



Addressing the War Crimes against Azerbaijan

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In my presentation, I will provide a brief overview of the past and ongoing violations of international law by Armenia, focusing on the categories of offences and the ensuing international legal responsibility for them.

Following the force and violence resorted to against the Azerbaijanis both in Armenia and in the ethnic Armenian minority populated areas of Azerbaijan, in the early 1990s, Armenia launched a large-scale war against Azerbaijan and seized a part of its sovereign territory.

Serious violations of international humanitarian law were committed in the course of the aggression.

The unlawful targeting of Azerbaijani civilians and peaceful settlements; the taking and holding of hostages; the mistreatment and summary execution of prisoners of war and civilian detainees; forced displacement, ethnic cleansing and changing the character of the occupied territories; the extensive destruction of inhabited areas and civilian infrastructure; the destruction and eradication of Azerbaijani cultural heritage; damage to the natural environment; and the use of prohibited weapons in apparent indiscriminate attacks against the populated areas were the methods and means used by Armenia during the war to achieve and cement its military gains.

The most notorious violations have caused the killings of hundreds of civilians within very few hours. Thus, as a result of the attack and capture of the town of Khojaly in February 1992,

hundreds of Azerbaijanis, including women, children and the elderly, were killed, wounded, taken hostage or went missing, while the town was razed to the ground.

Similar atrocities have been committed in a number of other Azerbaijani populated areas.

The scale of the brutalities is evidenced also by the several thousands of citizens of Azerbaijan who went missing in connection with the conflict. They number 3,890 people, including 719 civilians. Among the civilians, 71 are children, 267 are women and 326 are elderly persons. It was established that 872 persons (that is, 605 servicemen and 267 civilians, including 29 children, 98 women and 112 elderly persons) were taken either as prisoners of war or hostages.

It should be particularly noted that the International Committee of the Red Cross visited 54 Azerbaijanis when they were in Armenian custody, including 6 women. However, these 54 detainees, visited and seen alive by the ICRC, were thereafter killed between 1993 and 1995. The bodies of only 17 of them were later returned to Azerbaijan, including those of 12 captives who were held and subsequently killed on the territory of Armenia – the majority in the capital city of Iravan. Another 33 detainees were reported dead, but their bodies were not returned, while the fate of 4 people remains unknown.

International organizations, including the U.N. Security Council, have recognized the gravity of these violations.

However, their condemnations and demands were simply ignored by Armenia, which, instead, directed all its efforts to consolidate the results of the aggression.

Thus, Armenia facilitated the emplacement of significant numbers of its own nationals and the citizens of third countries of Armenian origin into the occupied territories depopulated of their Azerbaijani inhabitants, offering generous incentives to the settlers; incorporating the occupied territories into its socioeconomic space and its customs territory (such as by regulating their banking sector as if it were part of Armenia itself); replacing Azerbaijani names with Armenian ones; executing permanent energy, agriculture, social, residential and transport infrastructure changes; and exploiting the territories' natural resources.

The policy of expelling Azerbaijanis and the implantation of Armenians into these territories, accompanied by attempts to change their cultural character and the ownership of land and property, was aimed at erasing all traces of their Azerbaijani roots, creating a mono-ethnic area devoid of any Azerbaijanis and thus rendering the expulsion permanent.

Moreover, despite a ceasefire established in 1994, Armenian forces have repeatedly attacked Azerbaijani civilians residing on the other side along the so-called line of contact. As a result, 31 Azerbaijani civilians were killed and 69 injured between May 1994 and September 2020.

The deliberate tactic of targeting the civilian population was again used by Armenia during the hostilities in the fall of 2020.

Direct and indiscriminate missile and artillery attacks that struck Azerbaijani cities and districts, including with the use of internationally banned weapons, killed and wounded hundreds of civilians and destroyed or damaged numerous civilian objects.

The frequency and timing of the attacks, including in particular a series of night-time missile strikes on the residential areas in the cities of Ganja and Barda, reveal the clear intent and purpose to cause the greatest possible casualties among the civilian population.

There have also been multiple instances of extrajudicial executions and mistreatment of Azerbaijani prisoners of war, as well as of desecration and mutilation of dead bodies by Armenian forces.

The territories of Azerbaijan liberated from occupation demonstrated the scale of devastation and provided compelling evidence as to the range, variety and consistency of Armenia's violations of international law. Most cities, towns and villages were razed to the ground and thousands of cultural sites were destroyed, looted and vandalized. Moreover, several mass graves of victims were found in these territories.

By its conduct, Armenia flagrantly violated international law, in particular the 1907 Hague Convention IV and Regulations on the Laws and Customs of War on Land, which are regarded as customary law, the 1949 Geneva Conventions relating to the treatment of prisoners of war and the protection of civilian persons in time of war, the 1977 Additional Protocol I to the Geneva Conventions, relating to the Protection of Victims of International Armed Conflicts, the 1954 Hague Convention for the Protection of Cultural Property in Armed Conflict and its 1954 and 1999 Protocols, to mention just a few.

Most of these violations constitute a grave breach of Additional Protocol I and amount to war crimes.

In addition, the breaches of international humanitarian law committed by Armenia compound violations of international human rights law and other international offences, such as genocide, racial discrimination and torture, which fall within the categories of peremptory norms of general international law (*jus cogens*) and the most serious crimes affecting the interests of the international community as a whole (*erga omnes*).

The commission of serious crimes and the failure to prevent them involve the responsibility of States for internationally wrongful acts. The key provisions in that regard are laid down in the articles on State responsibility adopted by the International Law Commission on 9 August 2001¹ and commended to States by the U.N. General Assembly later the same year.²

¹ U.N. doc. A/56/10. See also James Crawford, *The International Law Commission's Articles on State Responsibility. Introduction, Text and Commentaries* (Cambridge, Cambridge University Press, 2002),

State responsibility gives rise to legal consequences manifested in the obligation to cease these acts, to offer appropriate assurances and guarantees of non-repetition and to provide full reparation for the injury caused by such acts in the form of restitution, compensation and satisfaction, either singly or in combination.

To invoke State responsibility, Azerbaijan instituted inter-State legal proceedings within the International Court of Justice and the European Court of Human Rights.

As to the ICJ, the subject matters submitted by Azerbaijan to the Court concern the discrimination against hundreds of thousands of Azerbaijanis solely on the grounds of their ethnicity and are based on the rights guaranteed and protected by the International Convention on the Elimination of all Forms of Racial Discrimination.

Under international criminal law, all those who, individually or jointly, engage in conduct considered to be prohibited and criminalized bear individual criminal liability.

States are required to investigate, without undue delay, reports of war crimes and other serious offences committed during armed conflicts, and to prosecute and punish the perpetrators. This obligation is explicitly set out in the 1949 Geneva Conventions, the 1984 Convention against Torture and in other international instruments. This obligation has also been repeatedly reaffirmed by the U.N. General Assembly and Security Council.

At the national level, Azerbaijan has taken concrete steps to address the violations of international humanitarian law and bring the perpetrators to justice.

As far as Armenia is concerned, there is no evidence that it has investigated or prosecuted, in a prompt and effective manner, the numerous offences committed by its armed forces against Azerbaijani victims.

The reason is simple – these offences were part of the widespread and systematic State policy aimed at terrorizing, expelling and killing Azerbaijanis and fomenting hatred against them based on ethnic animus. It is the policy the departure from which has been and remains a red line for the government and the society at large in Armenia.

Other ongoing breaches include Armenia's refusal to account for the missing persons within its control and to conduct an effective investigation into their fate.

and James Crawford, Alain Pellet, Simon Olleson (eds.), *The Law of International Responsibility* (Oxford, Oxford University Press, 2010).

² U.N. General Assembly resolution 56/83. See also U.N. General Assembly resolutions 59/35 and 62/61 and document A/62/62.

Armenia is also in violation of international law insofar as the additional suffering imposed upon the relatives of the missing persons is concerned, owing to the obstructive attitude it has adopted in this matter.

In a similar vein, Armenia refuses to share accurate and comprehensive information about the minefields in the liberated territories, thus deliberately and indiscriminately targeting human lives and attempting to impede post-conflict rehabilitation, reconstruction and humanitarian efforts in the liberated territories and the safe return of the internally displaced persons to their homes.

Further, Armenia continues to allow racist hate groups formed for the specific purpose of inciting and committing violence against Azerbaijanis to operate openly and notoriously on its territory, in violation of international law and apparent disregard for the order on provisional measures adopted by the International Court of Justice on 7 December 2021 in the case on the *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Azerbaijan v. Armenia)*.

In concluding, I would like to add that the focus on the topic we are discussing today is not something new for Azerbaijan. Since the very first days of the conflict, Azerbaijan has been vigilant in bringing the attention of the international community to the serious violations of international law and in underscoring the need to ensure accountability for them.

At the request of Azerbaijan, in 2004, the General Assembly decided to include in its agenda the item entitled “The situation in the occupied territories of Azerbaijan”, under which two resolutions were adopted, in 2006 and 2008, and the draft resolution on compliance with international humanitarian law and international human rights law in the occupied territories of Azerbaijan was tabled in 2010. Further, in connection with the consideration of the matter in the Assembly, three internationally mandated fact-finding and fact-assessment missions were conducted in the occupied territories, in 2005, 2006 and 2010.

In addition, a series of comprehensive legal analysis prepared by eminent international experts, including the report on war crimes and Armenia’s responsibility, were published and circulated as documents of the United Nations between 2008 and 2019.

Furthermore, Azerbaijan has consistently promoted international humanitarian law at the international levels. Over the years, Azerbaijan has been the main sponsor of the U.N. General Assembly resolution on missing persons and the U.N. Commission on the Status of Women resolution on the release of women and children taken hostage, including those subsequently imprisoned, in armed conflicts. Azerbaijan also initiated the adoption by the Human Rights Council of the resolution on the protection of cultural rights and property in situations of armed conflict, as well as contributed to the drafting and publication of the UNESCO Military Manual on the Protection of Cultural Property.

Summing up, I want to point out that accountability and broader transitional justice are undeniable and must be an inevitable consequence of the offences committed. Azerbaijan will continue its efforts to end impunity and invoke State responsibility for flagrant violations of international law.