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الجمعية العامة



مجلس حقوق الإنسان

الدورة السادسة والأربعون

22 شباط/فبراير - 19 آذار/مارس 2021

البند 4 من جدول الأعمال

حالات حقوق الإنسان التي تتطلب اهتمام المجلس بها

مذكرة شفوية مؤرخة 29 كانون الأول/ديسمبر 2020 موجهة من البعثة الدائمة لأذربيجان لدى مكتب الأمم المتحدة في جنيف إلى مفوضية الأمم المتحدة السامية لحقوق الإنسان

تقدم البعثة الدائمة لأذربيجان لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف
طيه تقريراً عن انتهاكات جمهورية أرمينيا لالتزاماتها الناشئة عن الاتفاقية الدولية للقضاء على جميع
أشكال التمييز العنصري فيما يتعلق بالأذربيجانيين وجمهورية أذربيجان (انظر المرفق).

وترجو البعثة الدائمة أن تعمم مفوضية الأمم المتحدة السامية لحقوق الإنسان هذه المذكرة
الشفوية ومرفقها* باعتبارهما وثيقة من وثائق مجلس حقوق الإنسان في إطار البند 4 من جدول الأعمال.

* استُسخ المرفق كما ورد، وباللغة التي قُدم بها فقط.



الرجاء إعادة الاستعمال

Annex to the note verbale dated 29 December 2020 from the Permanent Mission of Azerbaijan to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

Report on violations by the Republic of Armenia of its obligations deriving from the International Convention on the Elimination of All forms of Racial Discrimination (1965) in relation to Azerbaijanis and the Republic of Azerbaijan

A. Overview

The armed conflict between Armenia and Azerbaijan started at the end of 1980s with Armenia's unlawful and groundless territorial claims against Azerbaijan. The claims marked a new phase of assaults on Azerbaijanis, which resulted in their complete expulsion from the Nagorno-Karabakh region and the seven surrounding districts of Azerbaijan, as well as from Armenia itself, solely because of their ethnic identity. The process of mass expulsion of Azerbaijanis was accompanied by killings, torture, enforced disappearances, destruction of property and pillaging.

As a result of a full-scale war unleashed by Armenia against Azerbaijan in early 1990s, one fifth of the internationally recognized territories of Azerbaijan - the Nagorno-Karabakh region and the seven surrounding districts - were occupied by Armenia. The war claimed lives of tens of thousands of people and ruined cities, towns and villages. Thousands of people went missing in connection with the conflict, and all captured areas were ethnically cleansed of Azerbaijani population. Some of these acts that constitute war crimes also amount to the crime of genocide, as ethnic Azerbaijanis have been targeted because of their nationality and/or ethnicity.

Armenian nationalists have been employing genocidal policy against Azerbaijanis starting from early 20th century.

Inspired by the ideology of creating "Greater Armenia", Armenian nationalists carried out a series of bloody massacres against Azerbaijanis between 1905 and 1907 in Azerbaijan, as well as Azerbaijani villages located in the territory of present-day Armenia. Hundreds of Azerbaijani settlements were destroyed and razed to the ground, and thousands of civilians were brutally killed.

Seizing the opportunity of the First World War as well as the February and October revolutions (1917) in Russia, Armenians attempted to carry out their despicable intentions under the protection of the Bolsheviks. On 31 March 1918 tens of thousands of peaceful civilians in Shamakhi, Guba and other cities, as well as in Baku province were killed on ethnic and religious grounds, settlements were destroyed, cultural monuments, mosques and cemeteries were razed to the ground. In the later stages, Armenian nationalists continued their barbaric acts, carrying out mass killings, looting and ethnic cleansing in Karabakh, Zangazur, Nakhchivan, Shirvan, Irevan and other regions.

In late 1980s and early 1990s Armenia resorted to extensive use of terrorist attacks against Azerbaijanis. More than 2,000 civilians have been killed in more than 30 terrorist attacks in Azerbaijan through explosions in passenger buses, trains and the Baku subway.

Genocidal policy of Armenian authorities against Azerbaijanis continued in a bloodier manner during the aggression of Armenia against Azerbaijan in early 1990s. Occupation by Armenia of civilian settlements of Azerbaijan during the course of the war in 1991-1994, without exception, was accompanied by deliberate killing and maiming of civilians because of their ethnic identity.

Massacres of Azerbaijanis in Khojaly (1992), Garadaghli (1992) and Balligaya (1992) were vivid examples of this harsh discrimination policy.

The largest massacre during the conflict was committed in 1992 against the civilians and defenders of the town of Khojaly, in the Nagorno-Karabakh region of Azerbaijan. As a result

of the attack and capture of the town, 613 civilians were killed, including 106 women, 63 children and 70 elderly people because they were Azerbaijanis. Another 1,000 people were wounded, and 1,275 people were taken hostage. To this day, 150 people from Khojaly remain missing. The town of Khojaly was chosen as the first step in the further occupation and ethnic cleansing of Azerbaijani territories, aimed at spreading terror in the hearts of people, panic and fear caused by the horrifying massacre.

Intentional targeting of Azerbaijani civilians continued after establishment of ceasefire in 1994, which included deliberate killing of civilians residing across the line of contact, abduction and kidnapping.

Most recently, in the course of its latest aggression against Azerbaijan in September–November 2020, Armenian authorities again employed terrorist tactics aimed at mass killings of Azerbaijanis through the reckless and brutal bombardment of the densely populated civilian settlements of Azerbaijan, including Ganja, Barda and Tartar cities located outside the conflict zone with the use of heavy artillery and missiles, including ballistic and cluster. As a result of these deliberate attacks 100 Azerbaijani civilians, including several families as a whole, were killed.

Armenia has committed genocide not only against Azerbaijanis, but also the cultural heritage of Azerbaijan. The recent de-occupation of Azerbaijani territories from Armenian occupation has revealed that Armenia has during the years of occupation taken consistent steps to erase the tracks of Azerbaijani cultural heritage therein for the purpose of falsifying the historical background of those territories.

Armenia became party to the International Convention on the Elimination of All forms of Racial Discrimination (hereinafter as “Convention”) in June 1993. Even though some of the actions described above have taken place before the accession of Armenia to the Convention, the logical development of the events testifies to the long-standing genocidal intent of Armenian authorities in relation to Azerbaijanis.

Armenia’s actions in pursuit of unlawful and deeply destructive goal have resulted in numerous violations of the Convention by Armenia and authorities and individuals under Armenia’s effective control. Specifically, Armenia’s adoption and implementation of racially discriminatory policies and practices targeting Azerbaijan and Azerbaijanis has violated its obligations under Articles 2, 3, 4, 5, 6, and 7 of the Convention.

B. Violations by Armenia of its obligations deriving from the Convention

Actions by Armenia that violated its obligations under the Convention include but are not limited to:

I. pursuing a policy of ethnic cleansing of Azerbaijanis from its territory, as well as the occupied territories of Azerbaijan, including by the forcible and collective expulsion and displacement of hundreds of thousands of Azerbaijanis from those territories, preventing their return, and the illegal establishment of settlements in the occupied territories (Articles 2, 3 and 5);

The forcibly expelled around 1 million Azerbaijanis have been prevented by Armenia from returning to their native places. Armenia was settling ethnic Armenians in the occupied territories, thus changing their character, which is prohibited under international humanitarian law. As stated in the Report on war crimes in the occupied territories of the Republic of Azerbaijan and the Republic of Armenia’s responsibility¹, “Armenia has repeatedly violated the rules concerning forced displacement and the rights of displaced persons, with at least some of its conduct rising to the level of war crimes and/or what may properly be characterized as “ethnic cleansing”.

Armenia’s agenda throughout the conflict has been to rid the occupied territories of their Azerbaijani inhabitants, to prevent the return of those expelled, and to replace them with ethnic Armenians, thereby attempting to engineer a *fait accompli* that the territories will be considered to be a natural part of Armenia. The expulsion of Azerbaijani from these

¹ The report was circulated as a document of the United Nations General Assembly and of the Security Council - A/74/676–S/2020/90.

territories has not been a mere by-product of the conflict or a means to an end: for the Armenians, it has been an end in itself. The policy and practice of the Republic of Armenia clearly testified to its intention to secure the annexation of Azerbaijani territories that it had occupied and carried out ethnic cleansing of, including through settlement activities, destruction and appropriation of historical and cultural heritage and systematic interference with the property rights of Azerbaijani displaced persons.

The Armenian policy for implanting ethnic Armenian settlers in the occupied territories has involved various incentives being provided to Armenians who settled in the territories, such as free housing, social infrastructure, inexpensive or free utilities, low taxes or tax exemptions, money and livestock, newly built houses, plots of land, and advantageous loans.

Over the course of the conflict, Armenia has engaged in pillage, destruction and misappropriation of the property of Azerbaijanis in the occupied territories. In a report from September 2005, the Crisis Group Europe stated that “[t]he privatization of land and business has been largely carried out without the participation of former Azeri inhabitants, which is likely to make the return of IDPs and the reintegration of Nagorno-Karabakh with Azerbaijan all the more difficult”². Land and public utilities in the occupied territories were largely privatized, with no share whatsoever being allocated to or reserved for the original Azerbaijani inhabitants of the territory, who were forcibly expelled.

II. destroying, desecrating, and plundering mosques and other religious monuments, ancient cemeteries, museums, and other pieces of Azerbaijani cultural property integral to Azerbaijani national and ethnic heritage and origin in the occupied territories (Articles 2, 3, 5 and 7);

Throughout the conflict, Armenia has violated its obligations to respect and protect the cultural heritage of the occupied territories. Many unique historical, cultural and religious sites have been destroyed or plundered, while systematic actions have been taken to erase any signs of the Azerbaijani cultural and historical roots and characteristics of these territories. The policy of deliberate destruction of this legacy has been an irreparable blow both to Azerbaijani culture and world civilization.

As has clearly been demonstrated in the deliberate change of the cultural look of Shusha and other towns and settlements of Karabakh, by destroying the monuments and changing architectural features, and making “archaeological” excavations, Armenian policy pursued far-reaching goals of removing any sign heralding their Azerbaijani origins.

Museums in the occupied territories, including in Kalbajar, Shusha, Lachin, Aghdam, have also been destroyed, plundered, and their exhibits put on sale in different countries. Acts of barbarism were accompanied by different methods of defacing the Azerbaijani cultural image of the occupied territories. Among them were large-scale construction works therein, such as the building of an Armenian church in Lachin town, the extension of the flight line of the Khojaly airport by destroying the children’s music school, library, social club and infrastructure facilities. Another widespread practice employed, was changing the architectural details of different monuments, such as the Saatly mosque and Khanlyg Mukhtar caravanserai in Shusha town of Azerbaijan, as well as replacement of the Azerbaijani-Muslim elements of the monuments with alien ones, such as the Armenian cross and writings, which have been engraved on the Arabic character of the nineteenth century Mamayi spring in Shusha town.

Armenia massively changed geographical names, toponyms, names of administrative-territorial units of Azerbaijani origin in the territory of present-day Armenia and in the occupied territories of Azerbaijan with a view to erasing the traces of Azerbaijani historical and cultural heritage in these areas. While the names of the administrative-territorial units were changed, in parallel, the monuments, cemeteries belonging to Azerbaijanis were destroyed.

In the course of the occupation of Azerbaijani territories by Armenia tremendous losses have been inflicted on the Islamic religious heritage therein, including total or partial demolition

² Crisis Group Europe Report No. 166, Nagorno-Karabakh: Viewing the Conflict from the Ground (14 September 2005).

of rare antiquities and places of Islamic civilization, history and architecture, such as mosques, mausoleums, graves, archaeological excavations, museums, libraries, art exhibition halls, and government theatres and conservatories, besides the destruction and smuggling out of the country of large quantities of priceless treasures and millions of books and historic manuscripts.

The facts of destruction and desecration of Mosques and other religious shrines were revealed at the recently de-occupied territories of Azerbaijan. The Mosques were either completely destroyed or used as animal stables^{3 4}

III. propagating anti-Azerbaijani discourse among the children in order bring them up with hatred against Azerbaijanis (Article 7);

Anti-Azerbaijani sentiment has been absorbed to all layers of society in Armenia. Armenian children are brought up by hatred against Azerbaijanis. Compelling the schoolchildren to insult the national flags of Azerbaijan and Turkey in their first school day has become an ordinary practice in this country.

Kids are being recruited to the armed forces of Armenia for fighting against Azerbaijan. There are significant numbers of evidences attesting these facts^{5 6}

IV. failing to pursue a policy of eliminating racial discrimination and instead disseminating, including in public statements by high-ranking officials and via its media and educational institutions, false narratives and racist propaganda intended to stoke ethnic and national hatred of Azerbaijan and its people, and to promote the superiority of Armenia and Armenians (Articles 2, 3, 4, 5 and 7);

Armenian leadership has unconcealed conviction on “ethnic incompatibility” between Armenians and Azerbaijanis. While such an odious concept has been part and parcel of the long-standing ideology followed in Armenia, this specific phrase was used for the first time in a statement of Robert Kocharian when he was the President of Armenia⁷.

During the recent aggression against Azerbaijan, which started on September 27, 2020, Armenia conducted deliberate, systematic and wide-scale attacks on densely-populated residential areas of several cities in Azerbaijan, located far away from the combat zone. As a result of these attacks, 100 civilians, including women, children and the elderly, were killed, 418 more wounded. In their statements Armenian officials were openly threatening to attack peaceful settlements in Azerbaijan with the aim of causing panic.

During the escalation Armenian officials were repeatedly making statements distorting the nature of the conflict. The racially-charged statements were aimed at further inciting hatred and discrimination against Azerbaijanis based on religious and ethnic grounds. Thus, Armenia’s Chief of Staff of the Armed Forces, General Onik Gasparyan in his appeal to the Armed Forces under his command stated on September 27, 2020 that “it is time to show ... boundless hatred for the remnants of the nomadic and barren tribe”.⁸

On September 30, 2020, Armenian Ministry of Defense spokesman Artsrun Hovhannisyan stated in a straightforward manner that “the world’s first crusaders, torchbearers of civilization are fighting to the death against darkness and evil”.

³ <https://www.aa.com.tr/en/asia-pacific/mosque-turned-into-pigsty-under-armenias-occupation/2034748>.

⁴ <https://menafn.com/1101109405/Almost-all-of-Karabakh-mosques-completely-destroyed-by-Armenians-ANAS>.

⁵ <https://thelondonwatch.com/2020/10/25/legal-analysis-armenia-committing-war-crime-by-recruiting-child-soldiers-in-karabakh-conflict-by-ramil-iskandarli/>.

⁶ <https://en.trend.az/azerbaijan/karabakh/3316346.html>.

⁷ <https://www.azatutyun.am/a/1570666.html>.

⁸ <https://armpressmedia.com/the-message-of-the-chief-of-the-general-staff-of-the-ra-armed-forces-onik-gasparyan/>.

Armenia's Prime Minister Nikol Pashinyan in an interview on October 2, 2020 has framed the recent military hostilities between Armenia and Azerbaijan as "civilizational frontline" clash, in other words as clash between "Christian Armenia" and "Muslim Azerbaijan"⁹.

The former Minister of Defence and President of Armenia, Serzh Sargsyan, who had previously been a senior commander of the unlawful armed groups in the occupied territories of Azerbaijan, which had participated in the seizure of Khojaly town of Azerbaijan in 1992 and mass killings of its Azerbaijani inhabitants, said the following in an interview¹⁰: "Before Khojaly, the Azerbaijanis thought that they were joking with us, they thought that the Armenians were people who could not raise their hand against the civilian population. We needed to put a stop to all that. And that's what happened". In reply to a question whether things could have happened differently and whether he had any regrets about the death of thousands of people, S. Sargsyan responded without remorse that "he has absolutely no regrets", since "such upheavals are necessary, even if thousands have to die".

Jirair Libaridian, who was chief adviser to the first President of Armenia, Levon Ter-Petrossian, at the time of the Khojaly massacre, admitted that it was "very difficult for an Armenian to write about Khojaly" because "something unacceptable did happen, something that involved killings and mutilation of Azeri civilians by Armenian forces in Karabakh"¹¹.

In fact, such narratives of Armenian officials are not a new phenomenon. It derives from the ideas of Garegin Nzhdeh who is considered to be the founder of Armenia's national ideology. Nzhdeh was inspired by the Nazism in developing his 'tsegakron' (literally 'race-religion') ideology based on the devotedness to the Armenian 'race'. The attachment of Armenia to these ideas is vividly evidenced in glorification of Nzhdeh, who was a Nazi collaborator, in Armenia.

V. intentionally targeting Azerbaijani civilians and civilian objects during the conduct of hostilities in violation of international humanitarian law, including but not limited to strikes from 27 September – 10 November 2020 on Ganja, Barda, and other Azerbaijani cities outside the theatre of active hostilities, which resulted in numerous civilian casualties (Articles 2, 4, 5);

In the course of its recent aggression against Azerbaijan and against the background of the humanitarian measures taken by Azerbaijan, Armenia indiscriminately targeted the densely populated civilian settlements of Azerbaijan. On the night of October 11, Ganja, the second largest city in Azerbaijan and far beyond the frontline, came under rocket (Tochka-U) fire by the Armenian armed forces. The attack killed seven civilians and injured 39 others, including minors.

On the night of 17 October, 2020 around 1 am, immediately after the second humanitarian truce entered into force, the armed forces of Armenia again attacked the Ganja city of Azerbaijan with ballistic missiles leaving 16 civilians, including 4 kids killed, more than 40 people injured.

On October 28, Armenia, acting on its state policy of terror, committed another heinous crime against the civilians in Azerbaijan. Around 1pm local time, Armenia launched 300mm "Smerch" rockets with banned cluster munitions at densely populated areas of the Barda city (located approx 100 km from Armenia's border and 30 km away from the conflict zone), including its business center and surroundings. As of now, the General Prosecutor's office confirmed 21 civilians killed and more than 70 wounded. Civil infrastructure facilities and vehicles were extensively damaged.

The attack on Barda's residential areas was the second deliberate attack within 20 hours with banned munitions. Earlier, on October 27 as a result of Armenia's attack using the same type of cluster munition, 4 civilians died and 13 civilians were injured. In total, civilian casualties in the Barda region within 20 hours are reportedly 108 with 25 killed and 83 injured (as of now, the list of casualties are being clarified).

⁹ <https://jamestown.org/program/armenian-azerbaijani-conflict-clash-of-civilizations/>.

¹⁰ <https://carnegieeurope.eu/2012/02/24/president-interview-and-tragic-anniversary-pub-47283>.

¹¹ <https://www.opendemocracy.net/en/armenian-perspective-on-khojali/>.

Prominent International NGOs, including Human Rights Watch and Amnesty International confirmed the deliberate targeting of Azerbaijani civilians in Ganja and Barda by Armenia with the use of prohibited weapons^{12 13 14}.

VI. *failing to provide Azerbaijanis whose rights under the Convention were violated by Armenia with an effective remedy (Articles 5 and 6).*

Armenia failed to provide an effective remedy to those Azerbaijanis whose rights under the Convention were violated. There have been hundreds of thousands of Azerbaijanis who were forcefully expelled from their homes in the territory of present-day Armenia without offering any effective remedy.

On 16 June 2015, the Grand Chamber of the European Court of Human Rights adopted a decision in the case of Elkhan Chiragov and others v. Armenia¹⁵. The case, dating from 6 April 2005, was based on a claim by six citizens of Azerbaijan against Armenia; they were unable to return to their homes and had been deprived of their property in the Lachin district of Azerbaijan, having been expelled in 1992 as a result of the Armenia-Azerbaijan Nagorno-Karabakh conflict.

In its judgment, the Court found continuing violations of the right to property, the right to respect for private and family life and the right to an effective remedy. The Court affirmed the right of internally displaced persons to property and to return to their homes. The Court concluded that Armenia, through its military presence and the provision of military equipment and expertise, had been significantly involved in the Nagorno-Karabakh conflict from an early date and was responsible for violations of the rights of Azerbaijani displaced persons.

¹² <https://www.hrw.org/news/2020/12/15/armenia-cluster-munitions-used-multiple-attacks-azerbaijan>.

¹³ <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>.

¹⁴ <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-first-confirmed-use-of-cluster-munitions-by-armenia-cruel-and-reckless/#:~:text=Facebook>
.Armenia%2FAzerbaijan%3A%20First%20confirmed%20use%20of%20cluster%20munitions,by%20Armenia%20'cruel%20and%20reckless'&text=Amnesty%20International%20has%20verified%20the,city%20of%20Barda%20in%20Azerbaijan.

¹⁵ [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-155353%22\]}.](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-155353%22]})