno-Karabakh Conflict were also used.

“Armenia’s Actions in Karabakh: Human Rights Violations and Monitoring the Violations Report” prepared within the framework of this methodology; It aims to objectively identify the violations of rights in the Nagorno-Karabakh region within the framework of international human rights rules and acquis, to analyze the problems in the region and to propose solutions for problem areas. I would like to take this opportunity to express my gratitude to the Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan, the Karabakh Human Rights Observation Group established within the Human Rights and Equality Institution of Turkey and the valuable staff of our institution for contributing and supporting the reporting process.

**Prof. Dr. Muharrem KILIÇ**  
**Chairman of the Human Rights and Equality**  
**Institution of Turkey**

## Introduction and the Note on the Report

Armenia, declaring its independence right after the disintegration of the Soviet Union,<sup>1</sup> also launched attacks on Nagorno-Karabakh and surrounding settlements in Azerbaijan's occupied territories together with the Karabakh Armenian armed groups it supports and continued its attacks and occupation acts despite the UN Security Council resolutions No. 822, 853, 874 and 884, confirming Azerbaijan's sovereignty, territorial integrity and inviolability of internationally recognized borders, taken between April and November 1993.<sup>2</sup>

Invasion of Karabakh by Armenia lasted approximately 28 years and formally ended as over with the Tripartite Declaration signed between Armenia and Azerbaijan as a result of the Tripartite (joint) Declaration, which started on September 27, 2020 and in which the Russian Federation (hereinafter referred to as Russia) joined as a party on November 9, 2020.<sup>3</sup> After the armed clashes, also known as the 2nd Karabakh War, Azerbaijan liberated around 290 settlements from the occupation of Armenia. These settlements include strategic provinces such as 'Shusha, Agdam, Gubadli, Zangilan, Gabriel, as well as Lachin, Khojaly, Tartar, Fuzuli and Hocavend' and many villages connected to these settlements.

Legal and de facto status created by the Tripartite Declaration on the cessation of military acts between Azerbaijan and Armenia essentially solves the "Karabakh Issue", which has remained unresolved for years, and provides a suitable basis for the resolution of the remaining issues. An important achievement gained via the Tripartite Declaration which should also be emphasized, is that hundreds of thousands of Azerbaijani citizens, who were forced to leave their homes and settlements as a result of the Armenian occupation, had the opportunity to return to their homes and properties.

With the Tripartite Declaration, important achievements were gained regarding the complete resolution of the conflict between Azerbaijan and Armenia and the prevention of humanitarian crises in the region; however, there are crucial grounds that require a detailed examination of the situation shaped during and after the Second Karabakh War.

First and foremost, it is of great importance to set forth the serious human rights violations occurred as a result of the military acts of Armenia in Karabakh and to determine what the legal consequences of these violations are and how these consequences can be followed-up. Violations to be elaborately discussed in this report and the manifestation and proceedings of their results are essential primarily for securing the justice. On the other hand, the Tripartite Declaration comprising the tripartite (joint) statement on the cessation of military acts between Armenia and Azerbaijan, signed after the Second Karabakh War, and its conditions in Karabakh should be evaluated, and the factors that may cause the reoccurrence of humanitarian crises similar to the examples in the past and to set forth suggestions regarding their elimination should be identified.

<sup>1</sup> Armenia declared its independence on September 21, 1991. See Hatem Cabbarlı. "Ermenistan Cumhuriyeti'nin Siyasal Dönüşüm Süreci". *Uluslararası Kriz ve Siyasal Araştırmalar Dergisi*, Vol. 4, Issue: 1, (2020), p. 120 (118-158).

<sup>2</sup> During the occupation by Armenia, intermittent conflicts became violent from time to time. There had been casualties, death or injured, during the clashes that started in April 1993 and continued for a while. See Alev Kılıç. "Olaylar ve Yorumlar". *Ermeni Araştırmaları*, Issue 65, (2020), p. 23. Also see, <https://onedio.com/haber/daglik-karabag-catismasi-nasil-basladi-bolge-de-son-durum-ne-923870>. (Access Date: October 21, 2020).

<sup>3</sup> See <https://www.sde.org.tr/asya/azerbaycan-ermenistan-anlasmasinin-tam-metni-haberi-20029> (Publication Date: November 11, 2020.) (Access Date: May 2, 2021) for the Tripartite Declaration adopted and declared

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

This Report, prepared based on the investigations made by the Karabakh Human Rights Observation Group, formed by the Human Rights and Equality Institution of Turkey (TİHEK), during the Second Karabakh War and after the armed clashes, includes determinations regarding the acts of Armenia during the occupation of Karabakh and relevant legal characteristics, the acts of Armenia in the Second Karabakh War and its relevant legal characteristics, legitimate proceedings of legal violations, the prosecution of real persons with criminal responsibility for the acts committed during the aforementioned periods, and the issues that pose the risks of causing humanitarian crises in terms of gross violations of human rights in the current situation, and brings forward solutions regarding the mitigation or resolution of these issues.

The Report mainly is based on the documents, information and evaluations directly obtained by the Karabakh Human Rights Observation Group during their visit to Azerbaijan, both in meetings with relevant official institutions and individuals, and their visit to Karabakh. Academic studies, official reports and press releases regarding these issues were also used for the preparation of this report. This Report, prepared by TİHEK Karabakh Human Rights Observation Group, is centered upon the violations of Armenia, which were heavily reflected in the public agenda during the occupation and conflicts and which were prominent, and their results thereof.

# I. THE OCCUPATION OF KARABAKH AND POLITICAL DEVELOPMENTS

## 1. Developments Between 1994-2020

The beginning of the conflict between Azerbaijan and Armenia dates back to 1988. During the Soviet Union period, Nagorno-Karabakh, which was within the Karabakh Region, was an autonomous oblast under the Azerbaijan Soviet Socialist Republic.

During the disintegration period, the Soviet Union tried to adject the Nagorno-Karabakh region or to establish a separate independent state in Nagorno-Karabakh, and Azerbaijan declared on November 26, 1991 that it abolished the oblast status of Nagorno-Karabakh and adjected the region directly to the central government. Upon this event, citizens of Azerbaijan of Armenian origin decided to declare their independence on December 10, 1991, and the withdrawal of the Russian Federation troops from Nagorno-Karabakh in 1992 paved the way for the conflict to turn into head-to-head confrontations.<sup>4</sup>

After the Armenians attacking the villages in the Shaumyan region, an agreement was made between the two countries on September 24, 1991 in the city of Jeleznovodsk, with the initiatives of the President of the period, Boris Yeltsin, and the President of Kazakhstan, Nursultan Nazarbayev. With the agreement, the ceasefire would be ensured and Armenia would accept that Karabakh belonged to Azerbaijan. In order to prove that Armenia did not comply with the ceasefire decision, on November 1991, the Azerbaijani administration had to take some measures after the helicopter with Russian and Kazakh observers invited by Azerbaijan was shot down by the Armenians.<sup>5</sup>

Afterwards, the Supreme Soviet of Azerbaijan blockaded the railway to Armenia and abolished the current status of the Nagorno-Karabakh Autonomous Oblast at its meeting in November 1991 and adjected its districts directly to the central government of Azerbaijan. The Minsk Group<sup>6</sup> of the Organization for Security and Cooperation in Europe (OSCE), which was established in 1992 in order to find a solution to the issue between Azerbaijan and Armenia, also failed to achieve any solid results thereof. In 1994, the USA, Russia and France were appointed as co-chairs of the OSCE Minsk Group, and Belarus, Germany, Italy, Netherlands, Sweden, Finland, Portugal and Turkey, as well as Azerbaijan and Armenia as parties to the conflict, joined the Minsk Group as other members.<sup>7</sup>

<sup>4</sup> “Ermenistan’ın Azerbaycan’a Saldırması ile Başlayan Gerilim ve Çatışma Sürecinde Yaşanan Hak İhlalleri ve Türkiye’deki Ermeni Vatandaşlarımızın Durumuna İlişkin Rapor.” (Report on Violation of Rights Experienced during the Tension and Conflict Process Sparked with Armenia’s Attack on Azerbaijan and the Situation of the Armenian Citizens in Turkey.) Grand National Assembly of Turkey Human Rights Investigation Commission (TBMM Printing House, April 2021), p. 25-28.

<sup>5</sup> Araz Aslanlı. “Karabakh Issue from Past to Present”, *Eurasia File* (Azerbaijan Special Issue), Vol. 7, Issue 1, Spring 2001, p. 406.

<sup>6</sup> The Minsk Group has led the peace-making process between Armenia and Azerbaijan since 1992. Many attempts have been made in UN regarding the solution process of this issue. Yunus Ekici, “Azerbaycan ve Ermenistan Arasında Bitmeyen Dağlık Karabağ Sorunu/Endless Problem of Nagorno-Karabakh Between Azerbaijan and Armenia.” *VAKANÜVİS-Uluslararası Tarih Araştırmaları Dergisi/ International Journal of Historical Researches*, Mart/March 2017, Yıl/Vol. 2, No. 1 p. 72-73.

<sup>7</sup> The Minsk Group, established by OSCE in 1992, took a stand in favor of the continuation of the deadlock and the status quo within this framework rather than establishing and maintaining peace and stability in the region. Due to the problematic approach of Minsk Group co-presidents, the Nagorno Karabakh issue has remained as a “frozen problem”.

Armenians based their basic thesis on their majority in Nagorno-Karabakh. While the Armenians allege that they have the right of self-determination, Azerbaijan claimed the Nagorno Karabakh region as their own land, legally and historically, and asserted that the ethnicity in the region was artificially changed by the Soviet/Russian policies, and in this way, it could not form the basis for the land demand.<sup>8</sup>

After Ebulfeyz Elçibey came to power in Azerbaijan; Armenians, supported by Moscow, occupied Nagorno-Karabakh and Azerbaijani territories connecting Nagorno-Karabakh to Armenia in 1993-1994. During the attacks that continued until the midst of 1993, tens of thousands of Azerbaijani civilians lost their lives or were injured as Armenia began to use heavier weapons<sup>9</sup>, and a total of twelve Azerbaijani rayons, five of which were affected by the Armenian-Azerbaijani conflict (Ağdere, Shusha, Stepanakert, Khojaly, Hocalı) and seven surrounding regions (Kubatlı, Zangilan, Kelbajar, Lâçin, Gabriel, Fuzuli, Agdam regions), were occupied by Armenia.<sup>10</sup>

In 1993, UN Security Council called on Armenia to withdraw from the occupied Fizuli, Cebayil, Kubadli, Zangilan and other regions, and to influence the invading Armenian groups in Karabakh and ensure that they comply with UN resolutions with four different resolutions no. 822, 853, 874 and 884 confirming the sovereignty, territorial integrity and inviolability of internationally recognized borders of Azerbaijan. However, Armenia did not comply with the resolutions confirming that Nagorno-Karabakh region is an inseparable part of Azerbaijan. Long-continued negotiations within the framework of the initiatives conducted by Minsk Group established under the OSCE did not get any results, the issue of territories affected by the Armenia-Azerbaijan conflict did not resolve, a solution could not be provided regarding the issue, and hundreds of thousands of people forced to leave their settlements during the occupation were not be able to return to their homes.<sup>11</sup>

The 3 members of the Minsk Group, the USA, Russia and France, voted against the aforementioned UN General Assembly resolutions, and this substantially sets forth that the Minsk Group is ineffective in solving the relevant issue.<sup>12</sup> Azerbaijan foreign policy experienced certain alterations when Haydar Aliyev came to power in Azerbaijan in 1993. One of the first attempts made was to sign an armistice on the front lines,

---

<sup>8</sup> Reha Yılmaz, "Kafkasya'da Çözülemeyen Kördüğüm: Dağlık Karabağ Sorunu", Çankırı Karatekin Üniversitesi Uluslararası Avrasya Strateji Dergisi 2(1), 2013, p. 78.

<sup>9</sup> "Report: Azerbaijan. Seven Years of Conflict in Nagorno-Karabakh. *The Human Rights Watch*, 1994. p. 100.

<sup>10</sup> "Ermenistan'ın Azerbaycan'a Saldırması ile Başlayan Gerilim ve Çatışma Sürecinde Yaşanan Hak İhlalleri ve Türkiye'deki Ermeni Vatandaşlarımızın Durumuna İlişkin Rapor." (Report on Violation of Rights Experienced during the Tension and Conflict Process Sparked with Armenia's Attack on Azerbaijan and the Situation of the Armenian Citizens in Turkey.) Grand National Assembly of Turkey Human Rights Investigation Commission (TBMM Printing House, April 2021), p. 27. Also see; Ahmet Sapmaz & Gökhan Sarı, "Dağlık Karabağ Sorununda Azerbaycan Tarafından Kuvvet Kullanım Olasılığının Analizi", *Güvenlik Stratejileri Dergisi*, Vol: 8, Issue: 15, p. 4.

<sup>11</sup> Yücel Acer, "Ermenistan'ın Karabağ İşgali ve Uluslararası Hukuk", İbrahim Demir (Ed.), *Karabağ Zaferi: Kafkasya'da Yeni Dengelerden Türk ve İslam Dünyasında Yeni İşbirliği Modeline*. ULİSA, Issue 8, 2021, p.7-8.

<sup>12</sup> e.g. see, United Nations General Assembly Resolution 62/243. The following articles were in the resolutions adopted by the UN: "1. The UN General Assembly regards the independence of Azerbaijan and recognizes its territorial integrity within its borders recognized by international law. 2. The UN General Assembly demands the immediate, complete and unconditional removal of the Armenian armed forces from the occupied territories. 3. The UN General Assembly acknowledges exile people's right to return and receive compensation. 4. The UN General Assembly supports the security of Armenian and Azeri communities of Nagorno-Karabakh under Azerbaijani sovereignty, and establishment of self-governance conditions thereof." Also see, Mustafa Sıtkı Bilgin, "Karabağ Zaferine Giden Süreç ve Jeopolitik Sonuçları", İbrahim Demir (Ed.), *Karabağ Zaferi: Kafkasya'da Yeni Dengelerden Türk ve İslam Dünyasında Yeni İşbirliği Modeline*, ULİSA, Issue 8, p.16-17.

and collaborations were made with OSCE and other international structures by focusing on the resolution of Karabakh issue. A document on the Azerbaijan-Armenia issue was prepared at the OSCE Lisbon Summit in 1996 under Aliyev governing, and this document included articles regarding the “Recognition of the territorial integrity of Azerbaijan by Armenia, ensuring the security of the Nagorno-Karabakh population and granting the region the right to “self-government”. All the member nations except Armenia accepted this document.<sup>13</sup>

Negotiations were held in Moscow in 1996, but no significant progress was achieved. The parties rejected the new proposals of the OSCE, the USA and Russia. In the same year, a declaration supporting the territorial integrity of Azerbaijan was published at the OSCE Lisbon Summit, but Armenia tried to prevent the declaration from being included in the final text. In 1997, the Minsk Group introduced the ‘step-by-step’ peace proposal after the failure of the previous plan. In 1998, the joint state proposal of the Minsk Group was rejected by Azerbaijan; however, in 1999, Presidents Aliyev and Kocharyan negotiated so as to revive the “Goble Plan”, a former American proposal, which envisages land exchange. In 2000, the peace talks were held in Florida, USA, and participated by Aliyev and Kocharyan; however, a compromise could not be reached. In 2002, the Minsk Group co-chairs visited Baku and Yerevan and discussed new ideas to revive the peace process. On July 8, 2003, the Defense Ministers of Armenia and Azerbaijan Sarkisyan and Aliyev met at the border of the two countries and mutually agreed upon reducing the tension between the armed forces of the two countries. President Ilham Aliyev, who acceded after the demise of his father, stated in Paris in 2004 that Azerbaijan would never accept the independence of Karabakh or its union with Armenia. In 2005, the Parliamentary Assembly of the Council of Europe (PACE) took a decision criticizing Armenia’s occupation of Azerbaijani territories and used the statement of “ethnic cleansing” in the aforementioned decision.<sup>14</sup>

On the same year, the Crisis Group<sup>15</sup> released the report titled ‘Nagorno Karabakh: A Plan for Peace’. In 2007, international mediators visited the region before the conferences in Baku, Yerevan and Khankendi (Stepanakert) and issued a cautious and positive statement. In 2008, Serzh Sargsyan and Ilham Aliyev came together in Russia and issued a statement that they would deepen the efforts to solve the problem, however, in their statement, they did not mention either the status issue or the nature of the resolution. In 2009, Aliyev declared to take Nagorno-Karabakh by force and called for the country to be ready for a full-fledged war with Armenia at any moment.<sup>16</sup>

As can be seen, from the beginning of the armed conflicts until 2010, the relations between both parties were tense, and there was a glimpse of hope for a resolution with the help of international mediation initiatives. During this process; mutual declarations, escalating statements, especially frequent government crises and political instability in Armenia, and

---

<sup>13</sup> Reha Yılmaz, “Kafkasya’da Çözülemeyen Kördüğüm: Dağlık Karabağ Sorunu”, *Çankırı Karatekin Üniversitesi Uluslararası Avrasya Strateji Dergisi* 2(1), 2013, p. 71-90. Also see, Lisbon Document 1996, OSCE, <https://www.osce.org/files/f/documents/1/0/39539.pdf>, (Access Date: 10.05.2021).

<sup>14</sup> *Al Jazeera*, “Chronology: The Nagorno-Karabakh Issue”, <http://www.aljazeera.com.tr/kronoloji/kronoloji-daglik-karabag-sorunu> (Access Date: 26.02.2021).

<sup>15</sup> See “Crisis Group, Nagorno Karabakh: A Plan for Peace”, <https://www.crisisgroup.org/europe-central-asia/caucasus/nagorno-karabakh-azerbaijan/nagorno-karabakh-plan-peace> (Access Date: 18.07.2021)

<sup>16</sup> *Al Jazeera*, “Chronology: The Nagorno-Karabakh Issue”, <http://www.aljazeera.com.tr/kronoloji/kronoloji-daglik-karabag-sorunu> (Access Date: 26.02.2021).

the insufficient interest of international powers on the issue were the dominant themes of the agenda of that period.

Almost no solid resolution initiative had been made between 2010 and 2020, on the contrary, there had been occasional small-scale armed clashes between the parties. The agenda of this period was full of demands to withdraw from the occupation zone, demands that the future of Karabakh be determined by the people of Karabakh, conflicts on the line of contact, peace proposals, mediation attempts, efforts to establish a mechanism to determine the definitive legal status of Karabakh, summit meetings and bilateral talks and Aliyev's "Victory is Near" statements, yet no solid resolution was achieved.<sup>17</sup>

Furthermore, the diplomatic interferences of Russia and USA seem to be centered more on the interests and priorities of these countries in the context of the wide-ranging relations between them.

On July 12, 2020, the Ministry of Defense of Azerbaijan announced that the units of the Armenian Armed Forces severely violated the ceasefire in the Tovuz region of the Azerbaijan-Armenia state border. On July 13, the Azerbaijan State News Agency reported that Armenian forces had bombed Tovuz region with artillery. According to the statements made on the official website of the Ministry of Defense of Azerbaijan on July 16, Armenia - again - attempted to attack the Tovuz Rayon on the Azerbaijan-Armenia border earlier in that day. By 7 July, the armed conflict in Tovuz ceased.<sup>18</sup>

During this outlined period, Armenia's occupation of Karabakh and some surrounding Azerbaijani settlements continued for about 28 years despite UN Security Council resolutions no. 822, 853, 874 and 884 between April and November 1993, which affirmed that the Nagorno-Karabakh region is an integral part of Azerbaijan. In conclusion, Armenia's acts not only violated the principle of respect for Azerbaijan's sovereignty and territorial integrity, but also severely violated the principles of the protection of fundamental human rights during the conflicts<sup>19</sup> that continued for many years between two sides.

Aforementioned attacks of Armenia caused around 25.000 casualties, mostly civilians. Armenians also deported the Azerbaijani civilians from their occupied homelands, more than 1 million Azerbaijani citizens were displaced, immigrated from Karabakh and mostly settled around the city of Baku. These citizens had not been able to return to their cities, villages and homes for nearly 28 years.

These acts were accompanied by large-scaled looting and destruction of civilian property. As in Agdam, an Azerbaijani city with about 50.000 inhabitants, some examples of looting were organized and carried out by invading Armenian groups organized in Karabakh.<sup>20</sup>

During the occupation years, the Armenia did not use some provinces outside the Nagorno-Karabakh, such as Agdam, for settlement purposes, instead, ravaged these cities, and left

---

<sup>17</sup> *Al Jazeera*, "Aliyev: Zafer Günü Yakın," <http://www.aljazeera.com.tr/haber/aliyev-zafer-gunu-yakin>, (01.04.2021).

<sup>18</sup> "The situation in the Tovuz direction remains tense", & "Military operations in the Tovuz direction continue", *Ministry of Defense Azerbaijan*, (July 16-17, 2020).

<sup>19</sup> Intermittent conflicts became violent from time to time. There had been casualties, death or injured, during the clashes that started in April 1916 and continued for a while. See. Alev Kılıç. "Olaylar ve Yorumlar". *Ermeni Araştırmaları*, Issue 65, (2020), p. 23. Also see, <https://onedio.com/haber/daglik-karabag-catismasi-nasil-basladi-bolge-de-son-durum-ne-923870>. (October 21, 2020).

<sup>20</sup> "Report: Azerbaijan. Seven Years of Conflict in Nagorno-Karabakh." The Human Rights Watch, 1994, p. 35.

behind ruined and vandalized cities and villages with one solid brick or two, left behind cities and villages with names but not even exist. Due to this event, Agdam is also called as the “Hiroshima of Karabakh”.<sup>21</sup>

During the occupation years, Armenia wrecked or looted historical, religious and cultural monuments, and caused great damage to nature therewith.<sup>22</sup> Recently, the Minister of Foreign Affairs of Azerbaijan, Ceyhun Bayramov, declared that Armenia caused serious ecological damage to the Azerbaijani territories exposed to the occupation and vandalized 54 thousand 300 hectares of forestland.<sup>23</sup>

Another notorious Armenian action during the occupation period is that the entire “line of contact” of approximately 300 km in the occupation zone was trapped with anti-personnel and anti-tank mines. It is currently evident that Armenia placed hundreds of thousands of mines not only on the 300 km long line of contact, but also in many settlements.<sup>24</sup>

On September 27, 2020, intense clashes started between the parties during all these violent acts and deadlock processes. Aforementioned conflicts paved the way of a new era for Karabakh.

## 2. The Second Karabakh War

The Second Karabakh War, also named as the “44-day War”, is quintessentially used to describe the attacks of the Republic of Armenia on the territory of Azerbaijan between September 27, 2020 and November 9, 2020, and the violations of law as a result of these attacks. The attacks that started on September 27, 2020 continued for 44 days and ended with the signing of the Tripartite Declaration on the victory of the Republic of Azerbaijan and the consequent cessation of military activities on November 9-10, 2020.

Intense attacks by the Armed Forces of the Republic of Armenia against the Azerbaijani Armed Forces on the morning of September 27 in the rural areas of the border province of Tartar and other cities severely violated the previously established ceasefire deception.<sup>25</sup>

According to the data of the Commissioner for Human Rights of Azerbaijan (Ombudsman), 5 civilian Azerbaijani citizens lost their lives and 20 Azerbaijani citizens were injured in the attacks carried out by Armenia against the densely populated Azerbaijani settlements. Many Azerbaijani citizen’s homes were ruined during the attacks of the Armenia. Armenia caused severe damages to the civilian settlements of Azerbaijan.<sup>26</sup>

---

<sup>21</sup> Azerbaijan Human Rights Ombudsman Staff Zaur Valimammadli’s Official Presentation to the Human Rights and Equality Institution of Turkey Karabakh Human Rights Observation Group Investigation Panel, Azerbaijan Human Rights Ombudsman Building, Baku. June 29, 2021.

<sup>22</sup> See, “Interim Report concerning the serious damage to historical and religious monuments inflicted upon ballistic missile attacks on Ganja city by the Armenian armed forces”, Baku-2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

<sup>23</sup> [https://www.trthaber.com/m/?news=azerbaycan-ermenistan-54-bin-300-hektar-ormanlik-alani-yok-etti&news\\_id=592789&category\\_id=4](https://www.trthaber.com/m/?news=azerbaycan-ermenistan-54-bin-300-hektar-ormanlik-alani-yok-etti&news_id=592789&category_id=4) (Access Date: 06.07.2021)

<sup>24</sup> ANAMA President Vulgar Süleymanoğlu’s Official Presentation to TİHEK Karabakh Human Rights Observation Group Investigation Delegation. ANAMA Headquarters, Baku. June 29, 2021.

<sup>25</sup> “Armenia Attacked Azerbaijan”, TRT Haber, 27 Eylül 2020, <https://www.trthaber.com/haber/gundem/ermenistan-azerbaycana-saldiridi-518943.html> (Access Date: 10.05.2021).

<sup>26</sup> *Azerbaijan Ombudsman*, 27.09.2020-01.10.2020, [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 2. (Access Date: 08.05.2021)

During the attacks of the Armed Forces of the Republic of Armenia on September 28 and October 15, 2020 in violation of international law, many buildings in Tartar province were made unusable, and civilian infrastructure and civilian facilities were largely destroyed. This devastation brought by the attacks not only affected the humans and cities, but also numerous animals in open spaces. One of the biggest recorded attacks was organized against Ganja, and serious casualties occurred during these attacks. 9 Azerbaijani citizens were martyred during the attacks on October 8. On the same day, Aghdam and Tartar provinces and their relevant villages were bombed. The humanitarian ceasefire came into effect on October 10, however, Ganja was attacked with missiles again on the night of October 11. This attack caused severe devastations.<sup>27</sup>

Armenia violated the ceasefire once again with the attack on Barda with Smerch missiles between October 27-28, and 105 people were injured and 27 people died during these attacks. Furthermore; many buildings, historical monuments and schools were destroyed.<sup>28</sup>

In his address to nation on November 9, 2020, Azerbaijan President Aliyev declared that the conflicts between Armenia and Azerbaijan over Nagorno-Karabakh came to an end, and predicated the articles of the agreement between the two sides in his victory statement. Stating that the tripartite (joint) declaration was signed by Azerbaijan, Russia and Armenia, Aliyev expressed the mutually agreed agreement provisions as follows; “Kelbajar will be given to Azerbaijan by November 15, Aghdam by November 20, and Lachin by December 1”, and “1960 lightly armed soldiers and 90 armored personnel vehicles from the Russian peacekeeping force temporarily deployed in the Nagorno-Karabakh line of contact and Lachin corridor will be deployed.”

President Aliyev extended his thanks to the President of the Republic of Turkey, Recep Tayyip Erdogan, for his support during the conflict, and set forth their new period’s course of action with his statement as follows; “Today’s statement relates to the joint peacekeeping mission of Russia and Turkey. We are forming a completely new format for regional contacts.”<sup>29</sup>

---

<sup>27</sup> “Report of the Fact-Finding Mission on civilian casualties and destructions as a result of another missile strike by Armenian armed forces on Ganja, the second largest and densely populated city of Azerbaijan”, 11-12 October 2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. Also see, *Anatolia Agency*, October 10, 2020, <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/ermenistan-ateskese-ragmen-azerbaycanin-sivil-yerlesim-birimlerine-saldirilarini-surduruyor/2001926> (Access Date: 07.05.2021); <http://www.gazetevatan.com/ermenistan-dan-sivilleri-hedef-alan-alcak-saldiri--1345970-gundem> (Access Date: 04.05.2021). In the statement he made on his Twitter account, Ilham Aliyev made a declaration as follows; “Despite the artillery attacks of the Republic of Armenia, we are not making counterattacks on the territory of Armenia. The Armenian side is trying to attract the Collective Security Treaty Organization to this conflict and to internationalize thereof. We express our opinion that such an approach is unacceptable.”<https://twitter.com/azpresident/status/1314154077895487490?s=20> (Access Date: 09.05.2020).

<sup>28</sup> “Interim Report of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan on child casualties occurred as a result of missile attacks on civilian settlements of Azerbaijan”, Baku–2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. Also see, “Armenia shot civilians in the city center of Barda: 21 dead, 70 injured”, *Anatolia Agency*, <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/ermenistan-berde-sehir-merkezinde-sivilleri-vurdu-21-olu-70-yarali/2021995> (Access Date: 06.05.2021)

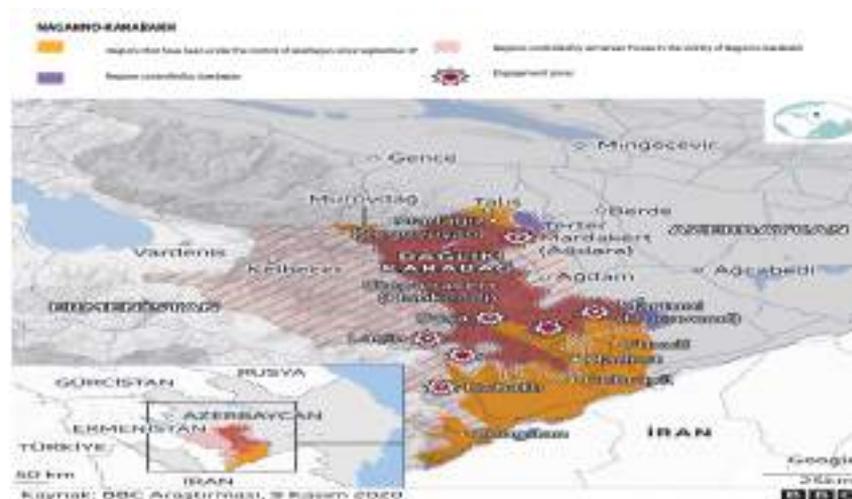
<sup>29</sup> *Anatolia Agency*, “President of Azerbaijan Aliyev: This agreement is our glorious victory”, <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/azerbaycan-cumhurbaskani-aliyev-bu-anlasma-bizim-sanli-zaferimizdir/2037890> (Access Date: 10.05.2021).

### 3. The Tripartite Declaration and Its Content

After the aforementioned Second Karabakh War, Azerbaijan established its sovereignty over Karabakh, which is an inseparable part of its own country but had been occupied by Armenia for nearly 28 years, pursuant to the relevant rules of international law. Primarily, the provisions of the tripartite (joint) statement regarding the cessation of military activities between Armenia and Azerbaijan will be discussed, and then the issues pending for resolution will be set forth herein below.



**Source:** Anatolian Agency. <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/azerbaycan-ve-ermenistan-daglik-karabagda-anlasmaya-vardi/2037860> (Access Date: 10.11.2020)



**Source:** BBC News Turkish. <https://www.bbc.com/turkce/haberler-dunya-54882585> (Access Date: 10.11.2020)

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

As a result of the armed conflicts that started on September 27, 2020 and lasted for 44 days, the main articles of the Tripartite Declaration on the cessation of military activities between Azerbaijan and Armenia, adopted on November 9, 2020 with the mediation of Russia, have been determined in general terms as follows:<sup>30</sup>

- 1- All military acts in the Nagorno-Karabakh region will cease at 00.00.
- 2- The Republic of Armenia will return the Kelbajar district to the Republic of Azerbaijan by November 15, 2020, and the district of Lachin by December 1, 2020.
- 3- The Russian Federation peacekeeping force will be deployed to the line of contact in Nagorno-Karabakh and the Lachin Corridor. The Russian Federation peacekeeping force consisting of 1.960 lightly armed soldiers, 90 armored personnel carriers, 380 cars and special vehicles will be deployed along the front line in Nagorno-Karabakh and the Lachin Corridor.
- 4- Russian peacekeepers will be deployed to the region in parallel with the retreat of the Armenian armed forces, and the Russian peacekeeper forces shall remain in the region for 5 years. Peacekeeping force of the Russian Federation will be temporarily deployed in parallel with the withdrawal of the Armenian armed forces. The mandate of the peacekeeping force of the Russian Federation is 5 years, and it will automatically extend for the next 5 years, if neither party makes a declaration 6 months before the expiration of this provision.
- 5- A ceasefire monitoring center will be established to effectively control the implementation of the agreement by the parties. A peacekeeping ceasefire control center will be deployed in order to increase the efficiency of monitoring the compliance of the Parties to the agreements.
- 6- The Lachin Corridor (5 km wide), providing the connection between Nagorno-Karabakh and Armenia, and not affecting the city of Shusha, will remain under the control of the Russian Federation peacekeepers. With the mutual agreements of the parties, a construction plan will be drawn up in the next three years for the new route of the Lachin Corridor, which will connect Nagorno-Karabakh and Armenia, and Russian peacekeepers will then be deployed for the security of this route. Republic of Azerbaijan will ensure the travelling safety of humans, vehicles and cargos in both directions along the Lachin Corridor.
- 7- Locally displaced individuals and asylum seekers will return to Nagorno-Karabakh territory and surrounding districts under the control of the UN High Commissioner for Refugees.
- 8- Dead bodies of war prisoners and soldiers will be mutually returned.
- 9- Article 9 of the Agreement states that the blockade on all economy and transportation connections in the Region is lifted. The Republic of Armenia guarantees the safety of transportation between the western regions of the Republic of Azerbaijan and the Nakhchivan Autonomous Republic with the aim of organizing the trouble-free travel of people, vehicles and cargo in both directions. Transportation control will be performed by the Border Unit organs of the Russia Federal Security Service (FSB). The construction of new transportation routes connecting the Nakhchivan Autonomous Republic to the western regions of Azerbaijan will be provided with the mutual agreement of the parties. With these regulations, it was determined to open a transportation corridor between Azerbaijan and Nakhchivan, just like the Lachin corridor.

---

<sup>30</sup> <https://www.sde.org.tr/asya/azerbaycan-ermenistan-anlasmasin-in-tam-metni-haberi-20029> (Access Date: 02.05.2021)

#### 4. Possible Developments and Risks After the Tripartite Declaration

Relevant provisions of the Tripartite Declaration have been benchmarks for ensuring peace and stability, and ending conflicts and setting a prospective roadmap. However, due to its very general content, it is not capable of providing the final solution to certain issues in order to determine a permanent legal situation, and thus, preventing past conflicts and related humanitarian crises. Tripartite Declaration and the subsequent current situation do not fully eliminate the risk of possible humanitarian crises.

First of all, it should be stated that no permanent peace or border treaty has been signed yet. This means that Karabakh has not yet been given a certain legal status. Occasional meetings are held in this direction. The leaders of both parties met in Moscow on January 11, 2021, and then on January 30, 2021, the tripartite working group established between Azerbaijan, Armenia and Russia held its first meeting.<sup>31</sup> With the participation of the Russia, no official statement has been made regarding the scope of the discussed issues in the occasional meetings between the parties, the positions of the parties, and the existence of any progress thereof. It is not possible for humanitarian crises to be eliminated completely unless an agreement mutually approved by both parties, and that resolves the issues posing a risk of tension or conflict is signed.

Azerbaijani officials state that Armenia constantly delays signing a border agreement by making excuses, and in this context, Azerbaijan's policy is to solve the problems diplomatically first, but also to use force when necessary to obtain its rights.<sup>32</sup>

The foreign forces that entered the Karabakh through illegal means have not yet been completely repelled. An area of 11.784 km<sup>2</sup> was liberated from the occupation after the Second Karabakh War, and an area of 3058 km<sup>2</sup>, where mostly Azerbaijani citizens of Armenian origin dwell, was left under the control of the temporary Russian power in accordance with the Tripartite Declaration on the cessation of military activities between Armenia and Azerbaijan.<sup>33</sup> Armenia has largely withdrawn from Karabakh since the Tripartite Declaration, however, the situation in the regions that are still not under the control of the Republic of Azerbaijan is still unknown.

Another important issue in this regard is the presence of temporary Russian troops in the region. In the current situation, the Russian soldiers themselves in the region are actually preventing the full establishment of Azerbaijan's sovereignty and de facto control over their territory based on the Tripartite Declaration, especially in order to prevent the parties from clashing again and to ensure the security of the Lachin Corridor. No certain statement has been made regarding the discontinuance of the current presence of Russian troops in Karabakh with an agreement, and the issue of when and how de facto control in the region will be transferred to Azerbaijan. On the other hand, it is known that Russia has not been neutral between Armenia and Azerbaijan for a long time and rather supports the Armenians. This indicates that similar attitudes may recur in the future, leading to tensions and humanitarian crises.

<sup>31</sup> <https://www.aa.com.tr/en/world/russia-azerbaijan-armenia-working-group-meets/2128808> (Access Date: 05. 06.2021)

<sup>32</sup> Interview of the Deputy Chairman of the Azerbaijan National Assembly Fazail Ibrahimli with the Karabakh Human Rights Observation Group during his Visit to the Azerbaijan National Assembly. Baku, June 29, 2021.

<sup>33</sup> Interview with Vulgar Süleymanoğlu, President of ANAMA. ANAMA Headquarters, Baku. June 29, 2021.

According to the (joint) Tripartite Declaration regarding the fact that the powers of the Russian soldiers are not bound to definite provisions in the current situation, their long stay in the region, and the possibility of a prolongation, and even the cessation of military activities between Armenia and Azerbaijan, the continuous protection of Lachin Corridor by Russian soldiers creates constitutes an indefinite situation for Azerbaijan to fully establish its sovereignty over its own lands, and has the potential to cause political and humanitarian crises.

In one of his statements, the President of Azerbaijan Aliyev emphasized the 5th article of the Tripartite Declaration and announced that the Turkish Peacekeeping Force would be deployed in the region. However, Kremlin Spokesperson Peskov, on the other hand, announced that Turkey will not take place in the Peace Corps, that there will be a Turkish officer in the control center, and this Center will be located in Azerbaijan, excluding Nagorno-Karabakh.<sup>34</sup> These contradictory statements indicate existing and potential disagreements. The fact that Control Center will be established outside of Karabakh, makes it difficult to prevent conflicts effectively. Turkey should also take steps to ensure its presence in the region in order to protect the political and military balance of Azerbaijan, to prevent potential conflicts with the Russian army in the region and to prevent Russia from making independent decisions in these territories.<sup>35</sup>

Kelbajar, Lachin and Shusha, located in Karabakh and liberated by Azerbaijan, are the regions where Azerbaijanis are the majority according to the 1988 census. The aforementioned article states that the road to Khankendi from Shusha is in the jurisdiction of Azerbaijan. However, the Lachin Corridor to be formed for Armenia will no longer pass through Shusha and the route of the new road will be determined within 3 years. The temporary Russian troops will ensure the control of this road as well. This road to be constructed after 3 years will ensure the connection of Azerbaijani citizens of Armenian origin with Armenia without any restriction. Especially in the current situation, the inability to manage and control the population movement of people and cargo between Khankendi and Armenia by Azerbaijan, and Azerbaijan's inability to use its sovereign authority constitute one of the critical risk factors in terms of stability in the Region.

Another pending issue after the Tripartite Declaration relates to the return of hundreds of thousands of displaced Azerbaijani citizens. According to the relevant provision of the Tripartite Declaration, return of the citizens will be made under the control of the UN High Commissioner for Refugees. The issue of Armenian mines to be discussed below remains as the biggest obstacle regarding the return of the citizens. Hundreds of thousands of mines placed all over Karabakh by Armenia with unknown locations on the map are actually preventing the return of local Azerbaijani citizens, and it seems to be the situation for a long time.

On the other hand, the use of only the expression of 'Nagorno-Karabakh' in the Tripartite Declaration indicates that the Azerbaijanis who were displaced from the Zangezur Region in 1988 were not taken into account. If the return of Azerbaijani citizens of Armenian origin is guaranteed, the return of Azerbaijani citizens of Zangezur origin to their villages should

---

<sup>34</sup> "Aliyev: Turkey Will Take Part in the Peace Corps in Nagorno-Karabakh", 10.11.2020, <https://tr.euronews.com/2020/11/10/aliyev-dagl-k-karabag-daki-bar-s-gucunde-turkiye-de-gorev-alacak>, (Access Date: 02.05.2021)

<sup>35</sup> Türkana Allahverdiyeva, "İkinci Dağlık Karabağ Savaşı Sonrası Kafkasya'da Savunma ve Güvenlik Stratejisi", *Global Savunma Dergisi*, (Ocak 2021), p. 51.

also be guaranteed. The aforementioned article secures all assets of Azerbaijani citizens of Armenian origin, therefore; Hadrut, Khankendi, Hocavend, Hocalı and Ağdere, which are under the control of Azerbaijan but mostly settled by Azerbaijan citizens of Armenian origin, are, in a certain sense, left to the Armenians in the current situation. Furthermore, it is currently not possible for Azerbaijan to control and use its sovereign powers by placing temporary Russian Peacekeeping Forces in these regions. These approaches have the potential to lead to instabilities and humanitarian crises.

In the current situation, another critical problem may be deemed as the issue of mines. In the existing circumstances, it is evident that one of the factors that prevent the de facto control of Azerbaijan in Karabakh, but which has not been on the agenda until recently, is the mines that Armenia laid all over Karabakh.

During the occupation period that lasted for 28 years, there was a “line of contact” with a length of approximately 300 km between Armenia and Azerbaijan in Karabakh. Armenia, which has a mine production facility in its country, has placed anti-personnel and anti-tank mines on the entire 300 km-long line of contact. Currently, Azerbaijan National De-Mining Agency (ANAMA), the institution responsible for the de-mining of Azerbaijan, can provide the transition by forming 10-15 km wide de-mined fields on this fully mined line.<sup>36</sup>

The findings obtained after the end of the Second Karabakh War indicate that Armenia placed mines not only through the line of contact, but also in many places in Karabakh that it occupied but did not use for settlement purposes during the occupation. It is stated that Armenia did not even do agriculture in the occupied Azerbaijani lands and mined all of these fields.

It has been determined that Armenia’s mine-laying “strategy” was not limited to the occupation period; Armenia also mined the withdrawn regions after its defeat in the Second Karabakh War. It is stated that, immediately after the ceasefire, many mines were placed in different regions.<sup>37</sup> So far, Armenia has only provided minefield maps for the Aghdam, Fuzuli and Zengilen regions. These maps indicate that there are 97 thousand mines in Aghdam alone and 92 thousand mines in Fuzuli and Zengilen regions.<sup>38</sup> The situation in the remnant regions of Karabakh is still unknown.

Another important issue regarding the mines is that Armenia refuses to provide the minefield maps to Azerbaijan. It has been stated that, so far, only the minefield maps of the Aghdam, Fuzuli and Zengilen regions have been provided. The verifiability of these maps are still unconfirmed, and the location of hundreds of thousands of mines is not known at all and there are still question marks regarding the presence of the maps of a certain portion of these maps. It is also possible that the mines may be laid randomly in some fields without marked on the map.<sup>39</sup>

---

<sup>36</sup> Interview with Vulgar Süleymanoğlu, President of ANAMA. ANAMA Headquarters, Baku. June 29, 2021.

<sup>37</sup> Official Presentation by Zaur Valimammadli, Staff of Azerbaijan Human Rights Ombudsman, Azerbaijan Human Rights Ombudsman Building, Baku. June 29, 2021.

<sup>38</sup> <https://www.reuters.com/world/asia-pacific/azerbaijan-hands-over-15-armenian-prisoners-return-minefield-maps-2021-07-03/> (Access Date: 05.06.2021); <http://www.aztv.az/az/news/13845/fuzuli-ve-zengilan-rayonlarinin-mina-xeriteleri-azerbaycana-teqdim-edilib> (Access Date: 05.06.2021).

<sup>39</sup> Official Presentation by Zaur Valimammadli, Staff of Azerbaijan Human Rights Ombudsman, Azerbaijan Human Rights Ombudsman Building, Baku. June 29, 2021.

It is also stated that the issue of Armenian mines does not receive sufficient international attention and support in terms of putting pressure on Armenia. It is stated that there are reports submitted to international institutions regarding these mines, but these reports do not receive sufficient international support. It is also stated that the Azerbaijani Human Rights Ombudsman has even prepared a special report on mines<sup>40</sup> and the Azerbaijani state has even lodged an interstate application to the ECtHR on June 4, 2021 regarding this issue.<sup>41</sup>

In addition to detecting the mines, de-mining of these detected mines also requires many years and financing to be performed. De-mining process comprises of two stages. The first stage is to leave the harmless mines and de-mine the active ones, and the second stage is to de-mine all the mines. It is stated that 5 to 7 years of work are needed to achieve only the first stage. Works that have been carried out to date clearly indicates that only about 30 thousand mines could be cleaned in the whole Karabakh region.<sup>42</sup>

It is evident that this poses enormous humanitarian and administrative problems. First of all, mines prevent Azerbaijan's sovereignty and de facto control in Karabakh. In another word, with the ongoing de-mining process, some activities can be carried out in the limited areas that have been de-mined, but in general, the Azerbaijan state is not capable of fully dominating the region. For example, plans and projects have been prepared for the reconstruction of the city of Agdam, but the relevant steps have not been taken properly yet. In this regard, it is safe to say that the Armenian occupation in Karabakh still continues in a way.

The issue of mines even hinders the detection of Armenia's other crimes in the region. It is stated that the Azerbaijani prosecutors are currently unable to perform their duties in the liberated regions due to the mines<sup>43</sup>

Another critical issue is that the return of over 1 million people (internally displaced people/IDP) who were forced to leave their residences in Karabakh will not be possible for a long time due to the mines.

Mines are still a life-critical problem, costing civilian lives or causing injuries. It has been stated that since the end of the Second Karabakh War, 27 civilians have lost their lives as a result of the mine explosion. It has been reported that <sup>44</sup> on July 4, 2021, three Azerbaijani citizens, two of whom were journalists, lost their lives, and four civilians were injured as a result of the explosion of a mine laid by Armenia in Kelbajar during the occupation.<sup>45</sup> During demining process explosions occur and among de-mining personnel there are those who lost their lives and were seriously injured de-mining personnel experience casualties or serious injuries during this process. It has been reported that four personnel were injured in such an

---

<sup>40</sup> Official Presentation by Zaur Valimammadli, Staff of Azerbaijan Human Rights Ombudsman, Azerbaijan Human Rights Ombudsman Building, Baku. June 29, 2021. Also see, "The Mine Problem in the Liberated Areas: *Ad Hoc* Report of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan." 21.06.2021. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. <https://www.ombudsman.az/upload/editor/files/Ad%20Hoc%20Report%20of%20the%20Ombudsman%20on%20landmine%20problem.pdf> (Accessed Date: 12.07.2021).

<sup>41</sup> Interview with Sabina Aliyeva, Chairperson of the Azerbaijan Human Rights Ombudsman. Baku. June 29, 2021.

<sup>42</sup> Interview with Vulgar Süleymanoğlu, President of ANAMA. ANAMA Headquarters, Baku. June 29, 2021.

<sup>43</sup> Interview with Sabina Aliyeva, Chairperson of the Azerbaijan Human Rights Ombudsman. Baku. June 29, 2021.

<sup>44</sup> Official Presentation by Zaur Valimammadli, Staff of Azerbaijan Human Rights Ombudsman, Azerbaijan Human Rights Ombudsman Building, Baku. June 29, 2021.

<sup>45</sup> <https://www.aljazeera.com/news/2021/6/4/azerbaijani-journalists-official-killed-in-kalbajar-blast> (Access Date: 03.07.2021.)

explosion in Karabakh, and some of them lost their legs and eyes.<sup>46</sup> On the other hand, it is stated that the mines cause/may cause significant levels of devastation to natural environment.

One of the issues that creates the risk of posing a humanitarian crisis in the current situation in Karabakh after the Tripartite Declaration is that, unlike the Lachin Corridor, the ‘opening period, width, transit route and security’ of the Nakhchivan Corridor still remains uncertain. All of these pave the way for Armenia to implement practices that will neutralize this transition, and lead to conflicts in this regard. Furthermore, the agreement consists of “people, vehicles, cargoes” expressions for the Nakhchivan corridor, however, Russia has signaled new conflicts by announcing that the agreement only covers the transition of people and foodstuffs. In addition, matters such as whether the Russian Task Force will control the Nakhchivan corridor indefinitely and whether it will be responsible for providing security other than transportation control are not regulated with clear provisions. This ambiguous layout may easily become inoperable in a possible Turkey-Russia or Russia-Azerbaijan conflict, leading to political instability therewith.<sup>47</sup>

As a matter of fact, experts draw attention to the fact that the aforementioned Article 9 has many gaps, and leaves defense deficits. For example, will Armenians be able to enter Azerbaijan comfortably through the gates that will open to Nakhchivan or from Stepanakert? Which country’s passport will the Armenians dwelling in Stepanakert carry and which country’s currency will they use? Will it be possible to prevent eventual illegal acts of Armenians that can easily enter Azerbaijan and reach Baku? Opening the borders to Armenia will lead to the issue of Azerbaijani passports to the Armenians returning to Stepanakert, the attitudes of these people in the country to be perceived as one of the important and current national security issues.<sup>48</sup> Similarly, preventing Azerbaijani citizens and state officials from entering and exiting the Stepanakert within their own homeland and restricting their authority may result in the violation of many human rights.

Experts state that although there is no regulation regarding the position of Turkey in the Tripartite Declaration, established dialogue after the ceasefire was between Russia and Turkey. According to them, this has certain advantages, however, it also bears the risks of disagreement for both parties.<sup>49</sup>

In addition to the possible instability elements that may arise from the Tripartite Declaration, it should be emphasized that rooted issues arising from the general characteristics of the problem and that have not yet been eliminated may also pave the way for possible instabilities.

The concepts of “frozen/protracted conflict”, which are used to describe ongoing conflicts in international relations, indicate that it is difficult and takes time to achieve a final peace environment after the ceasefire achieved as a result of such conflicts. When it comes to the Karabakh Region, it is necessary to mention three other factors that aggravates this situation:

---

<sup>46</sup> Interview with Vulgar Süleymanoğlu, President of ANAMA. ANAMA Headquarters, Baku. June 29, 2021.

<sup>47</sup> Salih Yılmaz, “Dağlık Karabağ’da Ermenistan-Azerbaycan Ateşkes Anlaşmasının Değerlendirilmesi”, İbrahim Demir (der.), *Disiplinlerarası Politika Vizyonu ve Stratejiler 2020*, (İksad Yayınevi, Ankara, 2020), p. 268.

<sup>48</sup> Türkana Allahverdiyeva, “İkinci Dağlık Karabağ Savaşı sonrası Kafkasya’da Savunma ve Güvenlik Stratejisi”, *Global Savunma Dergisi*, (January 2021), p.50.

<sup>49</sup> Kenan Aslanlı, “Karabağ Meselesi İçin “3 Boyutlu” Analitik Perspektif Önerisi”, İbrahim Demir (der.), *Disiplinlerarası Politika Vizyonu ve Stratejiler 2020*, (İksad Yayınevi, Ankara, 2020), p. 219.

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

- There is a strong pro-war community in Armenia. This wing, also known as the Karabakh Clan, has caused human rights violations in Azerbaijan and has also attempted coups against those who think differently from itself.

- Russia's priority in the region is regarded as maintaining its own influence. From this point of view, international law, UN and OSCE resolutions and Azerbaijan's just demands may not be the determining factors for Russia and may make it difficult to achieve a full solution in this regard.

- Effective Armenian lobbies, especially in the USA and France, are laying the groundwork for the arming of Armenia and a conflict method by influencing the politicians of these countries focused on Armenian interests. The ceasefire declared after a war or conflict in international relations and the agreements signed afterwards may continue to be affected by the reasons that caused the issue and related conflicts. The Azerbaijan-Armenia issue faces the risk of being affected by the interests of both Azerbaijan and Armenia, as well as international and regional actors, and the nature of their intentions regarding the resolution. The complete resolution of the Azerbaijan-Armenia issue after the ceasefire and its end with a final reconciliation does not only depend on the will of Azerbaijan and Armenia that are the relevant parties of this issue, but may also be affected by the imaginations and designs of the great powers of the system.

## II. ACTIONS AND VIOLATIONS OF ARMENIA DURING KARABAKH CONFLICTS

An important aspect of the conflicts that mostly took place in the Karabakh region of Azerbaijan is the intense violations of the Law of Armed Conflicts (LOAC), which directly regulates the protection of fundamental human rights during armed conflicts, and the ECHR on the protection of fundamental rights. In this section, the legal rules of the LOAC will be discussed and the legal evaluations will be made regarding the violations in the Second Karabakh War.

### 1. Basic Principles of the International Law of Armed Conflicts

LOAC is a department of International Law comprising rules governing the use of counter-arms and the methods and weapons used in the use of armed force between states and, in certain cases, between states and regular non-state armed groups, with the exception of terrorist groups.

These rules are examined in two sub-groups as “pre-war law “ and “Law during war “. “Pre-war law” (jus ad bellum) covers rules on the use of armed force. “Law during war” (jus in bello), on the other hand, covers the rules that must be followed by the conflicting parties during armed conflicts, regardless of whether they started the war in accordance with the rules of law.

#### 1.1. Rules for Recoursing to Armed Force

It has been believed for a long time that war is a method to be resorted to in relations between states only on the basis of a just cause. However, this understanding’s gaining a legal framework and the emergence of a law (jus ad bellum) regarding the use of armed force as a part of the global legal order was realized first with the League of Nations Treaty and then with the United Nations Treaty. Section 4 of Article 2 of the UN Treaty is as follows:

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.”

Therefore, in general, resorting to armed force and even the threat or use of force was prohibited,<sup>50</sup> and the cases which armed force will be used are counted as exceptional situations.

It is acknowledged that the aforementioned treaty provision that expresses the prohibition of the use of force in international law, has also become a rule of customary law, in other words, it binds all states regardless of their UN membership status.<sup>51</sup> It is

<sup>50</sup> For example, in the 1970 UN General Assembly Declaration, following statement is used; ‘...the duty to refrain...from the threat or use of force’, rather than a statement indicating that states have an obligation not to threaten or use force.

<sup>51</sup> ‘The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordan-

even stated that this prohibition is among the *jus cogens* of international law, that is, it is a prohibition against which even an agreement may not be signed.<sup>52</sup> As exceptions to this general prohibition, only the use of armed force for defensive purposes is considered legitimate. These exceptions cover two cases.

### **a) Right of Self Defence**

In this regard, it is considered legitimate to use force within the framework of the right of self-defense, which is considered to exist naturally without the need for any written rule of law, and also regulated in Article 51 of the UN Treaty. Expressing with this provision that the right of self-defense, which already inherently exists is recognized, the Treaty defines it as a right that an attacked state may apply, either on its own, or together with other states, in the face of an “armed” attack. It is stated that the aforementioned right can be exercised “until the UN Security Council takes the necessary measures for the continuation of international peace and security”, however, it is acknowledged that the right to self-defense will cease to exist if these measures are effective.<sup>53</sup> Furthermore, it is regarded that the concept of using force refers to the use of armed force and the conditions under which the use of armed force will be considered an ‘attack’ are left to the discretion of the UN Security Council.<sup>54</sup>

### **b) The UN Security Council's Resolutions**

The second exception to the prohibition on the use of force, again for defense purposes, within the framework of the Article VII of the UN Treaty, is the resolution regarding the use of land, air, and naval forces set forth in Article 42 that may be necessary to maintain or restore international peace and security in the event that the Security Council concludes that measures that do not involve the use of force are not sufficient to keep the peace or restore thereof. Therefore, if the UN Security Council has taken a decision in this regard, the use of armed force will be considered legitimate within the scope of the mentioned resolution.

When the UN General Assembly could not fulfill its duties regarding the maintenance of international peace and security due to the veto of the Security Council, the General Assembly may convene extraordinarily and recommend the Member States to take various measures, including the use of military force, for the maintenance or re-establishment of international peace and security, thanks to the resolution adopted in 1950 by General Assembly.<sup>55</sup> Similarly, this Resolution indicates that the General Assembly will exercise its authority in cases of “threat against peace”, “disruption of peace” or an “attack”.<sup>56</sup>

---

ce with the Treaty of the United Nations” adopted by the UN General Assembly on 24 October 1970 states that an attitude contrary to Article 2(4) of the UN Treaty violates not only the UN Treaty but also international law, and declares that this provision also has the value of customary rule.

<sup>52</sup> *Nicaragua Davası Kararı, ICJ Reports*, 1986, p. 14, sec. 188-190.

<sup>53</sup> Upon the occupation of the British Falkland (*Malvinas*) Islands by Argentina in 1982, the UN Security Council constituted the resolution no. 502, but after this decision, England took the islands back by using armed force and based this action on the right of self-defense. Considering this example, it should be evaluated that whether the resolution has a tangible result is deemed important. See., UN Doc.S/PV.2346.

<sup>54</sup> See, UN Treaty article 39. The definition of the concept of “*crime of aggression*” in the jurisdiction of the International Criminal Court constitutes a separate issue.

<sup>55</sup> “Uniting For Peace Resolution”. G.A. Kar.337(V) 3 Kasım 1950, 5<sup>inci</sup> Oturum Ek 20. p.10 The resolution was adopted with 52 affirmative votes, 5 negative votes and 2 abstentions.

<sup>56</sup> The General Assembly held an emergency meeting and stated and recommended measures in accordance with this resolution for Korea (1950), Suez Crisis (1956), Hungarian Uprising (1956), Lebanon and Jordan (1958), Congo Crisis (1960), Middle East Crisis (1967), Pakistani Civil War (Bangladesh Crisis) (1972), Afghanistan Crisis (1980), Palestine Crisis (1980- 1982), Namibia (1981) and Occupied Arab Territory Crisis (1982).

## 1.2. Rules to be Followed in Armed Conflicts

The rules to be obeyed during war (*jus in bello*) are examined by dividing into two main groups. In the first group, there are rules on weapons and methods of warfare. These rules were mainly established by conventions<sup>57</sup> signed in the Hague in 1899 and 1907. These rules, in general, are the legal rules that determine the “types of weapons” and “war techniques”, which are prohibited to be used during war. The second group of rules, on the other hand, are the rules on the protection of the civilian population, the wounded, the sick or the captives, namely, non-combatants, who can be defined as the victims of the war, mainly during the war. They are mostly rules established by the four Geneva Conventions signed in 1949 and two additional protocols to these conventions made in 1977.

This dual distinction between the rules to be followed during the war does not actually express a very clear distinction. While it is possible to find some of the legal rules regulating the weapons and war techniques to be used in war in the Geneva Conventions, it is possible to find the rules regarding civilians or other war victims in the Hague Conventions.<sup>58</sup>

Geneva Conventions, are as follows: “Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field(Convention No. I), “Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Convention No. II), “Convention relative to the Treatment of Prisoners of War. (Convention No. III)” and “Convention relative to the Protection of Civilian Persons in Time of War (Convention No. IV)”. The additional protocols of 1977 are: “Protocol relating to the Protection of Victims of International Armed Conflicts (Protocol No. I) and “Protocol relating to the Protection of Victims of Non-International Armed Conflicts (Protocol No. II).<sup>59</sup>

It can be stated that among the conventions mentioned above, the Convention on the Initiation of Armed Conflicts of 1899 and 1907, the Convention on the Rules and Customs of Land Warfare, and a significant part of the rules covered by the four separate Geneva Conventions signed in 1949, gained the value of customary law and became binding on states that are not party to these conventions.<sup>60</sup>

In addition, the conventions established on the law of international armed conflicts until today are not only the Hague Conventions and the Geneva Conventions. In fact, the first multi-participatory international convention in this field was the “Geneva Convention<sup>61</sup> on the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 1864”. Similar conventions were held during the interwar period. These include the “1906 Geneva Convention on the Amelioration of the Condition of the Wounded and Sick on the Battlefield”, the “1925 Geneva Protocol on the Use of Asphyxiant, Toxic and Similar Gases

<sup>57</sup> These rules are the “Convention on the Peaceful Settlement of International Problems, Convention on the Initiation of Armed Conflicts”, “Convention on Rules and Customs of Land Warfare, Convention on the Rights and Responsibilities of Neutral States or Persons in Land Warfare”. Furthermore, certain conventions regarding naval warfare were also accepted. For the texts of these conventions, please see, D. Schineder & J. Toman, *The Laws of Armed Conflicts, A Collection of Conventions, Resolutions and Other Documents*. 2nd Issue, (Sijihoff & Northoff: Geneva, 1981), p. 57. 211.

<sup>58</sup> For further information please see *International Humanitarian Law*, (Dartmouth Publishing: Boston, 1990), p. 2.

<sup>59</sup> For the Conventions and Additional Protocols, see. D. Schineder & J. Toman, *The Laws of Armed Conflicts, A Collection of Conventions, Resolutions and Other Documents*. 2nd Issue, (Sijihoff & Northoff: Geneva, 1981), p. 305-525; 551-619.

<sup>60</sup> See, ICTY, *Tadic* Case, Vol II, Chapter 44, p. 106.

<sup>61</sup> 1864 Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

and Bacteriological Devices”, and the “1929 Geneva Convention on the Amelioration of the Condition of the Wounded and Sick on the Battlefield.”

After the Second World War, in addition to the Geneva Conventions and their additional protocols, the “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (and two additional protocols)”, “1972 UNESCO World Heritage Convention”, “1972 Biological Weapons Convention”, “1980 Convention on Certain Conventional Weapons and 5 additional protocols”, “1992 Convention for the Protection of the Archaeological Heritage of Europe”, “1993 Chemical Weapons Convention” and “1997 Ottawa Anti-Personnel Mine Convention” were also held.

The purpose of the rules and related prohibitions brought by the above-mentioned regulations is to prevent unnecessary deaths, unnecessary suffering and unnecessary destruction, and to limit the war to its political purposes only, without completely hindering the requirements of war, especially defensive wars. In this framework, two main objectives were attempted to be achieved, such as “limiting the weapons and methods of armed conflict” and “protecting civilians and non-combatants (hors de combat) in armed conflicts”.

These rules, which have been put forward and put in writing by international multilateral conventions, are the rules applied in all situations where the collective protection of civilians is required in international armed conflicts and in some limited cases of internal conflicts, regardless of whether there is a formal declaration of war and who initiated the armed conflict.<sup>62</sup> For this reason, the concept of International Humanitarian Law has started to be used more widely in addition to the concept of International Law of Armed Conflicts to express these rules.

### **a) Prohibited Types of Weapons and Means of Combat**

The mentioned international conventions determine some types of weapons and means of warfare that the parties are prohibited from using against each other during armed conflicts. The relevant conventions prohibited them by counting the attributes of weapons and activity types, rather than enumerating them.

In this regard, <sup>63</sup>the first type of prohibited weapon with the 1868 dated St. Petersburg Declaration was bullets that exploded and dispersed in the human body and caused extreme pain and injury, and weapons loaded with bullets, explosives, igniters or combustible materials weighing less than 400 grams. Three different declarations made in The Hague in 1899 prohibited the firing of any kind of projectile or explosive material from balloons or similar means, “asphyxiant gases that cause unnecessary pain” and “dumdum bullets and alike that cause unnecessary brutal wounds”.<sup>64</sup>

---

<sup>62</sup> The understanding that the weapons and methods of defeating the enemy are not unlimited was an understanding accepted at the beginning of the previous century. “1907 Hague Convention on respecting the Laws and Customs of War on Land”, article 22; “Annex I to the Geneva Conventions (1977)”, article 35(1).

<sup>63</sup> “Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight.” Saint Petersburg, 29 November/11 December 1868.

<sup>64</sup> “Declaration (IV,1), to Prohibit, for the Term of Five Years, the Launching of Projectiles and Explosives from Balloons, and Other Methods of Similar Nature.” The Hague, 29 July 1899; “Declaration (IV,2) concerning Asphyxiating Gases.” The Hague, 29 July 1899; “Declaration (IV, 3) Concerning Expanding Bullets.” The Hague, 29 July 1899.

The Hague Convention on the Law and Customs of Land Wars, emphasizing the principle of unnecessary suffering, explicitly prohibited to use poison or poisonous weapons in land wars, to brutally kill or injure the enemy or members of the army, to kill or injure an enemy who has laid down their weapons or is no longer able to defend themselves or has surrendered, the declaration of no amnesty, the use of weapons, bullets or materials designed to cause unnecessary suffering, the use of the armistice flag, the national flag, or the enemy's military insignia and uniform, or the signs set forth by the 1864 and 1906 Geneva Conventions, with the intent to deceive or inappropriately, to destroy or confiscate enemy property, if it is not deemed inevitable by the requirements of war, to declare that the rights and acts of those belonging to the enemy side are revoked, suspended or inadmissible in a court of law. It also prohibits compelling citizens of the enemy side to participate in military acts against their own country.<sup>65</sup> The Geneva Protocol of 1925 prohibited bacteriological weapons.

Some new rules on weapons and methods used in armed conflicts were stipulated in the 1949 Geneva Conventions and in particular The Section I, titled "Means and Methods of War", of Part III, titled "Means and Methods of War, Combatants and Prisoners of War", of the Additional Protocol No. I Concerning the Protection of Victims of International Armed Conflicts. One of the stipulated principles is the principle that "the use of weapons, bullets, materials and methods of warfare that cause unnecessarily severe injury or unnecessary suffering" is prohibited.<sup>66</sup> The Protocol also set forth the obligation of the state parties to ensure that their newly developed weapons do not violate the stated principles of the Geneva Conventions.<sup>67</sup>

To kill, injure or capture<sup>68</sup> an enemy by treason (by exploiting the enemy's trust), excluding tricks of war, the inappropriate use of the distinctive emblems of the Red Cross, Red Crescent, or Red Lion and Red Sun institutions, or other emblems or symbols provided for by the Conventions or this Protocol, the improper use of symbols and signals, the use of flags or military emblems, insignia or uniforms of other neutral or non-conflicting states, and to order that no one shall survive, to threaten an enemy with it, and to make war by this method is also prohibited. In addition, it is prohibited to make a target of a person who is understood to be non-combatant or who should be accepted as such under the current circumstances and to target the descending people who jumped out of the plane with a parachute in case of danger.<sup>69</sup> Especially, targeting and attacking civilians and civilian settlements that are not directly involved in armed conflicts are acts that are completely prohibited mainly for these aforementioned reasons.<sup>70</sup>

International conventions created in the years following the 1949 Geneva Conventions prohibited some specific weapons and methods of warfare and expanded the application areas of these prohibitions.

---

<sup>65</sup> Please see, article 23/e "IV Convention Respecting the Laws and Customs of War on Land."The Hague, October 18, 1907. 36 Stat. 2277, Treaty Series 539.

<sup>66</sup> "Additional Protocol I on the Protection of Victims of International Armed Conflicts", article 35, par. 1 and 2.

<sup>67</sup> "Additional Protocol I on the Protection of Victims of International Armed Conflicts", article 35, par. 1 Article 36.

<sup>68</sup> "Additional Protocol I on the Protection of Victims of International Armed Conflicts", article 37

<sup>69</sup> "Additional Protocol I on the Protection of Victims of International Armed Conflicts", article 35, par. 1 Article 38, 39, 40, 41, 42.

<sup>70</sup> "1907 Hague Convention on the Law and Customs of the Land Wars", article 23(c); "1949 Geneva Convention for the Protection of Civilians", articles 13-23; "Additional Protocol No. I (1977)", articles 48-58.

The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons<sup>71</sup> prohibits the use of the <sup>71</sup>aforementioned substances. The 1977 Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines<sup>72</sup> (Ottawa) introduced a general prohibition on lethal warfare equipment of the specified type.

The 1981 “Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects” and its additional Protocol, and the 2001 amendments to this Convention, extended these prohibitions to non-international armed conflicts. The Protocol IV<sup>73</sup> titled “Blinding Laser Weapons Protocol” was added to the Convention in 1995 and blinding laser weapons were also prohibited.

The 1993 Paris Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction also prohibits biological and bacteriological weapons.

Another important restriction on the weapons and methods of warfare is for the protection of the natural environment. Article 23, paragraph g, and Article 55 of the Hague Convention on the Law and Customs of War on Land, and Articles 53 and 147 of the Geneva Convention No IV, and Articles 35 (3), 54, 55, 56, 59 and 68 of Protocol No. I dated 1977 contain provisions on the protection of the environment during armed conflicts. Article 53 of the Geneva Convention no. IV prohibits the deliberate or indiscriminate destruction of property belonging to individuals, the state or other public authorities. Article 147, on the other hand, prohibits “ Illegitimate and arbitrary large-scale destruction and confiscation of property that is not justified by military requirements”

The main detailed arrangements in this regard were made with The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict signed in 1954, the 1992 Convention on the Protection of Archaeological Heritage of Europe and the 1972 UNESCO World Heritage Convention.

There are also more general international legal rules on the protection of the natural environment. Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques<sup>74</sup>, which was negotiated at the 1976 Disarmament Commission Conference<sup>75</sup> and opened for signature<sup>76</sup> by the United Nations General Assembly in Geneva, also provides similar provisions.

## **b) Protection of Certain Groups of Persons in Armed Conflicts**

Some of the International Warfare Combat Law rules are for the direct protection of certain groups of people. All four Geneva Conventions and Additional Protocol No. II, which regulates

---

<sup>71</sup> It was signed on 19.04.1972 and entered into force on 26 March 1975.

<sup>72</sup> The convention was signed on 14.02.1997 and entered into force on 1 March 1999.

<sup>73</sup> The protocol was signed on 13.10.1995 and entered into force on 30 July 1998.

<sup>74</sup> The conference took place on 10 December 1976.

<sup>75</sup> The Convention was opened for signature on 18 May 1977.

<sup>76</sup> It entered into force on 5 October 1978. *UNTS*, 1978, Vol. 1108, p. 156-160. Turkey has signed but not yet ratified. Currently, 78 countries are party to this Convention. Armenia became a party to the Convention on May 15, 2002, but Azerbaijan has not yet become a party.

the protection of victims of international and national armed conflicts, have been created for the protection of certain groups of persons. This groups of persons are the “sick and wounded of armed forces”, “prisoners of war” and “civilians”. As stated above, the Convention, which was first put forward in 1864, was created for the protection of the sick and wounded of the armed forces. In fact, the rules on weapons and methods discussed above show that soldiers are protected from unnecessary pain, suffering, injury and death even when fighting.

### *The Injured and the Sick*

The Geneva Convention No. I, which contains rules for the protection and improvement of the condition of the wounded and sick in wars on land, prescribes rules to be applied in all declared or undeclared wars and in all armed conflicts between the parties, even in all occupation situations. In addition, Article 3 of the Convention sets minimum standards for how these persons should be treated, even in non-international armed conflicts.

Persons under protection in Convention No. I are “the members of the armed forces, militias, and volunteers, members of organized resistance forces meeting certain conditions, crews of military vehicles, insurgents in occupied areas.”<sup>77</sup> The provision of care and protection of the wounded or sick members of the armed forces under all conditions is regulated. It is regulated that these people will be treated humanely and that no discrimination can be made on the basis of gender, race, nationality, religion, political opinion and similar criteria. Acts such as killing, torture, experimentation, deprivation of medical care will not be practiced. Women will be treated with the sensitivity required by their gender. Intentional deprivation or abuse of medical care is prohibited.<sup>78</sup>

### *Prisoners of War*

Another group of persons protected are the prisoners of war. Persons who will acquire prisoner status when they fall into enemy hands are defined in Article 4 of the Geneva Convention No. III. Priority among these are members of the armed forces and militias and volunteers, who are also elements of the armed forces. Other militias, insurgents, and volunteers are also deemed among these groups, provided that they carry certain signs, carry their weapons in the open, and act in accordance with the rules of armed conflict. The third group of persons is those who are not members of the armed forces but serve in the armed forces. In addition, the military crew and the resisting inhabitants of the area about to be occupied will also be subject to captive status, provided that they fall into the hands of the enemy.

These people, from their fall into the hands of the other party and until they are released, have the right not to be subjected to torture and similar ill-treatment, and to be provided with the medical care and other basic needs they need, from the moment they fall into the hands of the other party and until they are released, to be protected against acts of violence and revenge that may be directed against them, to be treated according to their gender (for women), and not to be charged for meeting their basic needs, not to be forced to give information other than their name, surname, date of birth, rank and where they are assigned, to be treated according to their rank, to communicate in their own language, to be ensured that they stay in safe places,

---

<sup>77</sup> Please see “Convention no. I”, article 3.

<sup>78</sup> Article 12.

to meet with religious and medical officials and to practice their religious duties. Torture or ill-treatment of prisoners, forced fighting and failure to receive a fair trial are deemed “grave breaches” of the Convention.<sup>79</sup>

### *Civilians*

The majority of the rules on the protection of civilians are set forth in Geneva Convention no. IV. Although the Convention does not directly define who the civilians are, it is understood from many of the rules in the Convention that it covers all those who are not combatants.<sup>80</sup>

The basic principle regarding the protection of civilians is that civilians should not be subjected to deliberate killing, torture and corporal punishment. Civilians must be treated humanely, and their personality, dignity, family rights, beliefs, worship and traditions must be respected under all circumstances. It is prohibited to rape, force into prostitution, and put into embarrassing situations. No discrimination should be made among civilians. Taking hostages, applying collective punishment, or being threatened with those are also prohibited acts. Health and religious officials and civil defense teams have a special protection status.

Concerning property, confiscation and damage to enemy property is prohibited, except for war purposes. While public property can be confiscated, education, health, worship and municipal property must be excluded.<sup>81</sup> The confiscation of occupied private property and the looting of goods are prohibited. In the Additional Protocol No. I, rules regarding the protection of certain goods according to their functions are set forth.<sup>82</sup>

Finally, an important point needs to be emphasized. Article 3 has the same content in each of the 1949 Geneva Conventions. This article, known as common article 3, provides minimum standards for the protection of persons in non-international armed conflicts, i.e. “an armed conflict that is not of an international nature and occurs in the territory of one of the High Contracting Parties”. The introduced standards are as follows:

- Persons who do not directly participate in conflicts, including members of the armed forces who have abandoned their weapons and those who have been excluded from combat due to illness, injury, or any other reason, will be treated humanely in all cases, without adverse discrimination based on race, colour, religion or creed, gender, ancestry or wealth or any other comparable criterion

- Abuse that harms life or bodily integrity, in short, murder in all forms, mutilation, cruel treatment, torture and torment are prohibited.

- They are not allowed to be taken as hostages.

- Insulting the dignity of individuals, in short, degrading and precipitating treatments are prohibited.

---

<sup>79</sup> Article 130.

<sup>80</sup> See, Melike B. Yamaner, *Silahlı Çatışmalarda Sivillerin Korunması*. (Arıkan Yayınları: İstanbul, 2007).

<sup>81</sup> See, “The Hague Convention no. IV”. (1907), article 23, 46.

<sup>82</sup> See “Additional Protocol No. I”, article 52.

- It is prohibited and will remain prohibited to give convictions and their enforcement and execution without prior verdict by a court having judicial guarantee, which has been established in a procedural manner and has been recognized as essential by civilized nations.

- The wounded and sick will be gathered and treated. An international humanitarian organization such as the International Committee of the Red Cross may offer and give its services to parties to the conflict.

### 2. Implementation of the European Convention on Human Rights in Armed Conflicts

There is no provision in the European Convention on Human Rights (ECHR) that directly and explicitly regulates the liability of member states for widespread human rights violations in wars and armed conflicts outside their borders. However, the European Court of Human Rights (ECtHR) has developed its jurisprudence that member states will be liable for human rights violations they cause through their acts in armed conflicts outside their borders, which are under their effective control.

In its decisions in recent years, the ECtHR determined by jurisprudence that state parties engaged in military activities in terms of the rights regulated in the ECHR will be liable if the acts carried out outside their own territory and the operations they manage result in violations.<sup>83</sup> Complaints against Council of Europe member states (the Netherlands and the United Kingdom) and recent cases<sup>84</sup> brought before the ECtHR extend the protections set forth by the Convention in cross-border armed conflicts, which are increasingly important to European human rights law, and hold member states accountable for their cross-border acts.<sup>85</sup>

It is obvious that Armenia will be held responsible for its violations of the right to life, property rights, prohibition of torture and ill-treatment, freedom of religion and conscience, both during the First Karabakh War and the occupation of the Nagorno-Karabakh territories, which lasted for nearly thirty years, as well as in the Second Karabakh War and in the next period still ongoing. More detailed considerations will be given below.<sup>86</sup>

### 3. Legal Evaluations on Violations in Karabakh Conflict

In the Second Karabakh War, there are statements and reports showing Armenia's attacks and numerous violations of rights against Azerbaijanis in Azerbaijani territory. Within this context, the on-site determinations made by the Karabakh Human Rights Observation Group,

---

<sup>83</sup> See *Issa and Others v. Turkey*, Application No. 31821/96, 16 November 2004; ECtHR, *Al-Saadoon and Mufdhi v. the United Kingdom*, Application no. 61498/08, 2 March 2010; ECtHR, *Al-Skeini v. the United Kingdom* (Grand Chamber), Application no. 55721/07, July 7, 2011; ECtHR, *Al-Jedda v. the United Kingdom* (Grand Chamber), Application no. 27021/08, July 7, 2011; ECtHR, *Jaloud v. the Netherlands* (Grand Chamber), Application no. 47708/08, 20 November 2014.

<sup>84</sup> *Jaloud v. Netherlands*; ECtHR, *Al-Saadoon and Mufdhi v. the United Kingdom*; ECHR, *Al-Skeini v. the United Kingdom*; ECtHR, *Al-Jedda v. the United Kingdom*.

<sup>85</sup> Françoise Hampson, "Direct Participation in Hostilities and the Interoperability of the Law of Armed Conflict and Human Rights Law", *International Law Studies*, Vol. 87, No. 1, (2011), p. 192: "If some rules are perceived to be unrealistic, this is likely to lessen respect for those rules that can be applied in practice."

<sup>86</sup> See, Chapter II, 3.2.

official statements, reports prepared by the Commissioner for Human Rights of Azerbaijan (Ombudsman), press releases and violations that can be accessed from other sources are summarized and their legal qualities are evaluated.

### **3.1. Evaluations in the Context of International Law of Armed Conflicts**

#### **a) Crime of Aggression**

The first issue regarding the Armenian-Azerbaijani conflicts, which started again on September 27, 2020, in the occupied Azerbaijani territories, was who started the conflicts. It is legally important who started the armed conflicts between the two countries or who illegally carried out the first attack.

However, it can be said that this does not mean the same in the context of the conflicts that started between Azerbaijan and Armenia on September 27, 2020. Because Armenia had been the occupier of the Karabakh territories of Azerbaijan since 1993<sup>87</sup>, and in any case, it was the country that launched an illegal offensive. Even if Azerbaijan started the armed conflicts on September 27, it is seen that the position of Azerbaijan is the position of the state defending its country in the context of self-defense.

#### **b) Prohibited Types of Weapons and Means of Combat**

The Armenian Armed Forces attacked Ganja, the second largest city of Azerbaijan, on October 10, with a fragmented and therefore non-discriminatory Smerch missile, causing civilian deaths.<sup>88</sup> Causing civilian deaths with such powerful weapons that do not distinguish between combatants and non-combatants can be considered a violation. On 12 October, it was reported that the missile targeting a civilian settlement in the city of Ganja was a medium-range ballistic missile Elbrus (SCUD).<sup>89</sup> Investigations on the remains of the missile, which hit the building where the civilians lived and caused great destruction, confirmed this.<sup>90</sup> Civilian deaths were experienced in the missile attack on Ganja on 17 October.<sup>91</sup> The Armenian Army launched a rocket attack on Ordubad province of Nakhchivan Autonomous Republic of Azerbaijan on October 16.<sup>92</sup>

---

<sup>87</sup> See UN Security Council resolutions, 822 (30 April 1993); 853 (July 29, 1993); 874 (October 14, 1993) and 884 (November 12, 1993).

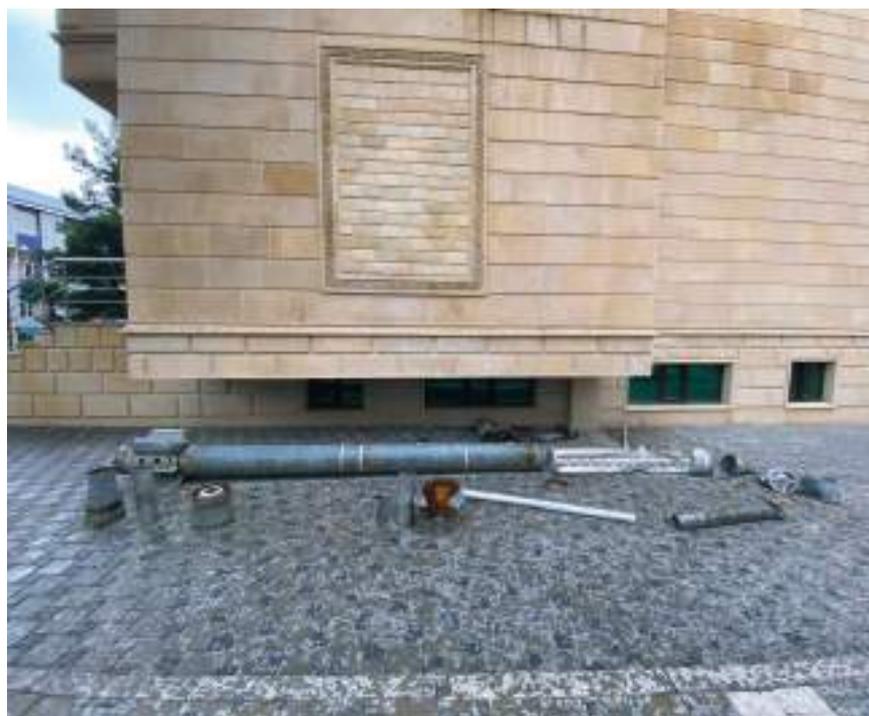
<sup>88</sup> "Report Concerning the Factual Evidence of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces", Baku, 2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20\\_27-28%20October\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20_27-28%20October_2020.pdf) (Access Date: 15.11.2020).

<sup>89</sup> It was determined that Armenia hit civilians in Ganja with a medium-range ballistic missile Elbrus, *Anatolian Agency*, 12.10.2020, <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/ermenistanin-gencedeki-sivilleri-orta-menzili-balistik-fuze-elbrus-ile-vurdugu-belirlendi/2003630> (Access Date: 04.01.2021).

<sup>90</sup> Gazanfer Ahmedov, Director of the Azerbaijan National Mine Clearance Agency (ANAMA), said, "The data we obtained from the missile remains shows that the attack was carried out with the Elbrus missile." <https://www.cnnturk.com/dunya/son-dakika-ermenistanin-gencedeki-sivilleri-orta-menzili-balistik-fuze-elbrus-ile-vurdugu-belirlendi>, (Access Date, 18.12.2020).

<sup>91</sup> No:355/20, Statement of the Ministry of Foreign Affairs of the Republic of Azerbaijan on the attack of Ganja city of Azerbaijan by Armenia with ballistic missiles on the night of 17 October, 2020 (En/Ru)

<sup>92</sup> Armenia Carried out Rocket Attack on Ordubad Province in Nakhchivan, *Anatolian Agency*, <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/ermenistan-nahcivan-daki-ordubad-iline-roketli-saldiri-duzenledi/> 2008420, (Access Date: 20.12.2020).



**Source:** On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Tartar.

A media report also stated that the Armenian Army used Tochka-U tactical ballistic missiles in attacks against Azerbaijani civilians.<sup>93</sup> More importantly, it was stated that the attack on the city of Barda on October 27-28 was carried out with prohibited weapons and cluster bombs were used in Barda.<sup>94</sup> The usage of such weapon in Barda was also stated by Human Rights Watch.<sup>95</sup> Moreover, there are also reports of the use of bullets containing phosphorus, which is also prohibited.<sup>96</sup>

One of the most serious acts of Armenia in the context of the use of prohibited types of weapons is the use of anti-personnel mines. The anti-personnel and anti-tank mine-laying activities detailed in the relevant chapter<sup>97</sup> above were carried out extensively both during the occupation period and during and immediately after the Second Karabakh War.

The quality of the methods used is as important as the weapons used in the conflicts. It has been determined that one of the prominent methods of Armenia during the conflicts is to carry

<sup>93</sup> <https://www.dailysabah.com/politics/diplomacy/armenia-committing-war-crimes-in-missile-attacks-targeting-azerbaijani-civilians-de-mining-expert-says>. (Access Date: 19.08.2021)

<sup>94</sup> “Report: Concerning the Factual Evidences of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces”. The Commissioner For Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20\\_27-28%20October\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20_27-28%20October_2020.pdf) (Access Date: 15.11.2020).

<sup>95</sup> “Armenia: Cluster Munitions Kill Civilians in Azerbaijan”. <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan?fbclid=IwAR3xekKv0YE1LkcpoOh-o6NbINEUYMbxG76MQ27QmvXIEa5mpwwLvCb8YH8>. (Access Date: 30.10.2020)

<sup>96</sup> See Photos from ANAMA’s neutralization of D-4 (P-4) white phosphorus munitions. (A copy of the report is available at the Karabakh Human Rights Observation Group.)

<sup>97</sup> See Chapter I, 4.

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

out direct attacks that damage civilian infrastructure facilities.<sup>98</sup> More than 200 homes and civilian facilities such as hospitals, schools, kindergartens and cemeteries were found to be destroyed in the first two weeks of the conflict.<sup>99</sup> Educational buildings, health facilities and social places have also been the target of attacks.<sup>100</sup> It has been frequently stated that civilian vehicles were targeted in the attacks.<sup>101</sup> It was expressed that in the attack that took place in Tartar on September 28, the buildings built for the disabled and displaced people were targeted by the artillery fire of the Armenian Armed Forces.<sup>102</sup> Other buildings were damaged as a result of the attacks, 2 buildings in the vicinity became unusable and the residents were evacuated.<sup>103</sup>



---

<sup>98</sup> “Interim Report on Violations of International Human Rights Law and International Humanitarian Law by Armenia in the Process of New Armed Attack on Azerbaijan”. (Official report issued by the Ombudsman for Human Rights of the Republic of Azerbaijan at the end of the first week of the conflict)

<sup>99</sup> <https://www.dailysabah.com/politics/diplomacy/armenia-committing-war-crimes-in-missile-attacks-targeting-azerbaijani-civilians-de-mining-expert-says>. (Access Date: 19.07.2021).

<sup>100</sup> Ombudsman Sabina Aliyeva raised the issue of prisoners of war (POWs) before international organizations. 12.11.2020, <https://ombudsman.az/en/view/news/2228/ombudsman-sabina-aliyeva-raised-the-issue-of-prisoners-of-war-pows-before-international-organizations->, (Access Date:19.12.2020).

<sup>101</sup> “Report: Concerning the Factual Evidences of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces”. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

<sup>102</sup> “Report on the Destructions and Human Casualties Caused by The Regular Shelling of the Azerbaijani Civilian Settlements by the Armenian Armed Forces”. Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan 27 September-1 October 2020. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 10. (Access Date: 19.12.2020)

<sup>103</sup> “Report on the Destructions and Human Casualties Caused by The Regular Shelling of the Azerbaijani Civilian Settlements by the Armenian Armed Forces”. Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan 27 September-1 October 2020. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 10. (Access Date: 19.12.2020)

## II. ACTIONS AND VIOLATIONS OF ARMENIA DURING KARABAKH CONFLICTS



**Source:** On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Tartar

---



**Source:** On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Tartar

---

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

The Armenian Armed Forces continued to bomb Tartar and other border provinces on September 30-October 2, 2020. The Prosecutor General's Office of Republic of Azerbaijani announced that as a result of the artillery attacks of the Armenian Armed Forces on civilian infrastructure and civilian facilities, 163 houses and 36 civilian facilities, as well as civilian vehicles, were severely damaged, and many sheep and cattle were destroyed. According to the data of the Prosecutor General's Office of Republic of Azerbaijani, that day, 19 civilians lost their lives and 55 were injured as a result of the artillery attacks of the Armenian army on civilian settlements from September 27, when the conflict began, to October 2.<sup>104</sup>

The Armenian Armed Forces held artillery fire on Ganja, the second largest city of Azerbaijan, between October 4 and 6, 2020, and heavy damage occurred in this settlement with a high population density.<sup>105</sup> Many residential areas and shopping centers became unusable in the attack.<sup>106</sup>



**Source:** "Report on the Fact-Finding Mission Carried Out in Connection with the Human Casualties and Destructions as a Result of Heavy Artillery and Rocket Fire by the Armenian Armed Forces on Ganja City-The Densely Populated Second Largest City of Azerbaijan." The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. 4-6 October 2020, p. 3.

<sup>104</sup> "Report on the Destructions and Human Casualties Caused by The Regular Shelling of the Azerbaijani Civilian Settlements by the Armenian Armed Forces". Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan 27 September-1 October 2020. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 15. (Access Date: 19.12.2020).

<sup>105</sup> Armenia hit civilians! Many civilian dead and injured, *Vatan*, October 4, 2020, <http://www.gazetevatan.com/ermenistan-dan-sivilleri-hedef-alan-alcak-saldiri--1345970-gundem> (Access Date: 03.02.2021).

<sup>106</sup> "Report on the Fact-Finding Mission Carried Out in Connection with the Human Casualties and Destructions as a Result of Heavy Artillery and Rocket Fire by the Armenian Armed Forces on Ganja City-The Densely Populated Second Largest City of Azerbaijan." The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. 4-6 October 2020, p. 4.

## II. ACTIONS AND VIOLATIONS OF ARMENIA DURING KARABAKH CONFLICTS



**Source:** Report of the Fact-Finding Mission on Civilian Casualties and Destructions as a Result Of Another Missile Strike by Armenian Armed Forces on Ganja, The Second Largest and Densely Populated City of Azerbaijan 11-12 October 2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, p. 6.

---

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

In addition, it was stated that ambulances and medical facilities were among the targeted civilian elements, and educational institutions were deliberately targeted, and vital civilian infrastructures such as electricity, gas, water and communication stations were targeted. Serious damage was done to electricity and energy infrastructures, and settlements were left without electricity.<sup>107</sup> As a result of the artillery fire carried out by the Armenian Armed Forces on September 29, the hospital and post office in the Kapanli Village of Tartar became unusable.<sup>108</sup>



A burned barn in Karmiravan Village, emptied by ethnic Armenians.  
Source: “Report reveals Armenian war crimes against Azerbaijan”,  
Daily Sabah, 24.11.2020, [tps://www.dailysabah.com/politics/  
diplomacy/report-reveals-armenian-war-crimes-against-azerbaijan](https://www.dailysabah.com/politics/diplomacy/report-reveals-armenian-war-crimes-against-azerbaijan)  
(Access Date: 15.04.2021)

---

<sup>107</sup> See, No:335/20, Information of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan on the telephone conversation between Minister Jeyhun Bayramov and OSCE Minsk Group Co-Chair of the US Andrew Schofer (En/Ru)

<sup>108</sup> “Report on the destructions and human casualties caused by the regular shelling of the Azerbaijani civilian settlements by the Armenian Armed Forces”, Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, Azerbaijani Ombudsman, September 27 - October 1, 2020. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 10. (Access Date: 19.12.2020).

On the night that connects October 6 to October 7, the Armenian Armed Forces targeted the Baku-Tbilisi-Ceyhan oil pipeline, the biggest strategic project of the region, which plays an important role in Europe's energy security, and it launched a missile attack on the section of the pipeline passing through the Yevlakh region. As a result of the measures taken by the Azerbaijan Army, the terrorist attempt was prevented.<sup>109</sup>



**Source:** “Armenia attacked the Baku-Tbilisi-Ceyhan Oil Pipeline with a missile.”, 06.10.2020, Hürriyet, <https://www.hurriyet.com.tr/dunya/ermenistan-baku-tiflis-ceyhan-petrol-boru-hattina-fuzeyle-saldirdi-41629639>, (Access Date:10.07.2021).

---

<sup>109</sup> Armenia Attacked Baku-Tbilisi-Ceyhan Pipeline with Missile, *Anatolian Agency*, <https://www.aa.com.tr/tr/dunya/ermenistan-baku-tiflis-ceyhan-petrol-boru-hattina-fuzeyle-saldirdi/1998037>, (Access Date: 22.01.2021)



**Source:** “Armenia attacked the Baku-Tbilisi-Ceyhan Oil Pipeline with a missile.”, 06.10.2020, Hürriyet, <https://www.hurriyet.com.tr/dunya/ermenistan-baku-tiflis-ceyhan-petrol-boru-hattina-fuzeyle-saldirdi-41629639>, (Access Date:10.07.2021).

---

Another notable method has been the abuse of certain neutral or protected persons and signs. It is among the findings that Armenia does not take necessary measures to clearly distinguish journalists from fighters and exploit this, that soldiers bearing journalistic signs act as fighters in active military operations, that civilians, especially children, were also recruited to participate in military activities, and that the Armenian Armed Forces used civilians and even children to attack Azerbaijan.<sup>110</sup>

---

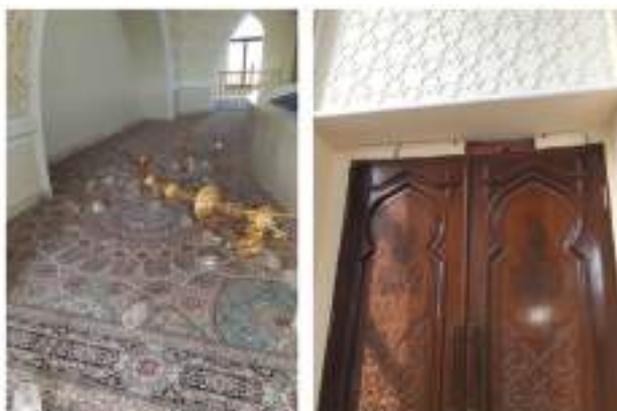
<sup>110</sup>“Report on the Facts of Torture, Other Cruel, Inhuman or Degrading Treatment or Punishment of Azerbaijani Prisoners of War and Civilians by Armenia During Hostage Taking and Captivity”, Baku-2021. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan; “Interim Report of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan on Child Casualties Occurred as a Result of Missile Attacks on Civilian Settlements of Azerbaijan”, Baku-2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

## II. ACTIONS AND VIOLATIONS OF ARMENIA DURING KARABAKH CONFLICTS



An Armenian Army vehicle carrying military equipment disguised as an ambulance. **Source:** On-Site Monitoring by Karabakh Human Rights Observation Group, War Spoils Museum, 01 July 2021, Baku.

---



It was also stated that historical and cultural buildings were frequently targeted in the attacks.<sup>111</sup> In the attacks on Ganja; houses, places of historical and cultural importance, large shopping places and similar public places were severely damaged and destroyed.<sup>112</sup> It was determined that as a result of the bombardment there were deep cracks in the walls of the “Imamzade Complex” and the one-century-old Russian Orthodox Church “Alexander Nevsky”, which are in the Ganja State History and Culture Inventory, and it was stated that both historical and religious monuments were severely damaged.<sup>113</sup>

---

<sup>111</sup> “Report: Concerning the Factual Evidences of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces”. The Commissioner For Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20\\_27-28%20October\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20_27-28%20October_2020.pdf) (Access Date: 15.11.2020).

<sup>112</sup> In the Ombudsman Initiative, psychological assistance was provided to children who lost their parents as a result of the Armenian Armed Forces’ missile attacks on the city of Ganja. 2020.11.02. <https://ombudsman.az/en/view/news/2197/at-the-initiative-of-the-ombudsman-the-children-who-lost-both-parents-as-a-result-of-missile-attacks-on-the-city-of-ganja-by-the-armenian-armed-forces-were-provided-with-psychological-assistance>, (Access Date: 15.01.2021).

<sup>113</sup> “Interim Report Concerning the Serious Damage to Historical and Religious Monuments Inflicted upon Ballistic Missile Attacks on Ganja City by the Armenian Armed Force”. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Ombudsman\\_of\\_Azerbaijan\\_Interim\\_Report\\_on\\_Ganja\\_historical\\_religious\\_monuments.pdf](https://ombudsman.az/upload/editor/files/Ombudsman_of_Azerbaijan_Interim_Report_on_Ganja_historical_religious_monuments.pdf) (Access Date: 12.11.2020)

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**



**Source:** Imamzade Complex, Interim Report Concerning the Serious Damage to Historical and Religious Monuments Inflicted upon Ballistic Missile Attacks on Ganja City by the Armenian Armed Force. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Ombudsman\\_of\\_Azerbaijan\\_Interim\\_Report\\_on\\_Ganja\\_historical\\_religious\\_monuments.pdf](https://ombudsman.az/upload/editor/files/Ombudsman_of_Azerbaijan_Interim_Report_on_Ganja_historical_religious_monuments.pdf), p. 8-9. (Access Date:10.07.2021)

---

## II. ACTIONS AND VIOLATIONS OF ARMENIA DURING KARABAKH CONFLICTS



**Source:** Russian Orthodox Church “Alexander Nevsky”, Interim Report Concerning the Serious Damage to Historical and Religious Monuments Inflicted upon Ballistic Missile Attacks on Ganja City by the Armenian Armed Force. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. p. 12. [https://ombudsman.az/upload/editor/files/Ombudsman\\_of\\_Azerbaijan\\_Interim\\_Report\\_on\\_Ganja\\_historical\\_religious\\_monuments.pdf](https://ombudsman.az/upload/editor/files/Ombudsman_of_Azerbaijan_Interim_Report_on_Ganja_historical_religious_monuments.pdf), (Access Date:10.07.2021)

---

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**



**Source:** Aghdam Cuma Mosque, On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Aghdam.

---

## II. ACTIONS AND VIOLATIONS OF ARMENIA DURING KARABAKH CONFLICTS



**Source:** The complex where the tombs of Panah Ali Khan, the Founder of the Karabakh Khanate, and Khurshid Banu Natevan are located, On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Aghdam.

---

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**



**Source:** Sehlebad Village Cemetery, On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Tartar.

---



**Source:** Sehlebad Village Cemetery, On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Tartar.

---

It is stated that before the clashes that started on September 27 and during the occupation that lasted for about 28 years, Armenia in general caused serious damage to the historical and cultural monuments in Karabakh. According to the State Committee on Religious Associations of the Republic of Azerbaijan, there are 403 historical and religious monuments in Karabakh, including 67 mosques, 144 churches and 192 sanctuaries. Especially the monuments of Islamic heritage were either destroyed or converted into barns. According to the report, the Upper and Lower Govhar Agha Mosques (Shusha), Saatli Mosque (Shusha) and Cuma Mosque in Agdam were demolished or destroyed.<sup>114</sup>

---

<sup>114</sup> On-Site Monitoring by Karabakh Human Rights Observation Group, 30 June 2021, Agdam.

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

Armenians completely destroyed Shah Abbas Mosque, Damirbulağ Mosque, Hacı Nevruz Mosque, Sardar Mosque, Bughakar and Ağadada tombs and other holy places. They also changed the architectural features of the “Goy” mosque and claimed that it is an Iranian historical monument. In addition to vandalism, it is stated that another mosque in the Mamar village of Gubadlı district, which was liberated from the occupation by the Azerbaijani army on October 30, was destroyed, and that a place of worship with historical value, built in the 18th century, was turned into a pigsty as a sign of insult.<sup>115</sup>

The destruction of the natural environment also appears as a method that is frequently repeated in the reports. As a result of the military occupation of the Azerbaijani territory by Armenia for nearly three decades, the nature, biodiversity, water reservoirs and natural environment of the occupied territories have been seriously affected. This has led to destruction and severe damage to the environment. As a result of military operations and the use of internationally prohibited weapons by the Armenian armed forces, not only the natural environment was exposed to physical and chemical pollution, but also various rare plant and animal species, flora and fauna biodiversity were destroyed as well.



Source: “Azerbaijan calls on stopping environmental terror committed by Armenia in Karabakh”, Vestnik Kavkaza, 16.11.2020, <https://vestnikkavkaza.net/news/Azerbaijan-calls-on-stopping-environmental-terror-committed-by-Armenia-in-Karabakh.html> (Access Date: 15.04.2021)

---

<sup>115</sup> For all this information presented with video evidence, please see, <https://www.youtube.com/watch?v=k6x-3u4Ce1M>;  
<https://www.youtube.com/watch?v=eC1GsE-Z-MA>;  
<https://www.youtube.com/watch?v=eSR2ff9PHYM>;  
<https://www.youtube.com/watch?v=0-UVBllp8Ug>  
[https://www.youtube.com/watch?v=fM\\_Z\\_IwxwiA](https://www.youtube.com/watch?v=fM_Z_IwxwiA) (Access Date: 05.06.2021)

A unique ecosystem with a total area of more than 8,000 hectares consisting of valuable and old dense forests including trees such as oak, juniper, beech, hornbeam, pine, ash tree, and the walnut tree has been destroyed and serious damage has been done to endemic biodiversity.<sup>116</sup> Recently, the Minister of Foreign Affairs of Azerbaijan, Ceyhun Bayramov, announced that Armenia caused serious ecological damage to the Azerbaijani territories that it once occupied and destroyed 54,300 hectares of forest land.<sup>117</sup>

### **c) Injured, Sick People, and Prisoner of Wars (POWs)**

Another protected group is the prisoners of war. The prisoners of war have the rights to be excluded from torture and other ill-treatment, to receive medical care when necessary, to meet their basic needs, to be protected against violence and to ensure their safety, women's right to be treated in accordance with their gender, the right not to be compelled to provide information other than name, surname, date of birth, rank and whereabouts, the right to be treated according to their rank, to communicate in their own language, to meet with religious and medical officials and to fulfill their religious obligations. Violation of these rights are clearly prohibited. Furthermore, torture or ill-treatment of prisoners, forcible fighting of prisoners, and lack of a fair trial are among the "grave breaches" of the Convention.

There are some concrete findings regarding the treatment of Azerbaijani prisoners of war held by Armenia during and after the Second Karabakh War. These findings indicate that barbaric treatment and acts were perpetrated against prisoners of war, especially those who were injured or dead. In this regard, it was stated that Sabina Aliyeva, the Commissioner for Human Rights (Ombudsman) of Azerbaijan, applied to the UN, the Council of Europe, the International Committee of the Red Cross and other authorized international and regional organizations.<sup>118</sup>

It was clearly demonstrated in the presentation of the Commissioner for Human Rights of Azerbaijan (Ombudsman) to the Karabakh Human Rights Observation Group that Armenia ill-treated the Azerbaijani prisoners of war, these prisoners were not be able to communicate for a long time, face-to-face meetings were held when the prisoners returned to Azerbaijan, and that prisoners stated that they experienced torture and ill-treatment that they had difficulty in describing, and all these were reported by the Ombudsman.<sup>119</sup> It was stated that Azerbaijan gave appropriate treatment to Armenian prisoners of war regarding the soldier's communication with their families, treatment and provision of basic needs; and that, on the contrary, Armenia ill-treated the prisoners of war.<sup>120</sup>

---

<sup>116</sup> "Appeal by the Commissioner for Human Rights (Ombudsman) Concerning the Eco-Terrorism of Armenia in the Occupied Territories of Azerbaijan and its Intentional Fires Aimed at Destruction of Forests of Shusha Region". 06.11.2020. <https://ombudsman.az/en/view/news/2208/appeal-by-the-commissioner-for-human-rights-ombudsman-concerning-the-eco-terrorism-of-armenia-in-the-occupied-territories-of-azerbaijan-and-its-intentional-fires-aimed-at-destruction-of-forests-of-sh>, (Access Date: 15.01.2021).

<sup>117</sup> [https://www.trthaber.com/m/?news=azerbaycan-ermenistan-54-bin-300-hektar-ormanlik-alani-yok-etti&news\\_id=592789&category\\_id=4](https://www.trthaber.com/m/?news=azerbaycan-ermenistan-54-bin-300-hektar-ormanlik-alani-yok-etti&news_id=592789&category_id=4) (Access Date: 06.07.2021)

<sup>118</sup> Ombudsman Sabina Aliyeva raised the issue of prisoners of war (POWs) before international organizations. 2020.11.12. <https://ombudsman.az/en/view/news/2228/ombudsman-sabina-aliyeva-raised-the-issue-of-prisoners-of-war-pows-before-international-organizations->, (Access Date: 15.01.2021).

<sup>119</sup> See, Report on the Facts of Torture, Other Cruel, Inhuman or Degrading Treatment or Punishment of Azerbaijani Prisoners of War and Civilians by Armenia During Hostage Taking and Captivity", Baku-2021. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

<sup>120</sup> Official Presentation by Zaur Valimammadli, Staff of Azerbaijan Human Rights Ombudsman, Azerbaijan Human Rights Ombudsman Building, Baku. June 29, 2021.

It was also stated that, during the occupation period before the Second Karabakh War, two Azerbaijani civilians who visited the cemeteries of their family members were captured and held captive for 6 years, that these civilians were only visiting the cemetery at that day, and they were rescued in recent conflicts, and that their captivity status would be unknown otherwise.<sup>121</sup>

#### **d) Protection of Civilians and Civilian Settlements**

We hereby stated that the basic principle regarding the protection of civilians is that civilians should not be killed intentionally or subjected to all kinds of torture and corporal punishment. Civilians have the right to be treated humanely and to have their personality, dignity, family rights, beliefs, practices and customs respected in all circumstances, the right not to be subjected to acts of rape, coercion, or embarrassment, and the right not to be discriminated against, taken hostage, or subjected to collective punishment. Health and religious officials and civil defense teams are also considered to have a special protection status.

As stated in common Article 3 of the 1949 Geneva Conventions, humane treatment without discrimination of persons who have been out of war for various reasons or who do not directly participate in conflicts in non-international armed conflicts are deemed appropriate; killings, mutilations, cruel treatment or torture, taking hostages, degrading treatment and behavior, making convictions that do not comply with standards, and these people's execution are prohibited, and it is foreseen to treat the injured and sick persons.

Regarding the civilian settlements, it is prohibited to seize or damage enemy property, except for the situations required by the conditions of warfare, to seize education, health, worship and municipal properties, to seize occupied private properties and to loot these properties.

It should be emphasized that attacks on civilian settlements are the most common means of warfare leading to the aforementioned violations. Targeting and attacking civilians and civilian settlements that are not directly involved in armed conflicts are acts that are completely prohibited mainly for these aforementioned reasons.<sup>122</sup>

It was stated that the Armenian Armed Forces violated the ceasefire by attacking the Azerbaijan Forces and the villages of Tartar and other circumjacent provinces on the morning of September 27.<sup>123</sup> These attacks on civilian settlements with a high population density led to 5 civilian casualties, injury of 20 civilians and severe devastation of many houses and civilian settlements.<sup>124</sup>

---

<sup>121</sup> Official Presentation by Zaur Valimammadli, Staff of Azerbaijan Human Rights Ombudsman, Azerbaijan Human Rights Ombudsman Building, Baku. June 29, 2021.

<sup>122</sup> "1907 Hague Convention (IV) on the Law and Customs of the Land Wars", article 23(c); "1949 Geneva Convention for the Protection of Civilians", articles 13-23; "Additional Protocol No. I (1977)", articles 48-58.

<sup>123</sup> Armenia attacked Azerbaijan, *TRT Haber*, September 27, 2020, <https://www.trthaber.com/haber/gundem/ermenistan-azerbaycana-saldirdi-518943.html> (Access Date: 04.01.2021)

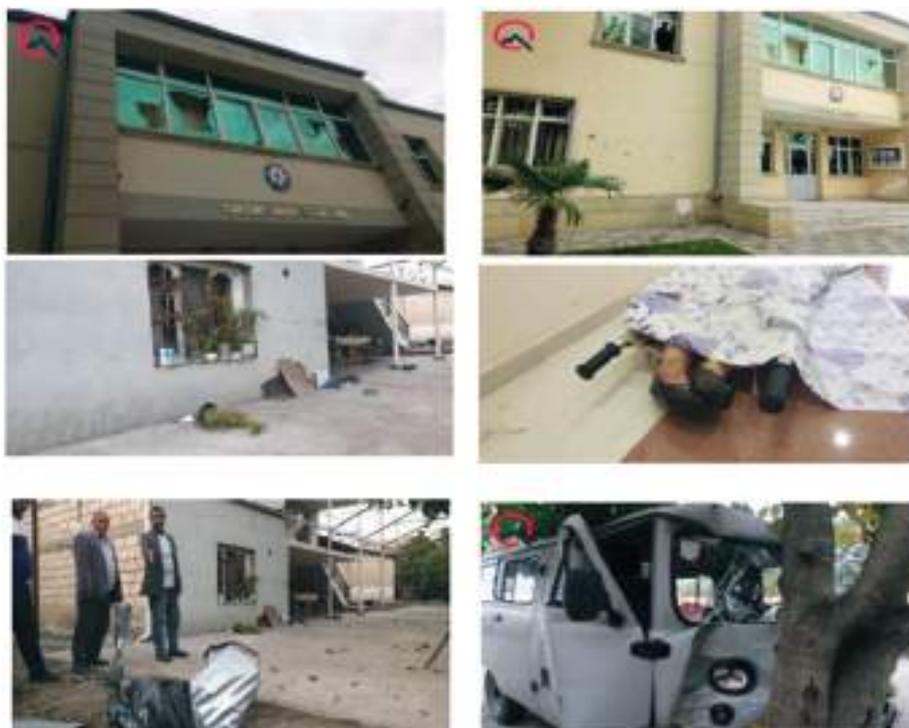
<sup>124</sup> "Report on the Destructions and Human Casualties Caused by The Regular Shelling of the Azerbaijani Civilian Settlements by the Armenian Armed Forces". Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. 27 September-1 October 2020. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 2. (Access Date: 19.12.2020).

## II. ACTIONS AND VIOLATIONS OF ARMENIA DURING KARABAKH CONFLICTS



**Source:** “Report on the Destructions and Human Casualties Caused by the Regular Shelling of the Azerbaijani civilian settlements by the Armenian armed forces”. Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. 27 September-1 October 2020. p. 4. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), (Access Date: 10.07.2021).

---



**Source:** “Report on the Destructions and Human Casualties Caused by the Regular Shelling of the Azerbaijani Civilian Settlements by the Armenian Armed Forces.” Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. 27 September-1 October 2020. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 5. (Access Date: 10.07.2021)

---

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

One person lost his life and 3 people, including a police officer and an ambulance driver, were injured due to the shrapnel that fell in the District Court in the center of the city of Tartar, which was bombarded with artilleries by the Armenian Armed Forces on September 28.<sup>125</sup> On the same day at 19:00 pm, 2 people lost their lives and 2 people got injured as a result of the artillery bombardment of the Armenian Armed Forces in Tartar.<sup>126</sup>



**Source:** “Report on the Fact-Finding Mission Carried Out in Connection with the Human Casualties and Destructions as a Result of Heavy Artillery And Rocket Fire by the Armenian Armed Forces on Ganja City- The Densely Populated Second Largest City Of Azerbaijan.” 4-6 October 2020, p. 7.

---

<sup>125</sup>“Report on the Destructions and Human Casualties Caused by The Regular Shelling of the Azerbaijani Civilian Settlements by the Armenian Armed Forces”. Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. 27 September-1 October 2020. p. 9; [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), (Access Date: 19.12.2020), Armenia targets civilian settlements in Azerbaijan, *Haberler.com*, <https://www.haberler.com/ermenistan-azerbaycan-daki-sivil-yerlesim-13635003-haberi> (Access Date: 03.02.2021).

<sup>126</sup>“Report on the Destructions and Human Casualties Caused by The Regular Shelling of the Azerbaijani Civilian Settlements by the Armenian Armed Forces”. Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. 27 September-1 October 2020. [https://ombudsman.az/upload/editor/files/Report\\_the\\_Ombudsman\\_Azerbaijan\\_September%2027-October%2004\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report_the_Ombudsman_Azerbaijan_September%2027-October%2004_2020.pdf), p. 10. (Access Date: 19.12.2020)

In Ganja, the second biggest city of Azerbaijan with a high population density, 32 people, including women and children, were injured and one person lost his life during the artillery bombardment of the Armenian Armed Forces on October 4-6, 2020.<sup>127</sup>

The Prosecutor General's Office of the Republic of Azerbaijan announced that 9 people were injured due to the attacks of the Armenian Armed Forces, targeting civilians, blazing away the cities of Agdam and Barda with missiles and artillery attacks since the morning.<sup>128</sup>

The President of Azerbaijan, İlham Aliyev tweeted from his Twitter account as follows; "Despite the artillery attacks of the Republic of Armenia, we are not making counterattacks on the territory of Armenia. The Armenian side is trying to attract the Collective Security Treaty Organization to this conflict and to internationalize thereof. We express our opinion that such an approach is unacceptable."<sup>129</sup>

On October 9, the Prosecutor General's Office of the Republic of Azerbaijan stated that the Armenian Army, targeting the settlements and civilian population, had intensely fired the Guzanlı district of Agdam city via missiles and artillery attacks, and the cities of Goranboy and Tartar since 14:00 am.<sup>130</sup>

9 people lost their lives, and 34 people were injured during the attack carried out by the Armenian Armed Forces on Ganja, the second largest city of Azerbaijan, at 02:00 at October 11 night, by violating the humanitarian ceasefire that entered into force on October 10 at 12:00.<sup>131</sup>

4 people who were visiting the cemetery lost their lives, and 2 people were injured during the attack carried out by the Armenian Armed Forces on October 15, targeting the civilians.<sup>132</sup> Ministry of National Defense of the Republic of Turkey tweeted from its Twitter account regarding this issue, addressing that Armenia, murdering civilians visiting the cemetery, should put an end to this brutality.<sup>133</sup>

---

<sup>127</sup> "Report on the Fact-Finding Mission Carried Out in Connection with the Human Casualties and Destructions as a Result of Heavy Artillery and Rocket Fire by the Armenian Armed Forces on Ganja City - The Densely Populated Second Largest City Of Azerbaijan." 4-6 October 2020, p. 4.

<sup>128</sup> Tweet posted by Hikmet Hacıyev: <https://twitter.com/HikmetHajiyev/status/1313564015877148677?s=20> (Access Date: 04.01.2021).

<sup>129</sup> Tweet posted by İlham Aliyev: <https://twitter.com/azpresident/status/1314154077895487490?s=20> (Access Date: 19.12.2020).

<sup>130</sup> Tweet posted by Hikmet Hacıyev: <https://twitter.com/HikmetHajiyev/status/1313564015877148677?s=20> (Access Date: 04.01.2021).

<sup>131</sup> "Report on the Fact-Finding Mission Carried Out in Connection with the Human Casualties and Destructions as a Result of Heavy Artillery and Rocket Fire by the Armenian Armed Forces on Ganja City-The Densely Populated Second Largest City of Azerbaijan." [https://ombudsman.az/upload/editor/files/Fact%20Finding%20Mission%20Report%20of%20the%20Ombudsman\\_Ganja\\_11-12%20October\\_2020.pdf](https://ombudsman.az/upload/editor/files/Fact%20Finding%20Mission%20Report%20of%20the%20Ombudsman_Ganja_11-12%20October_2020.pdf) (Access Date: 19.12.2020).

<sup>132</sup> Armenia shot civilians visiting the cemetery in Tartar: 3 dead, 3 injured *Anatolia Agency*, 15 Ekim 2020, <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/ermenistan-terterde-mezarlik-ziyaretindeki-sivilleri-vurdu-3-olu-3-yarali/2007251> (Access Date: 04.01.2021)

<sup>133</sup> Tweet posted by the Ministry of National Defence: <https://twitter.com/tcsavunma/status/1316737706760822786> (Access Date: 05.01.2021).

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**



**Source:** <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/ermenistan-terterde-mezarlik-ziyaretindeki-sivilleri-vurdu-3-olu-3-yarali/2007251>, (Access Date:10.07.2021).

---

It was stated that the attack on Ganja on October 17 resulted in the death of 12 civilians, including two children, and the injury of more than 40 civilians.<sup>134</sup> As of that date, more than 60 civilians lost their lives during the attacks that directly targeted civilian settlements.



---

<sup>134</sup> “The Statement of the Ministry of Foreign Affairs of the Republic of Azerbaijan on the Attack of Ganja City of Azerbaijan by Armenia with Ballistic Missiles on the Night of 17 October, 2020”, No:355/20.



**Source:** “Report of the Fact-Finding Mission Concerning the Mass Human Loss, Injuries and Destructions Occurred as a Result of Ballistic Missile Attack on Ganja by Armenia’s Armed Forces”, 17-18 October 2020, Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, p. 6.

---

The attack on Barda city on October 27-28 resulted in the death of 27 civilians, including children, and the injury of more than 40 civilians.<sup>135</sup> The city of Barda is also known as a historical city located away from engagement zones. The official statements made by the Azerbaijan indicate that Armenia is trying to subject Azerbaijani civilians living in Karabakh to a kind of “ethnic cleansing” with reference to the aforementioned attacks against civilians.<sup>136</sup>

Children were also among the victims of the Armed Conflict. In this regard, Azerbaijan Ombudsman Sabina Aliyeva stated in her letter to the UN High Commissioner for Human Rights, UNICEF, the UN Committee on the Rights of the Child, the Special Representative of the UN Secretary-General for Children and Armed Conflict and the International Committee of the Red Cross that Armenia used schools and kindergartens for military purposes, and also murdered and injured children with the attacks.<sup>137</sup>

---

<sup>135</sup> “Report: Concerning the Factual Evidences of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces”. The Commissioner For Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20\\_27-28%20October\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20_27-28%20October_2020.pdf) (Access Date: 15.11.2020).

<sup>136</sup> “The Information of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan on the Meeting of Foreign Minister Jeyhun Bayramov with the Newly Appointed Ambassador of the Kingdom of the Netherlands.” No:338/20. <https://www.mfa.gov.az/en/news/6950/view> (Access Date: 12.10.2020).

<sup>137</sup> Ombudsman addressed the petition to the international organizations concerning the blatant violations of child rights by the Armenian armed forces. 11.03.2020. <https://ombudsman.az/en/view/news/2199/ombudsman-addressed-the-petition-to-the-international-organizations-concerning-the-blatant-violations-of-child-rights-by-the-armenian-armed-forces>, (Access Date: 15.11.2020).



**Source:** “Report of the Fact-Finding Mission Concerning the Mass Human Loss, Injuries and Destructions Occurred as a Result of Ballistic Missile Attack on Ganja by Armenia’s Armed Forces”, 17-18 October 2020, Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, p. 9.

---

It was stated that the aftermath of the aforementioned attacks were 97 casualties, 405 injured civilians, 3326 destroyed houses, 504 civil facilities, and 120 ruined high-rise apartment blocks.<sup>138</sup> As explained above, many health facilities, civil infrastructure facilities, historical and cultural buildings were attacked and the environment was severely affected by these attacks. In fact, it is evident that some weapons that are prohibited to be used against civilians were also used.

### **3.2. Evaluations with Regard to the European Convention on Human Rights**

The unlawful attacks of Armenia against the civilian population and civilian structures, especially in civilian settlements far from the conflict zones can be claimed to constitute a violation of the right to life, the prohibition of torture and ill-treatment, the protection of privacy and family life and the protection of property, which are regulated by the European Convention on Human Rights (ECHR) and which must be protected by the signatory states.

Article 2 of the ECHR, regulating the right to life, is as follows:

“1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which the penalty is provided by law.

---

<sup>138</sup>“Report: Concerning the Factual Evidences of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces.” The Commissioner For Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20\\_27-28%20October\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20_27-28%20October_2020.pdf) (Access Date: 15.11.2020).

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- a) in defence of any person from unlawful violence;
- b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained, and
- c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

As explained above<sup>139</sup>, Civilian deaths due to Armenia’s attacks, which clearly violate international law, do not coincide with the exceptional cases in the ECHR, and therefore, it constitutes an evident violation of Article 2 and results in the civil liability of the Armenian State within the context of the ECHR.

Article 3 of the ECHR, regulating the prohibition of torture, ill-treatment and inhuman treatment, is as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Pursuant to this provision which does not include any acceptable exceptions, the treatment of the prisoners of war, especially during the First Karabakh War, and the occupation of Azerbaijani territories by the Armenian State, as well as the Second Karabakh War and its aftermath, and certain acts against civilians detained or held captive are deemed as torture or inhuman or degrading treatments and constitute a violation of Article 3 of the ECHR.

The provision of Article 8 of the ECHR, regulating the rights to respect for private and family life, inviolability of domicile and communication, is as follows:

“Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

Pursuant to this provision, Armenia’s attacks on civilian homes, living spaces, cemeteries, other civil and public spaces, buildings and property are regarded as violations to their right to private, family and inviolability of domicile.

The provision of Article 14 of the ECHR, regulating the protection from discrimination, is as follows:

---

<sup>139</sup> See, Chapter II, 3.2.

‘Protection from discrimination

The enjoyment of the rights and freedoms set forth in the European Convention on Human Rights and the Human Rights Act shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Therefore, Azerbaijan citizens being the target of attacks due to the discriminations based on nationality and ethnicity in the provision of the rights recognized by the Convention can also be regarded as a violation of Article 14 of the ECHR.

The provision of Article 1 of Protocol No. 1 to the ECHR, regulating the right to the protection of property, is as follows:

‘Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

It may also be argued that the Armenia violates the right to property defined in Article 1 of Additional Protocol No. 1 to the ECHR due to its acts that have been devastative to many civil and public buildings and properties both during the First Karabakh War and the occupation, as well as the Second Karabakh War and its aftermath.

## III. THE LEGAL CONSEQUENCES OF ARMENIA'S ACTS AND TRIAL OF THE PERPETRATORS

### 1. Consequences of Violation of the Law of Armed Conflicts and Violations in Karabakh

Violations of the rules outlined above are not only considered legal violations, but also regarded as “crimes” that bring criminal liabilities for natural persons, except for states. First exemplary events where the violation of the rules of law regulating the armed conflicts are deemed as crime dates back to First World War.<sup>140</sup> The first concrete example of the violation of the aforementioned rules being considered a crime and the subject of criminal proceedings is the trials in military courts established by the Allies in their occupied territories in Germany immediately after World War II.<sup>141</sup>

First international trial examples are the proceedings of the Nuremberg and Tokyo military criminal courts. The Nuremberg and Tokyo trials, which were analogous to the trials of Japanese war leaders, indicate that there is little doubt in international law regarding that there is a principle of personal criminal liability for the violation of the rules on armed conflict.<sup>142</sup>

Explicit international regulations set forth in the ensuing years, and international trial examples vigorously constitute the criminal liability regarding the violation of these laws. Articles 49 and 50 of the Geneva Convention No. 1 manifest that those who commit the acts listed above shall be deemed to have committed these crimes, and that necessary legal measures shall be taken to determine the penal sanctions to be applied to those who commit those crimes, or give orders to commit one of these crimes. Same provisions are mentioned in other Geneva Conventions.<sup>143</sup>

In addition to these explicit regulations, examples of international judgments have also occurred and developed after the 1949 Geneva Conventions. The International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, established by the UN Security Council, are key examples in this regard. After these developments, the International Criminal Court<sup>144</sup> was established as a permanent international criminal court and continues to operate with the Statute, which entered into force in 2002.

Both the statutes of the Former Yugoslavia and Rwanda Courts and the Statute of the ICC, explicitly set forth the crime categories constituted by the violations of the LOAC

---

<sup>140</sup> Regarding the trial of *Kaiser Wilhelm II* after World War I for committing a “grave crime against international morality and the spirit of treaties”, a provision was established in Article 227 of the Treaty of Versailles, but this provision could not be fulfilled.

<sup>141</sup> The Allies tried the German military and political leader for violations of the rules set forth by the Hague Conventions, in the military courts they established in their own occupation zones with the Law No. 10. Between 1946 and 1949, the allies ruled 12 cases in which dozens of people were tried. On December 20, 1945, the Control Council for Germany enacted the Law No. 10 to maximize the efficiency of the 1943 Moscow Declaration and the 1945 London Treaty. *Trials of War Criminals before the Nurnberg Military Tribunals*. vol. III, (United States Printing Office, 1951), p. XVIII.

<sup>142</sup> H. Ball, *Prosecuting War Crimes and Genocide. The Twentieth-Century Experience*, (University Press of Kansas, 1999), p. 85.

<sup>143</sup> See, Geneva Convention for the Protection of Civilians in Time of War, articles 146-147.

<sup>144</sup> ICC Status was accepted in the Conference Held in Rome in 1998, and entered into force on July 1, 2002.

rules, and the specific acts or violations within the scope of these crime categories. Crime categories emerged as a result of the aforementioned international regulations and international judgments are deemed as the “crimes against peace” (planning, initiating and continuing a war of aggression against international law), “war crimes” (violations of rules regulating weapons and methods and the protection of civilians and other non-combatants), and “crimes against humanity” (offensive acts leading to the mass murder of civilians in time of war or peace, incl. genocide).

Crime of aggression is the fourth crime category within the jurisdiction of the ICC. The ICC can exercise jurisdiction over the states that have acknowledged the definition of this crime category, which entered into force on July 17, 2018.

As can be seen; the aforementioned offenses, planning, initiating and waging unlawful war, willful killing regarded as gross violations of the Geneva Conventions, torture or inhumane treatment, including biological experiments, deliberately causing great suffering or serious injury to the body or health of the individual, unlawful and arbitrary widespread destruction or appropriation of property without military necessity, forcing a prisoner of war or other protected individual to serve in the armed forces of an enemy state, deliberate deprivation of the right to a fair and ordinary trial of a prisoner of war or other protected individual, attacking civilians as well as unlawful deportation or transfer, unlawful detention, hostage-taking, attacking humanitarian workers or members of the UN Peacekeeping Force, killing surrendered soldiers, exploiting the surrender flag, deporting people from occupied territories, using poisonous weapons, using civilians as shields, using child soldiers, attacking those unfurling the ceasefire flag, murdering those who jumped out of crashed planes are deemed as criminal acts.<sup>145</sup>

On the other hand, the crimes against humanity are generally defined in the ICC statute as the acts that lead to the mass murder of civilians during war or peace periods, such as mass murdering, genocide, and torture, and the crimes within the scope of the definition are listed.<sup>146</sup>

Currently, offensive activities that harm the natural environment are also regarded as criminal acts. “Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment” is also mentioned among the war crimes listed in the article 8 of the ICC Statute.<sup>147</sup>

It is evident that the acts of Armenia both during the First Karabakh War and the subsequent occupation period and during the Second Karabakh War overlap with the above-mentioned crime categories.

---

<sup>145</sup> Paragraph 2 of Article 8 of the Rome Statute that is the constituent factor in the establishment of the ICC defines “grave violations of the 1949 Geneva Conventions” in the first paragraph and “other violations of the laws and rules of practice applicable to international armed conflicts” in the second paragraph as war crimes with regard to these criminal acts. War crimes are also regarded as similar acts in the Nuremberg Statute.

<sup>146</sup> Crimes against humanity are mentioned in Article 7 of the ICC Statute. Aforementioned crimes are defined in the chapter of the Penal Code of Turkey titled “Genocide and Offences against Humanity”, and crime of genocide is defined in the article 76 of the Penal Code as “the commission of any of the following acts against any member of any national, ethnic, racial, or religious group with the intent to destroy such group, in whole or in part, through the execution of a plan shall constitute Genocide..”, and the relevant criminal acts are listed therefrom. Crimes against humanity is defined in the article 77 as “the systematic performance of an act, described below, against a part of society and in accordance with a plan with a political, philosophical, racial or religious motive”.

<sup>147</sup> Article 8, section 2 (b, iv)).

UN Security Council resolutions no. 822, 853, 874 and 884, affirming that the attacks and subsequent occupation of Nagorno-Karabakh and its surrounding settlements by Armenia are illegal, Nagorno-Karabakh is an inseparable part of Azerbaijan and that Azerbaijan has a territorial integrity and sovereignty indicate that Armenia's relevant acts can be regarded as crimes against peace or crimes of aggression.

Armenia's acts extensively violating the rules of international law regulating the weapons and methods of war in both the First Karabakh War and the Second Karabakh War can be regarded as war crimes. It has been determined that some prohibited weapons were used, such as phosphorus-containing bullets, cluster bombs, anti-personnel mines, Smerch and Elbrus (Scud) missiles, that civilians, civilian settlements, and civilian infrastructure were attacked, healthcare personnel that has the right of inviolableness, and healthcare buildings were aimed, child soldiers were used in armed conflicts, press and paramedic signs were ill-used, environment, artifacts with cultural and historical value were severely damaged beyond conflict requirements, and a large number of prohibited weapons and methods of warfare were used.<sup>148</sup> Each of the aforementioned acts are listed in the category of war crimes. The use of children in military activities among Armenian forces, and the misleading use of press signs are deemed as the acts that constitute war crimes.

Laying anti-personnel mines has a critical place among the Armenian acts that constitute war crimes. As specified,<sup>149</sup> Armenia laid large numbers of anti-personnel mines, most of them trapped, as well as anti-tank mines in large fields. It is also stated that these two types of mines are often trapped at the same time and some of them are placed in random places or even trees.<sup>150</sup> According to the "Convention on the Prohibition, Stockpiling, Production, Transfer and Disposal of Anti-Personnel Mines" signed on September 18, 1997 and entered into force on March 1, 1999; anti-personnel mines, the use and production of which are prohibited, in fact, the weapons that does not distinguish between soldiers and civilians, and the use of which constitutes a crime, are among the types of weapons that are prohibited as per the general rules of international law of armed conflicts binding all states. In this regard, there is no legal significance for Armenia not to be a party to the aforementioned Convention, and these acts possess the characteristics of criminal acts that give rise to individual criminal responsibility.

On the other hand, targeting civilians from non-combatants that have an inviolable position in armed conflicts, causing large-scale civilian deaths and injuries, even killing civilians as part of a systematic attack, bombing civilian settlements are acts that can be regarded as the crimes against humanity.

The use of the concept of "ethnic cleansing" in a resolution of the Parliamentary Assembly of the Council of Europe in 2005 criticizing Armenia's occupation of Azerbaijani lands,<sup>151</sup> and Azerbaijan's describing Armenia's attacks against Azerbaijani civilians living in Karabakh as

---

<sup>148</sup> "Report Concerning the Factual Evidence of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces", Baku, 2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan. [https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20\\_27-28%20October\\_2020.pdf](https://ombudsman.az/upload/editor/files/Report%20of%20the%20Ombudsman%20on%20Barda%20_27-28%20October_2020.pdf) (Access Date: 15.11.2020).

<sup>149</sup> See, Chapter 1, 2.

<sup>150</sup> Interview with Vulgar Süleymanoğlu, President of ANAMA. ANAMA Headquarters, Baku. June 29, 2021.

<sup>151</sup> "Chronology: The Nagorno-Karabakh Issue", *Al Jazeera*, <http://www.aljazeera.com.tr/kronoloji/kronoloji-daglik-karabag-sorunu> (Access Date: 26.02.2021).

a kind of “ethnic cleansing” in the official statements<sup>152</sup> are concrete statements evidencing that Armenia’s occupation and acts in and around Nagorno-Karabakh region, especially in the First Karabakh War, should also be evaluated in the context of “crime of ethnic cleansing”. It has been acknowledged in both UN Security Council resolutions and international judicial decisions that acts aimed at clearing a region from certain ethnic and religious groups constitute a crime of “ethnic cleansing”.<sup>153</sup> It is appropriate to reclaim the acts of Armenia in and around Nagorno-Karabakh region within the context of this crime category.

## **2. Mechanisms for the Prosecution of the Offenders, and the Trial of Violations in Karabakh Region**

The international community’s prohibition and criminalization of these acts with legally binding documents definitely should not be regarded as an achievement to be underestimated. However, another issue that is at least as important as this is to ensure that those who commit crimes by violating these prohibitions are identified and punished. The determination of the evidence regarding the aforementioned crimes, the prosecution of the offenders who committed or participated in these crimes, the provision of justice and the prevention of similar crimes are as important as the existence of the relevant rules.

International law is a department of law that mainly regulates the relations between states and the relations of international organizations with each other or with states within the framework of their founding treaties.<sup>154</sup> Within the framework of this general definition, it is an exceptional situation that individuals have rights and obligations in terms of international law, that is, they are regarded as legal persons of international law. The leading exceptional case is that the violation of the above-mentioned rules results in individual criminal responsibility.

Personal criminal liability in international law has become established after the trials before the Nuremberg and Tokyo courts established after World War II. Geneva Conventions also stipulate that severe violations of the binding rules of law during the war give rise to personal criminal liability.<sup>155</sup>

The Nuremberg Trials made a landmark observation on why individual liability should be on behalf of individuals rather than states. The Court stipulates that “crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced.”<sup>156</sup>

---

<sup>152</sup> “The Information of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan on the Meeting of Foreign Minister Jeyhun Bayramov with the Newly Appointed Ambassador of the Kingdom of the Netherlands.” No:338/20. <https://www.mfa.gov.az/en/news/6950/view> (Access Date:13.10.2020).

<sup>153</sup> “UN Security Council Res. 808”, 22 February 1994. Adopted on the former Yugoslavia, UN Security Council, Statement of President, UN. Doc. S/PRST/1994/14, 6 April 1993. Adopted on the former Yugoslavia; Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia Herzegovina v. Serbia and Montenegro) Merits, Judgement, 26 February 2007, sec. 190.

<sup>154</sup> See, James Crawford. *Brownlie’s Principles of Public International Law*. 9<sup>th</sup> ed., (Oxford University Press, 2019), p. 59.

<sup>155</sup> For example, article 146 of “Convention (IV) relative to the Protection of Civilian Persons in Time of War” (12 August 1949) obliges to make the necessary national regulations regarding the punishment of those who order or commit the abovementioned grave violations.

<sup>156</sup> Relevant document has been translated by the author. *Yearbook of ILC*, vol. II, (Part Two), 1976, p. 104, Document A/31/10, paragraph (21) of the commentary to article 19.

With this observation, the Court seems to accept that it is unlikely to impose criminal sanctions against states.

Personal criminal liability for these crimes was acknowledged with the UN Security Council's establishment of the ad hoc "UN International Criminal Tribunal for the Former Yugoslavia" and the "International Criminal Tribunal for Rwanda". The relevant article of the Statute of the International Criminal Court, regulates personal criminal responsibility for the above-mentioned categories of crimes with explicit provisions.

Article 25 of the Statute stipulates that individuals have criminal liability for a crime they commit within the jurisdiction of the Court, and they shall be sentenced, and defines the cases that constitute criminal acts as follows; committing a crime personally or together with another accomplice, ordering, encouraging or persuading to commit a crime, assisting in facilitating the commission of such a crime, provoking the crime or assisting in the commission or attempted commission of the crime, including by providing the necessary means to commit the crime, contributing in any way to the commission or attempted commission of a crime, etc. Article 27 of the Statute further stipulates that the provisions of criminal liability for the crimes listed in this statute shall be applied equally to everyone without distinction of official titles, and in particular, the president, a member of government or parliament, an elected representative or a government official shall, in no way, be exempted from criminal liability under this statute, and their official title shall not constitute a ground for commutation.

National-level trials are the first procedure for the prosecution of persons suspected of these crimes. In this regard, prosecution and sentencing of these persons by their own countries is the first option. Articles 49 and 50 of the Geneva Convention No. I states that the execution of the abovementioned acts shall be deemed as a criminal action, and stipulates that the state parties shall determine, pursuant to their own laws, the penal sanctions to be applied to persons who have committed or ordered to commit one of these crimes. Despite the legal applicability of this option, it is highly probable that states will be quite reluctant to prosecute their own political or military leaders or personnel and will probably hardly ever execute such prosecutions thereof.

Another method of prosecuting offenders at the national level may be trials based on the principle of territoriality. Pursuant to the principle of territoriality, citizens of other states who carry out armed attacks on their own country and commit crimes in this regard may be investigated and prosecuted by the state of the relevant country. International law stipulates that the state where the crime is committed has the jurisdiction on the basis of the principle of territoriality. It is evident that the domestic jurisdiction is the most effective method. Recording of evidence in the crime scene may be executed effectively by the government of the relevant country. However, it is only possible with international cooperation to determine the exact offenders from the other party committing these acts that constitute crime in interstate conflicts and to bring these offenders before the judiciary personally. This cooperation is not possible with the other conflicting party, therefore, the interference of other states and international organizations, especially the UN, and international non-governmental organizations will be required.

Another method for the prosecution of criminals at the national level may be the trials of other states on the basis of the approach that has developed in international customary law and that there is universal jurisdiction over the crimes in question. Regardless of being a highly polemical issue, it is alleged that, according to the relevant rules of international law, there is

universal jurisdiction over crimes against humanity including genocide, crimes of aggression and war crimes, and on this basis, all other states that are not parties to the conflict can also exercise jurisdiction over the offenders.<sup>157</sup> However, in practice, other states not involved in the conflict seem to be ineffective in these proceedings due to the emerging political tensions.<sup>158</sup>

When the proceedings were held at the national level, a complementary trial was required in order to make up for the flaws of the procedures listed so far, to conduct an effective trial and to prevent the criminals from being a fugitive from justice. This defining option is an international jurisdiction.

The first method of conducting proceedings at an international level is international criminal proceedings, as executed by the Nuremberg and Tokyo Military Criminal Tribunals, as well as by the Yugoslav and Rwanda Criminal Courts established by the UN Security Council.

The second method in the option of adjudication at the international level is the International Criminal Court (ICC). The ICC has jurisdiction over the citizens of state parties that have ratified the treaty that established the ICC. Moreover, the ICC's jurisdiction in terms of individuals is not limited to the citizens of the contracting states. States parties, regardless of nationality, have jurisdiction over those who commit crimes in their territory.<sup>159</sup> Finally, in cases where one or more crimes are alleged to be committed, regardless of having concerned states as parties, the ICC can exercise its jurisdiction in cases referred to the ICC Prosecutor's Office by the Security Council acting in accordance with Section VII of the United Nations Charter.<sup>160</sup>

Currently, as clearly envisaged in the ICC Statute, the suspected offender may be prosecuted by the ICC if the person suspected of the crimes in question is not prosecuted effectively, or not prosecuted at all by a national court; i.e., the ICC's jurisdiction shall be complementary.<sup>161</sup>

ICC, having the jurisdiction over perpetrators of war crimes, crimes against humanity and crimes of aggression, examines the activities and the current situation in Uganda, Democratic Republic of Congo, Darfur, Sudan, Republic of Kenya, Libya, Ivory Coast, Mali, Central African Republic, Georgia, Burundi, Bangladesh in Myanmar, and has prosecuted certain individuals and continues the prosecution process. On the other hand, it has also initiated preliminary investigations in Colombia, Guinea, British activities in Iraq, and situations in Nigeria, Palestine, Ukraine, Venezuela and Bolivia. The ICC Prosecutor's Office has recently turned its preliminary examination into an investigation regarding the criminal acts in Palestine.

---

<sup>157</sup> As of September 1, 2012, at least 142 (about 73.6%) of UN member states comprise at least one war crime as a crime under their national law, and at least 136 (about 70.5%) UN member states provide universal jurisdiction over such crimes. Furthermore, at least about 29 (about 15.0%) UN member states provide universal jurisdiction before their courts over ordinary crimes under national law, although they do not explicitly comprise war crimes in their national law. This means that these states are capable of prosecuting individuals on the basis of universal jurisdiction for at least certain offenses; such as murder, assault, rape and kidnapping. See "Universal Jurisdiction A Preliminary Survey of Legislation Around the World-2012 Update." (Amnesty International Publications, 2012), p. 12.

<sup>158</sup> For example, Belgium's War Crimes Law invokes the concept of universal jurisdiction to allow anyone to bring war crime charges in Belgian courts, regardless of where the alleged crimes have taken place. There was a serious tension between USA and Israel due to the war crimes trial brought against the US President George W. Bush and Israeli Prime Minister Ariel Sharon, and then, the Belgian Supreme Court dismissed the case on 25.09.2003 on the grounds that it had no jurisdiction. [www.dw.com/en/belgium-drops-war-crimes-cases/a-978973](http://www.dw.com/en/belgium-drops-war-crimes-cases/a-978973). (Access Date: 15.01.2021).

<sup>159</sup> ICC Statute, article 12.

<sup>160</sup> ICC Statute, article 13.

<sup>161</sup> ICC Statute, article 1.

Today; 123 states of England, Germany, France and other western European countries, have become parties to the Rome Statute, which established the ICC. However, some countries such as USA, Russia, China, Turkey and Israel are not parties to the ICC Statute. This situation, which prevents the ICC from working in full effect yet, prevents the ICC from working in some important cases.

The only effective option for prosecuting the perpetrators of war crimes in Karabakh at the national level is the option of having the trials held by Azerbaijan. As it does not seem likely that the current international political conjuncture will force Armenia to prosecute its own leaders and/or warring citizens. It has been recorded that while the conflicts continued, Azerbaijan carried out a continuous effort to collect evidence of the acts and criminal elements. Both the Prosecutor General's Office of Republic of Azerbaijani and the Commissioner for Human Rights of Azerbaijan (Ombudsman) published intermittent reports on these issues or shared some information and findings with the public.<sup>162</sup> One may expect that these findings will lead into a prosecution. However, the biggest problem here will be the arresting of the suspects and bringing them to justice. It is certain that the cooperation and support of other states will be very important. However, the dimensions of this cooperation will become clear in time.

An initial assessment of the international conduct of proceedings can be made within the scope of the ICC. Armenia and Azerbaijan's disclaiming the jurisdiction of the International Criminal Court is the main factor preventing the ICC from conducting its operations in regards to the conflicts between these two countries. In these circumstances, the UN Security Council's request from the ICC Prosecutor's Office to initiate an investigation into the conflicts in question is the only option for the execution of a trial by ICC. However, considering the current political atmosphere, it is foreseen that there will be no tendency for the UN Security Council to take a decision in this regard.

Another option for international proceedings may be an ad hoc criminal court, which can be established based on the consent of the parties, if the parties do not deem the ICC appropriate. It can be stated that the frailness of the existing dialogue between the parties and the negative effects of the conflicts on the public opinion of Azerbaijan and Armenia are still at the forefront of the agenda, and this option will only come to the fore in the future. In this way, a kind of "criminal eventuation" between two parties can contribute to a lasting peace.

---

<sup>162</sup> See, "Interim Report Concerning the Serious Damage to Historical and Religious Monuments Inflicted upon Ballistic Missile Attacks on Ganja City by the Armenian Armed Forces", Baku-2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan; Interim Report of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan on Child Casualties Occurred as a Result of Missile Attacks on Civilian Settlements of Azerbaijan", Baku-2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan; "Report of the Fact-Finding Mission on Civilian Casualties and Destructions as a Result of Another Missile Strike by Armenian Armed Forces on Ganja, the Second Largest and Densely Populated City of Azerbaijan 11-12 October 2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan; "Mine Problem in the Liberated Areas: *Ad Hoc* Report of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan." 21.06.2021. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan; "Report Concerning the Factual Evidences of Extensive Civilian Casualties and Damage to Civilian Objects in Barda City Caused by the Ballistic Missiles Launched by Armenian Armed Forces Baku-2020. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan; "Report on the Facts of Torture, Other Cruel, Inhuman or Degrading Treatment or Punishment of Azerbaijani Prisoners of War and Civilians by Armenia During Hostage Taking and Captivity", Baku-2021. The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

Another important issue regarding the trials that can be executed both at the national and international level is the recording of the evidence regarding the aforementioned acts of Armenia. The action of some international non-governmental organizations and the UN Human Rights Council shall make a significant contribution to the recording of evidence and suspects regarding crimes committed in the armed conflicts. It is also possible for a special UN committee to be established solely to investigate these conflicts and crimes.<sup>163</sup> It is possible for these organizations or ad hoc committees to operate more effective mechanisms for obtaining relevant information about the parties.<sup>164</sup>

In conclusion, as the most probable option, it is of great importance for the Republic of Azerbaijan to record evidence regarding the crimes committed by Armenian forces in the occupied territories and to execute trials as much as possible.

### **3. Consequences of the Violation of ECHR and Relevant Legal Proceedings**

#### **3.1. Consequences of Violations of ECHR Provisions and Armenia's Violations in Karabakh**

We have stated that the acts discussed above may constitute a violation of the rights regulated and pledged in the European Convention on Human Rights<sup>165</sup>, to which Armenia is a party.<sup>166</sup> These violations may be the subject of both individual applications and interstate applications by Azerbaijan at the ECtHR against Armenia. In this regard, the issue that requires elaboration is the explanation of the legitimate status of Armenia, as a state, with regards to its liability for these criminal acts.

As explained above,<sup>167</sup> The ECtHR has clarified that the obligation to protect the rights stipulated by the convention still prevails in the cross-border military and other acts of the member states, and that legal liability will arise in case of violation. As a matter of fact, determinations directly related to Armenia were also made in this regard.

The ECtHR has also made very important observations with its jurisprudence in the case of *Chiragov and Others v. Armenia*,<sup>168</sup> which is directly related to Armenia. This case relates to the complaint of six Azerbaijani refugees, claiming that they were forced to leave their houses in Lachin during the armed conflict between Armenia and Azerbaijan on 1992, and they were not

---

<sup>163</sup> Sabina Aliyeva, the Azerbaijani Ombudsman for Human Rights, called on international organizations to establish effective international mechanisms to detect evidence of war crimes committed by the Armenian armed forces using special procedures and to prosecute those offenders responsible. Ombudsman Sabina Aliyeva raised the issue of prisoners of war (POWs) before international organizations. 12.11.2020, <https://ombudsman.az/en/view/news/2228/ombudsman-sabina-aliyeva-raised-the-issue-of-prisoners-of-war-pows-before-international-organizations->, (Access Date: 15.01.2021).

<sup>164</sup> For example, as per the resolution no. 780 in 1992, the UN Security Council established a Commission of Experts to identify and investigate the crimes committed in the conflicts during the disintegration of the former Yugoslavia.

<sup>165</sup> Armenia ratified the ECHR in 2002 and thus recognized the mandatory jurisdiction of the ECHR.

<sup>166</sup> See, Chapter II, 3.2.

<sup>167</sup> See, Chapter II, 2.

<sup>168</sup> ECHR Grand Chamber Judgment, June 16, 2015.

able to return their homes. The applicants complained in particular of the loss of all control and potential for use, sale, inheritance, mortgage, improvement and exploitation of their property in Lachin. They also complained that there is an ongoing violation of their right to respect for home, private and family life as they are not able to return to their homes, and that there is no effective remedy regarding their complaints.

In the applicants' case, the Court confirmed that Armenia exercised effective control over Nagorno-Karabakh and the surrounding territories and therefore had jurisdiction over the Lachin region. As regards to the complaints of these Azerbaijani refugees, the ECtHR adjudged that there was a continuing violation of Article 1 (protection of property) of Protocol No. 1 to the Convention, and Article 8 (right to respect for private and family life) of the Convention. The Court also determined a continuous violation of Article 13 (right to an effective remedy) of the Convention. In particular, the Court is of the opinion that there was no grounds to deny the applicants access to their property without compensation. According to the ECtHR, peace negotiations are continuing, which has not relieved the Armenian Government in regards to taking other measures.

Within this scope, the responsibility of the Russian Federation in regards to the ECHR should also be discussed. Tripartite Declaration that ended the Second Karabakh War stipulates that Russia temporarily maintains peacekeeping forces in the Nagorno-Karabakh region and Lachin Corridor and exercises certain powers thereof.

Pursuant to Article 1 of the ECHR, the High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in the Convention. In terms of the issue of whether this concept of 'in their jurisdiction' shall comprise the cross-border of the member state, in the *Banković* decision, the ECtHR concluded that although the ECtHR considers the concept of jurisdiction as an essentially regional concept and the practice of deportation exceptional, the court would include this concept if the cross-border acts of the member state were within the scope of effective control.<sup>169</sup>

In 2011, the ECtHR made two important decisions regarding the use of military force abroad.<sup>170</sup> In the *Al-Skeini* judgment, the Court also upheld the previous jurisprudence and clarified that the member state is also responsible for the protection of the rights in the ECHR in the context of the correlation between Articles 1 and 56 of the Convention, during its activities outside its borders with its effective control authority.<sup>171</sup>

Considering the jurisprudence of the ECtHR regarding the responsibility of the member state for cross-border violations, with the ceasefire agreement signed after the 44-day war, Russia will be responsible for possible human rights violations as it executes effective control in the region. These violations can be brought to the ECtHR, either as a state application or with individual applications.

---

<sup>169</sup> *Banković and Others v. Belgium and 16 other States*, ECtHR Grand Chamber judgment, December 12, 2001.

<sup>170</sup> *Al-Skeini and Others v. the United Kingdom*, Application no. 55721/07, July 7, 2011, Judgment (Grand Chamber) and *Al-Jedda v. the United Kingdom*, Application No. 27021/08, July 7, 2011, Judgment (Grand Chamber). Both cases refer to British Troops' activities in Iraq.

<sup>171</sup> *Al-Skeini and Others v. the United Kingdom*, Application no. 55721/07, July 7, 2011, Judgment (Grand Chamber), p. 140.

## **3.2. Legal Proceedings of the ECHR and Armenia's Violations in Karabakh**

The proceeding of the violations of the ECHR is based on the obligation of state parties to grant these rights to each individual “within their jurisdiction” in the context of their international legal responsibility. As a matter of fact, Article 1 of the ECHR titled “Obligation to Respect Human Rights” states that “The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention.”<sup>172</sup>

Allegations regarding the violation of this obligation can be brought before the ECtHR via the “inter-state application” procedure and the “personal application” procedure. At this point, it is crucial to fulfill the application requirements. Important factors regarding the subject of the report are that ‘the application has not been brought before the ECtHR or any other international body before, the alleged violation is related to the rights regulated in the Convention and its additional protocols, the application is not groundless or unfounded, and domestic remedies have been exhausted’.

Both the Republic of Armenia and the Republic of Azerbaijan are states that are parties to the ECHR and have recognized the mandatory jurisdiction of the ECtHR. Armenia and Azerbaijan became the 42nd and 43rd members of the Council of Europe on January 25, 2001 and acknowledged the jurisdiction of the ECtHR as parties to the ECHR.<sup>173</sup>

Individuals whose fundamental rights have been violated during the conflicts between Armenia and Azerbaijan, including Azerbaijani citizens, can start legal proceedings before the ECtHR against Armenia for the acts committed since 2002, when Armenia recognized the Court’s jurisdiction. Armenia may purports that its domestic remedies have not been exhausted, constituting a critical hindrance thereof.<sup>174</sup> However, it is known that the ECtHR does not seek to exhaust domestic remedies in cases where recourse to domestic remedies is not possible or ineffective or is excessively long.<sup>175</sup>

The Resolution of the ECHR on *Chiragoc and Others v. Armenia* on June 16, 2015, upon the application of Azerbaijani citizens who were deprived of their residences, and <sup>176</sup> whose houses were destroyed during the occupation of the Karabakh by the Armenia, stipulates that Armenia has violated Article 1 of Protocol 1 to the ECHR, regulating the applicants’ right to property, and Article 8 of the ECHR, regulating the right to private life, and family.

Therefore, considering the jurisprudence of the ECtHR in this Resolution, it can be envisaged that after the 44-day war, an application to the ECtHR for the above-mentioned violations may render a violation resolution. However, it was stated that there were no individual applications made to the ECtHR by Azerbaijani citizens regarding the Second Karabakh War and its aftermath.<sup>177</sup> Citizens

---

<sup>172</sup> “The European Convention on Human Rights”. See for the original text in English, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf) (Access Date: 26.08.2021)

<sup>173</sup> Armenia ratified the European Convention on Human Rights in 2002 and thus recognized the mandatory jurisdiction of the ECtHR.

<sup>174</sup> See, ECHR, article 35.

<sup>175</sup> See, *Ringeisen/Austria (no 2614/65)* (16 June 1971); *Gherghina/Romania (no: 42219/07)* (9 July 2015); *Sejdovic/Italia (no: 56581/00)* (1 March 2006).

<sup>176</sup> *Case of Chiragov and Others/Armenia*, App. No: 13216/05, Decision of 16 June 2005, [https://hudoc.echr.coe.int/fre# {%22item%22: \[%22001-155353%22\] }](https://hudoc.echr.coe.int/fre# {%22item%22: [%22001-155353%22] }), E.T: 23.02.2021

<sup>177</sup> Interview of Sabina Aliyeva, Chairperson of Azerbaijan Human Rights Ombudsman, with Karabakh Human Rights Observation

of Azerbaijan may apply for an individual application for their rights that are deemed to have been violated by Armenia during the First Karabakh War and the occupation period, as well as the Second Karabakh War and its aftermath. Despite the long period of time since the First Karabakh War, the Republic of Azerbaijan may raise the aforementioned violations before the ECHR by benefitting from the interstate remedy against Armenia. As a matter of fact, the Republic of Azerbaijan made its first application to the ECtHR against Armenia to demand preventive measures on October 27, 2020.<sup>178</sup> Furthermore, it can be seen that Azerbaijan made a second interstate application against Armenia on January 15, 2021.<sup>179</sup>

It was stated that on June 4, 2021, Azerbaijan made an interstate application to the ECtHR regarding the hundreds of thousands of mines that were placed in Karabakh by Armenia without definite locations on the map.<sup>180</sup> In addition, it was stated that an interstate application was made to the ECtHR on May 12, 2021 regarding approximately four thousand Azerbaijani citizens who disappeared during the First Karabakh War.<sup>181</sup>

The Court declared that the above-mentioned interstate applications contain allegations of widespread violations of the Convention by respondent States during the conflict that began on September 27, 2020, including indiscriminate attacks on civilians as well as on public property and infrastructures, allegations of executions, ill-treatment and mutilation of fighters and civilians, the capture and continued detention of prisoners of war and the forcible displacement of civilian populations in warzones.<sup>182</sup>

The court also remarked that Azerbaijan alleges that Armenia has violated various provisions of the ECHR in Nagorno-Karabakh region and the surrounding regions since 1992, and its responsible for the permanent displacement of hundreds of thousands of Azerbaijanis from their homes and properties, and that Azerbaijani citizens are ill-treated without proper investigations and there are missing Azerbaijani citizens and destroyed cultural and religious properties.<sup>183</sup> In addition to these applications, a committee was established within the Presidency of Azerbaijan for applications to the ECtHR. Lawyers at the ECtHR are also consulted in this regard.

Apart from the above-mentioned applications, the Court declared pursuant to Article 39 that it received a large number of applications concerning the alleged detainees, either by the Government of Armenia or Azerbaijan or by the relatives of the detainees. The Court declared that the requests received so far concern 241 people, 228 of whom are Armenians and 13 are Azerbaijanis.

---

Group. Baku. July 2, 2021.

<sup>178</sup> See, "Press Release issued by the Registrar of the Court." ECHR, 046 (2021) 04.02.2021.

<sup>179</sup> See, Azerbaijan/Armenia (no. 47319/20). "Press Release issued by the Registrar of the Court." ECHR, 046 (2021) 04.02.2021.

<sup>180</sup> Interview of Sabina Aliyeva, Chairperson of Azerbaijan Human Rights Ombudsman, with Karabakh Human Rights Observation Group. Baku. July 2, 2021.

<sup>181</sup> Interview of Sabina Aliyeva, Chairperson of Azerbaijan Human Rights Ombudsman, with Karabakh Human Rights Observation Group. Baku. July 2, 2021.

<sup>182</sup> See, "Press Release issued by the Registrar of the Court." ECHR, 046 (2021) 04.02.2021.

<sup>183</sup> See, "Press Release issued by the Registrar of the Court." ECHR, 046 (2021) 04.02.2021.

## **IV. GENERAL CONCLUSIONS AND RECOMMENDATIONS**

As determined by UN Security Council resolutions, Armenia illegally occupied the Karabakh Region of Azerbaijan and accepted to withdraw from the occupied region as a result of the Second Karabakh War, which took place between September 27, 2020 and November 9, 2020, in the last phase of the occupation, which lasted for approximately 28 years.

As in the First Karabakh War and the occupation period thereafter, Armenia's violations of both the international law of armed conflicts and the ECHR rules came to the prominence during the Second Karabakh War.

First of all, it is evident that Armenia planned, started and continued an unlawful war, that these unlawful acts constitute crimes against peace or, as expressed in the ICC Statute, "a crime of aggression", and the perpetrators lead to criminal liability.

Secondly, it has been determined that the rules of international law regulating weapons and methods of war are widely violated thereof. It has been also determined that some prohibited weapons were used, such as phosphorus-containing bullets, cluster bombs, anti-personnel mines, Smerch and Elbrus (Scud) missiles, that civilians, civilian settlements, and civilian infrastructure were attacked, healthcare personnel that has the right of inviolableness, and healthcare buildings were aimed, child soldiers were used in armed conflicts, press and paramedic signs were ill-used, environment, artifacts with cultural and historical value were severely damaged beyond conflict requirements, and a large number of prohibited weapons and methods of warfare were used.

As criminal acts, relevant violations constitute crimes that lead to the criminal liability of the natural persons. These violations of the rules of war, weapons and methods and the protection of certain groups of people are generally regarded as war crimes. On the other hand, killing civilians as part of a systematic attack by targeting non-combatants protected in armed conflicts, bombing civilian settlements, and causing similar large-scale civilian deaths and injuries can be considered crimes against humanity. There are evidences signifying that some of Armenia's violations have such characteristics of criminal acts. It is also evident that Armenia's attacks on Nagorno-Karabakh region and its surrounding civilian settlements violated the right to life, right to private and family life and inviolability of domicile, prohibition of torture, ill-treatment and inhuman treatment and protection of property stipulated in the ECHR.

It is crucial to record evidence by making solid determinations regarding the aforementioned violations and crimes, to prosecute those suspected of committing these crimes, to eventuate the real criminals, to ensure a lasting peace in the future, and to meet the judicial expectations of the victims. First of all, the states of Azerbaijan and Armenia should ensure that the individuals involved are prosecuted by fulfilling their obligations arising from international law and their own domestic legal systems for bringing the aforementioned perpetrators to justice.

There are also international mechanisms that can be applied for the prosecution of the perpetrators in addition to national mechanisms. Both countries are not parties to the Statute of the ICC, therefore, the decision of the UN Security Council is required for an investigation and trial process to be executed at the ICC. Furthermore, it is a legal option to conduct criminal investigations and execute trials by establishing an international criminal court with the decision of the UN Security Council or with the joint consent of Azerbaijan and Armenia. In the context

of the ECtHR, allegations of violations of the ECHR can be brought before the ECtHR, either through individual applications or through interstate applications since Armenia has recognized the jurisdiction of the ECHR. As mentioned in the relevant chapter of this report, such applications have been made to the ECtHR and preparations are made for new applications.

Ending the armed conflicts and liberation of the Karabakh Region by Azerbaijan with the ceasefire agreement will make a great contribution to the prevention of human rights violations by establishing peace in Karabakh and establishing a lasting stability; however, the current situation also has certain shortcomings and risks, especially in terms of preventing the possibility of resumption of armed conflicts and leading to similar violations of basic human rights and legal proceeding of the violations that have occurred so far.

Relevant provisions of the Tripartite Declaration have been important steps towards peace and stability, e.g., ending conflicts and setting a roadmap for the future, however, they do not provide the final solution for certain issues in order to determine a permanent legal situation and thus to prevent past conflicts and humanitarian crises, and the Tripartite Declaration and the current situation do not completely eliminate the risk of possible humanitarian crises.

➤ It is of great importance to sign a permanent peace or border treaty. Signing of such an agreement that have been mutually agreed upon by both parties, and that resolves the issues that pose a risk of tension or conflict, especially border issues, is also crucial in terms of solving current humanitarian problems and for not revoking the past humanitarian crises.

➤ The complete removal of foreign powers from Karabakh will greatly contribute to lasting peace and stability. An important issue in this context is that Russian soldiers do not stay in the region longer than necessary. In addition, it will be important in the current situation that the authority of the Russian soldiers are bound to definite provisions. Taking steps to ensure Turkey's presence in the region in order to preserve the political and military balance of Azerbaijan and to prevent potential conflicts with the Russian soldiers temporarily in the region will contribute to the prevention of crises.

➤ It is important for the stability in the Region that Azerbaijan has the main control and supervision over any transition to be established in the Azerbaijani territory, such as the Lachin Corridor. Another important issue that awaits a solution after the Tripartite Declaration is the return of hundreds of thousands of displaced Azerbaijani citizens.

➤ In Karabakh, the reconstruction of the civilian infrastructure and especially the settlements, which have been largely destroyed as a result of the occupation and conflicts that have been going on for many years, is important both in terms of protecting personal property and ensuring the people's return to their properties and their settlement.

➤ A very important problem in the current situation is the mines that Armenia has placed in Karabakh. In addition to preventing the de facto control of Azerbaijan in Karabakh, this issue constitutes serious humanitarian and administrative problems; continues to cost civilians' lives or cause injuries; damages the natural environment and has the potential to do so, and makes it difficult to determine other crimes committed in the region, and completely prevents the return of over 1 million people (runners), who were forced to leave their settlements in Karabakh.

**ARMENIA'S ACTIONS IN KARABAKH:  
HUMAN RIGHTS VIOLATIONS AND MONITORING THE VIOLATIONS**

- For these reasons, it is of great importance that Armenia cooperates with Azerbaijan or be forced to do so in order to eliminate existing and potential humanitarian problems.
- One of the issues that has the risk of creating a humanitarian crisis in the current situation in Karabakh after the Tripartite Declaration is the uncertainty regarding the ‘opening time width, transit route and security’ of the Nakhchivan Corridor, unlike the issue of Lachin Corridor. It is important to clarify the situation regarding the status of the Nakhchivan Corridor by eliminating the aforementioned uncertainties.
- In terms of contributing to the elimination of the conflict and hostility between Armenia and Azerbaijan for many years, it is important to take steps that will guarantee the basic rights of the local Armenian population in Karabakh and ensure the integration of Azerbaijan with the remaining Azerbaijani and Armenian population after this long period of conflict. In this regard, Azerbaijan’s next approach to the Karabakh Region should be seen not only as a military but also as a humanitarian process.
- Since the peace-building process concerns both states and their peoples, it is important to direct Armenia in a way that it can contribute to the peace-building process and to keep the channels of dialogue and communication open.
- For lasting peace, comprehensive and international agreements for cooperation should be made between Azerbaijan and Armenia, and the Azerbaijani citizens of Armenian origin in Karabakh should be an element of cooperation rather than a problem between the two countries. Within this context, emphasis should be placed on activities and events that will bring the peoples of the two countries closer to each other.

## APPENDIX: PRESS RELEASE

19.10.2021

Following the disintegration of the Soviet Union, regarding the Karabakh Region (Nagorno-Karabakh and surrounding settlements) which was occupied by Armenia, UN Security Council adopted resolutions 822, 853, 874 and 884 between April and November 1993, which affirmed the sovereignty, territorial integrity and inviolability of internationally recognized borders of Azerbaijan. Despite these resolutions, occupation of Armenia in the Karabakh Region continued for about 28 years and officially ended with the Tripartite Declaration between Armenia and Azerbaijan, which started on September 27, 2020 and ended on November 9, 2020, with the involvement of the Russian Federation as well.<sup>184</sup>

As a result of the conflicts that started on September 27, 2020 and known as the Second Karabakh War, Azerbaijan liberated around 290 settlements from the occupation of Armenia. These settlements include Shusha, Agdam, Gubadli, Zangilan, Gabriel as well as strategic provinces such as Lachin, Khojaly, Terter, Fuzuli and Hocavend and many villages connected to these settlements.

Despite these important achievements regarding the complete solution of the Karabakh Problem and the prevention of humanitarian crises in the region with the Tripartite Declaration, there are also important reasons that require a detailed examination of the situation that occurred during and after the Second Karabakh War.

The Report was prepared based on the investigations made by the Karabakh Human Rights Observation Group, formed by the Human Rights and Equality Institution of Turkey (HREIT), during the Second Karabakh War and in the post-conflict period. The report includes the actions of Armenia during the occupation of Karabakh and their legal characteristics; What were the actions of Armenia in the Second Karabakh War and their legal characteristics; legal proceedings of legal violations; it contains evaluations on the prosecution of real persons with criminal responsibility for the acts committed during the said periods, and the issues that pose the risks of creating humanitarian crises in terms of serious violations of human rights in the current situation, and in this context, offers recommendations for solutions regarding these problems.

The report is mainly based on the documents, information and evaluations obtained directly by the Karabakh Human Rights Observation Group during its visit to Azerbaijan, both through meetings with relevant official institutions and individuals, and during its visit to Karabakh. In the preparation of the report, academic studies, institution's official reports and press releases on these issues were also used.

### **General Findings and Recommendations of the Report can be classified as follows:**

▲ During the Second Karabakh War, like in the case of during the First Karabakh War and the occupation period after it, Armenia's violations of both the rules of international law of armed conflicts and the rules of the European Convention on Human Rights typically came to the fore.

---

<sup>184</sup> 9 November 2020, Tripartite Declaration adopted by the leaders of Azerbaijan, Russia and Armenia <https://www.sde.org.tr/asya/azerbaycan-ermenistan-anlasmasin-in-tam-metni-haberi-20029> (Publishing date: 11 November 2020) (Access date: 2 May 2021)

▲ It is seen that Armenia primarily planned, started and continued an illegal war, and these actions constitute crimes against peace or, as the ICC Statute says, “a crime of aggression” and that lead to criminal liability of the people who carried out the actions.

▲ Secondly, it has been seen that the rules of international law regulating weapons and methods of war are widely violated. It has been determined that it used certain types of prohibited weapons such as phosphorus-containing weapons, cluster bombs, anti-personnel mines, smerch and elbrus (scud) missiles; that attacked on civilians, civilian settlements, civilian infrastructure; that targeted buildings related to health and health workers with immunity, that used child soldiers in armed conflicts, that abused journalists and healthcare professionals, that caused heavy damage to the environment, works of historical and cultural value beyond the requirements of conflict, and thus also used many prohibited methods of warfare.

▲ The violations in question are crimes that lead to the criminal liability of the natural persons concerned as criminal acts. These violations of the rules of war weapons and methods and of the protection of certain groups of people are generally considered war crimes. On the other hand, killing civilians as part of a systematic attack by targeting non-combatants protected in armed conflicts, bombing civilian settlements, and causing similar large-scale civilian deaths and injuries can be considered crimes against humanity.

▲ It is seen that Armenia’s attacks on civilian settlements in the Karabakh Region violated the rights guaranteed by the European Convention on Human Rights, the right to life, the right to respect for private and family life and the immunity of residence, the prohibition of torture, ill-treatment and inhumane treatment, and the protection of property.

▲ It is important to collect evidence by making concrete determinations regarding the violations and crimes in question, and to prosecute those suspected of committing these crimes in terms of separating the real criminals and ensuring a lasting peace in the next process and meeting the justice expectations of the victims.

▲ First, the states of Azerbaijan and Armenia should ensure that the individuals involved are prosecuted by fulfilling their obligations arising from international law and their domestic legal order in terms of bringing the persons in question to justice.

▲ In addition to national mechanisms for the prosecution of suspects, there are also international mechanisms that can be applied. Since both countries are not parties to the Rome Statute of the International Criminal Court, the decision of the UN Security Council is needed for an investigation and trial process to begin at the International Criminal Court. In addition, it is a legal option to conduct criminal investigations and trials by establishing an international criminal court with the decision of the UN Security Council or with the joint consent of Azerbaijan and Armenia.

▲ In the context of the European Convention on Human Rights, since Armenia has recognized the jurisdiction of the European Court of Human Rights, allegations of violations of the European Convention on Human Rights can be brought before the European Court of Human Rights, either through individual applications or through interstate applications. As a matter of fact, as stated in the relevant section of the Report, such applications have been made to the European Court of Human Rights and preparations are being made for new applications.

▲ Although some provisions of the Tripartite Declaration have been an important step towards establishing peace and stability, such as ending conflicts and determining a forward-looking roadmap, they do not offer the final solution to some issues in terms of determining a permanent legal situati-

on and thus preventing the recurrence of conflicts and humanitarian crises in the past. The Tripartite Declaration and the current situation that followed do not completely eliminate the risk of possible humanitarian crises.

▲ It is important to sign a lasting peace or border agreement. The signing of an agreement that the parties have agreed on and that resolves the issues posing a risk of tension or conflict, especially border issues, is also important in terms of solving current humanitarian problems and ensuring that past humanitarian crises are not experienced again.

▲ The complete cleansing of Karabakh from foreign powers will greatly contribute to lasting peace and stability.

▲ It is important for the stability in the Region that Azerbaijan has the main control and supervision authority over any transition to be established in the Azerbaijani territory, such as the Lachin Corridor.

▲ The reconstruction of civilian infrastructure and especially settlements, which have been largely destroyed as a result of the occupation and conflicts in Karabakh for many years, is important both for the protection of personal property and for the resettlement of the displaced people by returning to their homes and properties.

▲ A very important problem in the current situation is also the mines that Armenia has placed in Karabakh. In addition to preventing the de facto control of Azerbaijan in Karabakh, it creates serious humanitarian and administrative problems, still continues to cause civilians' deaths or injuries, harms the natural environment and has the potential to cause damage to the natural environment, complicates to detect other crimes committed by Armenia in the region and completely prevents the return of over 1 million people (fugitives) who had to leave their places in Karabakh.

▲ For these reasons, it is great important to cooperate Armenia with Azerbaijan in order to eliminate existing and potential humanitarian problems.

▲ One of the issues that creates the risk of creating a humanitarian crisis in the current situation in Karabakh after the Tripartite Declaration is the uncertainties regarding the 'opening time, width, transit route and security' of the Nakhchivan Corridor, unlike the Lachin Corridor. It is important to clarify the situation regarding the status of the Nakhchivan Corridor by eliminating the aforementioned uncertainties.

▲ It is also important to take steps to ensure the basic rights of the local Armenian population in Karabakh and to ensure the integration of Azerbaijan with the remaining Azerbaijani and Armenian population after this long conflict process, in terms of contributing to the elimination of the conflict and hostility between Armenia and Azerbaijan for many years.

▲ Since the peace-building process concerns both states and their peoples, it is important to direct Armenia in a way that it can contribute to the peace-building process and to keep the channels of dialogue and communication open.

▲ For lasting peace, the Armenian-origin Azerbaijani citizens in Karabakh should be an element of cooperation rather than a problem through making comprehensive and international agreements for cooperation between the two countries Azerbaijan and Armenia.





Yüksel Cad. No: 23 | 06650 | Kızılay/ANKARA-TURKEY | Phone: +90 312 422 78 00  
[www.tihек.gov.tr](http://www.tihек.gov.tr)

[/tihekkurumsal](#) [/tihek\\_kurumsal](#) [/tihekkurumsal](#) [/tihekkurumsal](#)