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Azerbaijan in the target of international crimes: legal analysis

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The book analyzes committed and ongoing international crimes against the Azerbaijani statehood and the Azerbaijani people by Armenia. At the same time, broad references are made to important universal and regional international legal norms, decisions of international organizations, the works of highly qualified scientists that have researches in various fields, and international judicial precedents.

This book has been translated from Azerbaijani into English by Elnur Aslanov and Nishat Rahimov, the lecturers of the Department of International private law and European law at Law Faculty, Baku State University, with direct participation of the author and the English text has been edited by Baylar Hajiyev, Head of the Department of English on Humanitarian Faculties, Associate Professor, Baku State University.

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CONTENTS

Dedicated to the dear and unforgettable memories of the victims of international crimes committed by Armenians for more than 100 years and still continued by the Republic of Armenia against Azerbaijani statehood and people.

Introduction

As the world enters globalization, intersocietal integration strengthens, for some reason, problems get even more complicated and knotted instead of being resolved. These problems could have been understood in the middle ages, even in the 20th century. That is to say, in the 20th century, the discrepancies between two systems (socialist and non-socialist) were also abandoned and transition to a new level began. Maybe the settlement of these issues causes difficulties because they are attached to history. We can say with absolute certainty that this is not the answer to the question. Because nowadays, norms of international law cover sufficient number of areas, a system of strong international organizations (the United Nations Organization, European Council, Organization for Security and Cooperation in Europe, Organization of Islamic Cooperation, Commonwealth of Independent States, etc.) and agreements have been established, the states, where civil and democratic societies exist have been formed and progressive ideas have further advanced. Then, why does the policy of aggression and genocide get more active, basic and elementary human rights are trampled and the world keeps silent?

The only answer to this question is the existence and further development of double standards. Otherwise, the aggression and genocide policy of Armenians against our people, that began in the nineteenth century and accelerated in the twentieth century, would not be left unanswered by the world community. Continuing the aggression and genocide policy in the eyes of the international community has hit hard on international co-operation policies. The international community remaining indifferent to these events, and eventually, the inadequacy of international law is extremely regrettable. Undoubtedly, the interests of other states and our people being the target of international crimes should also not be ignored. It is known that the UN Security Council adopted 4 resolutions (822, 853, 874, 884) on the aggression of the Republic of Armenia *(hereinafter referred to as Armenia)* against the Republic of

Azerbaijan *(hereinafter referred to as Azerbaijan)*. However, these resolutions have not yet been fulfilled, which is a serious blow to the reputation of the UN as a universal international organization and its position in the international community. While the intensified negotiation process within the OSCE Minsk Group has yet to yield any results, Azerbaijan has succeeded in maintaining that the settlement of the conflict was based on international law norms at different levels. The decisions made by other international organizations (the Council of Europe, the Organization of Islamic Cooperation, etc.) also prove that.

In the Decree of the President of the Republic of Azerbaijan of December 18, 1997 "On the Mass Deportation of Azerbaijanis from the Historical-Ethnic Territories of the Armenian SSR in 1948-1953", a full political and legal assessment was given to the unfair deportation policy of Azerbaijanis from the historical and ethnic lands. The Decree signed by the President of the Republic of Azerbaijan on March 26, 1998 "On the Genocide of Azerbaijanis" was the next full and comprehensive legal and political assessment of the actions of the Armenian nationalists. Finally, in the Decree of the President of the Republic of Azerbaijan of January 18, 2018 "On the 100th Anniversary of the Genocide of Azerbaijanis – 1918", it is noted that the Armenian nationalists have implemented ethnic cleansing, deportation and genocide against our people in order to realize the idea of mythical "Great Armenia". Tens of thousands of civilians were killed for ethnic and religious affiliation in Baku and other cities and towns in the province of Baku as a result of the brutal massacres committed by the Dashnak-Bolshevik armed groups operating under the mandate of the Baku Soviet in March-April 1918, settlements were destroyed, cultural monuments, mosques and cemeteries were razed to the ground, and later Armenian nationalists committed massacres, looting and ethnic cleansing in Karabakh, Zangazur, Nakhchivan, Shirvan, Iravan and other regions.

Despite the fact that more than twenty percent of the territory of Azerbaijan is under occupation and more than one million Azerbaijanis remain internally displaced and refugee as well as living in unbearable conditions till now, the Azerbaijani government is willing to resolve the conflict within the principles of humanism and international law. Speaking on September 29, 1994 at the 49th session of the UN General Assembly, Heydar Aliyev – the National Leader of the Azerbaijani Nation said: "*The position of the Republic of Azerbaijan has always been a practical position and is peaceful. Despite the damage caused to us, we offer peace to the Armenian side on the basis of international law, justice and humanism"*.

The successful policy and practical steps undertaken by President of Azerbaijan Ilham Aliyev today call on the invader Armenia to put an end to occupation and to resolve the conflict peacefully. However, this process before international organizations is always violated by occupier Armenia, which, as an aggressor state, gives a clear indication to Armenia's non-constructive and continued policy of ignoring of international law. President Ilham Aliyev especially emphasized in an interview with "Sputnik" *International Information Agency on October 17, 2016: "If we look at the history, Nagorno-Karabakh is an inseparable part of Azerbaijan. This has always been so. We know the history of the mass relocation of the Armenian population from Iran and from Eastern Anatolia to these lands. The whole history, all the toponyms, as well as the word Karabakh itself, originates from Azerbaijani ... The Azerbaijanis were first expelled from Nagorno-Karabakh. Then, Armenians occupied seven regions non-related to Nagorno-Karabakh, where only the Azerbaijani population lived, and everything was destroyed there. The OSCE has twice sent a fact-finding mission there, and their report is complete nonsense: there was no single building left, cemeteries and mosques were destroyed..... In 4 resolutions of the UN Security Council, immediate, unconditional and complete withdrawal of the Armenian armed forces is required. But for more than 20 years, these resolutions have not been implemented..... The main reason why the conflict is not resolved is that Armenia has been blocking the progress of the Minsk Group from the moment of its establishment for a 24-year period..... We want peace in the region and our position is constructive enough. But we want our territories. Armenia wants peace, but it does not want to return the territory of Azerbaijan.... There cannot be a compromise on the territorial integrity of Azerbaijan, but there can be a compromise on the issues of Nagorno-Karabakh`s self-determination relating to local self-governance. If we come to an agreement, it can become an autonomous republic in the future. "*

Mehriban Aliyeva, the President of the Heydar Aliyev Foundation, Goodwill Ambassador of UNESCO and ISESCO said at the April 7 meeting with the mothers of martyrs who were killed heroically while preventing the provocation of the Armenians in the contact line of Armenian and Azerbaijani troops at the beginning of April 2016: *"The state of Azerbaijan has been showing its effort for more than 20 years for the Armenia-Azerbaijan Nagorno-Karabakh conflict to be settled peacefully. We want our lands to be liberated. We want our people to return to their native*

homes. We are not the invaders. We are the nation that fights against the invaders. We have no eyes on the land of any other nation or people. We just want to free our lands from occupation. The whole world knows this truth and must accept it …. I am sure that justice will be restored. Azerbaijani lands will be liberated from occupation; Azerbaijan's territorial integrity will be restored. All our refugees and internally displaced persons will return to their native lands".

Of course, regardless of the existence of the right to self-defense of the Republic of Azerbaijan in accordance with Article 51 of the UN Charter, our state shows its loyalty to the principles and norms of international law, always maintains a peaceful policy, offers all possible compromise options for peace in the world and in the region. But Armenia, with its double standards, does not forsake its policy of aggression and ongoing international crimes.

Considering the above mentioned, and despite the fact that our state supports the peaceful settlement of the Armenia-Azerbaijan conflict in accordance with the generally recognized principles and norms of international law, and highly appreciates the OSCE Minsk Group mediation mission in this direction, this doesn't mean the international crimes (aggression, genocide, war crimes, terrorism, crimes against humanity) committed by Armenians shouldn't go unpunished. On the one hand, being a justified claim of Azerbaijan, on the other hand, being a serious and systematic violation of *jus cogens* and other norms of international law, this issue is related to Armenia's consistently and continuously committing crimes stipulated in the relevant international legal documents and the Rome Statute of the International Criminal Court. At the same time, occupation of the territories of Azerbaijan by Armenia should be considered as a threat to regional peace and security, as it has been mentioned in four resolutions adopted by the UN Security Council (822, 853, 874, 884). Thus, as Azerbaijan respects the norms of international law on the peaceful settlement of the armed conflict and as a full-fledged subject of international law for the involvement of Armenians committing international crimes and related natural persons for international legal responsibility has the right for subjective opportunities within international law norms, and their proper realization. We hope that as soon as international law is released from double standards, the impunity environment will also be eliminated and international legal norms will be fully functional.

There have already been done significant researches in this field by foreign scientists[1]. In these researches, the facts of the Armenian aggression policy and serious violations of international law were analyzed in detail.

Nevertheless, today, large-scale activities are required to convey the truth of Azerbaijan to the world by our society and to put an end to the unfair policy against Azerbaijan. So, as a scientist in the field of law, I cannot remain indifferent to this issue. From this point of view, we have tried to convey the truth to the world community by publishing the results of the researches in different languages, giving legal analysis of the problem. So, we invite the international community to act for fairness in the protection of justice and for the restoration of international law.

Finally, we are great thankful from here to all the well-known lawyer-scholars who have given their positive references to this research work.

[1] Krüger H. The Nagorno-Karabakh Conflict. A Legal Analysis. Springer-Verlag Berlin Heidelberg, 2010, 168 p.; Merezhko A.A. The problem of Nagorno-Karabakh and international law. Kiev, Dmitriy Burago Publishing House, 2014, 208 p.; Tsertsvadze F.E. Forgotten genocide. New York, 2005, 132 p.; Kuznetsov O. The history of transnational Armenian terrorism in the twentieth century: A historic-criminological study. Berlin: Verlag Dr. Köster, 2016, 332 p.; Feigl E. A myth of terror. Armenian extremism: its causes and its historical context. Salzburg: Edition Zeitgeschichte, 1986, 144 p.; Gunter M.M. Armenian terrorism: a reappraisal // The Journal of Conflict Studies, 2007, Vol. 27, No. 2, pp. 109-128; Heß M.R. Panzer im Paradies: Der Berg-Karabach-KonfliktzwischenArmenien und Aserbaidschan. Berlin: Verlag Dr. Köster, 2016, 171 p.; Kipke R. KonfliktherdSüdkaukasus: Aserbaidschanim Fokus (sowjet-) russischer und armenischerInteressen. Wiesbaden: Springer VS, 2015, 128 p.; and so on.

I. Armenian-Azerbaijan conflict in the context of the principles of international law

In general, the role of the basic and universally recognized principles of international law in international relations system depends on their standing on the basis of the entire international law-making process. In other words, the basic and generally accepted principles of international law are the basis of international law and order and international legality. Having the character of *jus cogens*, the basic principles of international law form the legal basis for the creation of other legal regulations. The principles of international law are norms of a universal nature, they extend to all international relations without any exception and play the role of an important political and legal basis for the development of interstate relations. The basic principles were enshrined in the UN Charter and in most cases are called the principles of the UN Charter. Their content and system are defined in the Declaration 2625 of the UN General Assembly "On Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations" of 1970. In this Declaration, 7 important principles of international law were reflected: principle of the refraining from the threat or use of force; principle of the settlement of international disputes by peaceful means; the principle of the sovereign equality of states; principle of non-intervention in internal affairs of states; principle of the duty of States to cooperate with one another; principle of equal rights and self-determination of peoples; principle of fulfillment in good faith the obligations under international law. The Helsinki Final Act of the Conference on Security and Cooperation in Europe (CSCE) of 1975 enshrined 3 important principles of international law: principle of territorial integrity of states; principle of inviolability of frontiers; principle of respect for human rights and fundamental freedoms.

The Declaration 2625 of the UN General Assembly "On Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations" of 1970 declares that, in their interpretation and application the above mentioned principles are interrelated and each principle should be construed in the context of the other principles. The Charter of Paris for a New Europe of CSCE stated that, these Principles apply equally and unreservedly, each of them being interpreted taking into account the others.

Due to the fact that international crimes committed by Armenia against the state of Azerbaijan and the Azerbaijani people are considered as serious, grave and systematic violations of *jus cogens* norms of international law, their analysis is one of the important issues. Namely, from this point of view, it would be advisable to address individually all the principles that were violated as a result of the committing of these crimes.

Principles of territorial integrity of states and inviolability of frontiers. The territory forms the material basis for the existence of states. There is no state without territory. Therefore, states pay special attention to its integrity. According to Article 1 of the Montevideo Convention "On the Rights and Duties of States" of 1933, one of the qualifications of the state as a person of international law is its possesion of territory. The 1648 Peace Treaties of Westphalia introduced three basic principles of interstate relations: the territorial integrity and inviolability of state border; the supremacy of the sovereign as the political and legal authority within the state; the autonomy of each state to conduct its own affairs without foreign interference[2].

In subsequent phases, the tendency of development of the principle of territorial integrity is shown[3]. Regardless of any phase of development or form of expression, territorial integrity, in essence, remained unchanged. That is, the states should respect the territorial integrity of each other and should completely refrain from actions aimed at violating the territorial integrity of another.

The legal confirmation of this principle in the 20th century at the universal level is more clearly revealed in the obligation of states to refrain in their international relations from the threat or use of force against the territorial integrity of any state, provided for in Article 2.4 of the UN Charter. At the same time, Article 11 of the Montevideo Convention "On the Rights and Duties of States" of 1933 directly stated that, the territory of a state is inviolable and may not be the object of military occupation nor of other measures of force imposed by another state directly or indirectly or for any motive whatever even temporarily.

The Declaration 2625 of the UN General Assembly "On Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations" of 1970 notes that,

[2] Fraser T. Maintaining peace and security?: The United Nations in a changing world. London: Palgrave Macmillan, 2015, pp. 12-13

[3] Zacher M.W. The territorial integrity norm: international boundaries and the use of force // International organization, 2001, Vol. 55, Issue 2, pp. 215-250

every state shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other State or country. Further, it is noted that, the territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force.

As an independent principle, the principle of territorial integrity is enshrined in the 1975 Helsinki Final Act of the CSCE. The main content of this principle is that, the states will respect the territorial integrity of each other. Every state must refrain from any illegal action violating the territorial integrity of any other state. The territory of a state is not the object of military occupation in contravention of international law, the participating states will respect territorial integrity of all of other participating states. Accordingly, they will refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating State, and in particular from any such action constituting a threat or use of force. Moreover, the United Nations Millennium Declaration of 2000 and World Summit Declaration of 2005 especially emphasized the respect to the territorial integrity of states.

Provisions on territorial integrity also enshrined in the Charter of the Organization of American States (Articles 1, 21 and 28), Constitutive Act of the African Union (Article 3), Charter of the Organization of Islamic Cooperation (Articles 1.3, 1.4 and 2.4), Charter of the Commonwealth of Independent States (Article 3), and other international documents. In general, territorial integrity of state means that, states must refrain from any acts aimed at separation of the foreign territory. Such acts may be in peaceful or non-peaceful form, military character or threat to use of force. However, all of these are in contravention of law. Conformity of the concepts of the inviolability of the state territory and the territorial integrity of the state gives a ground to consider them as different sides of the same principle.

The principle of inviolability of frontiers, being established as an independent principle in the Final Act of the CSCE of 1975, was recognized as a more independent and mandatory norm in international relations. The boundaries of the state can in no case be changed without his consent. Normative content of the principle of inviolability of frontiers includes these elements: recognition of establishment of existing frontiers in accordance with international law from legal point of view; refusal from any territorial claim at present and in the

future; refusal from any conspiracy to these frontiers, including use of force or threat of force.

As a subject of international law, Azerbaijan, understanding the obligation to observe the principles of state integrity and the inviolability of frontiers as the basic principles of international law, has the right to demand from the states of the world the obligation to respect these guiding principles. The main factor that makes it necessary is the obvious assumption of violations of the existing principles with respect to Azerbaijan. So, a clear example of such a violation is the factor of military occupation of the territories of Azerbaijan. Namely, this violation can be assessed in two aspects. The first one is connected with the occupation of the Nagorno-Karabakh region of Azerbaijan. The second aspect relates to the seizure of 7 adjacent districts that are not part of the Nagorno-Karabakh region (Lachin, Kalbajar, Aghdam, Fuzuli, Jabrayil, Gubadly, and Zangilan), 1 settlement of Nakhchivan Autonomous Republic, 13 settlements of Tartar district and 7 settlements of Gazakh district. Despite the fact that all these territories occupied by Armenia are part of the territorial integrity of Azerbaijan and exist within the framework of internationally accepted frontiers, historically the Nagorno-Karabakh region has been increasingly turned into an object of groundless Armenian claims. These claims were increasingly beginning to be revealed, in particular, in the period of the existence of the Azerbaijan Democratic Republic and the creation of the USSR with the annexation of the union republics. Namely, from this point of view and as a result of numerous pressures, in accordance with Article 1 of the Decree of the Central Executive Committee of the Azerbaijan SSR "On the Establishment of the Nagorno-Karabakh Autonomous Region within the Azerbaijan SSR", dated July 7, 1923, it was intended to create an autonomous region as an integral part Azerbaijan SSR, the center of which was Khankandi. In Paragraph 4 of the Decree, which provided for provision related to the management of this territory, a provision was included to ensure all necessary financial and technical resources of the Executive Committee of the Region on the account of the general funds of the Azerbaijan SSR on the basis of the direct instruction of the Central Executive Committee of the Azerbaijan SSR[4]. Armenians were not populated on the whole territory, but only in one part of Nagorno-Karabakh. In addition, the name of the center allocated for the Nagorno-Karabakh Autonomous Region – Khankandi

[4] Collection of legal acts and orders of the Workers' and Peasants' Government of the USSR for 1923. Baku, 1925, pp. 384-385 *(in Russian)*

is the toponym belonging to our people. Constantly continuing the policy of "assimilation" on the basis of false criteria, on August 10, 1923, Armenians changed the name of Khankandi and began to name Stepanakert in honor of Stepan Shaumyan, who was one of the main organizers of the March genocide against Azerbaijanis[5]. In the explored researches it was rightly noted that, the creation of the Nagorno-Karabakh Autonomous Region in 1923 decisively violated the integrity of Karabakh. Since, the territory of this Autonomous Region was formed not on the scientific and geographical basis, but on the basis of the principle of voluntarism. That is, it was organized by the unification under the name of the autonomous region of those local territories in which they surpassed the settlements of the Armenians[6].

Apparently, historically Nagorno-Karabakh was Azerbaijani lands (territory). The provisions on its inalienability from Azerbaijan and prevention of unauthorized change of frontiers were the main norms of the legislative system of the former USSR. So that, article 78 of the USSR Constitution of 1977 reflected the provision on the impossibility of changing frontiers between the union republics without the mutual consent of the respective republics and the confirmation of the Union, and in the article 81 the provision on the protection of the sovereign rights of the Union republics by the Union. By the way, it should be noted that, on June 14, 1988, the Supreme Council of the Armenian SSR, contrary to the main law of the Union and the Union Republics, gave "consent to the accession" of the Nagorno-Karabakh Autonomous Region to the Armenian SSR. On June 17, 1988, the Supreme Council of the Azerbaijan SSR in response to this, including in full compliance with the main law of the Union and the Union Republics, made a substantial decision to leave the Nagorno-Karabakh Autonomous Region within the Azerbaijan SSR. As a result, acting from the requirements of Article 78 of the USSR Constitution, the Presidium of the Supreme Council of the USSR made a decision on the impossibility of changing the national-territorial division of the Azerbaijan SSR and the Armenian SSR[7]. Apparently, Article 78 of the Constitution of the USSR is considered as a legal confirmation of the impossibility of changing the borders of the Azerbaijan SSR without its consent. Also, the decision "On

[5] Aziz B. Khojaly Genocide: Causes, methods of implementation and consequences. Baku, Azerneshr, 2014, pp. 33-34 *(in Azerbaijani)*

[6] Aziz B. Khojaly Genocide: Causes, methods of implementation and consequences. Baku, Azerneshr, 2014, p. 28 *(in Azerbaijani)*

[7] www.president.az/azerbaijan/karabakh

Measures to Accelerate the Socio-economic Development of the Nagorno-Karabakh Autonomous Region of the Azerbaijan SSR in 1988-1995", dated March 24, 1988, adopted within the Union, clearly shows that the Nagorno-Karabakh Autonomous Region is an integral part of the Azerbaijan SSR.

In all the constitutions of the USSR, the norms on protecting the territorial integrity of states, as well as the inadmissibility of un-authorized and illegal change of borders were provided. So that, Paragraph 6 of the 1924 Constitution of the USSR, as well as Article 18 of the 1936 USSR Constitution, clearly provided for the inadmissibility of changing the territories of the Union republics without their consent. In the Preamble of the Declaration of Alma-*Ata (presently the city of Alma-Ata is called Almaty – **author**)*, confirming the fact on the termination of the existence of the USSR as well as declaring aim and principles of the Commonwealth of Independent States, the states (including, Armenia) that signed this document especially emphasized: we recognize and respect each other's territorial integrity and the inviolability of the existing borders. Moreover, in the Article 5 of the Agreement "On Creation of the Commonwealth of Independent States" of 8 December 1991, the obligation of the parties to recognize and respect territorial integrity of each other and inviolability of the existing borders within the Commonwealth is reflected.

However, against all international norms, on September 2, 1991, the so-called and separative "Nagorno-Karabakh Republic" was declared. In response, on November 23, 1991 Azerbaijan abolished the autonomous status of Nagorno-Karabakh. On December 10, 1991, a fictitious and completely programmed and illegal referendum on the independence of the Armenian community was held in so-called "Nagorno-Karabakh Republic". On January 6, 1992, the Declaration of Independence of a mono-ethnic, fictitious "Nagorno-Karabakh Republic" was declared. Making this decision, the Armenian separatists transferred the conflict to "hot stage", leading to the death of Armenians, who became hostages of Yerevan's aggressive fantasies, and innocent Azerbaijanis[8]. In some Armenian works, the annexation of a part of the territory of Azerbaijan by Armenia is unreasonably assessed as the refusal of our country from the succession of the Soviet Union and is "grounded" with reference to articles 2 and 3 of the "Constitutional Act on the State Independence of the Republic of Azerbaijan"

[8] The modern system of international relations: through the prism of Newtimes.az. Project manager and editor N.I.Mammadov. Editorial board: P.Darabadi, A.Habibbayli, T.Gurbanov, K.Adigozelov. Baku, Print-X LLC, 2014, p. 196 *(in Azerbaijani)*

of 18 October 1991[9]. However, for some reason, from the point of view of a full analysis of the history of the provision "The Republic of Azerbaijan is the Heir of the Republic of Azerbaijan that existed from May 28, 1928 till April 28 of 1920", stipulated in Article 2 of the Constitutional Act, "was lost sight of". So that, on May 28, 1918, after the collapse of Caucasian Seym the Armenian National Council declared the establishment of the Armenian Republic in Tbilisi. On May 29, 1918, the meeting of the Azerbaijani National Council was held in Tiflis. According to the No 3 protocol of the meeting, Fatali Khan Khoyski made a Report about the results of the discussions held between Azerbaijani and Armenian members of Councils, referring to the territorial issues. Fatali Khan Khoyski in his Report has noted the necessity of a political center for establishment of the Armenian Federation and in addition described the city of Iravan as the only possible option, since Aleksandropol (Gumru) became a part of Turkey. After this information, he has notified about the necessity of compromising of the latter in favor of Armenians. Thus, Azerbaijani National Council adopted a decision on compromising Iravan to Armenia. Even, Fatali Khan Khoyski, the Prime Minister of the Azerbaijan Democratic Republic, was writing in his letter sent on the May 29 to the Minister of Foreign Affairs, Mammad Hasan Hajinski*: "We put an end to all disputes with Armenians, they will accept the ultimatum and end the war. We have compromised with them on Iravan"*[10]. Even, referring to the sources of Armenians, it is proved by concrete facts that, historically the majority of the population of Iravan were Azerbaijanis. Armenian scholar Zaven Korkodyan, in his book "The Population of Soviet Armenia in 1831–1931", published in 1932, noted that, 15.992 out of 18.766 population in 1883, 23.626 out of 27.246 population in 1886 in Iravan city were Azerbaijanis, i.e. 85,2%[11].

One of the facts proving the relocation of Armenians to Nagrono-Karabakh is commemoration with celebrations and the inauguration of a memorial to the "150th Anniversary of the relocation of Armenians to Azerbaijan including Nagorno-Karabakh" in Aghdara district of Azerbaijan in 1978. When the territorial claims of Armenia against Azerbaijan started in Karabakh the

[9] Avakian Sh. Nagorno-Karabakh. Legal aspects. Second edition. Yerevan, "Tigran Metz", 2014, pp. 18-19 *(in Russian)*

[10] Encyclopedia of Azerbaijan Democratic Republic. In 2 Volumes. Vol. II. Ed. by Y.Mahmudov. Baku, "Lider Publishing House", 2005, pp. 56-61 *(in Azerbaijani)*

[11] Mahmudov Y.M., Shukurov K.K. Karabakh: Real history, Facts, Documents Baku, "Tahsil" Publishing House, 2005, p. 70 *(in Azerbaijani)*

memorial was intentionally destroyed with the purpose of distortion of history[12]. As regard the Article 3 of the "Constitutional Act on the State Independence of the Republic of Azerbaijan" of 1991, expression of "*the section of the contract on the establishment of the USSR of December 30, 1922, concerning Azerbaijan is not effective since signing of the said document. The issues appearing in the establishment of the multilateral relations between the sovereign countries once constituting the USSR must be settled by means of the contracts and agreements"*, stated in that Article, can in no way be considered as a basis for estimation of Nagorno-Karabakh as a sovereign state and refusal of Azerbaijan from this territory. Since, "sovereign states", stated in this norm, means 15 union republics (Russia, Ukraine, Belarus, Uzbekistan, Kazakhstan, Georgia, Azerbaijan, Lithuania, Moldova, Latvia, Kyrgyzstan, Tajikistan, Armenia, Turkmanistan, Estonia), the list of which is defined in Article 71 of the USSR Constitution of 1977. So that, according to the Article 72 of the Constitution of 1977, each of these states had the right to freely withdraw from the USSR. Thus, one of the factors, proving the lack of any relation between the Article 3 of the "Constitutional Act on the State Independence of the Republic of Azerbaijan" and Nagorno-Karabakh, is that, the relations between the authorities of the Azerbaijan SSR and the Nagorno-Karabakh Autonomous Region were regulated not by international law, but by national legislation. Another factor related to estimation of borders during the existence of the USSR between the Union republics, not according to international law, but as state borders. The boundary lines separating their internal territories were of an administrative nature[13]. Moreover, Article 24 of the USSR Constitution of 1936 noted that, the Azerbaijan SSR consists of the Nakhchivan Autonomous Soviet Socialist Republic and the Nagorno-Karabakh Autonomous Region. Also, in Article 87 of the USSR Constitution of 1977, the Nagorno-Karabakh Autonomous Region was noted as an integral part of the Azerbaijan SSR. At the same time, according to Article 83 of the Constitution of the Azerbaijan SSR of 1978, the Nagorno-Karabakh Autonomous Region was part of the Azerbaijan SSR. Namely, in the continuation of this, Article 4 of the "Constitutional Act on the State Independence of the Republic of Azerbaijan" notes that the Constitution

[12] Krüger H. Conflict of Nagorno-Karabakh. Legal Analysis. Translation from German edition. Translation edited by A.I.Aliyev, T.I.Huseynov. Baku, "Baku University" Publishing House, 2012, p. 11 *(in Russian)*

[13] Merezhko A.A. The Problem of Nagorno-Karabakh and International Law. Kiev, Publishing House of Dmitriy Bugaro, 2014, p. 16 *(in Russian)*

of Azerbaijan of 1978 which does not contradict to the present Constitutional Act remains in effect. At the same time, the expression of "*all the acts that had been effective before the restoration of the state independence of the Republic of Azerbaijan, do not contradict to the sovereignty and territorial integrity of the Republic of Azerbaijan…..retain their effectiveness in the Republic of Azerbaijan"*, stipulated in the same Article, is a clear example of the fact that, Nagorno-Karabakh was an integral part of Azerbaijan both during the former USSR and after its independence. Along with this, analyzing the Article 3 of the "Constitutional Act on the State Independence of the Republic of Azerbaijan", it should be mentioned that, in fact, a clear example of a violation of the principles of international law should be esteemed the Preamble of the "Armenian Declaration of Independence", dated August 23, 1990[14]. Since, the noted part of this document reflects two conflicting moments – a reference to the Joint Decision of the Armenian SSR Supreme Council and the Nagorno-Karabakh National Council on the "Unification of the Armenian SSR and Nagorno-Karabakh", dated December 1, 1989, as well as a provision on development of the democratic traditions of the independent Republic of Armenia established on May 28, 1918. The contradictory point of the matter is that, declaring its independence, that is, on May 28, 1918, neither Nagorno-Karabakh, nor Iravan, the present-day capital, were considered as the territories of Armenia. Another point of the contradiction is that, the adoption of the unilateral document *(that is, adoption based solely on the will of Armenia and Armenians)* on the consolidation of the territory by Armenia, which has never any administrative border lines with it and not being subject of international law is a obvious violation of international law, in particular, the principles of the territorial integrity of states and the inviolability of frontiers.

The second aspect of aggression in the territory of Azerbaijan by Armenia is the invasion of 7 adjacent districts, that are not part of the Nagorno-Karabakh region (Lachin, Kalbajar, Aghdam, Fuzuli, Jabrayil, Gubadly, Zangilan), 1 settlement of Nakhchivan Autonomous Republic, 13 settlements of Tartar district and 7 settlements of Gazakh district. Having invaded these territories, Armenia seriously violated all the principles of international law. Even, this issue is clearly revealed in the reports of international organizations. So, a clear example of this is the expression in the Final Report of the Office for Democratic Institutions and Human Rights of OSCE on Presidential Election

[14] www.parliament.am/legislation.php?sel=show&ID=2602&lang=rus

in Armenia in 1998 "*it is of extreme concern that one of the mobile boxes has crossed the national borders of the Republic of Armenia to collect votes of Armenian soldiers posted abroad (Kalbajar)*"[15].

Based upon the positions of some foreign scholars, as an exception to the principle of inviolability of frontiers, it could be shown the mutual consent of states and the corresponding decision of the UN Security Council[16]. That is, in these two circumstances, changing borders cannot be deemed a violation of this guiding principle. Undoubtedly, along with these two conditions, the implementation of the provisions of the domestic legislation, in particular, the constitutional requirement is extremely important. For example, according to the second part of Article 3 of the Constitution of Azerbaijan, change of state borders of Azerbaijan may be solved only by way of referendum. On the application of exceptional circumstances on the principle of inviolability of frontiers with regard to the fact of the occupation of more than twenty percent of the territory of our country during the Armenia-Azerbaijan conflict, it should be noted that there is no agreement on the transfer of the territories of Azerbaijan to Armenia's control. This should be noted regarding the Nagorno-Karabakh region, which is supposedly a "disputed territory". Since, this issue was implemented in violation of Article 78 of the USSR Constitution of 1977, which was in force at that time, on the basis of an unlawful decision of the Supreme Council of the Armenian SSR, dated June 14, 1988. This article was also referred to in the decision, dated July 18, 1988, of the Presidium of the Supreme Council of the USSR on the impossibility of changing the national-territorial division of the Azerbaijan SSR and the Armenia SSR. On the other hand, along with the mutual consent of the parties, according to the second Paragraph of Article 73 of the USSR Constitution, approval of changes in the boundaries between Union Republics is under jurisdiction of the USSR, as represented by its highest bodies of state authority and administration. Further, in the continuation of this, according to the Article 122.2 of the Constitution, approval of the changes in the boundaries between Union Republics is carried out by the Presidium of the Supreme Council of the USSR. However, contradictive issue is that, in those days, despite serious violations of the Union's legislation, in fact, these acts of Armenia were overlooked and the necessary condition was indirectly created for them. So that, immediately after rising to the power

[15] www.osce.org/odihr/elections/armenia/14192?download=true

[16] Merezhko A.A. The Problem of Nagorno-Karabakh and International Law. Kiev, Publishing House of Dmitriy Bugaro, 2014, p. 165 *(in Russian)*

of M.S.Gorbachev, who always stands on unfair – opposite position against our country and people as well as one of the main leaders and initiators of commitment of crimes against humanity on the night of January 19-20 1990 in Baku, violating sovereign right of Azerbaijan envisaged in article 81 of USSR Constitution, dated 1977, – on June 20, 1985, the Council of Ministers adopted the decree "On the Extension of Repatriation – Relocation of Armenians from abroad to the USSR in 1985-1986". According to letter by the leadership of the Armenian SSR, implementation of this Decision was unofficially prolonged till the collapse of the USSR[17].

As noted above, on the existence of an appropriate decision of the UN Security Council as an exceptional circumstance from the principle of inviolability of frontiers as the basic principle of international law, it should be especially emphasized that, in the UN decisions related to the Armenia-Azerbaijan conflict and invasion of the territory of Azerbaijan, the integrity of our country has been constantly supported, as well as Nagorno Karabakh was marked as an integral part of Azerbaijan. This is confirmed by the expression of "*.....in the Nagorno-Karabakh region of the Azerbaijan Republic"*, reflected in Paragraph 9 of the UN Security Council Resolution 853, dated July 29, 1993, as well as in the Preambles of the UN Security Council Resolution 874, dated October 14, 1993 and UN Security Council Resolution 884, dated November 12, 1993. Also, in the decisions of other international organizations, for example, in Article 3 of the Council of Foreign Ministers Resolution of the Organization of the Islamic Conference (currently Organization of Islamic Cooperation) "On the Conflict between Armenia and Azerbaijan" (12/21-P, 1993), it was noted the importance of the settlement of the Karabakh issue on the basis of respect for the principles of territorial integrity of states and inviolability of internationally recognized frontiers. Furthermore, in Paragraph 4 of the of the Council of Foreign Ministers Resolution of the Organization "On Aggression of the Republic of Armenia against the Republic of Azerbaijan" (12/24-P, 1996), strongly demands the immediate unconditional and complete withdrawal of Armenian forces from all occupied Azerbaijani territories *inter alia* Lachin and Shusha districts. Apparently, a special emphasis on the name of the Shusha district in the last document shows that, the international community accepts Nagorno-Karabakh as an integral part of the territory of Azerbaijan. Because,

[17] Mammadov I.M. The Sumgayit Provocation against Azerbaijan – "The Grigoryan Case". Baku, "Tahsil" Publishing House, 2013, p. 224-225 *(in Azerbaijani)*

Shusha, the absolute majority of the population of which before the occupation was Azerbaijanis, was part of the Nagorno-Karabakh Autonomous Region, which once created and now masked by Armenians under the "independent state" image.

In the Declaration of the European Union on forthcoming "Presidential Elections in Nagorno-Karabakh"', dated August 2, 2002, it was noted that, The European Union confirms its support for the territorial integrity of Azerbaijan, and recalls that it does not recognize the independence of Nagorno-Karabakh. In addition, the documents of the Organization for Democracy and Economic Development – GUAM reflect the necessity to observe the territorial integrity and inviolability of frontiers of Azerbaijan.

In this case, at providing the territorial integrity of the Republic of Azerbaijan, determined by international law, the need to apply the principle "*uti possidetis juris*" (*the newly independent states, have the same territory as was given to them by the previous regime*) should not be overlooked[18].

Principle of settlement of international disputes by peaceful means. Such documents as 1907 Hague Convention "For the Pacific Settlement of International Dispute"', Briand-Kellogg Pact 1928 "For the renunciation of war as an instrument of national policy", Declaration "On the prevention and removal of disputes and situations which may threaten international peace and security and on the role of the United Nations in this field" of 1988, etc., are especially important as international documents, which establish the settlement of international disputes by peaceful means.

Article 2.3 of the UN Charter notes that, all Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. Article 2 of Briand-Kellogg Pact directly shows that, the High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin

[18] Krüger H. Conflict of Nagorno-Karabakh. Legal Analysis. Translation from German edition. Translation edited by A.I.Aliyev, T.I.Huseynov. Baku, "Baku University" Publishing House, 2012, pp. 58-60 *(in Russian)*; Mirzayev F.S. Principle *uti possidetis juris* in modern international law: Theory and Practice. Author's abstract to the dissertation on competition of a scientific degree of PhD. Baku, 2008, pp. 20-21 *(in Russian)*; Novruzov G.N. Self-determination of people and nations in modern international law. Baku, "Azerneshr", 2014, pp. 65-75 *(in Azerbaijani)*; Mustafayeva N.I. Principles of international law and Nagorno-Karabakh conflict. Monograph. Baku, 2014, pp. 28-29 *(in Russian)*; Gasimov D.G. Nagorno-Karabakh and Kosovo: Is it possible to make international legal parallels? Sight from Azerbaijan // Journal "Strategic analysis", 2010, № 1, p. 66 *(in Azerbaijani)*

they may be, which may arise among them, shall never be sought except by peaceful means.

This principle calls on states to settle any interstate dispute by peaceful means. At the time of dispute parties may not refuse the regulation of the problem by peaceful means. Declaration "On the prevention and removal of disputes and situations which may threaten international peace and security and on the role of the United Nations in this field" of 1988 intended the principle of the state responsibility on the prevention and removal of threats to the peace and of situations which may lead to international friction or give rise to a dispute.

In general, the normative content of the principle of settlement of international disputes by peaceful means includes: the states shall settle their disputes only by peaceful means regardless of character and origins; at the settlement of their disputes the states have the right to choose any of the peaceful means; the states may not obliged to present the disputes between them to any third party for settlement; the states parties to an international dispute shall refrain from any action which may aggravate the situation; the states shall settle their disputes in accordance with the norms of international law.

The activities of international organizations related to the settlement of the Armenia-Azerbaijan conflict by peaceful means may be assessed in two aspects. The first is related to the simple support of international organizations in resolving this conflict by peaceful means. The international organizations of this category are satisfied only with the statement that their position is to resolve the disputes by peaceful means. As a clear example, Paragraph 2 of the UN Security Council Resolution 822, dated April 30, 1993, demanding the withdrawal of all occupying forces from the Kalbajar district and other occupied areas of Azerbaijan urges the parties concerned immediately to resume negotiations for the resolution of the conflict within the framework of the peace process of the Minsk Group of the Conference on Security and Cooperation in Europe and refrain from any action that will obstruct a peaceful solution of the problem. Paragraph 6 of the UN Security Council Resolution 853, dated 29 July, 1993, condemning the invasion of the district of Aghdam and of all other occupied areas of the Azerbaijan endorses the continuing efforts by the Minsk Group of the CSCE to achieve a peaceful solution to the conflict is appreciated, and expresses grave concern at the disruptive effect that the escalation of armed hostilities has had on these efforts. Moreover, paragraph 8 of the same document includes the provision of call character on urging the parties concerned to refrain from any action that will obstruct a peaceful solution to the conflict, and

to pursue negotiations within the Minsk Group of the CSCE, as well as through direct contacts between them, towards a final settlement. Also, the Statement by the President of the Security Council (S/PRST/1995/21), dated April 26, 1995, stresses that, the parties to the conflict themselves bear the main responsibility for reaching a peaceful settlement. Settlement of Armenia-Azerbaijan conflict by peaceful means, including substantial role of the Minsk Group of OSCE in this field was reflected in the documents of the UN General Assembly. For example, Resolution 57/298 "On the Cooperation between the United Nations and the Organization for Security and Cooperation in Europe", dated February 6, 2013 (in the Preamble and Paragraph 26-27), Resolution 62/243 "On the situation in the occupied territories of Azerbaijan"', dated March 14, 2008 (Paragraph 6), etc. At the same time, along with the peaceful settlement of conflict (Paragraph 8) in Report of the UN Secretary-General "On the situation in the occupied territories of Azerbaijan", dated March 30, 2009, Paragraph 11 of this document noted that, another important element is a rehabilitation and economic development of the region, also, this step is essential for the process of normalization of life and the restoration of peaceful coexistence and cooperation between the two communities. Furthermore, Paragraph 13 of this document stipulated that, the conflict can only be solved on the basis of respect for the territorial integrity and inviolability of the internationally recognized borders of Azerbaijan, and peaceful coexistence of Armenian and Azerbaijani communities in the Nagorno-Karabakh region.

The second aspect of the activities of international organizations related to the settlement of the Armenia-Azerbaijan conflict by peaceful means includes the effort to use any peaceful mean of settlement of international disputes, by participating in the resolution process of this conflict. The main role in the realization of this function is played by the OSCE (the former CSCE). After the ceasefire agreement between Armenia and Azerbaijan, negotiations began in 1994 within the framework of the OSCE Minsk Group. The OSCE Summit, held in Budapest on December 5-6, 1994, adopted a decision on "Intensification of OSCE action in relation to the Nagorno-Karabakh conflict". In 1997, the Institute of co-chairmanship of the OSCE Minsk Group was established, consisting of France, Russia and the United States. Besides, in 1996, at the Lisbon Summit, the OSCE Minsk Group and the OSCE Chairman-in-Office recommended the principles that would form the basis for the resolution of the Nagorno-Karabakh conflict, but, Armenia did not accept these principles and became the only state that voted against this decision from 54 OSCE member

states. Thereafter, the OSCE Chairman-in-Office made a statement including these principles. These principles include: principle of territorial integrity of Azerbaijan and Armenia; legal status of Nagorno-Karabakh defined in an agreement based on self-determination which confers on Nagorno-Karabakh the highest degree of self-rule within Azerbaijan; guaranteed security for Nagorno-Karabakh and its whole population, including mutual obligations to ensure compliance by all the Parties with the provisions of the settlement.

However, the principles adopted at the Lisbon Summit have still not found their realization. Further, in the statement of the OSCE Chairman-in-Office it was noted that, "no progress has been achieved in the last two years *(i.e. during 1994-1996 – **author)*** to resolve the Nagorno-Karabakh conflict and the issue of the territorial integrity of Azerbaijan. I regret that the efforts of the Co-Chairmen of the Minsk Conference to reconcile the views of the parties on the principles for a settlement have been unsuccessful'[19].

Generally, all proposals, put forward by the Minsk Group in relation to the resolution of the Nagorno-Karabakh conflict on the basis of international law within the framework of territorial integrity and internationally recognized borders of Azerbaijan, are rejected by Armenia in certain form on various pretexts without any international legal basis. Direct meetings between the Presidents of Azerbaijan and Armenia, organized to achieve a resolution of the conflict, end in failure as a result of the unconstructive activities of the present leadership of Armenia.

Principle of respect for human rights and fundamental freedoms. The principle of respect for human rights and fundamental freedoms is one of the main principles of international law and forms the basis of interstate relations. The principle of respect for human rights and fundamental freedoms, expressing human rights, fundamental freedoms, democracy and the rule of law, is of an international nature. This principle was stated in the general form in the UN Charter and, after that, was reflected in the Helsinki Final Act of the OSCE of 1975 as the main, universally recognized principle of international law. The wide international normative and legal basis adopted in this field absolutely determined the existence of this principle. In general, important principles of human rights were enshrined in the UN Charter, the Universal Declaration of Human Rights (1948), the International Covenant "On Civil and Political

[19] Garayev R.M. Value of the decisions of international organizations in settlement of Armenian-Azerbaijan Nagorno-Karabakh conflict and international law. Baku, "Taknur", 2012, pp. 79-80 *(in Azerbaijani)*

Rights" (1966), the International Covenant "On Social, Economic and Cultural Rights" (1966), the Convention "On the Elimination of All Forms of Racial Discrimination" (1965), the Convention "On the Elimination of All Forms of Discrimination against Women" (1979), the Convention "On the Rights of the Child" (1989), etc.

Principle of respect for human rights and fundamental freedoms, first of all, was stated in several provisions of the UN Charter. So that, Article 1 of the Charter defined as one of the goals of the Organization, to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without any distinctions. Article 55 of the Charter defined other aspects of the principle of respect for human rights. This Article states that, with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: higher standards of living, full employment, and conditions of economic and social progress and development; solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

The human rights violations as a result of the Armenia-Azerbaijan armed conflict, as well as the territorial claims of Armenia against Azerbaijan and occupation of our lands can be assessed in three aspects. The first aspect of violation is related to violation of the right to life of people – citizens of Azerbaijan during the conflict. By the way, according to the international documents, the right to life is not a civil right, but natural rights inherent human. To ensure the right to life of an individual, having the citizenship of the state of the person is not the main condition, namely from this point of view in international documents the subject of this right is defined as "*everyone*", "*every human being*". So that, according to Article 3 of the Universal Declaration of Human Rights (1948), everyone has the right to life. Article 6 of the International Covenant "On Civil and Political Rights" (1966) noted that, every human being has the inherent right to life. At the same time, there is a norm on protection of this right by law and inadmissibility of arbitrarily deprivation of anyone of his life. A characteristic feature of this international legal document *(in particular Article 6)* is that, the right to life was directly linked to the crime of genocide. So that, in accordance with

Article 6.3 of the Covenant, when deprivation of life constitutes the crime of genocide, it is understood that nothing in this article (i.e. Article 6) shall authorize any State-Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention "On the Prevention and Punishment of the Crime of Genocide". Even, in relation with the interpretation of this article, paragraph 2 of the "General Comment No. 6: Article 6 (Right to Life)" of the UN Human Rights Committee, dated April 30, 1982, observes that, war and other acts of mass violence continue to be a scourge of humanity and take the lives of thousands of innocent human beings every year. The Committee considers that States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life. Every effort they make to avert the danger of war and to strengthen international peace and security would constitute the most important condition and guarantee for the safeguarding of the right to life. In this respect, the Committee notes, in particular, a connection between article 6 and article 20, this states that the law shall prohibit any propaganda for war or incitement to violence. Apparently, the crimes of genocide, committed by Armed Forces of Armenia and Armenian armed detachments in Khojaly city and other territories of Azerbaijan, must be assessed as the violation of the right to life. It is true that, the Armenia may claim that it acceded to the International Covenant "On Civil and Political Rights" (1966) and the Convention "On the Prevention and Punishment of the Crime of Genocide" (1948) on June 23, 1993, that is, after these events, and may repudiate the responsibility. However, it should be taken into account that, in committing crimes of genocide against Azerbaijanis in the 90's of the 20th century, Armenia was already an independent state. So that, on September 21, 1991, a referendum was held on leaving the territory of the former USSR and obtaining state independence. On September 23, 1991, the Supreme Council of Armenia confirmed the results of the referendum. As a consequence, on September 25, 1991 the Constitutional Law of Armenia "On the Fundamentals of Independent Statehood" was adopted. All these facts prove the fact of committing of the crime of genocide by Armenia as an independent state. On the other hand, non-accession of the Convention "On the Prevention and Punishment of the Crime of Genocide" (1948) by Armenia does not exempt it from responsibility. Since, the obligations listed in the 1948 Convention are part of public international law and are recognized by all states of the world as an international customary law. Even, Advisory Opinion of the International Court of Justice "*On Reservations to the Convention on*

the Prevention and Punishment of the Crime of Genocide" (1951) and the Judgement of the International Court of Justice on the case *"Concerning application of the Convention on the prevention and punishment of the crime of genocide (Bosnia and Herzegovina v. Serbia and Montenegro)"* (2007) universally recognized main provisions of this international legal document as customary international law[20].

According to the precedents, formed on the cases of European Court of Human Rights, the killing of people during an armed conflict, in particular the killing of civilians, is assessed as a violation of Article 2 (right to life) of the European Convention for the "Protection of Human Rights and Fundamental Freedoms" of 1950. Even, it says, in Article 15.2 that, even in times of war, no derogation from Article 2, except in respect of deaths resulting from lawful acts of war shall be made under this provision. This means that acts resulting in loss of lives, committed during times of war, and which contravene international humanitarian law, are *ipso facto* also violations of Article 2[21].

In general, killing of civilians or creating circumstances that would lead to their death is absolutely prohibited according to international documents. Namely, from this point of view, the killing of the civilians without any military necessity and as a consequence of this the violation of the right to life during the armed conflict and aggression by Armenia is a direct confirmation of the provision "*disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind*" noted in the Preamble of the Universal Declaration of Human Rights, as well as the rejection of the provision "*recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*", stated in the Preamble of the International Covenant "On Civil and Political Rights" and the provision "*fundamental freedoms which are the foundation of justice and peace in the world and are best maintained…… by a common understanding and observance of the Human Rights upon which they depend*", stated in the Preamble of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

In the context of committing of international crimes by Armenia against Azerbaijan, the second aspect of the human rights violation is related to

[20] Huseynov L.H. International law. Textbook. Baku, "Ganun" Publishing House, 2012, p. 22 *(in Azerbaijani)*

[21] Korff D. The right to life. A guide to the implementation of article 2 of the European Convention on Human Rights. Strasbourg, 2006, p. 55

occurrence of a number of refugees and forcibly displaced persons as a result of aggression, deportation and ethnic cleansing. Related issues are detailed in documents adopted by various international organizations. So that, Paragraph 12 of the UN Security Council Resolution 853, dated 29 July, 1993, condemning the occupation of the district of Aghdam and of all other invaded areas of Azerbaijan, Paragraph 11 of the UN Security Council Resolution 874, dated 14 October, 1993, calling for the withdrawal of forces from occupied territories and settlement of the conflict through peaceful negotiations, as well as Paragraph 7 of the UN Security Council Resolution 884, dated November 12, 1993, condemning the recent violations of the cease-fire established between the parties, which resulted in a resumption of hostilities, particularly, the occupation of the Zangilan district and the city of Horadiz, request the Secretary-General and relevant international agencies to provide urgent humanitarian assistance to the affected civilian population and to assist displaced persons to return to their homes in security and dignity. Furthermore, in the Resolution 48/114 of the UN General Assembly "On emergency international assistance to refugees and displaced persons in Azerbaijan", dated December 20, 1993, it was deeply concerned about the enormous burden that the massive presence of refugees and displaced persons has placed on the country's infrastructure. The characteristic feature of this document is that, in the Preamble for the first time confirmed that, the number of refugees and displaced persons in Azerbaijan had recently exceeded one million. Also, this Resolution intended some provisions in order to solve existed problem: emphasizing the efforts undertaken by the Secretary-General in drawing the attention of the international community to the acute problems of the Azerbaijani refugees and displaced persons and in mobilizing assistance for them; appeals to all States, organizations and programs of the United Nations, specialized agencies and other intergovernmental and non-governmental organizations to provide adequate and sufficient financial, medical and material assistance to the Azerbaijani refugees and displaced persons; inviting the international financial institutions and the specialized agencies, organizations and programs of the United Nations system, where appropriate, to bring the special needs of the Azerbaijani refugees and displaced persons to the attention of their respective governing bodies for their consideration and to report on the decisions of those bodies to the Secretary-General; inviting the Secretary-General to continue to monitor the overall situation of refugees and displaced persons in Azerbaijan and to make available his good offices as required; requesting the United Nations High Commissioner for Refugees

to continue her efforts with the appropriate United Nations agencies and intergovernmental, governmental and non-governmental organizations, in order to consolidate and increase essential services to refugees and displaced persons in Azerbaijan.

In Paragraph 76 of the Final Communique of 23rd Session (Conakry, 1995) of the Council of Foreign Ministers of the Organization of Islamic Conference (presently Organization of Islamic Cooperation) it was expressed concern over the severity of humanitarian problems concerning the existence of more than one million displaced persons and refugees in the territory of Azerbaijan. In Paragraph 2 of the Resolution 1416 of the Parliament Assembly of Council of Europe "The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference" (2005) it was reiterated that the occupation of foreign territory *(i.e. territory of Azerbaijan –* ***author)*** *by a member state (i.e. Armenia –* ***author)*** constitutes a grave violation of that state's obligations as a member of the Council of Europe, also reaffirmed the right of displaced persons from the area of conflict to return to their homes safely and with dignity. In the Paragraph 2.4.3 of the Programme of Action "The Organization of Islamic Cooperation – 2025" of the 13th Islamic Summit (Istanbul, 2016) of the Organization of Islamic Cooperation, Armenia is urged to secure the inalienable right of the Azerbaijani population expelled from the occupied territories of Azerbaijan to return to their homes. In the Preamble of the Declaration "On Unity and Solidarity for Justice and Peace", adopted at the same Summit, approaching in wide context to the issue of refugees and forcibly displaced persons, concern at the unbearable sufferings of millions of Muslim refugees, who had to flee their homes as a result of armed conflicts, civil wars and oppression in their own land is expressed.

If abandonment of their own land by Azerbaijani refugees and forcibly displaced persons is the first aspect of the problem, then, its second aspect is violation of human rights and freedoms by Armenia, stipulated in international documents, which are possessed by these persons. So that, as the consequences of aggression and use of force by Armenia, the right to property of refugees and forcibly displaced persons has been violated in a whole, unemployment among them has been increased and chances of realization of the right to work have been reduced, their existed rights related to the places of their residence and arising from them have been roughly oppressed by Armenia. Moreover, the health of children born in the premises for refugees and forcibly displaced persons, in which there was no normal supply of heat and electricity, sanitation

and hygienic conditions, and their parents remained in danger. It is true that, as a result of the economic development of Azerbaijan, the existing problems have been eliminated and will continue to be eliminated, all possibilities are created to provide these persons with the appropriate conditions and to use all subjective opportunities by these persons in an unhindered, sufficient manner and with dignity. Even, this problem was raised by international organizations and before them, and was also the subject of consideration of the European Court of Human Rights. So that, the petitions brought before the Parliamentary Assembly of the Council of Europe by the members of the Assembly for the purpose of holding discussions on violations of human rights in the Armenia-Azerbaijan conflict (for example, "Prisoners of war and hostages arrested in Armenia and Nagorno-Karabakh", "Rights to education of refugees and displaced people in Azerbaijan in the context of future development in the field of education in Europe", "Humanitarian situation of refugee women and children in Azerbaijan", "Destruction of the historical cemeteries and creation of new permanent "cemeteries" by Armenians in the occupied territories of Azerbaijan", "Restoration of human rights in Azerbaijani lands occupied by Armenia", etc.) are clear examples in this regard. Also, the Paragraph 213 of the Decision of the Grand Chamber of European Court of Human Rights on the "*Case of Chiragov and others v. Armenia*" (2015) provides that, the Court has already found violations of Article 1 of Protocol No. 1 (protection of property) and Article 8 of the Convention (right to respect for private and family life) in regard to the continuing denial of access to the applicants' possessions and homes. Their complaints are therefore "arguable" for the purposes of Article 13 (right to an effective remedy). According to Paragraph 214, the Court reiterates that the respondent Government *(i.e. Armenia Government –* ***author)*** have failed to discharge the burden of proving the availability to the applicants of a remedy capable of providing redress in respect of their Convention complaints and offering reasonable prospects of success. For the same reasons, the Court finds that there was no available effective remedy in respect of the denial of access to the applicants' possessions and homes in the district of Lachin. Thus, the Court concludes that (Paragraph 215) there has been and continues to be a breach of the applicants' rights under Article 13 of the Convention and that Armenia is responsible for this breach. Moreover, in the Paragraph 207 of the Decision the Court finds that, for the same reasons as those presented under Article 1 of Protocol No. 1, the denial of access to the applicants' homes constitutes an unjustified interference with their right to respect for their private

and family lives as well as their homes. Accordingly (Paragraph 208), the Court concludes that there has been and continues to be a breach of the applicants' rights under Article 8 of the Convention and that Armenia is responsible for this breach.

The third aspect of the human rights violation as a result of the international crimes committed by Armenia is related to the rough deprivation of citizens of Azerbaijan from the realization of subjective opportunities inherent them, as a result of their capture or taking prisoner, as well as missing as a result of armed conflict. Even, if to pay attention to the statistics in connection with missing persons, prisoners or hostages, as a result of the Armenia-Azerbaijan conflict, it could be made a conclusion that their number is quite high and horrific. So that, according to the statistical data by February 1, 2018, provided by State Commission of Azerbaijan on Prisoners of War, Hostages and Missing Persons, the number of registered missing persons is 3875, 3165 of which are military personnel and 710 are civilians. 67 of missing persons are children (23 girls and 44 boys), 265 women and 326 elderly people (including 166 women). Furthermore, there are 871 persons regarding which have information that there are in captivity, 602 of them are military personnel and 269 civilians. 29 of those persons are children (7 girls and 22 boys), 98 women and 113 elderly people (including 64 women)[22]**.** These numbers not only show their status of prisoner, hostage or missing, at the same time, it should be taken into consideration that, human rights (for example, right to life, right to prohibition of tortures, right to prohibition of slavery and forced labour, right to protection from discrimination, right to protection of honor and dignity, etc.**)** of hundreds of citizens of Azerbaijan, who are in Armenian captivity, possessed in accordance with international law, were roughly, systematically and widely violated. This is proved by the numerous facts of different violations, committed against the citizens of Azerbaijan, being in Armenian captivity, regardless of age, sex, health and other criteria. Taking a glance at any facts in this field *(it should be considered that, such facts committed by Armenians are innumerable)*, it is possible to make a clear conclusion that, the treatment and behavior of Armenians with hostages, prisoners and missing persons, including wounded and sick, are serious violations of the norms of international law. So that, according to Article 12 of the First Geneva Convention "For the amelioration of the condition of the wounded and sick in armed forces in the field" of 1949,

[22] www.human.gov.az/az/view-page/27/əsir%2c+girov+və+itkin+düşmüşlər#.wptl5qh9vc8

members of the armed forces and other persons, who are wounded or sick, shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria; any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not willfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created. Only urgent medical reasons will authorize priority in the order of treatment to be administered. Women should be especially humanely treated. Moreover, cruel behavior and treatment of prisoners of war, which includes numerous facts, causes international legal responsibility not of the Armenian armed forces, but of the Armenia itself. At the same time, torture and other cruel, inhuman or degrading treatment or behavior should be considered as absolute violation of the Third Geneva Convention "Relative to the treatment of prisoners of war" of 1949. Even, according to Article 12 of that international legal document, prisoners of war are in the hands of the enemy state, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them. Moreover, Article 13 of this international document notes that, prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest. At the same time, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity. Measures of reprisal against prisoners of war are prohibited.

Serious offences committed regarding women and children, who are in captivity of Armenia, should also be considered as a violation of the provisions of the Protocol Additional to the Geneva Conventions of 1949 relating to the protection of victims of international armed conflicts (i.e. the First Additional Protocol). So that, according to Article 76 of the First Additional Protocol, women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault. Article

77 of this document notes that children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

Futhermore, expression of "*no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture*"**,** stated in Article 2.2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, once again proves the commission of serious violations of the norms of international law by Armenia in connection with the behavior and treatment against prisoners of war or hostages.

Principle of equal rights and self-determination of peoples. Principle of equal rights and self-determination of peoples has been developed after the adoption of the UN Charter as an important principle of international law. The rights of self-determination of peoples has been defined in the UN Charter, in the International Covenant "On Civil and Political Rights", further, in the Declaration on the "Granting of Independence to Colonial Countries and Peoples" of 1960, as an important and significant proviions. Declaration on the "Granting of Independence to Colonial Countries and Peoples" of 1960 defines the meaning of the principle of equal rights and self-determination of peoples as "all people freely determine their political status and freely pursue their economic, social and cultural development". This document embraces that, any attempt aimed at the disruption of the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations. Declaration 2625 of the UN General Assembly "On Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations" of 1970 notes that, nothing in this Declaration shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples. In the Helsinki Final Act of OSCE of 1975 the principle of equal rights and self-determination of peoples is described as an acting of the participating States at all times in conformity with the purposes and principles of the UN Charter and with the relevant norms of international law, including those relating to territorial integrity of States. In the Preamble of the Framework Convention of the Council of Europe for the "Protection of National Minorities" of 1995, inevitability of implementation of

the rights of minorities respecting the territorial integrity is especially noted. Article 21 directly provides that, nothing in the present Framework Convention shall be interpreted in contrary to the sovereign equality, territorial integrity and political independence of States. Similar provision also reflected in Article 5 of the European Charter for "Regional or Minority Languages" of 1992, as well as in Article 46 of the UN Declaration "On the Rights of Indigenous Peoples" of 2007.

Thus, the principle of equal rights and self-determination of peoples closely related to the principle of territorial integrity of states, realization of this right, being in conformity with sovereign equalty and territorial integrity of states, shall never be the ground for the separation of the state.

Despite the fact that in the Armenia-Azerbaijan conflict the opposite side characterizes the issue related to Nagorno-Karabakh as the right of peoples to self-determination, it should be noted that, firstly, international law does not give national or ethnic minorities the right to secession. Secondly, the prohibition of direct, as well as additional and indirect secession derives from the application of the principles of territorial integrity and the inviolability of frontiers. Finally, thirdly, regarding the problem of Nagorno-Karabakh, because of the fact of separation of this territory, waging war should be assessed not as a right to self-determination but, in effect, as secession, which shows the beginning of new military operations around Nagorno-Karabakh is considered a violation of international law[23]. One of the facts, showing that this problem is not a confirmation of the principle of self-determination of peoples, but, on the contrary, a violation of the principles of territorial integrity and inviolability of frontiers, is the existence of "close link" between the "fictitious state" created in this territory and Armenia. This is directly proved by such facts as the deployment of the Armenian Armed Forces in Nagorno-Karabakh and surrounding districts, the regular "exchange" of the high military command of both sides, financing of the main part of the budget of the so-called "Nagorno-Karabakh Republic" from Armenia through granting loans (according to some sources, at the moment it is 50% of the budget of the fictitious "Nagorno-Karabakh Republic"; in the early years of the conflict it is said to have been as high as 90%[24]), the correspondence

[23] Merezhko A.A. The Problem of Nagorno-Karabakh and International Law. Kiev, Publishing House of Dmitriy Bugaro, 2014, p. 156 *(in Russian)*

[24] Krüger H. Conflict of Nagorno-Karabakh. Legal Analysis. Translation from German edition. Translation edited by A.I.Aliyev, T.I.Huseynov. Baku, "Baku University" Publishing House, 2012, pp. 158-159 *(in Russian)*

of the currencies of the Republic of Armenia and fictitious "Nagorno Karabakh Republic", etc. A clear example is the expression of **"***Armenians from Armenia had participated in the armed fighting over the Nagorno-Karabakh region besides local Armenians from within Azerbaijan. Today, Armenia has soldiers stationed in the Nagorno-Karabakh region and the surrounding districts, people in the region have passports of Armenia, and the Armenian government transfers large budgetary resources to this area***"** in the Paragraph 6 of the Explanatory Memorandum of the Report on the topic "The Conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference", dated November 29, 2004, composed by David Atkinson, a member of the Parliament Assembly of the Council of Europe, Rapporteur of the Committee on Political Affairs, deputy from the United Kingdom. In addition, the expression of **"***the Armenian population of Nagorno-Karabakh*" in the clause *"the Armenian population of Nagorno-Karabakh……claims the right of self-determination. They are supported by Armenia."*, provided in the Paragraph 5 of the Explanatory Memorandum absolutely smashes up the chances of the realization of the principle of self-determination of peoples[25]. As the confimation of similar provision, it should be especially emphasized the provision *"Armenians of the Nagorno-Karabakh region of Azerbaijan"*, expressed in the Paragraph 9 of the UN Security Council adopted Resolution 853, dated July 29, 1993, and in the Paragraph 2 of the UN Security Council adopted Resolution 884, dated November 12, 1993. Apparently, the documents of the UN and reports of other international organizations do not use the expression of "the people of Nagorno-Karabakh", but use the term "Armenians of Nagorno-Karabakh" or "the Armenian population of Nagorno-Karabakh"', and, Nagorno-Karabakh is shown as a constituent part of Azerbaijan. And this, in itself, is a confirmation of the provisions of the Declaration 2625 "On Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations", dated 1970, aimed at harmonizing the principle of equal rights and self-determination of peoples with the principle of territorial integrity of states. Thus, non-existence of other signs (for example sovereignty etc.) inherent in the state[26], as well as the absence of the criteria listed in Article 1 of the Montevideo Convention "On the rights and duties of States" of 1933, and, finally, the creation of a so-called "Nagorno-Karabakh

[25] http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=10733&lang=EN

[26] Aliyev N.G. International law and Nagorno-Karabakh conflict. Moscow, Veche, 2013, p. 44-48 *(in Russian)*

Republic" by violating the territorial integrity of Azerbaijan, must be assessed as "an effort to obtain the principle of self-determination at the expense of the violation of territorial integrity by Armenians".

On the other hand, it should be noted that, the proclamation of the fictitious "Nagorno-Karabakh Republic" was justified by the Law of the former USSR "On the resolution of issues related to the withdrawal of the Union Republic from the USSR", dated April 3, 1990. It could not be forgotten that, this legislative act, relying on Article 72 of the Constitution of the USSR, included the right to freely withdraw from the USSR for a only any union republic. This document provided for the implementation of appropriate procedures for the realization of this right. Specifically, from this point of view, the Armenian reference to this Law, which restricts the right to self-determination of peoples, looks very strange. Since, when considering the law of the USSR on April 3, 1990, the futility of evidences provided by Armenians is clearly determined, and, the "friability and senselessness" of all the grounds, including some contradictions and factual shortcomings, usually characteristic of all statements of Armenian officials of the highest rank, are revealed[27].

Moreover, the Armenians refer to the Advisory Opinion of the International Court of Justice on *"Accordance with international law of the unilateral declaration of independence in respect of Kosovo"*, dated July 22, 2010, in order to justify the realization of the principle of self-determination of peoples in connection with the Nagorno-Karabakh region. However, the failure to adopt this document unanimously, still a wide exposure of its provisions to criticism, not-creation of a legal obligation and a precedent by advisory opinions, in contrast to the judgements of the International Court of Justice and other factors should be taken into account. At the same time, the Court's refusal to examine the issue of the right of secession, as well as the Court's conclusion that there is no general rule or approach to the legality or illegality of declaration of independence in international law and in the practice of the UN Security Council should be considered as interesting points in this case. Also, the Court concluded that, the illegality attached to the declarations of independence thus stemmed not from the unilateral character of these declarations as such, but from the fact (i.e. declaration of independence) that they were, or would have been, connected with the unlawful use of force or other egregious violations of

[27] Novruzov G.N. Self-determination of people and nations in modern international law. Baku, "Azernashr", 2014, pp. 145-149 *(in Azerbaijani)*; Aliyev N.G. International law and Nagorno-Karabakh conflict. Moscow, Veche, 2013, p. 38-44 *(in Russian)*

norms of general international law, in particular those of a peremptory character *(jus cogens)*[28]**.**

Principle of refraining from the threat or use of force. The normative content of the principle of refraining from the threat or use of force was reflected in Article 2.4 of the UN Charter. So that, it is noted that, 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. These documents must be noted as important document in this field: Briand-Kellogg Pact 1928 "For the renunciation of war as an instrument of national policy", Declaration on "Definition of aggression", adopted by the UN General Assembly in 1974, Declaration on the "Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations", adopted by the UN General Assembly in 1987, etc. Even, the Article 11 of the Montevideo Convention "On the rights and duties of States" of 1933 provided the obligation not to recognize territorial acquisitions or special advantages which have been obtained by force whether this consists in the employment of arms, in threatening diplomatic representations, or in any other effective coercive measure.

The UN Charter intends the possibility to use of force or threat to force only in two ways: first, action with respect to threats to the peace, breaches of the peace, and acts of aggression in accordance with the decision of Security Council (Charter VII); second, self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security (Article 51). Resolution on the "Definition of aggression", adopted by the UN Security Council in 1974, shows the list of acts, qualifying as an act of aggression. It should be noted that, definition of an aggression is an exclusive authority of the UN Security Council (Article 39 of the UN Charter). However, apparently, on political grounds, numerous acts of aggression, including the facts of direct attacks, were not prevented and the aggressor states were not involved in international responsibility. A clear example is the occupation of more than twenty percent of the territory of our state as a result of explicit aggressive acts

[28] Merezhko A.A. The Problem of Nagorno-Karabakh and International Law. Kiev, Publishing House of Dmitriy Bugaro, 2014, pp. 109-113 *(in Russian)*; Mammadov R.F., Ismayilova A.N., Valiyeva G.M., Hajiyev J.M. The principle of self-determination in practice of Armenian separatists and international law. Baku, Printing-house "Sada", 2011, pp. 194-206

committed by Armenia against Azerbaijan. Unfortunately, to this day none of the four resolutions (822, 853, 874, 884) adopted by the Security Council has been implemented *(it should be noted that, issues concerning the use of force by Armenia against Azerbaijan as a violation of international law and as a result aggression committed as an international crime were analyzed in detail in the second chapter – **author)***.

To clarify the principle of refraining from the threat or use of force, the concept of the right to self-defense is particular importance. The right to self-defense should be used only in necessary cases and the measures taken should be proportional. These measures should not go beyond the framework defined for aggression. The UN Charter (Article 51) provides not only an individual, but also collective right to self-defense with the request of a state subject to aggression. The noted in no case justify the right to self-defense of Armenia, as well as fictitious and separatist "Nagorno-Karabakh Republic". Since, even, in addition to Nagorno-Karabakh, which is considered so called a "disputed" territory, the occupation of other territories of Azerbaijan (7 districts that are not part of, and adjacent to Nagorno-Karabakh region – Lachin, Kalbajar, Aghdam, Fuzuli, Jabrayil, Gubadly, Zangilan, as well as 1 settlement of Nakhchivan Autonomous Republic, 13 of Tartar district and 7 of Gazakh district) proves once again that intent and specific acts are directly aggression. On the contrary, here, according to Article 51 of the UN Charter, the right to self-defense of Azerbaijan is fully realized.

In the doctrine of international law and the practice of interstate relations, the most disputed and controversial issue is the problem of the proportionality of humanitarian intervention. This problem was discussed in various international forums, including in some conferences of the World Association of International Law, as well as in the Soviet-American Conference of International Lawyers, held in Washington in 1990. In the science of international law, various criteria for the allowance of humanitarian intervention are put forward. For example, serious violation of human rights must be inevitable or already committed; all possible peaceful means must be exhausted; states must be given ultimatums with the demand to stop serious violations of human rights; if there is time, the state should inform the Security Council about the purposes of humanitarian intervention; if the Security Council is idle, then, it is possible to initiate humanitarian intervention; if it is possible, obtaining an invitation from the state to push the army into its territory is advisable; in case of gross violation of human rights, force can be used only to prevent it, the use of force in other

intentions of the state is unacceptable; the use of force can't have the goal of changing the political and socio-economic structure of the state; during the humanitarian intervention, the limited composition of the army should be used and it can be used only on the necessary scale to achieve the goal; the armed forces must be used for a limited period of time and these forces must be immediately withdrawn from the foreign territory after reaching the goal of humanitarian intervention[29].

In the Preamble of the Declaration on the "Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations" of 1987, it is noted that, application of this principle should contribute to the improvement of international relations. The Declaration not only confirms the appropriate principle, at the same time, defines its certain mechanism of its application in the example of the UN. So that, the states should co-operate fully with the organs of the United Nations in supporting their action relating to the application of this principle. Furthermore, pursuant to paragraph 2 of the "General Comment No. 6: Article 6 (Right to Life) of "International Covenant on Civil and Political Rights" of the UN Human Rights Committee, dated April 30, 1982, under the UN Charter the threat or use of force by any State against another State, except in exercise of the inherent right of self-defense, is already prohibited.

The problem of the use of force by Armenia against Azerbaijan was reflected in the related documents of international organizations. So that, the UN Security Council in the Resolution 822, dated April 30, 1993, demanding the withdrawal of all occupying forces from the Kalbajar district and other occupied regions of Azerbaijan, in the Resolution 853, dated 29 July, 1993, condemning the invasion of the district of Aghdam and of all other occupied areas of Azerbaijan, in the Resolution 874, dated 14 October, 1993, calling for the withdrawal of forces from occupied territories and settlement of the conflict through peaceful negotiations, and in the Resolution 884, dated November 12, 1993, condemning the recent violations of the cease-fire established between the parties, which resulted in a resumption of hostilities, particularly, the occupation of Zangilan district and the city of Horadiz, attacks on civilians and bombardments of the territory of Azerbaijan, reaffirmed inadmissibility of the use of force for the acquisition of territory. Even, the latter document reiterates the escalation in armed hostilities as consequence of the violations of the cease-

[29] Kartashkin V.A. Human rights in the international and domestic law. Moscow, 1995, pp. 71-75 *(in Russian)*

fire and excess in the use of force in response to those violations, in particular the occupation of Zangilan district and the city of Horadiz in Azerbaijan.

Documents of other international organizations related to the analyzed situation should be noted. For example, paragraphs 5 of the Resolution 12/22P "On the Conflict between Armenia and Azerbaijan" (1994) and Resolution 11/23P (1995) adopted by Foreign Ministers of the Organization of the Islamic Conference (currently Organization of Islamic Cooperation) as well as other documents of the mentioned international organization reaffirmed that, acquisition of land by use of force could not be recognized. In general, the aggression of Armenia against Azerbaijan, as a prohibited form of illegal use of force, is unequivocally condemned in all relevant international documents adopted by the Organization of Islamic Cooperation, the restoration of territorial integrity and inviolability of frontiers is decisively required.

Principle of cooperation among states. The principle of cooperation among states intends the relationship of states in accordance with the UN Charter. Cooperation of states includes not only implementation of enactments on the providing peace and security, but also the extension of economic, scientific-technical, cultural and interstate relations. Along with providing for certain rights for states in the UN Charter, they are also endowed with certain obligations. This is a generally accepted norm. According to Article 1.3 of the UN Charter, States are obliged with a duty "*to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character*", and in the Article 1.1 with the duty "*to take effective collective measures for the prevention and removal of threats to the peace*".

International legal basis of the international cooperation were reflected by another two articles of the UN Charter. So that, Article 55 of the Charter was dedicated to the solutions of international economic, social, health, and related problems and international cultural and educational cooperation and universal respect for, and observance of human rights and fundamental freedoms for all regardless of race, sex, language, or religion. Article 56 of the UN Charter provides that, all Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Undoubtedly, cooperation in the field of providing international peace is a duty of state. States in their international relations on the basis of the principle of cooperation should be treated in such a manner that not hinder international cooperation, but vice versa to develop it. The certain forms of cooperation

of states depend on the states themselves, their needs, resources, domestic legislation and the international obligations they have been binded. Cooperation should also not contradict the purposes of the United Nations.

The UN Charter fully defined the idea of cooperation. This principle calls on states to cooperate with each other, regardless of differences in their political, economic and social systems. The following are defined as the main areas of cooperation: providing peace and security; common respect to human rights; realization of international relations in the economic, social, cultural, technical, trade and other fields; cooperation with the UN and implementation of measures provided in its Charter; support to economic growth in the whole world, in particular in the developing countries.

Crime of aggression and other international crimes committed by Armenia against Azerbaijan are accompanied with serious violation of the principle of cooperation of states. The first of these is the violation by Armenia of Article 1.1 of the UN Charter in respect of Azerbaijan, that is, the creation of a threat to international peace and security. The second issue is related to the obvious violation of norms by Armenia in connection with mutual cooperation on the fulfillment of international obligations, stipulated in the constituent documents of universal and regional international organizations, of which Armenia and Azerbaijan are members. For example, the provision "*The further development and enhancement of the relations of friendship, good neighboring and mutually beneficial cooperation among our states respond to national interests of peoples and serve the peace and security*", stipulated in the preamble of the Agreement "On the establishment of Commonwealth of Independent States", dated December 8, 1991, is by no means consistent with aggression and other international crimes committed by Armenia against our country. These internationally wrongful acts cause serious damage to cooperation in different sectors, as defined in the agreement. If we refer to the opinions of some scientists (for example, A.A.Merezhko) conducting research in this field, implementing the principle of cooperation of states by Armenia's observation its international obligations, can help broader understanding between the two peoples and can be considered as a successful agitation remedy in the final resolution of the Nagorno-Karabakh problem[30].

[30] Merezhko A.A. The Problem of Nagorno-Karabakh and International Law. Kiev, Publishing House of Dmitriy Bugaro, 2014, p. 193 *(in Russian)*

Principle of fulfillment in good faith of obligations under international law. The principle of fulfillment in good faith of obligations under international law is one of the ancient principles of international law. This principle arose at the same time with international law and was popular as *pacta sunt servanda* (agreements must be fulfilled). The maintenance of international law and order, peaceful relations and stability and effectiveness of interstate cooperation heavily depends on the state's compliance with international law and the fulfilment in good faith of obligations under international law. I.I.Lukashuk considers that, without the principle of fulfillment in good faith of obligations under international law, international law would lose its legal character. This principle is the source of the legal force of international law[31].

The principle of fulfillment in good faith of obligations under international law defines the general agreement of states on recognition of the legal force of norms of international law. In the Vienna Convention on the "Law of Treaties" of 1969, this principle was expressed as *"every treaty in force is binding upon the parties to it and must be performed by them in good faith"*. Refusal of the fulfillment of this principle must be assessed as violation of norm and the state, committed such offense, must bear responsibility for the violation of the treaty and for its consequences. Article 2.2 of the UN Charter notes that, all Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter. In this case, the principle of fulfillment in good faith of obligations under international law is reflected in fulfillment of obligations, derived from the UN Charter, main and generally recognized principles of international law and international treaties.

The analysis of these norms shows that, Armenia violates the principle of fulfillment in good faith the obligations under international law in the most crudest manner. In general, Armenia's activities in the non-fulfillment of its international obligations in the field of regulation of international relations and compliance with the norms of international law in all directions, once again justify the aforesaid.

Principle of sovereign equality of states. The Article 2.1 of the UN Charter clearly shows that, the Organization is based on the principle of sovereign equality of all members. The content of this principle includes: states

[31] Lukashuk I.I. International law. General part. Textbook. Moscow, Publishing House of "BEK", 1996, p. 288 *(in Russian)*

will respect each other`s sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty; each state has the right freely to choose and develop its political, social, economic and cultural systems as well as its right to determine its laws and regulations; all states have equal rights and duties; all states will respect each other's right to define and conduct as it wishes its relations with other States in accordance with international law; each state has right to belong or not to belong to international organizations, to be or not to be a party to bilateral or multilateral treaties; states must fulfill in good faith their obligations under international law.

In general, despite the use of different concepts, the principle of sovereign equality, in essence, means the same thing. In other words, the principle of sovereign equality of states is based on the synthesis of two important provisions: respect for the sovereignty of the state and the principle of equality of states. Sovereignty can only be real in conditions of equality. Mutual respect for sovereignty – is a necessary condition for equality. Sovereignty and international law – are mutually dependent and necessary phenomena for each other. States with sovereign power create international law and ensure its realization. International law, in turn, becomes a guarantee of sovereignty. International law restricts the activity of the sovereign power of the state, regulates the mutual activity of sovereign powers, and with this, ensures the implementation of sovereign rights. Thus, sovereignty continues to play an important role not only within the state, but also in international relations. Equality is the second element of this principle, which is connected with sovereignty. Here, we talk about the equality of sovereign rights of states. Equality of the legal status of states means the identical application and possession of an equal binding force of all norms of international law with respect to them. In addition, states have equal opportunities such as creating rights and accepting obligations for themselves.

Serious violations by Armenia of important norms on the principle of sovereign equality of states becomes clear from the aforementioned facts. Armenia does not observe the norms on equality, at the same time, directly encroaches on the sovereignty of Azerbaijan.

Principle of non-intervention in internal affairs of states. The main content of the principle of non-intervention in internal affairs of states is defined by the UN Charter. In essence, the Charter does not obtain the Organization with the competence to intervene in internal affairs of any states (Article 2.7 of the Charter). The Montevideo Convention "On the rights and duties of States"

of 1933 noted that, no state has the right to intervene in the internal or external affairs of another. Later, these provisions were developed in the UN Declaration "On the inadmissibility of intervention in the domestic affairs of States and the protection of their independence and sovereignty" of 1965.

Normative content of the principle of non-intervention in internal affairs of states includes the following: armed intervention and all other forms of interference or attempted threats against the personality of the state or against its political, economic and cultural elements, are forbidden; no state may use or encourage the use of economic, political or any other type of measures to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind; assistance to terrorist activities, or to subversive or other activities directed towards the violent overthrow of the regime of another State is forbidden; any form of armed intervention in the armed conflict is forbidden; every state has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another state (and other subjects of international law).

As a result of the general overview of the main provisions of this principle, there remains no need to provide additional evidences of serious violations of these norms by Armenia.

Apparently, the violation by Armenia of the main, universally recognized principles of international law, which form the basis for the regulation of international relations, has led to non-compliance with all norms of international law, which include the norms of *jus cogens*, as well as committing of international crimes, which are analyzed in the following chapters of this research.

II. Agression

Aggression should be especially noted among the international crimes committed against Azerbaijan. Since, the state policy of Armenia is aimed at the occupation (seizure) of the territories of Azerbaijan through the use of force. This is obviously proven by the occupation of more than twenty percent of the territory of the Republic of Azerbaijan (Nagorno-Karabakh region and adjacent districts belonging to our country) as a result of Armenia's aggressive policy, which has been going on for a long time and has become more intense since the end of the 20th century. And this, on the one hand, causes a direct and preconceived violation of *jus cogens* norms – the basic principles of international law, on the other hand, the emergence of international responsibility as result of committing of international crimes, including crime of aggression.

As a result of the purposeful aggression policy of Armenia in the period of 1990-1992, the Nagorno-Karabakh region (*according to the administrative-territorial division of Azerbaijan until 1991, this area included the districts of Shusha, Khojavand, Askaran, Hadrut, Aghdere and Khankandi)*) being inseparable part of Azerbaijan, total area of which is 4,400 square kilometers, was occupied. So that, on 26th of December 1991 Khankandi was occupied, on 26th of February 1992 Khojaly, on 8th of May 1992 Shusha, on 2nd of October 1992 Khojavand, on 17th of June 1993Aghdere. It should be noted that, in accordance with Decision No. 327 of the Milli Majlis of the Republic of Azerbaijan, dated October 13, 1992, "On partial change of the administrative-territorial division of the Republic of Azerbaijan", the district of Aghdere was abolished. The settlements of the abolished district of Aghdere were given to the administrative structure of the districts of Aghdam, Kalbajar and Tartar[32]. In addition, seven adjacent districts of Nagorno-Karabakh – Lachin, (18.05.1992), Kalbajar (02.04.1993), Aghdam (23.07.1993), Fuzuli (23.08.1993), Jabrayil (23.08.1993), Gubadly (31.08.1993), Zangilan (29.10.1993) were completely or mostly occupied by Armenians. So that, 62.8% of the territory of Aghdam, 79.3% of the territories Jabrayil and Fuzuli separately, and the territories of Kalbajar, Gubadly, Lachin and Zangilan districts are completely under the control of Armenian invaders. At the same time, 1 settlement of Nakhchivan Autonomous Republic, 13 settlements of the district of Tartar and 7 settlements

[32] www.e-qanun.az/framework/7800

of the district of Gazakh are under the occupation of Armenian armed forces[33]. Currently, there are more than 1 million 200 thousand people in the country who are refugees and internally displaced persons[34]. Also, as a result of the aggression, 20,000 people were killed, and 50,000 became invalids. As a whole, during the conflict more than 6,000 Azerbaijani citizens disappeared without a trace or were taken prisoner or hostage[35].

Furthermore, as a result of Armenia`s occupation of Azerbaijan territory during 1988-1993, 900 settlements, about 6,000 agricultural and industrial facilities, 150,000 houses, 7,000 public associations, 693 schools, 855 kindergartens, 85 music schools, 695 medical institutions, 927 libraries, 44 temples, 473 historical monuments, palaces and museums, 40,000 museum exhibits, 2,670 kilometers of highway, 160 bridges, 2,300 kilometers of water communications, 2,000 kilometers of gas communications, 15,000 kilometers of electric line, 280 000 hectares of forest, 1000000 hectares of land suitable for agriculture, 1200 kilometers of irrigation system, etc. were destroyed or devastated[36]. In general, the damage caused as a result of the occupation is estimated at more than 300 billion US dollars. The cost of damage caused as a result of the aggression of Armenia`s military forces exceeds 800 billion US dollars (the exact amount is being determined by the International Evaluators Association)[37].

Apparently, the aggressive war of Armenia against Azerbaijan and its grave consequences, as well as the peculiarities of the occupation of our lands, distinguishes it from other conflicts. So that, unlike Nagorno-Karabakh, none of the conflict zones that occurred in the space of the former USSR, there was no such a precedent that set in which removal of existing borders took place and adjacent districts were occupied. For example, the Autonomous Republic of Abkhazia, which is a conflict zone in Georgia, did not leave its borders and not one inch of adjacent territories was occupied. However, the Armenian occupants seized not only the territory of the former of Nagorno-Karabakh

[33] www.tarix.gov.az/rayonlar.php#url

[34] www.refugees-idps-committee.gov.az/en/pages/16.html

[35] www.human.gov.az/az/viewpage/65/Ermənistan+respublikasinin+hərbi+təcavüzünün+nəticələri+%28rəsmi+xronika%29#.wljrykh9vc8

[36] The Republic of Azerbaijan: 1991-2001. Ed. by R.A.Mehdiyev. Baku: "XXI-Yeni Neshrler Evi", 2001, p. 255 *(in Azerbaijani)*; www.mct.gov.az/az/qarabag

[37] www.refugees-idps-committee.gov.az/en/pages/15.html

Autonomous Region (Nagorno-Karabakh Autonomous Oblast), but also seven adjacent districts and other some territories, not included in that territory[38].

Due to the analysis of these issues, first of all, we should pay attention to issues related to the international legal interpretation of the crime of "aggression". So that, according to the Article 1 of the UN General Assembly Resolution 3314 "On the Definition of Aggression", 1974, aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. In addition, according to Article 3 of this Resolution, any of the following acts, qualify as an act of aggression:

(a) The invasion or attack by the armed forces of one State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;

(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) The blockade of the ports or coasts of a State by the armed forces of another State;

(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

(f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

It should be noted that, in some cases along with the signs of aggression, opinions are also proposed on its differentiation to the "direct" and "indirect" types. The difference between direct and indirect aggression is that, if, during

[38] www.azerbaijan.az/portal/Karabakh/Social/socialEconomy_a.html

direct aggression, the state, as the subject of the use of armed force, acts in the guise of its regular armed forces, then, during indirect aggression, the state secretly uses armed bands, mercenaries or irregulars[39]. However, the distinction of the signs of arggression on the direct and indirect types, does not at all determine their consideration in an isolated form. Since, in most cases, including regardless of the fact that the crime of aggression committed by Armenia against Azerbaijan is direct or indirect, the fact of the obvious manifestation of all the provisions provided for in the 1974 Resolution was repeated over and over again.

Article 8 *bis* of the Statute of the International Criminal Court, adopted in 1998 and entered into force in 2002, approaches to the question of the concept of this crime in two aspects. According to the first of these, titled "the crime of aggression", "crime of aggression" means the initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations. The second aspect of the Statute is the definition of the "act of aggression", which means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. A distinctive feature of the "act of aggression" defined in the Statute is that, regardless of the declaration of war, the commitment of one of the provisions interpreted in the UN 1974 Resolution as aggression precisely generates an act of aggression. On the other hand, according to the requirements of the Statute, the act of aggression directly linked with the crime of aggression.

The concept of "aggression" was also reflected in certain regional international documents. According to the Article 9 of the Inter-American Treaty of Reciprocal Assistance 1947, which formally condemns war and provides obligation in international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations, acts which may be characterized as aggression are the following: unprovoked armed attack by a State against the territory, the people, or the land, sea or air forces of another State; invasion, by the armed forces of a State, of the territory of an American State, through the trespassing of

[39] Ibayev V.A. International humanitarian law. Textbook. Baku: "Hugug adabiyyati" Publishing House, 2001, pp. 48-49 *(in Azerbaijani)*

boundaries demarcated in accordance with a treaty, judicial decision, or arbitral award, or, in the absence of frontiers thus demarcated, invasion affecting a region which is under the effective jurisdiction of another State[40]. The Article 1(c) of the African Union Non-Aggression and Common Defence Pact, 2005, states that, "aggression" means the use, intentionally and knowingly, of armed force or any other hostile act by a State, a group of States, an organization of States or non-State actor(s) or by any foreign or external entity, against the sovereignty, political independence, territorial integrity and human security of the population of a State Party to this Pact, which are incompatible with the Charter of the United Nations or the Constitutive Act of the African Union[41]. It should also be noted that, according to the African Pact, such signs constitute acts of aggression, regardless of a declaration of war by a State, group of States, organization of States, or non-State actor(s) or by any foreign entity.

In accordance with Article 16 of the Draft Code of Crimes against the Peace and Security of Mankind, prepared by the International Law Commission of the United Nations, an individual who, as leader or organizer, actively participates in or orders the planning, preparation, initiation or waging of aggression committed by any State shall be responsible for a crime of aggression.

As in all international crimes, the crime of aggression also has its own constituent elements. The public danger of this act is expressed in the occupation of the territory of the State by another State and in its continuation, as well as in harming the principles and norms of international law with regard to the peaceful coexistence of all peoples. The object of such an act is the rules on the peaceful coexistence of all peoples and states, territorial integrity and inviolability of frontiers, inadmissibility of the use of force or threat of use of force. The introduction of an aggressive war belongs to a group of ongoing crimes. The crime begins from the moment of the first military operation and ends with the occurrence of an event that makes it impossible to conduct war at will or out of the will of the person committed the crime. The objective side of the crime is committing of any actions (planning, preparation, initiation or execution of an aggressive war). Waging an aggressive war is directly manifested in the case of any one or all of the provisions provided for in article 3 of the 1974 Resolution "On the Definition of Aggression". The subjective

[40] www.oas.org/juridico/english/treaties/b-29.html

[41] www.au.int/sites/default/files/documents/32066-doc-african_union_non_aggression_and_common_defence_pact_eng.pdf

side of aggression is a direct attempt. And, the subjects of the crime are senior officials who have the authority to wage war.

Analyzing the norms of international law as a whole, it could be concluded that, assessment of elements characterizing the prohibition of the use of force stipulates the following acts to be considered as a threat to international peace and security: war of aggression and its propagation; other forms of use of armed force; military occupation and seizure of the territory of another state following the use of force; indirect threat and use of force [42].

It is also known, two elements are necessary and important for the formation of the crime of aggression as a part of international crimes. These are the intent to commit the crime (*mens rea*), as well as existence of the activity or behavior creating the constituent elements of the crime (*actus reus*). Undoubtedly, criminal intent acts as an ideological or propaganda means committing of aggression. A clear example of this can be seen in the sentence of the International Military Tribunal for the Far East in Tokyo concerning the publicist Hashimoto. So that, Tribunal found Hashimoto guilty of waging war of aggression for having been fully apprised that the war against China was a war of aggression and making all the effort for this war to be a success[43]. Concerning aggression by Armenia against Azerbaijan, numerous examples of criminal intent can be cited on this issue. So that, the book "Ochag" ("The Hearth") written by Zori Balayan in 1984 against the Azerbaijani people and in the spirit of Armenian nationalism, published in Yerevan in the publishing house "Sovetakan Grokh" in 100 thousand copies and distributed in the broad range of the USSR, further strengthened the propaganda in Yerevan to capture Nagorno-Karabakh. In the 22nd Party Congress of "Dashnaksutyun", held in December 1985 in the city of Athens, the Republic of Greece, it was decided to expand the struggle for "Great Armenia". In February 1986 in Khankandi the organization "KRUNK" was created under the veil of protection of historical and cultural monuments, the real purpose of which was the annexation of the Nagorno-Karabakh Autonomous Region with Armenia, which in turn was an integral part of the Azerbaijan SSR according to the constitutions of the USSR and Azerbaijan SSR. Distribution of leaflets on the streets of Khankandi in June-July 1987 by Armenians to the aim of

[42] Krüger H. Conflict of Nagorno-Karabakh. Legal Analysis. Translation from German edition. Translation edited by A.I.Aliyev, T.I.Huseynov. Baku, "Baku University" Publishing House, 2012, pp. 138-140 *(in Russian)*

[43] Makili-Aliyev K. Nagorno-Karabakh conflict in international legal documents and international law. Baku, 2013, p. 49

propaganda for the unification of Nagorno-Karabakh with Armenia, conduction of "campaign to collect signatures" from various collectives in letters written by individuals to Moscow, as well as propaganda of the idea of transferring Nagorno-Karabakh to Armenia in the second half that same year, by emissaries who regularly visited Khankandi and collected special signatures by means of active work among Armenians are clear examples of criminal intent (*mens rea*). In addition, the first meetings of the "Karabakh" Committee in October of the same year in the Park named after Pushkin in Yerevan, the interview of A.Aganbekyan to the magazine of "L`Humanite" in Paris on November 18, the presentation of the appeal to the Central Committee of the Communist Party of the Soviet Union on December 1, prepared by representatives of the Armenians of Nagorno-Karabakh on the extraction of the autonomous region from Azerbaijan and the submission to Armenia, are the parts of this intention. At the same time, the map of "Great Armenia", compiled in 1987 by S.Ayvazyan in small format, was distributed in Nagorno-Karabakh Autonomous Region. The boundaries of this map covered the coasts of 3 seas (Mediterranean, Caspian and Black Sea). Furthermore, the most vivid examples of the criminal intent for aggression against the territory of Azerbaijan are such acts as the holding of the first meetings in Khankandi on February 12 1988, at the request of Armenians about the unification of Nagorno-Karabakh Autonomous Region with Armenia with the organizational activities of the nationalist "KRUNK", which secretly activated in the Nagorno-Karabakh Autonomous Region, the overturn of the expulsion of Azerbaijanis from Armenia on February 18 into a mass situation, the decision of Extraordinary Session of the 20th Convocation of the Council of People's Deputies of the Nagorno-Karabakh Autonomous Region on February 20 "On petitioning the Supreme Councils of the Azerbaijan SSR and the Armenian SSR to submit the Nagorno-Karabakh Autonomous Region of the Azerbaijan SSR to the Armenian SSR", the destruction of the last mosque in Yerevan by Armenians on February 21, etc.[44] It is also known, in the Declaration 2625 "On Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations" 1970, in Resolution 33/73 of the UN General Assembly "On the Preparation of Societies for Life in Peace" 1978, in article 9 of the Declaration 42/22 "On the Enhancement of the Effectiveness of the Principle

[44] Ahmadov E.I. Aggression by Armenia against Azerbaijan: Analytical chronicle (1987-2011). Encyclopedic edition. Baku, "Letterpress", 2012, pp. 44-47 *(in Azerbaijani)*

of Refraining from the Threat or Use of Force in International Relations", as well as in some other international documents, the obligation of states to refrain from propaganda for wars of aggression in accordance with the purposes and principles of the UN. Unlike the criminal intent, *actus reus* is manifested in a specific action or inaction that creates a crime with the fulfillment of all, several or one of the signs, provided for by the norms of international law, in particular, in the Resolution of 1974 "On the Definition of Aggression". As an obvious example, it should be shown the occupation by Armenia of the Nagorno-Karabakh Autonomous Region of Azerbaijan and the adjacent regions, as well as some other settlements, noted above.

Issues related to the aggression of Armenia against Azerbaijan were reflected in the decisions and other acts of some international organizations. The most important of them is the position of the UN, which was expressed in its resolutions reflecting the provisions on the aggression of Armenia in the territories of the Republic of Azerbaijan. As is known, the UN Security Council adopted Resolution 822, dated April 30, 1993, demanding the withdrawal of all occupying forces from the Kalbajar district and other occupied areas of Azerbaijan, Resolution 853, dated 29 July, 1993, condemning the invasion of the district of Aghdam and of all other occupied areas of the Republic of Azerbaijan, Resolution 874, dated 14 October, 1993, calling for the withdrawal of forces from occupied territories and settlement of the conflict through peaceful negotiations, Resolution 884, dated November 12, 1993, condemning the recent violations of the cease-fire established between the parties, which resulted in a resumption of hostilities, particularly, the occupation of the Zangilan district and the city of Horadiz, attacks on civilians and bombardments of the territory of Azerbaijan. On the account of the characterization of the aggression by the UN in its resolutions, it should be noted that, in the Preamble of the UN Security Council Resolution 822, dated April 30, 1992, it was stated that, the fact of invasion of the Kalbajar district endangered peace and security, and also, of the implementation of the *jus cogens* norms of the international law was necessary. In this regard, special attention has been paid to two aspects. Firstly, this is related to the respect for the sovereignty and territorial integrity of all the states of the region. As can be seen from the noted provision, this rule expresses the call for the protection and enforcement of the norms of international law not only for Azerbaijan and Armenia, but also for other states in the region. That is, the territorial integrity and sovereignty of all the states of the region cannot be threatened. Similar provisions can be found in Article 10

of the UN Security Council Resolution 874 and Article 6 of the UN Security Council Resolution 884, as well as in paragraphs 391 and 500 of the 16th (2012) and 17th (2016) Summit of Heads of State and Government of the Non-Aligned Summit respectively. So that, these documents urges again all States in the region to refrain from any hostile acts and from any interference or intervention, which would lead to the widening of the conflict and undermine peace and security in the region. These norms also indirectly urge other states of the region not to violate the provisions of the Resolution "On the Definition of Aggression", in particular, Article 3 *(f) "the action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State"* in the process of the Armenia-Azerbaijan conflict. On the other hand, this, in itself, is a confirmation of the provision provided for in Article 2.4 of the UN Charter *"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"*, with respect to the territorial integrity of our country. Similar provisions can be found in other international documents. So that, in the Declaration 2625 "On Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations", dated 1970, as components of a principle "refraining from the threat or use of force" the following are noted: *firstly*, the territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. *Secondly*, the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. In continuation of this, Article 5.3 of Resolution 1974 "On the Definition of Aggression" provides that, no territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful. *Thirdly*, no territorial acquisition resulting from the threat or use of force shall be recognized as legal. Also, according to Helsinki Final Act of the CSCE of 1975, participating states shall respect for the territorial integrity of each of the participating states. According to this, they shall refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the political independence or the territorial integrity of any participating State, and in particular from any such action constituting a threat or use of force. Moreover, in the "Charter of Paris for a New Europe" of 1990 it was directly stated that, all the principles of the international law

apply equally and unreservedly, each of them being interpreted considering the others. The second aspect of the provision in the Preamble of the UN Security Council Resolution 822, expressing the necessity of the implementation of *jus cogens* norms, includes the inviolability of international frontiers and the inadmissibility of the use of force for the acquisition of territory. Similar provisions are enshrined in other UN resolutions on the aggression of Armenia against Azerbaijan – 853, 874, 884. These provisions directly take their origin from one of the general principles of international law – the principle of refraining from the threat or use of force. By the way, normative confirmation of this principle can be found in most universal and regional documents. For example, the Preamble of the Treaty "On the Non-Proliferation of Nuclear Weapons" 1968, The Article 301 on peaceful uses of seas of the 1982 UN Convention "On the Law of the Sea" etc.

It should be noted that the expression in the relevant resolutions of the UN Security Council of the characteristic features of Armenia's aggression against Azerbaijan fully correspond to the elements defined in the Resolution "On the Definition of Aggression" of 1974. For example, the provision that *"Further condemns all hostile actions in the region, in particular attacks on civilians and bombardments of inhabited areas"*, expressed in paragraph 2 of the Resolution 853 of the UN Security Council, dated July 29, 1993, as well as the provision that *"condemns the bombardments of the territory of the Republic of Azerbaijan"*, expressed in paragraph 1 of the Resolution 884 of the UN Security Council, dated November 12, 1993, are fully consistent with Article 3 *(b)* of the UN Resolution "On the Definition of Aggression" of 1974. That is, the bombardment by the armed forces of one state of the territory of another state or the use of any weapon against its territory is considered an aggression under international law.

Furthermore, one of the factors that increase the significance of the analyzed resolutions is the expression of the recognition of Nagorno-Karabakh as the territory of Azerbaijan, as well as the confirmation of the fact of aggression of these territories and the claim for withdrawal of all occupying forces from the invaded territories. A clear example of the first aspect of this issue is the reflection in paragraph 9 of the Resolution 853 of the UN Security Council, dated July 29, 1993, the provision that "*urges the Government of the Republic of Armenia to continue to exert its influence to achieve compliance by the Armenians of the Nagorny-Karabakh region of the Azerbaijani Republic with its resolution 822 (1993) and the present resolution, and the acceptance by this*

party of the proposals of the Minsk Group of the CSCE". Expression of *"…… the Nagorny-Karabakh region of the Azerbaijani Republic"* should be considered a clear proof of our opinion. Also, the belonging of Nagorno-Karabakh to Azerbaijan was clearly shown in the documents of other international organizations. For instance, in paragraph 16 of the Final Communique of the 13th Summit of the Organization of Islamic Cooperation, held on April 14-15, 2016, in Turkey, Istanbul, the provision that *"…… immediate, complete and unconditional withdrawal of the armed forces of the Republic of Armenia from the Nagorno-Karabakh region and other occupied territories of the Republic of Azerbaijan*" was fixed. On the other hand, the forms of expression "……*the Armenians of the Nagorno-Karabakh*" and *"the Government of the Republic of Armenia to continue to exert its influence……"* in paragraph 9 of UN Security Council Resolution 853, the inclusion of norms related to the occupying forces confirm participation in the Armenia-Azerbaijan conflict, including in the occupation of our territory, not only of the Armed Forces of Armenia, i.e. recognized as its official troops and other armed associations, as well as the participation of irregulars, mercenaries and purposefully pre-prepared criminal bands. Possession of the possibility of the Armenian government and high level officials to exercise effective control over the last-mentioned forces was once again confirmed in all resolutions. Armenia, in its turn, officially denying its interference in the conflict, puts forward an opinion on the free efforts of the Armenians living in Nagorno-Karabakh to their independence and protects this act until now without any international intervention. Thus, Armenia deviates from its assessment as a party to the conflict. However, despite the official statement of the Armenian side, the involvement of this State in the Nagorno-Karabakh conflict cannot be denied in truth and on the basis of "false evidences". This clearly manifests the Nagorno-Karabakh conflict as a classic example of military intervention by a third party in the internal conflict and support for the process of secession[45]. On the other hand, the most important evidence proving Armenia's responsibility in committing a crime of aggression against Azerbaijan, its capture not only of Nagorno-Karabakh, but also adjacent regions and other lands of Azerbaijan as a result of armed occupation. Precisely this circumstance clearly shows in the behavior of Armenia and its leaders the presence of elements of criminal intent

[45] Krüger H. Conflict of Nagorno-Karabakh. Legal Analysis. Translation from German edition. Translation edited by A.I.Aliyev, T.I.Huseynov. Baku, "Baku University" Publishing House, 2012, pp. 140-141 *(in Russian)*

and real activities related to the aggression of the Azerbaijani lands. In the judicial practice on this issue, under the same circumstance, effective control of the State over various armed forces during the aggression was touched upon. So that, in the Judgement of the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia in the case of *"Duško Tadić"* (1999) it was noted that, control by a State over subordinate armed forces or militias or paramilitary units may be of an overall character (and must comprise more than the mere provision of financial assistance or military equipment or training). The control required by international law may be deemed to exist when a State (or, in the context of an armed conflict, the Party to the conflict) has a role in organizing, coordinating or planning the military actions of the military group, in addition to financing, training and equipping or providing operational support to that group. Acts performed by the group or members thereof may be regarded as acts of *de facto* State organs regardless of any specific instruction by the controlling State concerning the committing of each of those acts. Even, the provisions related to the support of a third party *(i.e., Armenia with regard to Azerbaijan – **author**)* during the occupation of another State by irregular armed forces, mercenaries and bands are also found in the Advisory Opinions of the International Court of Justice. So that, according to the advisory opinion of the Court, the arming and training of these troops, forces or groups is a part of such an illegal form of support[46]. Also, according to the norm stipulated in the part 1 of Article 8 *bis* of the Rome Statute of the International Criminal Court, the possibility of responsibility of persons in the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression, should not be overlooked. Armenia's comprehensive participation at the state level in the activities of Armenian terrorist organizations in the occupation of the Azerbaijani territory is constantly and clearly manifested. Furthermore, the expression "*considerable parts of the territory of Azerbaijan are still occupied by Armenian forces, and separatist forces are still in control of the Nagorno-Karabakh region*", enshrined in Resolution 1416 of the Parliamentary Assembly of the Council of Europe 2005, once again proves effective control of Armenia in committing a crime of aggression against Azerbaijan. Since, from the military-political point of view and the provisions of international documents

[46] Krüger H. Conflict of Nagorno-Karabakh. Legal Analysis. Translation from German edition. Translation edited by A.I.Aliyev, T.I.Huseynov. Baku, "Baku University" Publishing House, 2012, p. 140 *(in Russian)*

clearly express the tendency of joint and uniform acceptance of the Armenians of Armenia and Karabakh. And this, recognizing the conflict as an international conflict, is a confirmation of its happening between Armenia and Azerbaijan as parties[47]. One of the facts proving Armenia's support of separatism and its performance as a party to the conflict is the evasion of this State by the adoption of paragraphs 7 and 8 when the Heads of the CIS States signed the "Memorandum on the Maintaining the Peace and Stability in the Commonwealth of Independent States" in 1995. In these paragraphs it is noted that, *"the States parties…..will undertake measures to prevent any manifestation of separatism, nationalism, chauvinism and fascism on their territories",* they, at the same time, *"undertake not to support separatist movements and, if any, separatist regimes on the territory of the other Member States….to refrain from establishment of political, economic and other relations with them"*. Moreover, in December 2-3, 1996, at the Lisbon Summit of the OSCE, Armenia prevented the adoption of the Final Declaration, confirming the territorial integrity of the Republic of Azerbaijan[48]. Additionally, the document "Azerbaijan: Seven Years of Conflict in Nagorno-Karabakh", prepared by the "Human Rights Watch" in 1994, shows that, Armenian army troops involvement in Azerbaijan makes Armenia a party to the conflict and makes the war an international armed conflict, as between the government of Armenia and Azerbaijan[49]. Furthermore, as it is noted in paragraphs 29-31 of the Report "On the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory", addressed by Azerbaijan to the United Nations (January 23, 2009), in the documents of various international organizations, there are numerous facts confirming Armenia's participation in the conflict as a party. So that, the report of the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe, dated 19 November 2004, declared that: "Armenians from Armenia had participated in the armed fighting over the Nagorno-Karabakh region besides local Armenians from within Azerbaijan. Today, Armenia has soldiers stationed in the Nagorno-Karabakh region and the surrounding districts, people in the region have passports of Armenia, and the Armenian government transfers large budgetary resources to this area". The International Crisis Group noted in

[47] Merezhko A.A. The Problem of Nagorno-Karabakh and International Law. Kiev, Publishing House of Dmitriy Bugaro, 2014, p. 70 *(in Russian)*

[48] www.president.az/azerbaijan/karabakh

[49] Cornell S.E. Undeclared war: The Nagorno-Karabakh conflict reconsidered // Journal of South Asian and Middle Eastern Studies, 1997, Vol. XX, No 4, pp. 21-22

its September 2005 Report that "according to an independent assessment, there are 8,500 Karabakh Armenians in the army and 10,000 from Armenia" and that "many conscripts and contracted soldiers from Armenia continue to serve in Nagorno-Karabakh"[50].

The ongoing scientific research and committing of socially dangerous acts in different countries of the world for a long time show that, Armenian terrorism, which is an integral part of international terrorism, has more than 100 years of history. At the end of the 19th century – in 1885 in Marseilles the Armenian nationalists created the Party of "Armenakan", in 1887 in Geneva the Party of "Hunchak", in 1890 in Tiflis the Party of "Dashnaksutyun". Despite the party image of these organizations, their main goal was with the idea of creating "Great Armenia" to seize the historical lands of Azerbaijan. On the other hand, their activities cannot be limited only with the intention and acts of occupation of the territories. Committing terrorist acts in different countries, the above-mentioned and other organizations, under the images of parties and other Armenian bandit groups or associations, encroached on the policy of threat and intimidation. Numerous terrorist acts can be shown as clear examples. For instance, In January 27, 1973, in Santa Barbara, California, Mehmet Baydar, the Turkish Consul-General in Los Angeles, and other Turkish diplomat Bahadir Demir were assassinated in hotel Biltmore by Gurgen Yanikyan, 78 year-old Armenian immigrant. A spokesman for ASALA (Armenian Secret Army for the Liberation of Armenia) acknowledged three years after in the press conference, that the fact of bombing of the Beirut offices of the World Council of Churches on January 20, 1975, was their operation. As a result of the explosion of an explosive device in the consulate of France in West Germany on August 25, 1983, two people were killed, 23 were injured[51]. Such facts-circumstances are sufficient.

If to refer to the provisions of Article 3 (g) of the Resolution "On the Definition of Aggression" of 1974, in this case, it is obviously possible to find the circumstances of the use of armed bands, groups, irregulars or mercenaries by Armenia in the occupation of the Azerbaijani lands. So that, in 1987 in Khankandi, with the financial support and participation of the Armenian lobby, "Committee for Revolutionary Government of Nagorno-Karabakh" –

[50] www.mfa.gov.az/files/file/International%20Legal%20Responsibilities%20of%20Armenia%20as%20the%20Belligerent%20Occupier%20of%20Azerbaijani%20Territory.pdf

[51] Gayibov I.I., Sharifov A.A. Armenian Terrorism. Baku, "Azerbaijan" Publishing House, Azerinform, 1991, p. 7 *(in Russian)*

"KRUNK" – (it expresses the abbreviation of initial letters "Committee for Revolutionary Government of Nagorno-Karabakh") was created. Foreign mercenaries from the Middle East are fighting in the ranks of "KRUNK". The ideological matters were guided by the former Armenian President Robert Kocharian. At the moment, this organization acts as an "Armenian Cultural Center" engaged in distributing materials about the history of the Nagorno-Karabakh conflict and a so-called "Armenian genocide" in various countries of the world. *"The Armenian Union"*, established in Moscow in 1988, had close links with ASALA and provided members of the ASALA terrorist organization in the former Soviet space with false documents and money, and also participated in the escort of weapons and mercenaries to Karabakh. Besides, members of the organization called *"Freedom Tigers"*, established in 1991, participated in battles fought in Karabakh, committed crimes against civilians[52]. Furthermore, beginning from January, 1988, the Armenian government, the "Karabakh" and "KRUNK" committees, representatives of the Echmiadzin Cathedral under the auspices of the USSR leadership carried out thousands of bloody actions towards the planned implementation of the policy of "Armenia without Turks", as well as the process of expelling Azerbaijanis from their - historical lands[53]. Another fact proving the activities of bands and irregular groups on behalf of Armenia is connected with Monte Melkonyan, who was a famous terrorist, a citizen of the USA of Syrian origin, born in 1957 in California state, leader of the group "Revolutionary Movement of ASALA" in Western Europe, and who was in the wanted list through years. So that, despite sentence of imprisonment for 6 years term connected with M.Melkonyan on November 28, 1985, under the pressure of the Armenian lobby, as well as Armenian terrorist organizations in 1990, he was prematurely released from the French prison, came to Armenia and was sent to continue the terrorist activity in Nagorno-Karabakh and participated in terrorist operations committed against peaceful Azerbaijanis. International terrorist M.Melkonyan was commander of the Armenian terrorist group during the occupation of the Khojavand region of Azerbaijan. He, in particular, was one of the leaders of the genocide and execution with special cruelty of Azerbaijanis first in the village of Garadaghli of the Khojavand region, and then in Khojaly in 1992. In the funeral ceremony in Yerevan of this international terrorist called "Avo", killed in June 12, 1993 in Nagorno-Karabakh, was attended by officials,

[52] www.karabakh.az/news/?lang=az&i=316

[53] www.human.gov.az/az/view-page/43#.Wk8m6Kh9Vc8

including the President of Armenia. One of the sabotage centers of the Ministry of Defence was named after this terrorist, which was declared a national hero of Armenia, as well as his statues were placed in Khankandi and Yerevan[54]. This directly proves Armenia's support of international terrorism.

Moreover, the occupied territories turned into a kind of criminal source that is not under the control of any state or international organization. So that, the separatist-terrorist regime has created all the necessary conditions for the illegal cultivation, production and sale of narcotic substances in the territories under occupation. These facts were reflected in the Report of the US Department of State from March 2000 on the strategy for international control over narcotic substances. The disgraced leaders of a fictitious institution protect drug dealers, use money obtained from the sale of drugs to keep the occupied territories under control and to pay mercenaries[55]. At the same time, in an interview with major-general Heinrich Maliushkin[56], who was the commandant of the Nagorno-Karabakh Autonomous Region of Azerbaijan in 1990, deputy commander of the internal troops dislocated here by the Main Directorate of the Ministry of Internal Affairs of the USSR, the participation of mercenaries in the side of Armenians was clearly stated. On May 8, 1992, during the occupation of Shusha, mercenaries brought from abroad fighting from Armenian side is one of the known facts[57]. According to testimonies of six Russian soldiers, captured by the Armed Forces of Azerbaijan in the Kalbajar district, they were part of a group consisting of twelve Russian "special forces" mercenaries from the 7th Army, who had been fighting on the Armenian side[58]. The fact of widespread using the assistance of mercenaries by the Armenians during the aggression and occupation is also confirmed by the victims[59].

In accordance with article 2 of International Convention against the recruitment, use, financing and training of mercenaries of 4 December 1989, any person who recruits, uses, finances or trains mercenaries, as defined in article 1 of the present Convention, commits an offence for the purposes of

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[54] www.karabakh.az/news/?lang=az&i=316

[55] www.azerbaijan.az/_Karabakh/_ArmenianAgression/armenianAgression_04_a.html

[56] https://.az.trend.az/azerbaijan/karabakh/1144240.html

[57] Ahmadov E.I. Aggresion Policy of Armenia against Azerbaijan (Analytical Chronicle) // Journal of "GEO Strategy", 2011, № 6, pp. 34-43 *(in Azerbaijani)*

[58] Waal D.Th. Black garden: Armenia and Azerbaijan through peace and war. New-York: New-York University Press, 2003, pp. 200-201

[59] Ashirli A.A. Khojaly Genocide of the Turk. Baku, "Nurlan" Publishing House, 2005, pp. 78-84 *(in Azerbaijani)*

the Convention. In the 5th article of the Convention, it is enshrined that States Parties shall not recruit, use, finance or train mercenaries and shall prohibit such activities in accordance with the provisions of the present Convention. As is clear from the facts, aggressor state of Armenia which doesn`t join to the Convention only for the purpose of concealing its activities is in fact a country seriously breaching the provisions of the Convention. Pursuant to international documents, a mercenary is any person who is motivated to take part in the hostilities essentially by the desire for private gain and is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict. Recruitment of mercenaries means attraction of one or more persons to participate in military operations or military operations for monetary compensation. Training of mercenaries, means teaching them the rules of using weapons, combat techniques, as well as methods and means of warfare, including tactics of conducting military operations. Financing mercenaries expresses supplying them with money, etc. The use of mercenaries includes the recruitment of mercenaries directly in military operations.

The aforementioned facts are obvious evidence of maintaining criminal gangs and irregular groups, as well as mercenaries at the State level in the process of Armenia's aggression against Azerbaijan. This should be assessed as a violation of Article 3 (g) of the Resolution "On the Definition of Aggression" of 1974. On the other hand, analyzing the mentioned sign of aggression in the context of international judicial practice, as an example it can be shown the judgement of the International Court of Justice in the case *"Concerning Military and Paramilitary activities in and against Nicaragua (Nicaragua v. United States of America)"* (1986). According to article 195 of this judgement, an armed attack must be understood as including not merely action by regular armed forces across an international border, but also "the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to" an actual armed attack conducted by regular forces, "or its substantial involvement there in". Also, the Court came to the conclusion that, the prohibition of armed attacks may apply to the sending by a State of armed bands to the territory of another State, if such an operation, because of its scale and effects, would have been classified as an armed attack rather than as a mere frontier incident had it been carried out by regular armed forces. In short, the fact of sending irregulars for the purpose of an armed attack, in itself, is considered an international socially dangerous act as these armed attacks themselves.

One of the circumstances that, increases the significance of the UN resolutions on the occupation of Azerbaijani territories is manifested in the inclusion of the provisions on the occupation of adjacent districts that are not part of the Nagorno-Karabakh region. So that, the reflection of the provisions that "*.....the immediate cessation of all hostilities and hostile acts……as well as immediate withdrawal of all occupying forces from the Kalbajar district and other recently occupied areas of Azerbaijan*" in Article 1 of Resolution 822, the provision that "*…..the district of Aghdam and of all other recently occupied areas of the Azerbaijani Republic*" in Article 1 of Resolution 853, the provision that "*.....from recently occupied territories*" in Article 5 of Resolution 874, the provision that "*.....the recent violations of the cease-fire established between the parties, which resulted in a resumption of hostilities, and particularly the occupation of the Zangilan district and the city of Horadiz*" in Article 1 of Resolution 884 don`t limit the act of aggression by Armenia only with Nagorno-Karabakh, but also brings to the attention the necessity to consider the occupation of other territories. Precisely, in continuation of this, UN General Assembly Resolution 62/243 of March 14, 2008 "On the Situation in the Occupied Territories of Azerbaijan" demanded the immediate, complete and unconditional withdrawal of all Armenian forces from all the occupied territories of Azerbaijan. In this Resolution serious concern expressed on that, the armed conflict in and around the Nagorno-Karabakh region of Azerbaijan continues to endanger international peace and security, and this impacts adversely for the humanitarian situation of the countries of the South Caucasus. The General Assembly reaffirms continued respect and support for the sovereignty and territorial integrity of Azerbaijan within its internationally recognized borders. In this document the General Assembly of the UN reaffirms that no State shall recognize as lawful the situation resulting from the occupation of the territories of Azerbaijan, nor render aid or assistance in maintaining this situation[60].

Apparently, all the documents adopted by the UN related to this problem, guiding by the territorial integrity of the Republic of Azerbaijan and demanding the immediate, complete and unconditional withdrawal of all Armenian occupants from all the invaded territories of Azerbaijan, rely on universally recognized principles and norms of international law. Therefore, one of the important goals is to practice real action on the broad interpretation of the same documents in the direction of the implementation of resolutions 822, 853,

[60] Aliyev A.I. Human Rights. Textbook. Baku, "Hugug adabiyyati", 2013, p. 49 *(in Azerbaijani)*

874 and 884 adopted by the UN Security Council, as well as the UN General Assembly Resolution 62/243 of March 14, 2008 through the International Court of Justice, and after this the recognition of Armenia as aggressor state in accordance with UN Charter should be attained.

In general, the provision in the preambles of Security Council resolutions 822, 853, 874 and 884 on assessing the occupation of the territories of Azerbaijan by Armenia as a threat to peace and security in the region should be considered in conjunction with the provision that *"a war of aggression constitutes a crime against the peace, for which there is responsibility under international law"*, which is considered an integral part of the principle of refraining from the threat or use of force stated in the 1970 Declaration "On Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations", as well as with the provision stated in the Article 5.2 of the 1974 Resolution that *"a war of aggression is a crime against international peace. Aggression gives rise to international responsibility"*. Such interpretation should also play the role of the main basis to determine the responsibility of the state of Armenia for violating the norms of international law with respect to the occupation of the territories of Azerbaijan and to involve the relevant accused persons in international criminal responsibility. Even, Article 8 of the 1970 UN Declaration 2734 "On the Strengthening of International Security" reflected the provision that "the need for effective, dynamic and flexible measures, in accordance with the Charter, to prevent and remove threats to the peace, suppress acts of aggression or other breaches of the peace, and in particular for measures to build, maintain and restore international peace and security".

Furthermore, important provisions related to the aggression of Armenia against Azerbaijan and various aspects of its consequences were touched upon in other UN documents, as well as in reports submitted to this organization. For example, statements of the UN Security Council President on April 6, 1993, August 18, 1993, April 26, 1995, UN General Assembly resolutions 48/114 (March 23, 1994), 57/298 (February 6, 2003), 60/285 (September 15, 2006), 62/243 (April 25, 2008), reports of UN Secretary-General on April 14, 1993 and on March 30, 2009 etc.

At the same time, some reports were submitted to the UN Secretary-General by Azerbaijan: Report on the military occupation of the territory of Azerbaijan: a legal appraisal (23 October 2007); Report on the legal consequences of the armed aggression by the Republic of Armenia against the Republic of Azerbaijan

(24 December 2008); Report on the fundamental norm of the territorial integrity of States and the right to self-determination in the light of Armenia's revisionist claims (29 December 2008); Report on the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory (27 January 2009); Report on the armed aggression of the Republic of Armenia against the Republic of Azerbaijan: root causes and consequences (6 October 2009); Report on the international legal rights of the Azerbaijani internally displaced persons and the Republic of Armenia's responsibility (3 May 2012); Report on illegal economic and other activities in the occupied territories of Azerbaijan (16 August 2016) etc.

The fact of Armenia's occupation of the territories of Azerbaijan not only covers committing of the crime of aggression, but also leads to committing of other socially dangerous acts, in particular the formation and even more growth of international terrorist potential in the territories under occupation. The noted negative circumstances, in themselves, cause the following unpleasant consequences: a) violation of human rights as a result of the occupation of territories; b) the reduction of these territories to a space for committing socially dangerous and illegal acts; c) the implementation of measures for the settlement of Armenians in the territories, houses and other places belonging to the Azerbaijanis; d) bringing to the maximum harm to the environment graduallly; e) pursuing a policy of destruction of all traces concerning the historical, cultural and religious past of Azerbaijanis, which is an integral part of world history and culture[61].

Moreover, illegal activities of Armenia in the occupied territories of Azerbaijan were repeatedly confirmed even in the results of space inspections. An obvious example can be seen in the data, noted in the official report of the Open Joint Stock Company "Azercosmos" for 2017. So that, according to this Report, starting from 2015, the satellite "Azersky" is used steadily for defence and security of the country, as well as for the constant monitoring of the committed fires and assessment of the damage caused in our occupied territories. At the same time, the Report shows that, in 2017, the ore deposits in Kalbajar and Zangilan were monitored and expansion was discovered in the mining zones[62]. Furthermore, mineral resources extracted in 2 gold, 4 mercury, 2 chromite, 1 lead-zinc, 1 copper and 1 antimony deposits were sent to the

[61] Mustafayeva N.I. Principles of International Law and the Nagorno-Karabakh Conflict. Monograph. Baku, 2014, pp. 43-44 *(in Russian)*

[62] "Azerbaijan" newspaper, January 11, 2018, № 6 (7733), p. 3 *(in Azerbaijani)*

concentration centres of Armenia. Precisely, all these circumstances led to the arising of false Armenian claims that Armenia has become an important exporter of precious, rare and non-ferrous metals in the world. As an illegal policy conducted by Armenia in the occupied territories of the Republic of Azerbaijan, it could be shown the activities carried out in the Kalbajar district. So that, each year Armenia produces up to 13 tons of gold from these territories. Also, the extraction of building materials and facade stones in the occupied territories opens wide opportunities both for expansion of construction squares in Armenia and for export of facing stones[63].

The role of other international organizations is also important in confirming at the international legal level and recognizing on a global scale the aggression of Armenia against Azerbaijan. Precisely, in this area the law-making activities of the Organization of Islamic Cooperation (former Organization of Islamic Conference) should be noted. The documents adopted by this Organization in this area not only include the recognition of aggression, but also try to positively influence on the activities of other universal and regional international organizations in this matter. For example, along with the condemnation of the military aggression of Armenia against Azerbaijan in paragraph 68 of the Final Communiqué of the 7th Summit of the Heads of States and Governments of the Organization of the Islamic Conference (December 13-15, 1994), paragraph 69 provides for the following provisions of the calling character on the UN Security Council: recognition of the existence of aggression against Azerbaijan; taking the necessary steps under Chapter VII of the Charter of the United Nations to ensure compliance with its resolutions; condemnation and reverse the aggression against the sovereignty and territorial integrity of Azerbaijan.

In general, in the period after the fact of occupation, Organization of Islamic Cooperation confirmed the fact of the occupation of the territories of Azerbaijan by Armenia in its almost all documents. This can be seen from paragraph 8 of the Final Communiqué of the 7th of the Organization of Islamic Cooperation Summit held in Casablanca, Morocco (December 13-15, 1994), paragraph 61 of the Final Communiqué of the 9th Organization of Islamic Cooperation Summit held in Doha, Qatar (November 12-13, 2000), paragraph 33 of the Final Communiqué of the 10th Organization of Islamic Cooperation Summit held in Putrajaya, Malaysia (October 16-17, 2003), paragraph 60 of the Final

[63] Mustafayeva A., Garayev R. Legal aspects of preparation for damage caused to Azerbaijan as a result of Armenian aggression // IRS Heritage, 2013, No 14, pp. 57-58.

Communiqué of the 11th Organization of Islamic Cooperation Summit held in Dakar, Senegal (March 13-14, 2008), paragraph 16 of the Final Communiqué of the 13th Organization of Islamic Cooperation Summit held in Istanbul, Turkey (April 14-15, 2016) etc. In these documents in particular, it could be distinguished the following areas issues: recognition of Armenia-Azerbaijan conflict and aggression policy of this state against our country as violation of the international law, decisive condemnation of such acts; providing economic assistance to Azerbaijan by this Organization; stopping the durable destruction of Azerbaijani cultural and historical heritage, including Islamic monuments in the occupied territories of Azerbaijan as a result of aggression of Armenia against Azerbaijan[64].

Furthermore, there are numerous other documents of Organization of Islamic Cooperation on this matter. For example, Council of Foreign Ministers resolutions "On the conflict between Armenia and Azerbaijan" (1994, 11/22-P), "On the Destruction and Desecration of Islamic Historical and Cultural Relics and Shrines in the Occupied Azeri Territories resulting from the Republic of Armenia's aggression against the Republic of Azerbaijan" (2002, 11/29-C), "On the Aggression of the Republic of Armenia against the Republic of Azerbaijan" (2016, 10/43-POL), "On Economic Assistance to OIC Member States and Muslim Communities in Disputed/Occupied Territories and Non-OIC Countries within the OIC Mandate" (2016, 4/43-E), "On the protection of Islamic Holy Places" (2016, 3/43-C) etc.

The provisions related to the Armenia-Azerbaijan conflict are met not only in acts of international organizations of which our country is a member, but also in acts of other international institutions. An example is the European Union. So that, during the first years of independence, when relations did not develop properly, the European Union expressing its attitude to this issue, especially stressed the need to take measures to resolve the conflict by peaceful means. In the "Statement on Nagorno-Karabakh", dated May 22, 1992, the Community expressed its deepest concern at the latest escalation of the fighting in the Nagorno-Karabakh region and strongly condemned the use of force by whatever side. Also, the Statement touched upon the issue that, fundamental rights of Armenian and Azeri populations should be fully restored, in the context of existing borders. In the Statement of the European Union

[64] Suleymanov E., Suleymanov V. Armed Aggression of Armenia against Azerbaijan and the Grave Consequences of the Occupation. Improved second edition. Baku, 2013 p. 36 *(in Azerbaijani)*

on Nagorno-Karabakh, dated June 18, 1992, both sides were called to respect human rights, to which they have committed themselves at their admission into the CSCE. In the *"*Statement of the European Union on Nagorno-Karabakh", dated April 7, 1993, in which the Community regretted the enlargement of the combat zone to Kalbajar and the Fuzuli districts, the Armenian government was strongly urged to use its influence on the Nagorno-Karabakh forces for an immediate withdrawal from the Azerbaijani territory and to stop the fighting in the area. The *"*Statement of the European Union on Nagorno-Karabakh", dated June 24, 1993, expressed that the Community and its member States hoped that the Armenian government would continue to urge full acceptance of the peace plan on those elements in Nagorno-Karabakh, who had not yet accepted it and that those elements in Nagorno-Karabakh*,* would refrain from exploiting the present internal difficulties in Azerbaijan on the ground in and around Nagorno-Karabakh. The "Statement of the European Union on Nagorno-Karabakh", dated September 3, 1993, reflected the unpleasant consequences of the conflict and the fact of aggression, as well as provisions for the prevention of international wrongful acts of the aggressor. In general, the Statement of the European Union on Nagorno-Karabakh, dated September 3, 1993, providing for the following provisions, is fundamentally different in importance and with broad spectrum from other similar documents: the fact that "creation of the problem of refugees and internally displaced persons in Azerbaijan in the result of armed conflicts and occupation increased threat to regional security" is moved into the foreground; hoping to see local Armenian forces in Nagorno-Karabakh fully respect United Nations Security Council Resolutions 822 and 853, and withdraw from the districts of Kalbajar, Aghdam, Fuzuli and Jabrayil, it was stated that the Community and its member States had no evidence that Azerbaijan would be capable of initiating major attacks from these regions; the Government of the Republic of Armenia was called on to use its decisive influence over the Armenians of Nagorno-Karabakh to see that they complied with Security Council Resolutions 822 and 853 as well as the proposals of the CSCE Minsk Group, simultaneously, calling upon Armenia to ensure that the local Armenian forces carrying out offensives in Azerbaijan territory were not given the material means of further extending such offensives.

The "Statement of the European Union on Nagorno-Karabakh", dated November 9, 1993, paid attention to the consequences of the aggression of Armenia against Azerbaijan. So that, this document reflected the provisions concerning anxiety *at* the fate of tens of thousands of civilian Azerbaijanis who

were fleeing their native lands, increasing the risk of the conflict becoming an international one and threatening the stability of the whole region because of the presence of these refugees, as well as the priority for the international community to receive and protect these refugees. Communiqué disseminated on behalf of the Presidency of the European Union on January 17, 1994, expressed a sense of deep concern in connection with the importance of observation of the principles of international law (principle of territorial integrity and peaceful settlement of disputes), as well as leading of the international character of the existing conflict to dangerous consequences. One of the circumstances that, proves the occupation of Nagorno-Karabakh in the Armenia-Azerbaijan conflict is the position of the European Union about non-recognition of "fictitious elections" held by Armenians in this region. As an obvious example, it could be shown the Declaration by the Presidency on behalf of the European Union on forthcoming "Presidential elections" in Nagorno-Karabakh. This document clearly expressed the confirmation of the territorial integrity of Azerbaijan, non-recognition of the independence of Nagorno-Karabakh, consideration of the "fictitious presidential elections" that are scheduled to take place in Nagorno-Karabakh as illegal and negative impact of these elections on the peace process.

Moreover, paragraphs 6-11 of Resolution of the European Union Parliament, dated 20 May 2010 "On the need for an EU strategy for the South Caucasus" (2009/2216(INI)) provides issues regarding Nagorno-Karabakh. It is especially important to pay more attention to two aspects of these provisions, showing Armenia's aggression against Azerbaijan. The first of these, as noted in the Resolution, the provision that "the position according to which Nagorno-Karabakh includes all occupied Azerbaijani lands surrounding Nagorno-Karabakh should rapidly be abandoned" is an international legal confirmation of the Armenian aggression and a clear proof of the call for the cessation of this international wrongful act. Another issue, enshrined in the Resolution, is related to ensuring the rights of hundreds of thousands of refugees and internally displaced persons who fled their homes during or in connection with the Nagorno-Karabakh war (including the right to return, property rights and the right to personal security), as well as the need for unambiguous and unconditional recognition of these rights in accordance with the principles of international law.

Thus, summarizing the European Union law-making activity regarding the aggression of Armenia against Azerbaijan, it could be made the following conclusions:

- The organization in its documents repeatedly called for the Government of Armenia concerning unambiguous and unconditional compliance with *jus cogens* norms, including important principles of international law (in particular, refraining from the threat or use of force, territorial integrity of States, inviolability of frontiers, respect for human rights and fundamental freedoms, settlement of international disputes by peaceful means, fulfillment in good faith of obligations under international law). These calls, in themselves, should be evaluated as a step, which considers it necessary to implement Articles 41-42 of the UN Charter;

- The Nagorno-Karabakh was unambiguously approved as a part of the territory of Azerbaijan. This circumstance was not only reflected in international documents, but also should be considered an external form of expression of the political will of the Euopean Union and its member states;

- In the context of the implementation of the principle of respect for human rights and fundamental freedoms, as one of the most important fundamental principles of international law, it was embraced the necessity to provide all personal opportunities, including the right to return internally displaced persons from the occupied Azerbaijani lands, as well as refugees driven out their domiciles as a result of deportation and forced displacement, which were considered as the main means of policy of ethnic cleansing;

- The organization paid attention to the trend of concerning the Armenian occupation both to Nagorno-Karabakh and to the adjacent districts. This is not limited to the occupation of Nagorno-Karabakh and seven surrounding districts, but also stipulates the necessity of the providing the territories of the Nakhchivan Autonomous Republic, districts of Tartar and Gazakh, which have been subjected to aggression;

- The fact of the conflict occurred in Nagorno-Karabakh and surrounding districts and subsequent occupation of the Azerbaijani territories was assessed as the main violation of human rights;

- In the facts of the occupation, it was confirmed not only the participation of the official and regular armed forces of Armenia, but also the participation of bands and irregular groups consisting of Armenians, as well as groups composed of the mercenaries involved by them. Besides, in certain form, Armenia's effective control over the latter, the possession of means of influence on them and the implementation of their material security were underlined.

The Council of Europe adopted some documents related to the aggression of Armenia against Azerbaijan as well. For example, the Parliamentary

Assembly of the Council of Europe Resolution 1047 "On Conflict of Nagorno-Karabakh" (1994), Resolution 1119 "On Conflicts in Transcaucasia" (1997), Recommendation 1251 "On Conflict of Nagorno-Karabakh" (1994), Recommendation 1263 "On humanitarian situation of the refugees and displaced persons in Armenia and Azerbaijan" (1995) and 1095 Resolution of the same name (1995), Resolution 1416 "On the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference" (2005), Recommendation 1690 "On the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference" (2005)**,** Resolution 2085 "On inhabitants of frontier regions of Azerbaijan are deliberately deprived of water" (2016) etc. Even, in the Resolution 1416 "On the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference" (2005) it was expressed concern that the military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing. Further, the paragraph 1 of the Resolution states that, considerable parts of the territory of Azerbaijan are still occupied by Armenian forces, and separatist forces are still in control of the Nagorno-Karabakh region. At the same time, paragraph 3 of the Resolution recalls resolutions 822, 853, 874 and 884 of the UN Security Council and urges the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories. Recommendation 1690 "On the conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference", adopted by the Parliament Assembly of the Council of Europe on January 25, 2005, urges the parties concerned to comply with United Nations Security Council Resolutions 822, 853, 874 and 884, in particular by refraining from any armed hostilities and by withdrawing military forces from all occupied territories of Azerbaijan.

At the same time, the provisions related to the Armenia-Azerbaijan conflict are reflected in acts of different regional organizations established on various grounds. For instance, Declaration of the 5th Summit of the Cooperation Council of Turkish Speaking States, held in Astana in 2015, reiterated the importance of the earliest settlement of the Armenia-Azerbaijan conflict, on the basis of the sovereignty, territorial integrity and inviolability of the internationally recognized borders of Azerbaijan. In the "Joint Declaration by the Heads of State of the Organization for Democracy and Economic Development – GUAM on the issue of conflict settlement" it is noted that, unresolved conflicts and illegal military presence on the territory of Azerbaijan, Georgia and Moldova

undermine the sovereignty, territorial integrity and political independence of these states, impede implementation of full-scale democratic reforms and achievement of sustainable development, jeopardize regional security, negatively impact pan-European integration processes and challenge the entire international community. The paragraph 47 of the Summit Declaration of the Heads of State and Government of North Atlantic Treaty Organization (NATO), issued in Chicago in May, 2012, envisages support of the territorial integrity, independence, and sovereignty of Azerbaijan and efforts towards a peaceful settlement of regional conflicts, based upon these principles and the norms of international law, the United Nations Charter, and the Helsinki Final Act[65].

Moreover, in the paragraph 391 of the Final Document of the 16th Summit of the Heads of States and Governments of Non-Aligned Movement, held in Tehran, Islamic Republic of Iran on August 26-31, 2012, it is clearly expressed regret that, the conflict between Armenia and Azerbaijan remains unresolved, also it continues to endanger international and regional peace and security. In the paragraph 500 of the Final Document of the 17th Summit of the Heads of States and Governments of Non-Aligned Movement, held in Island of Margarita, Bolivarian Republic of Venezuela, on September 17-18, 2016, it is noted that in spite of the UN Security Council resolutions (822, 853, 874, 884) the conflict between Armenia and Azerbaijan remains unresolved and continues to endanger international and regional peace and security. Both documents reaffirm the importance of the principle of refraining from the threat or use of force enshrined in the UN Charter, and encourage the parties to continue to seek a negotiated settlement of the conflict within the territorial integrity, sovereignty and inviolability of the internationally recognized frontiers of the Republic of Azerbaijan.

Also, the problem of territorial integrity and inviolability of the frontiers of Azerbaijan is noted in some documents adopted within the framework of the Commonwealth of Independent States. So that, it could be shown the "Declaration by the Heads of Member States on the respect for sovereignty, territorial integrity and inviolability of frontiers of the CIS Member States" of 1994, Bishkek Protocol concluded by initiation of the CIS Inter-Parliamentary Assembly (1994), "Memorandum by the Heads of Member States on the maintenance of peace and stability in the Commonwealth of Independent States" of 1995, etc.

[65] www.nato.int/cps/en/natolive/official_texts_87593.htm

Furthermore, in the Report of the US Department of State on Human Rights Practices in Azerbaijan for 2006, it was noted the continuation of occupation of Nagorno-Karabakh region, as well as 7 adjacent districts of Azerbaijan by Armenia[66], and in the Report of the "Freedom House" for the same year it was clearly noted that the Government of Azerbaijan continued to have no administrative control over the self-proclaimed Nagorno-Karabakh Republic and the seven adjacent regions that are occupied by Armenia[67].

The provisions on the inadmissibility of Armenia's aggression against Azerbaijan and the necessity to eliminate the consequences of this international crime were reflected not only in the documents of international institutions, but also in the documents adopted by various States of the world. For instance, in the document of the Congress of Guatemala, dated October 6, 2015, the norms, regarding this problem, are envisaged in two aspects: condemnation of military occupation and aggression of the sovereign territory of Azerbaijan within the borders recognized by the international community at the international level; expression of solidarity with the parliament, the state, the government of our country, in particular, with the people of Azerbaijan because of the aggression in the framework of the territorial conflict.

The Statement, passed by the Chamber of Deputies of the Republic of Paraguay, on condemnation of the act of genocide committed in 1992 in the Khojaly town of Azerbaijan's Nagorno-Karabakh region and expression of solidarity for commemoration of the massacre victims on the eve of the 26th anniversary of the tragedy, condemns the armed occupation of the territories of Azerbaijan by Armenia, and stresses the expression of respect for the territorial integrity, sovereignty and inviolability of the internationally recognized frontiers of Azerbaijan. This Statement also declares that resolutions 822, 853, 874 and 884 of the UN Security Council adopted in 1993 urge to stop the occupation, to focus on the victims and a dialogue as a way to resolve the conflict that arose due to the occupation of Azerbaijani territories by Armenia.

Moreover, documents from the Senate of Arizona on February 25, 2015, from the Senate of the State of Maine of March 13, 2012, from the Senate of the State of New Mexico on January 28, 2013, from the Senate of the State of Tennessee on March 18, 2013, touched on the issue of inconsistency with

[66] www.state.gov/j/drl/rls/hrrpt/2006/78801.htm
[67] www.freedomhouse.org/report/nations-transit/2006/azerbaijan

international law of occupation and aggression of the territories of the Republic of Azerbaijan by Armenia.

Currently as a result of an expedient policy pursued by our country with the aim of bringing main point of Azerbaijani realities as well as Armenia-Azerbaijan conflict and Nagorno-Karabakh problem, finally, of international crimes committed by Armenia to the attention of international community, fair position of the most world countries had been formed in international system.

Thus, the existence of the fact of Armenia's aggression against Azerbaijan not only violates *jus cogens* norms of international law, but also jeopardizes the effectiveness of its fundamental principles, in particular, the principle of refraining from the threat or use of force. Precisely, if to refer to the Declaration 42/22 of the UN General Assembly "On the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations" of 1987, in this case, Armenia is a state that violates the principles of international law and encourages the use of force, violates human rights, and is not interested in carrying out measures aimed at preventing and reducing tensions. Another proving circumstance is embraced in the continuation of remaining of the occupied Azerbaijani lands under the Armenian aggression, in other words, in the continuation of this circumstance by Armenia. That is, occurrence of aggression and continuation of the existence of fact of this crime are factors that once again determine Armenia's responsibility. As it is correctly noted in the researches, the use of force cannot be considered as a mean of adequate control or ensuring respect for human rights[68].

In general, the occupation of territories (territories of Azerbaijan) by using force by an aggressor-state (Armenia), the continuation of the occupation by deliberately prolonging the negotiation process, and further compelling the State of the susceptible to occupation (Azerbaijan) to make concessions are grave and serious violations of international law.

[68] Merezhko A.A. The Problem of Nagorno-Karabakh and International Law. Kiev, Publishing House of Dmitriy Bugaro, 2014, p. 54 *(in Russian)*

III. Genocide

Azerbaijani people have constantly been the target of international crimes and this has been repeatedly proven on the basis of historical facts emerging from the ongoing processes and the events taking place in different periods. One of such crimes is the genocide.

It is necessary to take a look at the past history in order to make an approach to genocide in a wide spectrum and to give its correct legal description. Because, the implementation of the policy of ethnic cleansing and genocide against Azerbaijanis by Armenian criminals, from time to time moved to its "development" on the ascending line. We should note that, only in the twentieth century, Armenia's policy of ethnic cleansing against Azerbaijanis can be considered in 4 stages: the first stage, covering 1905-1907; the second stage, covering 1918-1920; the third stage, covering 1948-1953; the fourth stage, covering 1988-1993, which served as the basis for genocide against Azerbaijanis, territorial claims and military aggression in the modern period[69].

At the beginning of the 20th century, Armenian nationalists-criminals began to implement the policy of ethnic cleansing and genocide, expanding activities towards the realization of the idea of a "Great Armenia", put forward in the program of the Dashnaksutyun Party, which considers its main goal of committing international crimes against Azerbaijanis, and, in a planned way and purposefully expelling Azerbaijanis from their native historical territories. In 1905-1906 the Armenians massacred the peaceful Azerbaijanis in Baku, Ganja, Karabakh, Iravan, Nakhchivan, Ordubad, Sharur-Daralayaz, Tbilisi, Zangazur, Gazakh and other places, and mercilessly killed the population, burning and destroying cities and villages. As a result of this, the Armenian armed detachments destroyed more than 200 settlements in the counties of Shusha, Zangazur, Jabrayil and provinces of Iravan and Ganja in which Azerbaijanis lived, tens of thousands of our nationals became refugees and displaced persons from their homelands. Moreover, killing, without distinction, more than 200 thousand Azerbaijanis (women, children and the elderly), the Armenians conducted ethnic cleansing in these territories in order to build the

[69] Hasanov A.M. Stages of politics of ethnic cleansing and genocide against Azerbaijanis // Newspaper of "Nation", 31 March, 2015, № 65, pp. 2-3 *(in Azerbaijani)*

"Armenian State", which was promised by the tsarist Russia[70]. On the other hand, in these periods the typical tendency in the policy of genocide, conducted against the Azerbaijanis, was clearly manifested in parallel. And this is directly related to the desire to achieve numerical superiority of Armenians in the Azerbaijani territories, through armed offensives in these territories and against Azerbaijanis and their cleansing from these territories. Because, in this period only in five out of 54 counties in Caucasus Armenians prevailed numerically[71].

After the February and October events in Russia in 1917, the Dashnaksutyun Party and the Armenian National Congress started more extensive activities. At the same time, Stepan Shaumyan, who in December 1917 was appointed by Vladimir Lenin to the post of temporary emergency commissioner on the affairs of the Caucasus, became the organizer and leader of mass slaughter of Azerbaijanis. In the period from the beginning of 1917 to March 1918, in the Iravan province 197 villages, in Zangazur 109, in Karabakh 157 villages were destroyed, in other regions 60 settlements were demolished, burned and devastated by the Armenian armed forces. On March 31 and the first days of April 1918, when the massacre obtained a mass character, thousands of peaceful Azerbaijanis were killed only because of their nationality. In those days, the Armenian-Bolshevik associations executed 12 thousand peaceful Azerbaijanis in Baku. Moreover, during the first five months of 1918 in the county of Guba more than 16 thousand people were cruelly killed, 167 villages (today 35 of them do not exist) were destroyed. As a whole, in March-April 1918 about 50 thousand people were killed with special tortures by Armenian Dashnaks in Baku and other regions of Azerbaijan[72]. Only in the mass cemetery in the city of Guba, along with the Azerbaijanis, who were killed by excessive ruthlessness and special cruelty, thousands of people belonging to Lazgins, Jews, Tats and other ethnic minorities were also exposed to violence as a result of genocide.

To take into account the obvious proof of the genocide committed by the Armenians, it would be appropriate to analyze in more detail, as an example, the events taking place in Shamakhi in that period. So, during March-April

[70] Hasanov A.M. Stages of Politics of Ethnic Cleansing and Genocide against Azerbaijanis (in Azerbaijani, Turkish, Russian, English, French, German, Arabian and Chinese). Baku, "Zardabi LTD", 2017, p. 12 *(in Azerbaijani)*

[71] Arzumanli V.M., Mustafa N. Black Pages of History: Deportation. Genocide. Refugees. Baku, "Gartal" Publishing House, 1998, pp. 45-52 *(in Azerbaijani)*

[72] Hasanov A.M. Stages of Politics of Ethnic Cleansing and Genocide against Azerbaijanis (in Azerbaijani, Turkish, Russian, English, French, German, Arabian and Chinese). Baku, "Zardabi LTD", 2017, p. 12-14 *(in Azerbaijani)*

1918 in Shamakhi there were 120 villages, 86 of which were susceptible to Armenian attacks and genocide. However, due to the fact that the Emergency Investigation Commission created by the Government of the Azerbaijan Democratic Republic to investigate the aforementioned events left its work unfinished, it was only possible to determine the number of deaths during the Armenian offensive in 58 villages of Shamakhi county, and there was no possibility to acquire information about other villages. So that, according to the calculations of the Commission, in Shamakhi county, in total 6359 people were killed, of which 3632 were men, 1771 women, and 956 children. However, according to the calculations of experts on the figures available in archival acts, in 53 villages of Shamakhi county, Armenians killed 8027 Azerbaijanis, of which 4190 were men, 2560 women, and 1277 children[73].

However, the events of 1918 and the Armenian genocide policy were not limited only to the killing of Azerbaijanis, simultaneously, this policy led to the extermination of other ethnic and national groups living in Azerbaijan. So, as can be seen from the letter addressed to the President of the Republic of Azerbaijan by the Azerbaijani Jewish community, during the genocide of Guba committed during 1918-1919, about 3000 Jews were killed. Considering this fact as ethnic cleansing of Jews, the community in its letter noted: "On March 31 of each year – the day when the memory of the victims of the genocide of the Azerbaijanis is remembered – we pray for the repose of souls of Jewish children, women and men killed that day"[74]. The noted fact in itself in a clear form proves the vastness of the scale of the Armenian genocide policy and the manifestation of intent, in general, in destruction.

In 1948-1953, 150 thousand Azerbaijanis, who lived high above sea level, were deported from Western Azerbaijan (from present Armenia) and were settled in the plain of Kur-Araz, an unfavorable condition for them to climate and welfare. In the process of deportation, conducted in 1954-1956, again more than ten hundred thousand Azerbaijanis were subject to these measures, each one of three people died from starvation and illness due to non-adaptation to new circumstances[75].

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[73] Zulfugarli M.P. Shamakhi Genocide (1918). Baku, AVCIYA, 2011, pp. 30-33 *(in Azerbaijani)*

[74] Mustafayev R. March of Death. Crimes of the Armenians against the Jewish People. Moscow, 2008, pp. 25-27 *(in Russian)*

[75] Sadigov A.I. Crime of Khojaly Genocide: The intention, manifested in the general plan and policy and international law // Journal of "International Law and Problems of Integration", 2014, № 1, Special Edition, p. 95 *(in Azerbaijani)*

Finally, in 1988, the last 250 thousand Azerbaijanis living in their historical lands were expelled from this territory, and after that, the entire nation was once and for all separated from its natural environment (roots). However, the events taking place in 1988 would be wrong to be assessed only as deportation. So that, as a consequence of these events, the policy of genocide against Azerbaijanis continued in an acute form as well. For example, it is enough only to recall the measures of "destruction" (November 28, 1988) carried out in the Spitak region of Armenia. So, in this region 35 people were killed by torture, and 41 people by beating, 11 people were burned alive, 2 people were beheaded, 4 people were burned deadly, 1 person was executed by hanging, 3 people were chopped into pieces, 7 people were trampled under the car, 1 person was killed by electricity and 16 by firearms[76].

Undoubtedly, deportation, ethnic cleansing of Azerbaijanis and the policy of genocide cannot be assessed only as an independent act of Armenian criminals and Armenia. Here one cannot forget a certain policy of "intercession" of foreign countries. Opinions about the standing of other states behind the Armenian policy of ethnic cleansing against Azerbaijanis were repeatedly voiced in the events of international organizations. Even as a clear example of this fact, in a statement of the President of the Republic of Azerbaijan Heydar Aliyev on December 24, 1993, at a meeting of the Council of Heads of States of the CIS it was announced that, "just over 100 thousand Armenians living in the region of Nagorno-Karabakh, who do not have any supplies, cannot conduct large-scale military operations against a country with more than 7 million people and occupy 20 percent of its territory"[77].

In order to assess deportation from the point of view of international law, it is necessary to examine Article 7 of the Statute of the International Criminal Court. So that, according to Article 7.2, "deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law. This provision should be considered as novelty in international law. Because, like in the Charter of the Nuremberg International Military Tribunal, and in the constituent documents of *ad hoc* international criminal tribunals, the category of "deportation" is used. From

[76] Crimes by Armenian Terrorist and bandit groupings against humanity (XIX-XXI centuries). Brief chronological encyclopedia. Compiled by A.Mustafayeva, R.Sevdimaliev, A.Aliyev, R.Yilmaz. Baku, ELM, 2011, p. 186.

[77] Khojaly – 1992. Baku: Heydar Aliyev's Heritage Research Center, 2012, p. 10 *(in Azerbaijani)*

this point of view, Article 7.2 of the Rome Statute should be considered as an important step. Even in the judgements rendered on the cases of *"Kupreškić"* (2000) and *"Krstić"* (2004), which were the subject of consideration of the International Criminal Tribunal for Yugoslavia, referring specifically to the Rome Statute, it was included the possibility of recognizing "deportation" as an "inhuman act", resulting from violations of important human rights and the norms of international humanitarian law (in particular, Geneva Conventions), and "forcible transfer of population "inhuman act"– as a crime against humanity. Taking into account the noted practice, in this case, the Armenian policy and measures against Azerbaijanis on deportation and forcible transfer can be considered as "a point of intersection" of three types of violations of the norms of international law – violation of human rights, violation of the norms of international humanitarian law, as well as committing crimes against humanity.

As for the prohibition of ethnic cleansing, as well as its relationship with genocide, these issues have been reflected in various documents at the international legal level. In this field, first of all, it is necessary to consider the provisions on the policy of "ethnic cleansing" of the UN General Assembly Resolution A/RES/47/80, dated December 16, 1992, "On ethnic cleansing and racial hatred". Since, the provisions mentioned below can also serve as legal grounds for recognizing of the Armenian policy of "ethnic cleansing" against Azerbaijanis and judging the persons committed this crime on the international legal level: unreservedly condemn of "ethnic cleansing"; totally incompatibleness of "ethnic cleansing" with universally recognized human rights and fundamental freedoms; those who commit acts of "ethnic cleansing" are individually responsible and should be brought to justice; demanding from all those who commit or order acts of "ethnic cleansing" put an end to them immediately; necessity of cooperation in eliminating all forms of "ethnic cleansing".

In Article 4.4 (a) of the 2009 Kampala Convention for the protection and assistance of internally displaced persons in Africa, adopted within the framework of the African Union, it is noted that, displacement based on policies of racial discrimination or other similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the population is prohibited. At the same time, in the preamble of the UN General Assembly Resolution A/RES/47/121, dated December 18, 1992, "On the situation in Bosnia and Herzegovina" the abhorrent policy of "ethnic cleansing" has been considered as a form of genocide. Article 8 of the UN General Assembly Resolution A/RES/46/242,

dated August 25, 1992, "On the Situation in Bosnia and Herzegovina", which especially emphasized the abhorrent policy of "ethnic cleansing" as a grave and serious violation of international humanitarian law, calls upon all states and international organizations not to recognize the consequences of the acquisition of territory by force and of the abhorrent practice of "ethnic cleansing". This provision corresponds to the Armenian policy against Azerbaijanis on ethnic cleansing and genocide, as well as the tendency of forcible seizure of Azerbaijani lands as a result of this policy. It should be noted one feature that, the policy of ethnic cleansing→genocide→aggression against Azerbaijan and Azerbaijanis are considered inseparable chain rings that complement each other and also are the parts of the same process. Even in affirming this, the International Criminal Tribunal for the former Yugoslavia, in its judgement on the *"Krstić"* case, determined that, the plan for ethnic cleansing of Muslims in Srebrenica is "extended" to the genocide plan envisaged to ensure the destruction of Bosnian Muslims on a permanent form. At the same time, in the verdict against Adolf Eichmann (that is, on the "*Eichmann*" case (1961)), who was one of the important organizers of the massacres against Jewish during World War II, and after the war ended fled from Austria to Argentina, lived there under the name of "Ricardo Clement", detained in 1960 and convicted by the Israeli court, it is noted that, ethnic cleansing, expressed in the form of "deportation" as a crime against humanity and a war crime, remains a prohibited act under threat of punishment. Along with this, the opinion that "the policy of ethnic cleansing is fueling the "green light" for genocide is especially emphasized". If we pay attention to the process of their relationship, in this case, we can come to the conclusion that "ethnic cleansing" is a warning signal for committting of genocide and genocide is considered as the last method of "unnecessary ethnic cleansing"[78]. On the other hand, in international legal practice it is possible to find the characterization of the linkage of "ethnic cleansing" not only with the tendency of deportation or forcible transfer of population, but also as a link with the tendency of destruction of objects belonging to a particular group. As an explicit example, Special Rapporteur of the UN Human Rights Commission, Tadeusz Mazowiecki in the reports of the Expert Commission has repeatedly determined the intentional and systematic targeting of historical, cultural and religious structures as the main aspect of "ethnic cleansing".

[78] Schabas W.A. Genocide in International Law. Second edition. Cambridge: Cambridge University Press, 2009, p. 234

In the last and continuing latest stage of the Armenian genocide policy against Azerbaijanis, the Khojaly genocide should be especially emphasized. The Khojaly genocide must be considered as the most horrible genocide crime committed against the peaceful Azerbaijani population during the war of aggression carried out by Armenia with the purpose of occupying the Nagorno-Karabakh region of Azerbaijan. In addition, during the occupation of the villages of Imarat Garvand, Tugh, Salakatin, Akhullu, Khojavand, Jamilli, Nabilar, Meshali, Hasanabad, Karkijahan, Gaybali, Malibeyli, Yukhari and Ashaghi Gushchular, Garadaghli, part of the population of these settlements was cruelly killed. The genocide took place in the village of Garadaghli on February 17, 1992 is called "the second Khojaly" by scale. Here, each of the 10 villagers became a martyr. In February 1992, several days before the genocide of Khojaly, in the genocide perpetrated in Garadaghli, 104 villagers and 15 members of the special guarding detachment were taken prisoner, 67 of them were killed by Armenian fascists. 10 of the killed were women, 8 were children. 200 dwellings and 1 house of culture, the buildings of the 325-seat secondary school and the 25-bed hospital and other facilities were destroyed in the village. About 800 residents became internally displaced persons[79].

After that, the next target of military forces of Armenia in Nagorno-Karabakh, which is an integral part of Azerbaijan, was Khojaly, the second major settlement after Shusha, in which Azerbaijanis lived. Khojaly, located in Nagorno-Karabakh, had 940 square kilometers of territory and about 7000 inhabitants. Khojaly is situated 10 kilometers North-East of Khankandi, on the road Aghdam-Shusha and Askaran-Khankandi. Having the only civilian airport in the region, Khojaly was considered as an important communication center. Khojali had become a shelter for 54 families of Meskhetian/Ahiska Turkish refugees fled the bloody inter-ethnic clashes in central Asia as well as Azerbaijani refugees deported from Armenia.

The Armenian armed detachments, with the participation and "assist" of armored vehicles and personnel of the 366th motor rifle regiment, located in Khankandi and belonging to the Ministry of Defense of the former USSR, invaded the city of Khojaly on the night of February 25-26, 1992. However, the fact of the occupation of the city not only determines the evaluation of this action as aggression, but also gives grounds for interpretation of those incidents in this

[79] Hasanov A.M. Stages of politics of ethnic cleansing and genocide against Azerbaijanis (in Azerbaijani, Turkish, Russian, English, French, German, Arabian and Chinese). Baku, "Zardabi LTD", 2017, p. 23-24 *(in Azerbaijani)*

geographical territory as a crime of "genocide". So, as a result of this aggression 613 civilians were killed including 63 children, 106 women, 70 the elderly. 1275 people were taken hostage, 8 families completely annihilated, 56 people were tortured to death by burning alive, ripping off the scalp and extracting eyes. More than 1,000 residents, including 76 children, received gunshot wounds of varying degrees and became disabled. 25 children lost both parents, and 130 lost one of the parents. Fate of 150 people is still unknown. All these statistical indicators express only crimes committed against inhabitants of Khojaly. It should be noted that during the Khojaly tragedy more than 300 people for construction activities and more than 100 specialists in different fields from different regions of Azerbaijan became martyrs of this genocide. The historical name of the Azerbaijani city was changed and is now called "Ivanyan".

After committing the genocide in Khojaly, the next target of Armenia, which continued the policy of genocide, was the village of Aghdaban of the Kalbajar district. Aghdaban village is situated in Kalbajar district, on the right shore of Aghdaban river, on the slope of Aghdaban Mountain, south foot of Murovdagh range and 56 km far from the center of the district. In the night of 6th April, 1992, Armenian armed forces attacked the Aghdaban village of Kalbajar district with the help of armed Armenians in Nagorno-Karabakh, burnt the village, which consisted of 130 houses, inflicted on 779 peaceful people, killed 67 people brutally and perpetrated act of genocide. 8 people aged 90-100 years old, 2 children, 7 women were burnt alive, 2 people were missing, and 12 people were caused damage in one night. Historical, cultural and architectural monuments were destroyed by Armenians, holy sanctuaries and cemeteries were annihilated and destructed. During escape from the village, the part of population of the village was killed in pre-arranged ambushes. At present, the 538th motorized rifle regiment of the Armenian army is located in the village of Aghdaban. Manuscripts of virtuoso of Azerbaijani classical ashug poetry Ashug Gurban and his son Ashug Shamshir were burnt and plundered in Aghdaban as a continuation of vandalism policy perpetrated by Armenian separatists against cultural heritage of Azerbaijan.

Thus, proceeding from the international legal aspect of this crime, first of all, it is important to consider the provisions of the 1948 "Convention on the prevention and punishment of the crime of genocide". So, according to this document, genocide means the acts committed in time of peace or in time of war with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. These acts are detailed in Article 2 of the Convention:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group;
- Forcibly transferring children of the group to another group.

Apparently, an important condition is not only the adoption of real steps by committing of genocide as an integral part of international crimes, but also the intention on such crime. Namely, from this point of view, two elements of the crime of genocide should be especially noted: *mens rea* and *actus reus*.

Mens rea (or *dolus specialis* or special intention) expresses a mental or subjective element of the committed act of genocide, and *actus reus* expresses the material or objective element of this act, that is, the actual conduct or omission of a person (persons) committed crime. The intention of committing a crime of genocide *(i.e., mens rea)*, which does not consist of accidental destruction of persons belonging to any other group, or the imprudence destruction of one or more members of such groups, is directed towards the destruction of the group as a whole. The decisive feature of the definition of the victims of the genocide is not their individuality, but, namely, their belonging to the group intended in the 1948 Convention. Undoubtedly, here the group means not just the unification of individuals in a heap or the creation of a group of people, it should be viewed as a community associated with permanent and stable links[80]. On the other hand, committing a crime of genocide should also be considered as a violation of human rights, more precisely, as a violation of the right to life[81]. And this, as repeatedly noted in the judgements of the international criminal tribunals, ends with the destruction of the members of the group due to the fact that they belong to a special group and they are considered a group under target.

There are sufficient provisions related to both elements in international judicial practice. So that, directly in paragraph 59 of the *"Rutaganda"* (1999) case of the International Criminal Tribunal for Rwanda, it is noted that, a person may be convicted of genocide where it is established that he committed one of the acts with the specific intent to destroy, in whole or in part, a particular group.

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[80] Schabas W.A. Genocide in international law: the crimes of crimes. Cambridge: Cambridge University Press, 2000, p. 243.

[81] Sadigov A.I. Crime of Khojaly Genocide: the intention, manifested in the general plan and policy and international law // Journal of "International Law and Problems of Integration", 2014, № 1, Special Edition, p. 94 *(in Azerbaijani)*

The judgement of the Tribunal in the case of *"Kayishema and Ruzindana"* (1999) states that, *mens rea* must be formed before committing acts of genocide. In judgement (2015) issued by Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia on the *"Popović and others"* case it is stated that, crimes of genocide and conspiracy to commit genocide require the intent of genocide, which is considered an integral part of the element *mens rea*. On the relationship of these two elements, it should be noted that, it is impossible and inexhaustible to argue for the crime of genocide, because the intention does not yet mean its committing. That is, existence of the *actus reus* is also necessary in order to prosecute any person or people for committing a crime of genocide, along with *mens rea*. The provision of the judgement on the case "*Semanza*" (2003) of the International Criminal Tribunal for Rwanda that *"the intention (mens rea – **author**) of the perpetrator of crime is manifested in his acts (that is, in actus reus– **author**)"* is considered to be a clear example. This situation has repeatedly manifested in the Armenia's and Armenian policy against Azerbaijanis on ethnic cleansing and genocide, that is, in the end the intention resulted with committing of these acts.

The intention to commit the Khojaly genocide and the committing of an actual specific act have been repeatedly proven. First of all, it should be noted that according to official investigations conducted by Azerbaijan, it was determined that, the attacks committed against the civil population include elements of the crime of genocide provided for by international law, in particular the "Convention on the prevention and punishment of the crime of genocide", dated 1948. Also, as a result of the Khojaly genocide, the fact of existence of intention and specific acts (*actus reus*) has been once again proved. Namely, this issue has been interpreted according to international legal documents as follows:

- the specific intention (*mens rea*) of genocide to annihilate, in whole or in part, a group distinguished on racial, ethnic, national or religious grounds;

- the existence of a group, protected by international law, being targeted by the authors of criminal conduct;

- the clear manifestation of the objective and external element (*actus reus*), consisting of killing and causing serious bodily or mental harm.

Thus, according to the findings of the investigation, the following requirements are met for the purpose of manifestation of this conducts as genocide and sustaining charges with regard to crimes committed in Khojaly:

- the clear and convincing proof of intent to destroy a group in whole or in part;

- the fact that the destruction that took place in Khojaly was "significant" enough to affect the defined group as a whole;

- the crime committed within a specific geographic locality[82].

Moreover, the horrific consequences of the Khojaly tragedy and the factors justifying its interpretation as genocide are clearly expressed by publishing houses of various foreign states. For example, this point of view is once again proved in the opinions noted in these publications:

- "Armenians attacked Khojaly. The whole world has witnessed disfigured corpses. Azerbaijanis report about thousands of dead"*(Journal "Krua l'Eveneman", Paris / February 25, 1992);*

- "The Armenian soldiers killed thousands of families" *("Sunday Times", London / March 1, 1992);*

- "The Armenians shot a detachment heading towards Aghdam. Azerbaijanis counted about 1200 corpses"*("Financial Times", London / March 9, 1992);*

- "Many people were disfigured, only a head was left from an infant girl" *("Times", London / March 4, 1992);*

- "The video camera showed children with severed ears. A woman had half of her face cut off. Male scalps were taken" *("Izvestiya", Moscow / March 4, 1992);*

- "Foreign journalists who were in Aghdam among the killed women and children in Khojaly saw three people whose scalps were taken and nails extracted. This is not the propaganda of Azerbaijanis, but reality"*("Le Mond", Paris / March 14, 1992);*

- "I personally saw about a hundred corpses on a hill. One guy did not have a head. Everywhere, women, children, old men who were killed with special cruelty were seen" *("Izvestiya", Moscow / March 13, 1992);*

- "In this "autonomous region", Armenian armed detachments, along with the ones from the Middle East, have modern equipment, including helicopters. In Syria and Lebanon, ASALA has its own military camps and ammunition depots. Armenians, committing massacres in more than one hundred Muslim villages, exterminated Azerbaijanis in Karabakh" (*Journal "Valer aktuel", Paris / March 14, 1992)* etc.

Even in the reports and data of international non-governmental organizations, one can find proving facts. So that, in the information of "Human Rights Watch" it was noted that, in winter of 1992 the Armenian forces launched an

[82] www.justiceforkhojaly.org/content/khojaly-genocide-—-legal-case#_ftn1

offence, forcing the population of the territory consisting of Azerbaijanis to leave their lands, and also committing inhuman acts of violence against leaving civilians. The most sorrowful of them were the events happened in Khojaly on February 25, 1992. With the accompaniment of a dozen retreating fighters, a large detachment of residents fled the city, which was captured by Armenian forces. Meeting the Armenian posts, the civil population was wildly gun fired. Armenian forces kill civilian population and inactive soldiers (*hors de combat*), are engaged in robbery, sometimes burn houses. As a whole, the Organization considered the Khojaly genocide "the greatest slaughters in the conflict"[83].

One of the evidences showing the fact of the existence of intentions related to committing the Khojaly genocide should be considered a "secret reference" submitted to the UN, the Council of Europe and the Main Intelligence Agency on November 26, 1992, on March 19, 1994, on August 22, 1998, and also in July and December 2000 by Colonel Vladimir Saveliev, who served as a Chief Counter-Intelligence Department of the military unit 022270 in Nagorno-Karabakh, as well as an eyewitness of this genocide and collected the first information about it. This document clearly expressed measures, taken inside Armenia and with an assist of foreign countries in advance of the genocide. So that, the following opinion, noted in the "secret reference" clearly expresses this question*: "85 percent of the military equipment and ammunition of the 366th regiment passed into the hands of the Armenians. Moreover, 142 rifles, 7600 bullets, 460 flak jackets, 11 tons of canned food, 1200 pairs of shoes (in six sizes), 146 pistols, sent from France, and 149 American-made radio sets, were given to Armenians…"*. On the other hand, one cannot overlook the fact of linking the attack on Khojaly with a religious factor. So that, on February 24, 1992 at 22:15, Y.Zarvigarov, who obtained the rank of general, addressing the officers, especially emphasized the following: "The war that occurs as if in defense of lands, in fact, is the war of Islam against Christianity. *In this war we must protect our religion and honor, or take dishonor and surrender to them"*. V.Saveliev in his"secret reference" also showed that, the settlements surrounding Khojaly were destroyed and burned by the battalion of Ivan Moiseyev, and this battalion became famous among Armenians as "beasts of Ivan"[84].

[83] Journal "The World of Diplomacy", Special Edition, p. 17. – www.mfa.gov.az

[84] Aziz B. Khojaly Genocide: causes, methods of implementation and consequences. Baku: Azerneshr, 2014, pp. 193-208 *(in Azerbaijani)*

As is known, the objective aspect of genocide are the acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. The list of such acts are shown in Article 2 of 1948 Convention. Thus, the negative consequences of a particular act, the criminal intent must be clearly expressed. As an obvious example, with the preliminary examination of the corpses of 200 out of 613 Azerbaijanis killed in Khojaly, it was determined that, 151 people were killed by gunshot wounds, 20 were killed by scratch wounds, 10 people were killed by beating with blunt implements. According to experts, most of the victims were shot from a very close range. Center on Human Rights Protection also recorded the facts of ripping off the head skin of an alive person and other facts of cruelty. All of these were carried out by the Armenian military with special cruelty and unthinkable atrocity. The shooting and killing of the civil population, striving to escape in Khojaly, from rifles, machine guns and other weapons from specially prepared in advance ambushes, proves the malevolence and intent of genocide. Criminal acts committed with special cruelty against Azerbaijanis and humiliation of the genitals of murdered persons, piercing belly of pregnant women and other such conducts are associated with the intention to interrupt the roots of the Azerbaijani-Turkish group of population. At the same time, it should be noted that, when Khojaly was attacked, the Armenians used the tactics of "burnt land". Before the offence, during several hours, the village was shelled by cannons and armored vehicles and was turned into ruins. Armenian President for that period Levon Ter-Petrosyan in his address to the Armenian army said: "You, Armenians should not show mercy when killing an enemy. Until the time when you finish destroying Azerbaijanis in Nagorno-Karabakh and establish there our civilization, you should not spare your enemies". In addition, the current President of Armenia, Serzh Sargsyan, revealing the true face of the Armenians, during an interview with a foreign journalist said: "Before Khojaly, the Azerbaijanis thought that they could joke with us, they thought that Armenians would not raise their hands to the civil population. We destroyed this stereotype. That's exactly what happened"[85]. Moreover, in the book dedicated to Markar Melkonian's brother Monte Melkonian, a well-known Armenian terrorist and personally participated in the attack on the city of Khojaly, it is especially emphasized that the city was a strategic target, and also a place of vengeance. Referring the

[85] www.anl.az/xocali/soyqirim.htm; Waal Th. Black Garden: Armenia and Azerbaijan through Peace and War. New York, 2004, p. 172

participation of two Armenian military units, called "Arabo" and "Aramo", M. Melkonian described in detail the atrocities committed against Azerbaijanis[86]. In the book "Revival of our souls", published in 1996, Zori Balayan, whom Armenians with an addiction consider as "ideologue", the criminal intentions of Armenians against Azerbaijanis during the Khojaly genocide were clearly expressed:"When Khachatur and I entered the house where they were kept, our soldiers already nailed the 13-year-old's child's elbows to the window frame. To ensure that, he did not make much noise, Khachatur shoved a severed breast of his murdered mother into his mouth. Then I tore off the scalp and skin from the chest and abdomen with this 13-year-old Turkish boy. He died of blood loss after 7 minutes. My soul rejoiced with happiness. Then Khachatur cut the dead child's body into pieces and threw the dogs which were the Turkish origin as this boy. In the evening we did the same with three of the Turkish children. But I did my duty as an Armenian. I knew that every Armenian will feel proud of our acts"[87].

In general, the crime of genocide is a material and formal crime. Acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such, killing members of this group, causing serious bodily or mental harm to members of this group, imply criminal consequences – killing, causing serious bodily or mental harm. From the moment of occurrence of such consequences, the crime is considered completed. Crimes, such as deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group, forcibly transferring children of the group to another group, are considered to have been completed since the moment of committing these acts.

From the viewpoint of the number of people killed in Khojaly, in order to interpret this act as "genocide" under the 1948 Convention, it should be enough to consider the practice of international criminal judicial mechanisms. So that, in the judgements on certain cases that were the subject of the proceedings of the international criminal tribunals for Rwanda and the former Yugoslavia (for example, "*Akayesu", "Gacumbitsi", "Semanza", "Jelisić"*, etc.), it is clearly stated that in order to interpret the act as "genocide", there is no requirement

[86] Melkonian M. My Brother's Road: An American's Fateful Journey to Armenia. New York: I.B.Tauris, 2008, p. 213-214

[87] Aziz B. Turkish Genocide by Armenian in Azerbaijan from the tragedy of March to Khojaly. Research from Turkey Turkish Dr. Sebahattin Shimshir. Istanbul, IQ Kultur Sanat Yayincilik, 2013, pp. 191-192 *(in Turkish)*

on the number of the groups and the intention to completely destroy this group, as well as the requirement to bring the victims to a certain numerical limit. Also, it was noted that, for the interpretation of "genocide", one of the important conditions is the existence of an act that forms the objective aspect of the crime, or the effort of intent to destroy a particular group, in whole or in part. That is, in committing of this type of crime, we should pay attention to the factor "*groups and intentions of its destruction"*. Speaking of the group, it is necessary to take into account the category of "stable groups" expressed by the International Criminal Tribunal for Rwanda in the "*Akayesu"* case. So, according to this judgement, the term "stable groups" constitutes in a permanent fashion and membership of which is determined by birth, with the exclusion of the more "mobile" groups which one joins through individual voluntary commitment, such as political and economic groups. That is, here we are talking about belonging to the appropriate group automatically, by birth, in a continuous and often irremediable manner. As can be seen from historical facts, the goal and intention of the Armenians was to destroy the Azerbaijanis as a "stable national and ethnic group". Namely, all these peculiarities were demonstrably manifested, when committing the Khojaly genocide and before this case as well. So, the blockade of the city since October 1991, the cutting off of the Aghdam-Khojaly road, the creating the condition of the inability to use all vehicles and, therefore, the use of helicopters as the only type of vehicle, the suspension of energy and drinking water supply since January 1992, all of this is an explicit example. However, on January 28, 1992, the helicopter MI-8, which had not reached the city, following the route Aghdam-Shusha, was shot down from Khankandi by a rocket over the Khalfali village, 3 crew members and 41 passengers were killed[88]. Namely, after this event the use of helicopters was suspended. Namely, the listed features should be interpreted as intentions aimed at the complete destruction of a group living in that territory, in other words, according to the provision expressed in Article 2 of the 1948 Convention *"deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part"*.

In interpreting the crime of "genocide", another problem is related, mostly, to insufficient attention at the international legal level to the factor of formation and the existence of intention. That is, if certain exceptions are not taken into

[88] Hasanov A.M. Khojaly Genocide: causes, consequences and recognition in the international community (in Azerbaijani, Turkish, Russian, English, French, German, Arabian and Chinese. Baku, "Zardabi LTD", 2017, p. 14 *(in Azerbaijani)*

account, then, in international law, mainly, in committing and interpreting the crime of genocide, the state aimed at the implementation of this act remains out of attention. While ensuring the trial of the perpetrators of genocide and guiding the principle of the implementation of individual responsibility, attention should also be paid to the issue of state responsibility. However, the "point of intersection" between the responsibility of the state and individuals should be formed by state policy aimed at committing genocide. As an obvious example, could be shown the trial at the International Criminal Tribunal for Rwanda of the crime of genocide in connection with the cruel regime, or the investigation in the Special Court for Sierra Leone of the acts of the state apparatus or the leading officials of the state-like rebels. However, if refer to the words of the first President of the International Criminal Tribunal for the former Yugoslavia, Mr. Antonio Cassese, the crime of genocide is not an isolated or incidental phenomenon, but a practice carried out with the consent of government bodies or an integral part of government policy. If an act aimed at genocide is an integral part of a single conduct carried out in the same state or region or geographical area or of a planned state policy, in this case, it is rather easy to extract intention from the facts of the case[89]. This idea can also be fully connected with the policy of genocide, constantly directed against Azerbaijanis by Armenian criminals. Since, linking this policy only with the Khojaly genocide and a specific territorial restriction (i.e. Khojaly) would be illogical and historical distortion. So that, in the absence of a separate state of Armenians, using in a proper way the patronage of other empires and states, a genocide policy was implemented against the Azerbaijanis. This is proved by the widespread and systematic crimes of genocide committed in 1905-1907 and 1918-1920, including the aforementioned policy of ethnic cleansing, directly related to genocide. The measures of resettlement and ethnic cleansing carried out within the USSR in 1948-1953, as well as the policy of genocide in 1988-1993 (including the Khojaly tragedy) and measures of ethnic cleansing against Azerbaijanis, the facts of territorial claims and military aggression, are all a clear example of the durability of the committing of international crimes by Armenians against Azerbaijanis. Even, it can be described as "continued genocide and the crime of ethnic cleansing" committing by Armenians against Azerbaijanis. This directly reveals the responsibility of Armenia. Since, both in committing of the Khojaly genocide and the crimes

[89] Cassese A. International Criminal Law. Oxford: Oxford University Press, 2003, p. 100

of aggression against Azerbaijan, Armenia participated directly, and directly led organizations and individuals who committed international crimes. Even if we express in accordance with the provisions set forth in paragraphs 115 and 399 of the judgements of the International Court of Justice in the *case "Concerning military and paramilitary activities in Nicaragua and against Nicaragua (Nicaragua v. United States of America, 1986)* and in the case *"Concerning application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro,* 2007), the State *(i.e., Armenia – **author)*** had effective control of the military or paramilitary operations in the course of which the alleged violations were committed. In this case, the international legal responsibility of Armenia should be interpreted in accordance with articles 28, 30-31 and 34-37 of "Draft articles on Responsibility of States for Internationally Wrongful Acts" prepared by the Commission of International Law of the United Nations in 2001. That is, with the cessation of such internationally wrongful act, offering appropriate assurances and guarantees of non-repetition in the future (Article 30), the State must take the form of full restitution, compensation and satisfaction for the injury, either singly or in combination. According to Article 31.2 of the Draft Articles, the injury means any damage, whether material or moral, caused by the internationally wrongful act of a State.

The Khojaly genocide cannot be considered just as an international crime aimed at physical, mental and biological destruction of a specific group. At the same time, the destruction of historical, religious, architectural and cultural monuments located on this territory, directly, should be considered as an integral part of the policy of "cultural genocide". For the reference, it should be noted that this area is rich in ancient architectural and cultural monuments. Near Khojaly there are cultural monuments of Khojaly-Gadabey, dating from the 14th to 7thcenturies BC. By the way, it should be noted that archaeological and cultural monuments related to the late Bronze Age and the early Iron Age in the regions of the Lesser Caucasus region of Azerbaijan, between the rivers Kur and Araz, are called cultural monuments of Khojaly-Gadabey. Here were found funeral monuments – stone boxes, mounds and tombstones dating to the late Bronze Age and the Early Iron Age. At the same time, in the territory of the district there are also archaeological monuments – round grave and a mausoleum. During the archaeological excavations there were found various types of jewelry, made of stones, bronze and bones, as well as ceramic cookware baked from clay, etc. Found in the 11th burial mound in the Khojaly cemetery,

beads with cuneiform inscriptions, related to Adadnirari, the king of Assyria in 1307-1275 BC, as well as various decorations, ceramic cookware, glass beads, informs about the extensive economic and cultural relations of the indigenous people with Eastern countries. Furthermore, the Askaran fortress, located in the territory of the Khojaly region, was built by Khan of Karabakh Panahali Khan on the right and left banks of the Gargar River. The fortress, consisting of two fortifications, was built of river stones. The Askaran fortress in its structure is mostly like a defensive barrier. It can be deemed the latest sample of the centuries-old trend of the defensive barrier of Azerbaijan. Another significant feature of this fortress is that the peace negotiations between Russia and Iran in 1810 were held in this fortress. Related to the 14th century, also built of planed white stones in the area of Khojaly mounds, the Khojaly tomb has a significant feature of having twelve-cornered form and very convex door, but trimmed with engraved ordinary stone ornament[90].

As a whole, the monuments that became victims of the Armenian occupation and genocide in the territory of Khojaly can be divided into three groups. The *first group* consists of historical and religious monuments, which include the following: Albanian temple in the village of Shusha (905); Albanian temple in the village of Chanakhchi (1100); Albanian temple in the village of Chanakhchi (1065); Albanian temple in the village of Khachmas (1100); Albanian temple in the village of Khansykh (1122); Albanian temple in the village of Armudlu (1202); Dome-shaped gravestones in the village of Khojaly; gravestones in the form of a ram or saddle in the village of Khojaly; Albanian monuments with an ancient history in the village of Khojaly; remnants of the Albanian church in the village of Karkijahan; Albanian church "Church on the Bergun Rock" in the village of Meshali; Albanian church "Seven Churches" in the village of Meshali; Albanian church, "Church on Durpasu" in the village of Meshali; Albanian church "The Church in the Motherland of Avaz" in the village of Meshali; Khojaly cemetery dating back to the 8th and 9th centuries BC. The *second group* of monuments in Khojaly includes sanctuaries. These sanctuaries include such monuments as the Sanctuary of the Octagonal Dome (13th century), the tomb (14th century), the The Holy Place of Seyid Jalal Agha (Khojaly city), The Holy Place of Jahan Nene (Khojaly city), the Holy Place of Gara (Karkijahan settlement), the sacred place Darili (the village of Kosalar).The *third group* of monuments

[90] www.xocalininsesi.info/2017/09/xocali-tarixi-memarliq-abidlri-diyaridir.html

includes the fortress of Tamerlane in the village of Meshali, and the fortress of Askaran in the village of Askaran (18th century)[91].

Namely, from this point of view, attention should also be paid to the existence of a "cultural genocide", in the context of the crime of genocide committed in Khojaly. Also, it should be noted that during the elaboration of the Draft Convention of 1948, it was proposed to include in this document a concept that covers the features of "cultural genocide". So that, the project proposed in 1947 by the UN Secretariat covered such acts providing the prohibition of the use of the native language, the systematic destruction of books in the native language, as well as historical and religious objects. Simultaneously, prepared by the *Ad Hoc* Committee of the UN Economic and Social Council, the 1948 Draft was guided by the same approach. The said project characterized the crime of "genocide" as any of the following deliberate acts committed with the intent to destroy the language, religion or culture of a national, racial or religious group, on grounds of the national or racial origin, or religious belief:

- Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group;

- Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.

However, the Sixth Committee of the UN General Assembly refused the concept of "cultural genocide"[92]. Even, according to the position, stated in the judgement of the International Court of Justice in the case *"Concerning application of the Convention on the prevention and punishment of the crime of genocide" (Bosnia and Herzegovina v. Serbia and Montenegro)" (2007)* destruction of historical, cultural and religious heritage can`t be considered as deliberately inflicted damage. Although such destruction may be highly significant in as much as it is directed to the elimination of all traces of the cultural or religious presence of a group, and contrary to other legal norms, it does not fall within the categories of acts of genocide set out in Article II of the Convention. The Court concluded that the destruction of historical, religious and cultural heritage cannot be considered to be a genocidal act within the meaning

[91] www.scwra.gov.az/structure/169/?Xocalı%20rayonunun%20əsir%20abidələri

[92] Quiqley J. The Genocide Convention: an international law analysis. Aldershot: Ashgate Publishing, 2006, p. 9

of Article II of the 1948 Convention[93]. However, in its decision the Court also endorses the observation made in the paragraph 580 of the judgement on the *"Krstić"* case (2001) of the International Criminal Tribunal for the Former Yugoslavia that *"where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group"*. Besides, this decision directly emphasizes that the intention to physically destroy a particular group is inseparable from intention to attack on the cultural and religious property and symbols of the targeted group. At the same time, the provision "*the destruction of cultural monuments must be considered as an act of the same influence as genocide",* noted in *"Milošević"* case (2003) of the Tribunal, having important significance, also gives the full basis to consider the destruction of monuments as an integral part of the committed genocide in Khojaly. Also, the possibility of application the provisions, such as *"Muslim houses in the area were burnt to make sure that there would be no return of the Muslim population…..... Muslim religious sites, like the mosques in the area, were systematically destroyed……"* noted in paragraph 238 of the judgement handed down by the Tribunal in the case *"Naletilić and Martinović"* (2003), as a precedent law on similar issues, could be examined.

Taking into consideration the abovementioned issues, the criminal act committed in Khojaly should be examined as the crime of genocide, being the serious violation of the obligations enshrined on imperative norms (*jus cogens*) of public international law. Even in the Annex to the letter, dated February 21, 2013, addressed to the Secretary General of the United Nations the Permanent Representative of Azerbaijan to the United Nations, in particular, in paragraph 32 of the Appendix, detailed explanations of these issues were given.

With regard to the recognition of the Khojaly genocide from the point of view of international law, some states of the world (Bosnia and Herzegovina, Czech Republic, Jordanian Hashemite Kingdom, Islamic Republic of Pakistan, Republic of Colombia, Republic of Guatemala, Republic of Honduras, Republic of Panama, Republic of Peru, Republic of Sudan, Republic of Paraguay etc.), and also some states of the United States (Arizona, Arkansas, Connecticut, Georgia, Hawaii, Indiana, Maine, Massachusetts, Nebraska, Mississippi, New Jersey, New

[93] Ehlert C. Prosecuting destruction of cultural property in international criminal law: with a case study on the Khmer rouge`s destruction of Cambodia`s heritage. Leiden, Martinus Nijhoff Publishers, 2014, pp. 36-37

Mexico, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, West Virginia, etc.), reflecting their political and legal positions, recognized the crimes committed in Khojaly as "genocide". For example, in the Resolution of the Committee on Foreign Relations of the Pakistani Senate, dated February 1, 2012, in the document of the Parliament of Guatemala, dated October 6, 2015, etc., the acts of genocide committed against the civil population are decisively criticized. The document of the Senate of the Republic of Colombia, dated March 28, 2012, reflected provisions on the condemnation of killings against the population of Azerbaijan, in particular, killings, injuries, humiliating acts and human rights violations during the Khojaly genocide. In the Preamble and Article 1 of the Declaration of the Parliament (National Congress) of Honduras, dated January 24, 2014, as well as in the document of the Chamber of Deputies of the United States of Mexico, dated November 30, 2011, the insults and humiliating acts by authorities of Armenia against civilians, including Khojaly, are criticized. In some documents on recognition (for example, the Document of the Congress of the Republic of Peru, dated June 10, 2013, etc.), the link between the Khojaly genocide and the occupation of the seven surrounding regions of Nagorno-Karabakh has been manifested. In the Resolution of the National Assembly of the Republic of Panama, dated August 7, 2013, acts against the Azerbaijani population during the conflict and after it, in particular, during Khojaly genocide, are characterized as serious violations of human rights.

Furthermore, in documents of international mechanisms for the protection of human rights, it is possible to find provisions related to crimes committed in Khojaly. As an obvious example, while giving a legal assessment of the crimes committed in Khojaly, the European Court of Human Rights in its decision in the case of *"Fatullayev against Azerbaijan"* (2010) interpreted the acts of force forcibly intervening and entering the city as "acts of special seriousness, which can cover the constituent elements of war crimes and crimes against humanity". Paragraph 87 of the Decision states that, "the reports available from independent sources indicate that at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town". So, the Court concluded that there is no doubt about the interpretation of these acts as a crime and about the existence of responsibility arising from this crime.

Undoubtedly, in this issue Azerbaijan has constantly substantiated its position with the norms of international law. So that, in paragraph 3 of Decision

333-XII of the Supreme Council of Azerbaijan, dated March 25, 1992, "On the Situation in the Nagorno-Karabakh Region of the Republic of Azerbaijan, Khojaly genocide and Socio-Political Condition in the Republic" it is noted that "the deliberate acts of the Republic of Armenia, resulted with the expulsion of civil population since 1988 from their historical lands, and then, by expulsion from the Nagorno-Karabakh region of the Republic of Azerbaijan, because of their nationality, that is, because they were Azerbaijanis, violations of human rights, the massacre of thousands of civil population, the elderly, women and children by the most horrible and ruthless methods and means in the upper part of Karabakh – Malibeyli, Garadaghli, Meshali, Karkijahan and other settlements, in particular in the city of Khojaly, must be assessed as genocide and it is necessary to adopt appeals to international organizations and countries of the world on this issue. The cooperation of the military units of the Commonwealth of Independent States in this genocide should be emphasized". According to the Decision No. 791 of the Milli Majlis of the Republic of Azerbaijan, dated February 24, 1994, adopted on the initiative of the President of the Republic of Azerbaijan Heydar Aliyev, in connection with the Khojaly events, committed by the Armenian aggressors on February 26, 1992, and which is one of the national tragedies of the Azerbaijani people and one of the bloody pages of the history of mankind, 26th of February of each year is designated as "Day of the Khojaly Tragedy".

Besides, the Decree No. 690 of the President of the Republic of Azerbaijan Heydar Aliyev, dated March 26, 1998, "On the Genocide of Azerbaijanis" should be deemed as an important step in the direction of investigation in any aspect of international crimes and the crime of genocide, which our people encountered in different stages of history, and, as noted in this document, *"to mark all the tragedies of genocide committed against the Azerbaijani people"*. In this document, relying on historical facts, all horrors happened to our people are noted and the importance of paying attention to them is wholly substantiated. Namely, as an obvious example, the Decree notes that: "All of the tragedies of Azerbaijan in the XIX-XX centuries were accompanied by the occupation of the territory and formed separate stages of a considered with deliberate intent and planned genocide policy implemented by Armenians against Azerbaijanis. There was an attempt to give a political assessment to only one of these events – the March massacre of 1918. As the successor of the Azerbaijan Democratic Republic, today the Republic of Azerbaijan, as a logical continuation of decisions that cannot be fully implemented, assumes the duty of

political assessment of the events of genocide as the verdict of history". Thus, according to the analyzed document, March 31 of each year was proclaimed as the "Day of Genocide of Azerbaijanis".

In the Order by the President of the Republic of Azerbaijan Ilham Aliyev on establishment of Genocide Memorial Complex in the city of Guba, dated December 30, 2009, it is noted that, in the mass cemetery in the city of Guba, along with the Azerbaijanis, who were killed by excessive ruthlessness and special cruelty, thousands of people belonging to Lazgins, Jews, Tats and other ethnic minorities were also exposed to violence as a result of genocide. According to the Order, in order to bring to the attention of the world community the criminal acts of Armenian nationalists, to preserve the national memory of future generations of the Azerbaijani people and to perpetuate the memory of the victims of the genocide, it was decided to create a "Genocide Memorial Complex" in the city of Guba of Azerbaijan.

Finally, the Order of the President of the Republic of Azerbaijan Ilham Aliyev "On the 100th Anniversary of the Genocide of Azerbaijanis of 1918", dated January 18, 2018, intended to ensure the preparation and implementation of a plan of events dedicated to the centennial anniversary of the 1918 genocide of Azerbaijanis.

IV. War crimes

One of the internationally wrongful acts committed by the opposing side against our country in the process of the Armenia-Azerbaijan conflict are war crimes. But, prior to the detailed analysis of these crimes, it is important to clarify the type and nature that occured during the armed conflict. Because the clarification of the type of armed conflict also implies the necessity of proper application of international law norms to the relevant situation and to the war crimes committed in the conflict process. Thus, despite Armenia claims Nagorno-Karabakh conflict on the basis of principle of equal rights and self-determination of peoples and indicates so-called "Nagorno-Karabakh Republic" as the party in the conflict, events which had happened completely as well as existing facts, manifest obviously affirmation of direct participation of Armenia in committing of international crimes against Azerbaijan in one form or another, and just the fact that Armenia and Azerbaijan are the parties of the conflict *(All these facts are detailed properly in chapters I and II of the research)*. Taking into consideration the above-mentioned as well as international crimes committed by Armenia and which are still continuing nowadays, the Nagorno-Karabakh conflict should be considered as an international armed conflict in which the sides are Armenia and Azerbaijan. Under requirement of common article 2, to the Geneva Conventions 1949 on the protection of victims of war, in addition to the provisions which must be implemented in peacetime, the relevant international-legal documents are applied to all cases of declared war or of any other armed conflict which may arise between two or more states, even if the state of war is not recognized by one of them. At the same time, according to the mentioned norm, the Geneva Conventions are applied also to all cases of partial or total occupation of the territory of a state, even if the said occupation meets with no armed resistance. As can be seen from requirement of the relevant article, the use of force actually already requires the application of Geneva Conventions. As can be seen from requirement of the relevant article, the use of force actually requires already the application of Geneva Conventions. It doesn`t depend on whether the war has been declared, whether the parties recognize the state of war, or partial or total occupation of the territory of one of the parties, or the resistance of the party undergoing to attack. As it has

been noted in the literature, the only condition required for the application of international humanitarian law is the existence of a armed conflict[94].

Non-observance international humanitarian law norms as well as Geneva Conventions or their violation lead to appearance of war crimes ultimately. As noted in paragraph 70 of the judgement which was touched upon jurisdiction problem, issued by Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia on the case of *"Prosecutor v. Duško Tadić"* (1995) *"On the basis of the foregoing, we find that an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply in the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there".* Besides this, it was underlined in Advisory Opinion of 8 July 1996 of UN International Court of Justice on the *"Legality of the threat or use of nuclear weapons"* that *"The cardinal principles contained in the texts constituting the fabric of humanitarian law are the following: the first is aimed at the protection of the civilian population and civilian objects and establishes the distinction between combatants and non-combatants; States must never make civilians the object of attack and must consequently never use weapons that are incapable of distinguishing between civilian and military targets. According to the second principle, it is prohibited to cause unnecessary suffering to combatants: it is accordingly prohibited to use weapons causing them such harm or uselessly aggravating their suffering. In application of that second principle, States do not have unlimited freedom of choice of means in the weapons they use".*

Futhermore, the special principles of international humanitarian law as significant field of international law, also play an important role in the protection of human rights during the armed conflict. They can be included following: coordination of military necessity and ensuring public order with respect for human being at all times; persons taking no active part in the hostilities as well

[94] Gasser H.P. International humanitarian law. International Committee of the Red Cross. Baku, 2000, p. 34 *(in Azerbaijani)*

as *hors de combat* have the right to respect, protection and treatment humanely; prohibition of torture, degrading and inhuman punishments; existence of everyone`s right to recognition of human rights before the law; respect for everyone`s honour and family rights as well as his/her convictions and habits; inadmissibility of deprivation anyone of property illegally; prohibition of reprisal, collective punishment, taking of hostage and deportation; not to persecute and to convict anyone to care for the sick and wounded; ensuring the victims of war who were deprived from natural protection, with international protection; distinguishing the civilian population from the combatants by parties in conflict at all times in order to protect the civilian population and civilian objects; prohibition of threat of violence the primary purpose of which is spread fear among the civilian population; protection of civilian population, including taking all feasible precaution measures to avoid incidental loss of civilian life and injury to civilians; not to use civil population in order to shield military objects from attacks; prohibition of destruction and removal of objects indispensable to the survival of the civilian population; prohibition of starvation among civilian population as a method of warfare.

Moreover, Jean Pictet, well-known scholar in the field of international humanitarian law, classified the principles of international humanitarian law into four groups: fundamental principles to be observed in unconditional and under any circumstances; general principles prohibiting torture, humiliating and inhuman treatment in relation to the survival, physical and psychological integrity, the promotion and protection of human rights; principles on the victims of armed conflict; special principles regarding military operations[95].

As known, international humanitarian law consists of two parts – "The Hague Law" and "Geneva Law". "The Hague Law" (or "the law of war") stipulates the rights and obligations of the belligerents in conducting military operations and limits the choice of means of inflicting damage. Existing norms related to that had been formed on the basis of international documents adopted by international peace conferences which were held in the Hague in 1899 and 1907 as well as provisions of other international acts enacted in the modern time (for example, 1954 Convention for the protection of cultural property in the event of armed conflict and additional protocols to it, 1976 Convention on the prohibition of military or any other hostile use of environmental

[95] Pictet J. Development and principles of international humanitarian law. International Committee of the Red Cross, 1994, pp. 77-100 *(in Russian)*

modification techniques, 1980 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 supplementary protocols to it, 1993 Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, 1997 Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel mines and on their destruction and etc.). But "Geneva Law" aims at ensuring the protection of the rights of *hors de combats* and persons taking no active part in the hostilities. Convention for the amelioration of the condition of the wounded in armies in the field 1864 is regarded as the first international treaty on this sphere. The Convention containing completely ten articles, was a turning point in the developing laws and customs of war. By proclaiming the principle that wounded and sick combatants, to whatever nation they may belong, shall be collected and cared for and by providing protection for medical personnel on the battlefield, the Convention is considered significant step in this matter[96]. Afterwards, 1949 Geneva Conventions for the protection of victims of war and 1977 Additional Protocols to them had played exceptional role in development of " Geneva Law". As set out in paragraph 75 of the Advisory Opinion of 8 July 1996 of the UN International Court of Justice on the *"Legality of the Threat or Use of Nuclear Weapons"* in relation to the interconnection of these two parts of international humanitarian law *"these two branches of the law applicable in armed conflict have become so closely interrelated that they are considered to have gradually formed one single complex system, known today as international humanitarian law. The provisions of the Additional Protocols of 1977 give expression and attest to the unity and complexity of that law".*

Besides, Martens clause, proposed by professor F.F.Martens who was the Russian scholar and the Russian delegate at the Hague Peace Conferences 1899, and called honour of him, was envisaged in preamble of the Second Hague Convention "On the Law and Customs of War on Land" (1899) for the first time. The essence of clause is that, *"until a more complete code of the laws of war is issued ..... populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience".* Martens clause plays an important

[96] Bugnion F. The International Committee of the Red Cross and the development of international humanitarian law // Chicago Journal of International Law, 2004, Vol. 5, No 1, p. 193

role with the view of its reference to customary law and as it emphasizes the significance of customary norms in regulation of armed conflicts. Besides, clause refers to "the laws of humanity" and "dictates of public conscience". It should be noted that regarding "principles of humanity" is synonymous with "laws of humanity", phrase of "principles of humanity" had been used in the I Additional Protocol 1977. The principles of humanity are interpreted as prohibiting means and methods of war which are not necessary for the attainment of a definite military advantage[97]. In short, clause envisages the reconciliation of the principles of humanism and military necessity as well as significance of their "crossing" at a single point and being vital importance.

Thus, internatonal humanitarian law is applied to all the armed conflicts regardless of the origin and nature of conflict, or without causes and conditions of the parties. Aim of international humanitarian law is to protect human life and human dignity in an emergency state of war. International humanitarian law is the field of international law, and aimed at restriction of sufferings and disasters of armed conflicts by determination of methods and means of military operations, ensuring protection of victims of war and civil population, also defining the inevitability of punishments and the relevant responsibility for "grave breaches". Jean Pictet defines international humanitarian law as "significant part of international law, and perceiving in the humanist light and protection of individuals during war". As international norms develop and new human rights instruments are adopted, international humanitarian law is enriched with principles and norms regulating human rights, ensuring right to use fundamental rights and freedoms of individ during armed conflict, diminishing adversities occured in the case of armed conflict, also protecting human beings from arbitrariness and violence.

With regard to international-legal framework of war crimes in modern time, it would be better to stress especially Charter of the Nuremberg International Military Tribunal. Thus, according to article 6 (*b*) of the Charter, the violation of the laws and customs of war was included on the war crimes. But the latter had combined the following constituent elements in itself: murder, ill-treatment or deportation to wave labour or for any other purpose of civilian population of or in occupied territory; murder or ill-treatment of prisoners of war or persons on the

[97] Ticehurst R. The Martens clause and the laws of armed conflict // International Review of the Red Cross, 1997, Vol. 37, Issue 317, pp. 125-129

seas; killing of hostages, plunder of public or private property; wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

This International Tribunal has not only fulfilled the function of prosecution and punishment of persons who have committed jurisdictional crimes, but at the same time endowed with its gift in the formation of case law in this field. A clear example is the issue of the relationship between treaty norms and customary norms in the judgement of the Tribunal. So that, the judgement defines that, conclusion of international treaties is just one of the elements of the development of laws and customs of war. Moreover, the judgement notes that, "the law of war is to be found not only in treaties, but in the customs and practices of states, which gradually obtained universal recognition, and from the general principles of justice applied by jurists and practiced by military courts".

Another aspect of the Nuremberg process's influence on the development of international law was the adoption of General Assembly Resolution 95 "On Affirmation of the Principles of International Law recognized by the Charter of the Nuremberg Tribunal", dated December 11, 1946, that approved the Charter of Nuremberg Tribunal and principles of international law recognized by the judgement of the Tribunal. Unlike the International Military Tribunal at Nuremberg, in Article 5 of the Charter of International Military Tribunal for the Far East, these crimes were expressed as "conventional war crimes", and not going into details, it was emphasized that, they include only violations of the laws or customs of war.

The determination of the constituent elements of war crimes in the subsequent period was observed with a tendency of certain development. For example, the Charter of International Criminal Tribunal for the Former Yugoslavia included war crimes in the context of grave breaches of the Geneva Conventions of 1949 (Article 2), as well as violations of the laws or customs of war (Article 3). Article 4 of the Charter of International Criminal Tribunal for Rwanda war crimes were considered in the context of violations of Article 3 common to the Geneva Conventions and of Additional Protocol II. Article 8 of the International Criminal Court, established in 1998, distinguishing four kinds of war crimes, defined its separate constituent elements: a) grave breaches of the Geneva Conventions of 1949 – acts against persons or property protected under the provisions of the relevant Geneva Convention; b) other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law; c) in the case of an armed conflict

not of an international character, serious violations of article 3 common to the four Geneva Conventions of 1949, namely, as well as acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause; d) other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law.

In Article 20 of "Draft Code of Crimes Against the Peace and Security of Mankind", adopted by International Law Commission in 1996, these crimes are classified on seven categories: 1) acts committed in violation of international humanitarian law; 2) acts committed willfully in violation of international humanitarian law and causing death or serious injury to body or health; 3) acts committed willfully in violation of international humanitarian law; 4) outrages upon personal dignity in violation of international humanitarian law, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault; 5) acts committed in violation of the laws or customs of war; 6) acts committed in violation of international humanitarian law applicable in armed conflict not of an international character; 7) in the case of armed conflict, using methods or means of warfare not justified by military necessity with the intent to cause widespread, long-term and severe damage to the natural environment and thereby gravely prejudice the health or survival of the population and such damage occurs.

One of the features characterizing war crimes is related to non-applicability of statutory limitations to them. This requirement follows from the norms of international law, in particular of Convention "On the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity" of 1968.

Undoubtedly, at the legal interpretation of war crimes, the most important issue is consideration of Geneva Conventions on the protection of the victims of war of 1949 (Convention for the amelioration of the condition of the wounded and sick in armed forces in the field, Convention for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea, Convention relative to the treatment of prisoners of war, Convention relative to the protection of civilian persons in time of war) and Additional Protocols to them of 1977, as well as violations of the laws and customs of war. Since, the presence of these violations creates a basis for the interpretation of any act committed in this field, as a war crime. In general, referring to the authors' opinions, conducted researches in this field, war crimes, which are

considered a special kind of international wrongful act, include several features (violation of the laws and customs of war; accompaniment of violence of military character against civilians and safety of mankind; non-applicability of statutory limitations; to envisage international legal responsibility for their committing)[98]. However, it would be wrong to characterize war crimes only as a violation of the laws and customs of war. In this case, Geneva Conventions on the protection of the victims of war of 1949 and Additional Protocols to them of 1977 cannot be left out of atttention. Namely, in this regard, it would be more correct to assess war crimes as violations of international humanitarian law completely.

Analyzing the crimes committed by Armenia against Azerbaijan, first of all, deliberate attacks should be specially emphasized, which caused widespread, long-term and serious damage to the environment. So that, 595.6 thousand hectares out 1.7 million hectares of land of Azerbaijan, occupied by Armenia, were agricultural land, 247.4 thousand hectares were forest area and 10.1 thousand hectares were farmland. 42997 hectares of the Specially Protected Nature Areas – Basitchay State Nature Reserve, Arazboyu State Nature Sanctuary, Garagol State Nature Reserve, Lachin State Nature Sanctuary, Gubadly State Nature Sanctuary, Dashalti State Nature Sanctuary are situated in occupied territories. More than 460 species of wild trees and shrubs grow in the occupied territories, 70 of them are endemic species and they have been depleted in the occupied territories and currently are about to be effaced from the treasures of world flora. In the occupied territories, 4 species of mammals, 8 species of birds, 1 species of fish, 3 species of amphibians and reptiles, 8 species of insects and 27 species of plants, included in the Red Book of Azerbaijan, were protected. In these territories, 7 relict lakes – Boyuk Alagol, Kichik Alagol, Zalkhagol, Garagol, Janligol, Ishiqli Garagol in pastures of Kalbajar and Lachin districts, and fresh water resources like Garagol in the territory of Aghdara district are under occupation nowadays and are subject to large-scale anthropogenic influence. The richest mineral deposits remained in the occupied territories of the country. 155 type of mineral deposits are situated in these territories, including 5 deposits of gold, 6 deposits of mercury, 1 deposit of lead and zinc, 19 deposits of marble, 10 deposits of saw-stone, 4 deposits of raw cement, 13 deposits of various constructional stones, 1 deposit of raw for

[98] Afandiyev O.F. Armed Conflicts and War Crimes in the Central Caucasus: International Legal Aspect. Baku, "Caucasus" Publishing House, 2006, p. 22 *(in Russian)*

the production of soda, 21 deposits of pumice and volcanic ash, 10 deposits of clay, 9 deposits of sand-gravel, 5 deposits of constructional sand, 9 deposits of gypsum, anhydride and drywall, 1 deposit of perlite, 1 deposit of obsidian, 3 deposits of vermiculite, 14 deposits of non-ferrous and decorative stones, 11 deposits of fresh subsoil water and 10 deposits of mineral water[99].Use of natural resources by Armenia to an exhaustible extentis one of the the main criteria of the disturbance of the ecological balance in the occupied territories. The exploitation of the natural resources has reached such a fast and unobstructed pace that even Armenia-based environmental organizations, including the Pan-Armenian Environmental Front, raised red flag[100].

In general, the modern tendency of development of international law and international legal documents, adopted in this regard, absolutely prohibit the use of environment as a mean of warfare. Even, this problem is reflected in 1977 Additional Protocol I to the Geneva Conventions in two aspects – from the point of view of inadmissibility of use of prohibited methods or means of warfare, as well as protection of the natural environment. So that, in the first case, according to Article 35.3 of the Protocol, to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment is prohibited. In the second case, protection of environment is reflected in the Article 55 of the Protocol. According to the mentioned norm of international law, care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population. Attacks against the natural environment by way of reprisals are prohibited.

Furthermore, other international documents directly prohibit the use of environment as method or mean of warfare, as well. For example, according to Article 1 of the Convention "On the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques" of 1976, states undertake not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other state. Also, according to the

[99] www.eco.gov.az/uploads/hesabat/Jurnal-1.pdf
[100] www.un.mfa.gov.az/files/file/N1626110.pdf

principle of protection of the environment for present and future generations, determined in the Declaration adopted in the UN Conference in Stockholm in 1972, the states shall take possible steps to protect and improve the environment, as well as eliminate adverse environmental effects and cooperate to control natural resources in a scientific spirit. When using nuclear energy for peaceful and military purposes, the inadmissibility of nuclear contamination of the environment was defined as an important obligation. At the same time, in the "Declaration on Environment and Development", adopted in the UN Conference held in Rio-de-Janeiro in 1992, respect by states to international law providing protection for the environment in times of armed conflict and cooperation in its further development, as necessary, is considered as advisable. Furthermore, the principle "states within their jurisdictions must refrain from acts that harm the environment of other states and territories of the international regime, and should prevent actions that may cause such harm", defined for the first time in Stockholm Declaration of 1972, nowadays is universally recognized in international practice. However, Armenia, having committed environmental terror not only within its jurisdiction, and even beyond its borders in the occupied territories of Azerbaijan, seriously violates norms and principles of international law. Deliberately caused damage to a particular country or person, causing damage to flora and fauna and destruction of natural resources of another country, is considered an environmental terror. However, Armenia does not stop its policy of conquest and environmental terror, on the contrary, continuing it in an even more acute form, regularly and seriously violates all the basic principles and norms of international law in the occupied territories of Azerbaijan. As the most explicit confirmation of these facts from the point of view of international law, it could be indicated the Resolution 2085 of the Parliamentary Assembly of the Council of Europe "Inhabitants of Frontier Regions of Azerbaijan are Deliberately Deprived of Water' of 2016. So that, paragraph 8 of the Resolution directly emphasizes that, Armenia's such behaviour is incompatible with the obligations and commitments of a country which is a full member of the Council of Europe. Also, paragraph 4 notes that, the occupation by Armenia of Nagorno-Karabakh and other adjacent areas of Azerbaijan creates similar humanitarian and environmental problems for the citizens of Azerbaijan living in the Lower Karabakh valley. Namely, in this regard, the immediate withdrawal of Armenian armed forces from the concerned region and using water resources as tools of political influence or an instrument of pressure by the Armenian authorities is required. The Following

provisions were stipulated as obligations on the immediate withdrawal of Armenian armed forces from the region concerned: access by independent engineers and hydrologists to carry out a detailed on-the-spot survey; global management, throughout the catchment area, of the use and upkeep of the Sarsang water resources; international supervision of the irrigation canals, the state of the Sarsang and Madagiz dams, the schedule of water releases during the autumn and winter, and aquifer overexploitation.

Another side of the urgency of this Resolution is the stipulation in paragraph 3 of this document "*the deliberate creation of an artificial environmental crisis must be regarded as "environmental aggression" and seen as a hostile act by one State towards another aimed at creating environmental disaster areas and making normal life impossible for the population concerned*". It should be noted that, the Sarsang reservoir, which is 125 meters high and has a capacity of 560 million cubic meters of water, was built on the Tartar River in1976 and is now held by Armenia. Before the occupation, the main canals from that reservoir supplied water to 79,000 hectares of farm land in the plains areas of Tartar, Aghdam, Barda, Goranboy, and other districts[101]. Now seven districts of Azerbaijan can no longer take water from the reservoir. Now an Azerbaijani populationb of 400,000 livbes under the threat of the reservoir being shut down, because it has not been maintained. Moreover, in summer, 10-15% of the water norm is lowered, which creates problems in the irrigation of crop fields, vegetation is dying out, and serious environmental vigor is created. Today, 7 districts cannot use the water of the Sarsang reservoir. Moreover, our water sources, which pass through the occupied territories, are exposed to the highest levels of pollution[102].

One of the characteristic features of the hostile attitude of Armenia towards the environment, while allowing a war crimes committed by Armenia against Azerbaijan, is related to the planned burning by Armenian invaders of the territories of Aghdam, Fuzuli, Jabrayil, Tartar and Khojavand districts. Fires, covering thousands of hectares of territories under Armenian control, spread to other territories and cause serious damage to the environment and wild life. In general, in the occupied territories of Azerbaijan as a result of deliberate fires committed by the Armenian Army, 96,000 hectares of pastures, haymaking and

[101] Suleymanov E., Suleymanov V. Invasion of Azerbaijani Lands by Armenia and the Heavy Consequences of the Occupation. Baku, "CBS Polygraphic Production", 2013, p. 72 *(in Azerbaijani)*

[102] www.eco.gov.az/uploads/hesabat/Jurnal-1.pdf

wilderness, as well as forests were burned and destroyed, the top layer of the lands soil became unfertile, thus making it worthless[103]. Only in the occupied territories of the Aghdam district the Armenian military, in general, burned 17,457 hectares of pastures. Numbers of partridges, pheasants, and vipers, which are included in the Red Book and the Red List of the International Union for Conservation of Nature, died in the fires[104]. In general, according to preliminary information, the overall damage to the environment of Azerbaijan because of the fires by Armenia ran into tens of billions of US dollars. Even, this problem and its unpleasant impact on the environment were reflected in the documents of international organizations. So that, expression of serious concern by the fires in the affected territories, which have inflicted widespread environmental damage, as well as the necessity to urgently conduct an environmental operation to suppress the fires in the affected territories and to overcome their detrimental consequences in the Resolution 60/285 of the UN General Assembly "On the Situation in the Occupied Territories of Azerbaijan", dated September 7, 2006, are explicit examples for that. At the same time, reflecting of calls to the organizations and programmes of the UN system (in particular the Environment Programme), in cooperation with the Organization for Security and Cooperation in Europe, as well as "*…….providing all necessary assistance and expertise, including, inter alia, the assessment of and counteraction to the short- and long-term impact of the environmental degradation of the region, as well as in its rehabilitation*" in paragraph 4 of the Resolution indicates a serious crisis level of the ecological situation in that territory. Moreover, affecting the report of the environmental assessment mission led by the OSCE to the fire-affected territories in and around the Nagorno-Karabakh region in the Resolution 62/243 of the UN General Assembly "On the situation in the Occupied Territories of Azerbaijan", dated March 14, 2008, notifies the seriousness of this issue. In a word, as noted in some researches, Armenia pursues the policy of "burned land and ethnic cleansing" against Azerbaijan[105].

It should also be taken into consideration that not only crimes against the environment in the occupied territories of Azerbaijan, but also an "ecological crisis" in the territory of Armenia can lead to the creation of inevitable problems,

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[103] www.eco.gov.az/uploads/hesabat/Jurnal-1.pdf

[104] Suleymanov E., Suleymanov V. Invasion of Azerbaijani Lands by Armenia and the Heavy Consequences of the Occupation. Baku, "CBS Polygraphic Production", 2013, p. 76-77 *(in Azerbaijani)*

[105] Jha U.C. Armed conflict and environmental damage. New-Delhi: Vij Books, 2014, p. 66

the results of which cannot be eliminated, for the states of the region, including for our country. So that, being in the territory of Armenia, one of the most problematic issues, which causes damage to the environmental security of the Kur and Araz rivers, is related to the activity of the Nuclear Power Station Metsamor. The direct flowing on the Araz River of harmful nuclear waste of the Nuclear Power Station Metsamor, built in 1976, already obsolete, does not meet modern standards and is located in the seismic zone, causing destruction of the flora and fauna of the basin and disturbing natural ecologically balanced systems, causes great damage to human health and our genome, in general. As a result of the waste of the Nuclear Power Station Metsamor, 12-16 thousand cubic meters of slop water are flowed into the Araz River every day[106]**.** The Document No. 9444, dated May 7, 2002, presented by Azerbaijani representatives to Parliamentary Assembly of the Council of Europe, which reaffirms the information on burying of industrial wastes of Armenia, including the nuclear waste of the Nuclear Power Station Metsamor in special barrels in the occupied territories of Azerbaijan (in particular, in the territories of Fuzuli and Jabrayil districts), notes that, one of the consequences of the Armenia-Azerbaijan conflict has been the creation of uncontrolled nuclear zones on the land occupied by Armenian military forces, the Karabakh mountains and seven other regions of Azerbaijan, causing serious danger for the whole of the South Caucasus region. There are 29 radiation centres in occupied territory. Radiation and nuclear waste in this area has contaminated 80 000 hectares of agricultural land, 150 000 hectares of forest, 22 000 hectares of personal plots and two reservations.

As it was noted, one of the problems threatening environmental security, as well as national security of Azerbaijan, is the pollution of the Kur and Araz rivers basin by Armenia in the occupied territories of Azerbaijan and at the same time, in Armenia. Considering that, 70% of the need of Azerbaijan for fresh water is formed outside the borders of the country, most part of it is formed from water of Kur and Araz rivers. As is known, the territory of Armenia is situated within the Kur and Araz rivers basin, and since Armenia is in the upper flow of these rivers, it has more favorable environmental condition to use these rivers, as well as to possess fresh water, and has superior opportunities to flow the slops and waste water.In the Section "Environmental Callenges" of "National Security

[106] Safarov A.T. International Legal Problems of Ecological Protection of Kura-Araz Rivers Basin. Author's abstract to the dissertation on competition of a scientific degree of PhD on Law. Baku, 2014, pp. 20-21 *(in Azerbaijani)*

Concept of the Republic of Azerbaijan", approved by Instruction No. 2198 of the President of the Republic of Azerbaijan on May 23, 2007,it is noted that, a considerable portion of the sources of drinking water supply of Azerbaijan is situated in neighbouring countries and their exposure to intensive pollution by chemical, radioactive and other harmful substances in the territories of these creates problems in drinking water supply for the population.

If during the existence of the Soviet Union the use of these rivers and ensuring the environmental security of their basin was resolved between three states – the USSR, Iran and Turkey, then in the new historical period increasing number of subjects of these relations and the military aggression of Armenia against Azerbaijan seriously complicate the resolution of this problem. It should be taken into account that, environmental security of Kur and Araz rivers basin means environmental security of the Caspian Sea, as well. As far as the territory of Azerbaijan, the dirty waters from the mining, energetic, chemistry, machine construction industries and the communal-utility enterprises of Armenia are going to the Razdan, Agarak and Okhchuchay inflows of the Araz river, thus, the water of Araz River is subject to serious and high-level pollution. Taking into consideration the noted facts, such facts as the violation by Armenia not only of other fields, but also a number of provisions of international conventions on environmental protection, regular pollution of the Kur and Araz rivers, the threat to the security of the ecosystems of the territories in the basin of these rivers, nuclear terrorism, in particular, the accomplishment of all this flowing out of hostile feelings to Azerbaijan and the Azerbaijani people, reveals the issue of its international legal responsibility in this direction. As a result of the confluence in the territory of Georgia of the Debed River, which was recognized as the most polluted river in Armenia, the Khrama River, Armenia also pollutes the Kur River. Moreover, in the territory of Armenia, household and industrial slops and waste from over 15 cities, including the cities of Yerevan, are confluenced in pipes and transported from several cities, merge into the Araz River in the territory of the village of Surenavan bordering the Sadarak district of the Nakhchivan Autonomous Republic[107], which poses a serious threat to health of the population, including the use of water of contaminated Araz reservoir as fresh water by the population of the city of Nakhchivan.There are sufficient number of such facts.

[107] Mammadov G.Sh, Khalilov M.Y. Ecology and Environmental Protection. Baku, "Elm" Publishing House, 2005, p. 336 *(in Azerbaijani)*

In general, as a result of the policy of conquest and environmental terror of Armenia, according to approximate calculations, the overall damage to the Republic of Azerbaijan ran into hundreds of billions of US dollars. However, these numbers are relative. Since, first, all these calculations are carried out by quotations of 20 years ago and in no way reflect today's reality, second, because of the policy of conquest of occupier Armenia and at the same time, of the continuation of environmental terror, today's damage and issues related to lost profits should be included in it. Taking into account the aforementioned, in the occupied territories of the Republic of Azerbaijan, the determination of damage to the environment, assessment of the state of flora and fauna and their re-registration, as in other fields, should be regularly calculated every year by a group of international experts in accordance with international assessment standards.

Also one of the war crimes committed in the course of Armenia-Azerbaijan conflict is taking of hostages by opposite side in violation of international law. As per official information of State Commission of Azerbaijan Republic on Prisoners of war and missing persons, hostages on 1 February 2018, numbers of missing persons registered are 3875, from them 3165 are military personnel and 710 are civilians. Missing persons are consisting of 67 children (23 girls, 44 boys), 265 women, but 326 (including, 166 women) elderly persons. Moreover, there are information concerning 871 persons in captivity, from them 602 persons are military personnel, and 269 persons are civilians. Of these, 29 children (7 girls, 22 boys), 98 women, 113 (including 64 women) are the elderly[108]. At the same time, hundreds of facts relating to violation of multiple human rights of the prisoners of war and hostages cruelly as well as humiliating of their corpses, also are inevitable[109].

All these acts should be taken into consideration as violation of significant international documents, for instance, relevant norms of the I Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field of 1949, III Geneva Convention relative to the treatment of prisoners of war of 1949, I Protocol Additional to the Geneva Conventions of 1949 and relating to the protection of victims of international armed conflict, Convention against Torture and other cruel, inhuman or degrading treatment or Punishment 1984 as well as Resolution 2444 adopted on 1968 by the UN General Assembly

[108] www.human.gov.az/az/view-page/27/əsïr%2c+gïrov+və+ïtkïn+düşmüşlər#.wpr8nqh9vc8
[109] www.files.preslib.az/site/karabakh/gl4.pdf

"Respect for Human Rights in Armed Conflict". By the way, while underlining inadmissibility application of torture against prisoners of war and hostages, it should be taken into consideration that there is absolute prohibition of these acts in each one of the Geneva Conventions for the protection of war victims 1949: tortures are strictly forbidden without any exception under the "Geneva Law". In any case, such inhuman methods can`t be used, and it can`t be any the highest value (for example, as liberty or fate of the nation) which will justify tortures. In general, the use of torture in any case is a serious violation of the Geneva Conventions on the protection of victims of war of 1949.

It`s possible to find norms related to prohibition of killing of civilian population and torture against them during armed conflict in other international documents. For example, in accordance with article 3 of Cairo Declaration of human rights in Islam 1990, in the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. At the same time, it`s emphasized that the wounded and the sick have the right to medical treatment, and prisoners of war have the right to be fed, sheltered and clothed. It`s prohibited to mutilate or dismember dead bodies.

On the other hand, there are substantial provisions about waging war and protection of human rights during armed conflict in the Guran and other sacred books, across with along with human rights. So that religion is completely considered as framework of norms that are regarded the sources of international humanitarian law. International humanitarian law norms manifest themselves sufficiently at all the religions – Christian, Islam, etc. Roots of modern international humanitaran law norms as prohibition killing of prisoners of war and not to be them subjected to torture, including plunder, return of prioners of war, treatment humanely with them, protection of civilian populations, special approach for women and children, etc., refer to exactly religious norms. Hence, religious norms have influenced the formation of not only the separate norms and institutions of international law, but also defined the basis of their building on the ground of more humanist spirit. As can be seen, Armenia doesn`t only comply with religious norms, but it seriously impedes the formation of friendship-cooperation relations between peoples and nations by breaking them grossly.

It should also be noted that issue relation to the prohibition of taking of hostages and causing of this act to internaitonal criminal responsibility is reflected in the constituent documents of the international criminal justice bodies as well.

Thus, taking of hostages had been envisaged in Statute of the International Criminal Tribunal for the former Yugoslavia and Statute of the International Criminal Court as grave breaches of the Geneva Conventions of 1949. But, the relevant term had been simply indicated as "taking of hostages" in article 8.2 (*a*) of Statute of the International Criminal Court, although article 2 (*h*) of the first document defined as "taking civilians as hostages". Nevertheless, in any case, as part of the war crime, it is, in essence, a violation of international humanitarian and international criminal law norms. However, the unlawful acts against the nationals of Azerbaijan who had been captured as prisoner of war and taken hostage by Armenia should also be considered in the context of other war crimes (for example, tortures or inhuman treatment, including biological experiments; willfully causing great suffering, or serious injury to body or health; subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons; committing outrages upon personal dignity, in particular humiliating and degrading treatment; committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violences also constituting a grave breach of the Geneva Conventions) as envisaged by the Statute of the International Criminal Court.

At present serious and gross violation of the rights of prisoners and hostages by Armenia is Armenia is still continuing. As an example, one can point out the capture by Armenians of Shahbaz Guliyev and Russian citizen Dilgam Asgarov as hostages who arrived in Nagorno-Karabakh to visit their homes on July 11, 2014, as well as the murder of Hasan Hasanov, a citizen of the Republic of Azerbaijan. Besides, the "first instance court" of the self-proclaimed, separatist and unrecognized "Nagorno-Karabakh Republic" in Khankandi sentenced Dilgam Asgarov for life imprisonment and Shahbaz Guliyev for the imprisonment for the term up to 22 years. This case in itself and in the light of the criteria listed below should be considered a serious and gross violation of the norms of international law:

- Primarily, provision *"The taking of hostages is prohibited"* envisaged in article 34 Geneva Convention relative to the Protection of Civilian Persons in Time of War dated 12 August 1949, as well as in accordance with article 75.2 of Additional Protocol to the Geneva Conventions of 12 August 1949, taking of hostages is and shall remain prohibited at any time and in any place whatsoever,

whether committed by civilian or by military agents. Thereby, the Armenian side overtly violated this provision;

- The venue of the trial – Nagorno-Karabakh and the city of Khankandi are the lands belonging to Azerbaijan. These territories are occupied by Armenia and aggression is still continuing. The "self-proclaimed" state was created as a result of violation of the territorial integrity of Azerbaijan, as a result of the secession. From this point of view, the international community has repeatedly confirmed that it does not recognize the so-called regime, and Nagorno-Karabakh belongs to our country within the territorial integrity of Azerbaijan. And free movement within the state is one of the important freedoms of everyone. The following is enshrined in art. 13 of the UDHR: "Everyone has the right to freedom of movement and residence within the borders of each state. 2. Everyone has the right to leave any country, including his own, and to return to his country.." Furthermore, the following provision is envisaged in art. 12 of the International Covenant on Civil and Political Rights of 1966: Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to leave any country, including his own. Moreover, according to art. 2 of Protocol 4 to the ECHR of 1950, evereyone lawfully within the territory of a state shall have the right to liberty of movement and freedom to choose his residence. Apparently, the violation of this freedom of Shahbaz Guliyev and Hasan Hasanov, which is one of the most important freedoms, such as freedom of movement in their own country, and the transfer of so-called crimes to the so-called jurisdiction of the so-called state is a serious and gross violation of customary international law *(Even if we exclude a Russian citizen Dilgam Asgarov, nevertheless he has also lived legally in the territory of the Republic of Azerbaijan up to now; In addition, freedom of movement is inherent in everybody);*

- Due to the non-recognition of the self-proclaimed, separatist and unrecognized "Nagorno-Karabakh Republic" as a subject of international law, its accession to international agreements on the protection of human rights is not possible. It is from this point of view that a court organized in this territory is illegal and bias. The above mentioned issue is also a breach of art. 14 of ICCPR, where it is said that in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law, and art. 6 of ECHR on right to a fair trial. Because the self-proclaimed "Nagorno-Karabakh Republic" is not considered a state under

international law and thus, the implementation of minimum standards in the field of granting and protecting rights on its part is absurd and unreasonable. Furthermore, the court of the so-called "Nagorno-Karabakh Republic" was established by the separatist regime based on violations of international law, the trial of general jurisdiction in no way corresponds to the fundamental principles by which it should be guided and based. It is worth noting that the phrase "established by law" of Article 6.1. of the ECHR reflects one of the main principles - the rule of law. This provision was also confirmed in the case law of the European Court of Human Rights (for example, case of *"Jorgic v. Germany"* (2007), parag. 64; case of *"Rikert v. Poland"* (2011), parag. 41 and etc.) On the other hand, the conviction of the hostages by an illegal court is a violation of Articles 1 and 6 of the European Convention by Armenia, which occupied Nagorno-Karabakh, established effective control over these territories and has close ties with the self-proclaimed "Nagorno-Karabakh" Republic. Thus, pursuant to article 1 of the Convention, The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention. Concerning jurisdiction, it can be noted that it is a matter of actual and effective control. According to para. 52 of the case of *"Louizidou v. Turkey"* (1996) examined by the Chamber of the European Court the following is noted*:"..... under its established case law the concept of "jurisdiction" under Article 1 of the Convention (art. 1) is not restricted to the national territory of the Contracting States. Accordingly, the responsibility of Contracting States can be involved by acts and omissions of their authorities which produce effects outside their own territory..... Of particular significance to the present case the Court held, in conformity with the relevant principles of international law governing State responsibility, that the responsibility of a Contracting Party could also arise when as a consequence of military action - whether lawful or unlawful - it exercises effective control of an area outside its national territory. The obligation to secure, in such an area, the rights and freedoms set out in the Convention, derives from the fact of such control whether it be exercised directly, through its armed forces, or through a subordinate local administration"*. Simultaneously, military, economic, material and political support for separatists on the part of the occupier is considered effective control and this provision can be found in other cases of the ECHR (for instance, case of "*Ilascu and others v. Moldova and Russia"* (2004), para. 392 and etc.). Thereby, Armenia internationally holds responsibility for violating the rights of Shahbaz Guliyev and Dilgam Askarov illegally detained in the territories

under its effective control to a fair trial specified in Article 6 of the European Convention of (1950) for the Protection of Human Rights and Fundamental Freedoms *(despite the creation of the self-proclaimed "Nagorno-Karabakh Republic" Armenia has an effective control over these territories and close ties with the puppet republic have been consistently proven and previously noted in this study).* Meanwhile, the creation of a court that considered the case of the captives of the self-proclaimed "Nagorno Karabakh Republic" is not lawful and Armenia's withdrawal in this matter and the renunciation of the fulfillment of the obligation under article 1 of the European Convention makes it impossible for the case to be examined by an independent and impartial court, and in particular deprives them of access to the European Court of Human Rights (*despite holding a fake appeals trial in 2015*[110]). According to article 8 of the Universal Declaration of Human Rights, Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Besides, in accordance with article 10 of the UDHR, everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him;

- The noted illegal trial of hostages is ultimately a war crime. Thus, pursuant to art. 147 of Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, grave breaches to which the preceding Article relates shall be those involving willful deprivation a protected person *(that is, civilian person taken as hostage – **author)*** of the rights of fair and regular trial prescribed in the present Convention. At the same time, in accordance with Article 85.4 (e) of Additional Protocol No. 1 to the Geneva Conventions of 12 August 1949, relating to the protection of victims of international armed conflicts, depriving a person protected by the Conventions or referred to in paragraph 2 of this Article of the rights of fair and regular trial shall be regarded as grave breaches of this Protocol. Besides, "willfully depriving a prisoner of war or a civilian of the rights of fair and regular trial" in the article 2 (f) of the Statute of International Criminal Tribunal for the Former Yugoslavia, as well as "willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial" in the article 8.2 (a) are envisaged as war crime.

Thus, taking into consideration that the general requirements (the victims of war should in all circumstances be treated humanely and protected, without

[110] www.mfa.gov.az/news/909/3100

any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria; willful killing, torture, suffering, inhuman or degrading treatment, disablement, biological tests and experiments, willfully injury to body, etc. are forbidden; unnecessary destruction and terrorism are prohibited; "illegal" legal proceedings over hostages is prohibited; persons who are accused for serious breach of norms concerning protection of war victims, are war criminals to be sentenced) set out in all international legal instruments relating to the protection of the victims of war are seriously violated by Armenia, and this situation affirms Armenia`s direct participation in commiting war crimes.

One of the war crimes committed by Armenia against Azerbaijan is also seizure of, destruction or willful damage done to institutions dedicated to religion, education, the arts and sciences as well as historic monuments and works of art and science, in short, of cultural property. By the way, according to article 1 of UNESCO Convention for the protection of cultural property in the event of armed conflict 1954, under term of "cultural property" is connoted the followings irrespective of origin or ownership:

- movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;

- buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined abovementioned such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property abovementioned;

- centers containing a large amount of cultural property as defined in both sub-paragraphs, to be known as "centers containing monuments".

In regard to criminal responsibility arising from the serious offences against cultural property in the event during armed conflict, in concordance with article 15 of II Additional Protocol (1999) to Convention 1954, committing any of the following acts is considered socially dangerous action: making cultural property under enhanced protection the object of attack; using cultural property under enhanced protection or its immediate surroundings in support of military action; extensive destruction or appropriation of cultural property protected under

the Convention, 1954, and II Protocol, 1999, additional to it; making cultural property protected under above-mentioned international-legal documents the object of attack; theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention, 1954.

As part of the war crimes, these attempts against the cultural property of our country were committed in two contexts – concerning the relevant institutions, monuments and works both in the occupied territories of Azerbaijan and in the territory of Armenia. So that, in the first case, 738 historical monuments, 28 museums with over 83500 exhibits, 4 art galleries, 14 commemorative complexes and consisting of 1107 cultural institutions 1891 pieces of cultural artifacts were captured in the Nagorno-Karabakh region and seven surrounding districts, as well as in seven villages of the Gazakh district and in the village of Karki of Nakhchivan. Also, the approximate number of historical and religious monuments captured in the occupied territories is 403, 67 of which are mosques, 144 temples and 192 sanctuaries. Moreover, monuments belonging to Muslim religious affiliation under occupation, including other cultural indicators are destroyed and humiliated. In recent years, the fact of keeping cattle and other animals in mosques has been captured by photo journalists of Western countries and the whole world community has been notified by these photos. On the other hand, the historical Albanian temples were armenianized-grigorianized. For example, historical and religious monuments related to the Islamic and Albanian heritage, such as the mosque "Shah Abbas" in Iravan, "Bugakar", "Babahaji" and "Aghadede" were completely destroyed; "Blue Mosque" in Iravan, the tomb "Jafarabar" were alienated-converted; the mosque "Yukhary Govher Agha (Shusha)", the mosque "Ashagy Govher Agha (Shusha)", the "Saatli Mosque" (Shusha), the Juma-Mosque in Aghdam were destroyed and insulted; the temple "Aghoglan", the temple "Khudavang' (Kalbajar district), the temple "Tatev", the temple "Ganjasar" were subject to armenianization-grigorianization. Moreover, tens of historical, cultural and religious monuments in the occupied territories of Azerbaijan by Armenia were destroyed or demolished[111].

Destruction of historical, cultural and religious monuments in the territory of present-day Armenia, historically belonged to Azerbaijan, constitutes a part of war crimes against Azerbaijan. So that, located in Iravan (present-day

[111] Mammadov N.G. Historical and Religious Monuments in the Occupied Territories of Azerbaijan. Baku, "Nurlar" Publishing-Poligraphy Center, 2015, pp. 8-94 *(in Azerbaijani)*

Yerevan), which was considered one of the medieval cities of Azerbaijan and at the moment is the capital of Armenia, the Damirbulag mosque was wiped from the Earth, and the Blue Mosque was "restored" and its original features were completely changed. Furthermore, the mosque Haji Novruzali Bey, built in Iravan, the complex of palaces "Sardar Palace" or "Khan Palace" was completely destroyed. Constructed in the village of Jafarabad (the name was changed to Argavand) in 1413 the mausoleum of Amir Saad was destroyed, even to remove signs of the mausoleum belonging to Azerbaijan, all the words written over it in Arabic were completely erased. Also, the ancient and new cemeteries in Armenia, belonging to Azerbaijan, were defeated as a whole. In order to change the original characters, the toponyms in the historical places of Azerbaijan in Armenia were completely changed, as was done in the occupied territories. Moreover, there is a lot of information and facts about the demonstration in Europe of our national wealth – ancient historical works, carpets, minerals, under the name of Armenian national wealth. In 2000, in Finland, Armenians demonstrated photos of mineral deposits and about 3,600 rock paintings, which are in Kalbajar as their territories. Recently, the facts of selling ancient Azerbaijani musical instruments in Europe, the CIS and North America by Armenians as their own have increased, the facts of exhibiting in different exhibitions and selling in the auctions of Karabakh carpets under the name of Armenian or Persian carpets were noted[112].

In general, these facts are in contrary with the norm on protection of cultural objects and of places of worship, stipulated in Article 53 of the First Protocol of 1977 relating to the protection of victims of international armed conflicts Additional to the Geneva Conventions of 1949 related to the protection of the victims of war. So that, this Article, without prejudice to UNESCO Convention of 1954 and provisions of other appropriate international documents, states the prohibition of the following: to commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples; to use such objects in support of the military effort; to make such objects the object of reprisals.

Moreover, mutual and comparative analysis of the expression "of great importance to the cultural heritage", included in Article 1 of the Hague Convention of 1954, and the term "which constitute the cultural or spiritual

[112] Genocide of Azerbaijanis: the Bloody Chronicle of History. Vol. 1. The author of idea R.A.Mehdiyev. Ed. by A.M.Hasanov. Baku, "Oscar" PPC, 2012, p. 267 *(in Azerbaijani)*

heritage of peoples", included in Article 53 of the First Additional Protocol, is of great importance. Even, this issue more precisely expressed in the Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 by the International Committee of the Red Cross. So that, according to the Commentary of the International Committee of the Red Cross, despite the difference in terminology, the basic idea is the same. However, the reference to places of worship and to the spiritual heritage clarifies the qualification of protected objects by introducing the criterion of spirituality. It was stated that the cultural or spiritual heritage covers objects whose value transcends geographical boundaries, and which are unique in character and are intimately associated with the history and culture of a people. At the same time, basing on the Commentary of the International Committee of the Red Cross, the adjective "cultural" applies to historic monuments and works of art, while the adjective "spiritual" applies to places of worship. However, this should not stop a temple from being attributed with a cultural value, or a historic monument or work of art from having a spiritual value[113]. Subsequently, according to Article 85.4 *(d)* of the First Additional Protocol of 1977, clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples and to which special protection has been given by special arrangement, for example, within the framework of a competent international organization, the object of attack, causing as a result extensive destruction thereof, where there is no evidence of the violation by the adverse Party of Article 53 *(b)*, and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives are prohibited. It should be noted that, as the International Committee of the Red Cross expressed, the cultural or spiritual heritage covers objects whose value transcends geographical boundaries. As a clear example of this, from 2001 Shusha Historical and Architectural Reserve, which is presently under occupation, submitted on the Tentative List of Cultural properties of the UNESCO[114]. In should be noted that, since the Soviet times, taking into account the highest artistic value of the historical architectural and town-planning monument, in 1977 Shusha was turned into a historical and architectural

[113] Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949. Eds. Y.Sandoz, Ch. Swinarski, B.Zimmermann. Geneva: MartinusNijhoff Publishers, 1987, p. 646

[114] www.whc.unesco.org/en/tentativelists/1574; www.mfa.gov.az/content/556

reserve[115]. Even, the Decision No. 132 of the Cabinet of Ministers of the Republic of Azerbaijan "On approval of the division of *immovable historical and cultural monuments*, *taken under state protection in the territory* of the *Azerbaijan Republic*, according to their *importance degree*", dated August 2, 2001, intended the division of these monuments on world, state and local importance degree; namely, numerous monuments of the first importance degree were subject to the Armenian Aggression. Cave camps of Azikh and Taghlar can be shown as examples. Moreover, the Decision indicated hundreds of immovable *historical and cultural monuments* of state and local importance degree, being under occupation of Armenia[116].

One of the facts showing the barbaric attitude of Armenia against the historical monuments of Azerbaijan as a war crime is the "archaeological excavation" by this state since 2003 in the cave of Azikh of Khojavand district, and since March, 2005, in the territories near Aghdam city, as well as in different territories of Azerbaijan, occupied by Armenia during different times[117]. This act also is a violation of the norms of international law. So that, Article 11 of 1970 UNESCO Convention "On the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property" notes that, the export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit. Furthermore, in this regard, paragraph 32 of 1956 UNESCO Recommendation "On International Principles Applicable to Archaeological Excavations" includes two important provisions. The first of them is related to the existence of obligation of any Member State occupying the territory of another State to refrain from carrying out archaeological excavations in the occupied territory in the event of armed conflict. The second estimable provision is related to the obligation of the occupying Power in the event of chance finds being made, particularly during military works to take all possible measures to protect these finds, which should

[115] Mammadov R.F., Afandiyeva H.E. International Legal Protection of Historical and Cultural Monuments of the Republic of Azerbaijan. Baku, "Seda" Publishing House, 2015, p. 60 *(in Azerbaijani)*

[116] www.e-qanun.az/framework/2847; F.Ismayilov. Damage to the historical and cultural monuments in the occupied territories of Azerbaijan. Baku, "Science and Education", 2016, p. 111-142

[117] Mammadov R.F., Mammadov Kh.R. Illegal and Unlawful Activities of Armenia in the Occupied Territories of Azerbaijan in the context of Modern International Law. Baku, "MM-S", 2017, p. 71 *(in Azerbaijani)*

be handed over, on the termination of hostilities, to the competent authorities of the territory previously occupied, together with all documentation relating thereto. These acts are decisively condemned also in international documents adopted in connection with similar circumstances in relation to other states of the world. For example, the Resolution 36/15 of the UN General Assembly "On recent developments in connection with excavations in Eastern Jerusalem", dated October 28, 1981, determines that the excavations and transformations of the landscape and of the historical, cultural and religious sites of Jerusalem constitute a flagrant violation of the principles of international law and the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. Explicit examples of these violations can be seen in the deliberate "destructive and transformational policy of Armenia against the monuments of Azerbaijan. So that, paragraph 246 of the document, titled "Illegal economic and other activities in the occupied territories of Azerbaijan", Annex to the letter, dated August 15, 2016, addressed to the UN Secretary General by the Permanent Representative of the Republic of Azerbaijan to the UN, stated that, alleged "reconstruction" and "development" projects in Shusha and other towns and settlements throughout the occupied territories and "archaeological excavations" are carried out with the sole purpose of removing any signs of their Azerbaijani cultural and historical roots and substantiating the policy of territorial expansionism *(i.e. extension)*. Since the occupation of Shusha in May 1992, over 30 construction projects have been funded by Armenia and Armenian diaspora. As of 2014, a total of $11.5 million worth of infrastructural projects, have been implemented in Shusha. Apparently, an acute reaction against the destruction and demolition of historical monuments of Azerbaijan should also be among the issues that are in the attention of the international community. Since, the destruction of these objects, which are considered an integral part of world history, culture and religious heritage, ultimately is the destruction of the international heritage. Even, Prosecutor of the International Criminal Court F.Bensuda, during his research in connection with the "*Al Mahdi*" case, rightly notes that, attacks against historical monuments and religious buildings are grave crimes. In relation with the attacks against religious buildings, he emphasizes that, these acts are so grave that they warrant action by the international community[118]. Moreover,

[118] Sterio M. Individual criminal responsibility for the destruction of religious and historic buildings: The *Al Mahdi* case // Case Western Reserve Journal of International Law, 2017, Vol. 49, Issue 1, p. 70.

the provisions concerning the destruction or demolition of these monuments without military needs *(Armenia also destroyed, demolished or transformed similar monuments of Azerbaijan without military needs and necessity)* can be met in case law of international criminal tribunals. For example, paragraph 185 of the Judgement of Trial Chamber of International Criminal Tribunal for the Former Yugoslavia on *"Blaškić"* case (2000) stated that, the damage or destruction must have been committed intentionally to institutions which may clearly be identified as dedicated to religion or education and which were not being used for military purposes at the time of the acts. In addition, the institutions must not have been in the immediate vicinity of military objectives. Even, more precisely specifying the latter provision, the provision "*the Chamber respectfully rejects that protected institutions (i.e. the objects intended in Article 3(d) of the Charter of the Tribunal – **author**) "must not have been in the vicinity of military objectives". The Chamber does not concur with the view that the mere fact that an institution is in the "immediate vicinity of military objective" justifies its destruction*", stated in the Judgement of Trial Chamber of the Tribunal on *"Naletilić and Martinović"* case (2003) reasserts the inadmissibility of the destruction or demolition of appropriate monuments in any case. By the way, according to Article 1 *(f)* of the Second Protocol of 1999 to the Hague Convention of 1954 "For the Protection of Cultural Property in the Event of Armed Conflict", "military objective" means an object which by its nature, location, purpose, or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage. Namely, this definition reaffirms the idea "cultural property is not military objective" from the point of view of international law.

Also, documents of some international organizations had touched upon internationally wrongful policy against monuments of Azerbaijan on the territories occupied by Armenia. For example, the plunder and destruction of monuments, art, scientific and artistic works belonging to Azerbaijan and our people as a result of armed conflict and aggression, are considered with the view of two aspects in documents adopted by Organization of Islamic Cooperation. The first of these is related to the plunder and destruction of various monuments in the occupied territories. The obvious example of that is the provisions concerning strongly condemnation looting and destruction of the archeological cultural and religious monuments on the occupied territories of Azerbaijan under resolutions "On the aggression of the Republic of Armenia

against the Republic of Azerbaijan" of 1997, No. 12/8-P(IS) and of 2000, No 21/9-P (IS) adopted by the same organization. Besides, the current issue is also found in other documents of the Organization of Islamic Cooperation. For example, Pursuant to preamble of Resolution "On the Destruction and Sabotage of Islamic Historical and Cultural Relics and Shrines in the Occupied Azeri Territories as part of the Republic of Armenia's Aggression against the Republic of Azerbaijan" (2000, No 25/27-C), parts that calling as "Destruction and Desecration of Islamic Historical and Cultural Relics and Shrines in the Occupied Azerbaijan Territories Resulting from the Aggression of the Republic of Armenia against the Republic of Azerbaijan" of resolutions "On Protection of Islamic Holy Places" (2008, No 3/35-C; 2010, 2/37-C), etc., complete or partial demolition of rare antiquities and places of Islamic civilization, history and architecture, such as mosques and other sanctuaries, mausoleums and tombs, archaeological sites, museums, libraries, artifact exhibition halls, government theatres and conservatories, besides and smuggling, out of the country, and destruction of a large number of precious property and millions of books and historic manuscripts and luminaries were stressed especially. The second aspect of the attitude of the Organization of Islamic Cooperation to the demolition and destruction of the Azerbaijani monuments that are under occupation, is that the infringement cases are only evaluated from the point of view of conservation of sacred places. Resolution of organization "On Protection of Islamic Holy Places" (2008, No 3/35-C) as well as resolutions (1999, No 39/26-C; 2000, No 25/27-C; 2002, No 11/29-C; 2003, No 10/30-C) "Destruction and Sabotage of Islamic Historical and Cultural Relics and Shrines in the Occupied Azerbaijan Territories Resulting from the Aggression of the Republic of Armenia against the Republic of Azerbaijan", etc. can be indicated as proof.

Besides, in accordance with recommendations by the OSCE Minsk Group Co-Chairs on the results of the Minsk Group Fact-Finding Mission to the Occupied Territories of Azerbaijan of 6 March 2005, in order to ensure the preservation of the cultural heritage and sacred sites, including, inter alia, cemeteries of the affected regions, the parties are urged to allow for direct contacts between the interested communities.

Moreover, taking joint practical measures with international organizations relating to protection of monuments in the occupied territories, constitute a part of the activities carried out in this field. For instance, on 21 December 2012, at the 7th session of the Committee for the Protection of Cultural Property in the Event of Armed Conflict, a decision was made to protect cultural property in

occupied territories. Following this decision an aggressor state should accept liabilities for the protection of cultural heritage in occupied territories, to report on efforts made to fulfill these liabilities and to provide access to UNESCO special missions for assessment. The document adopted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict during its 8th session held in Paris on 18-19 December 2013, analyzes the legal framework and implementation mechanisms of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, stresses the importance of sending UNESCO assessment missions to monitor the situation in the occupied territories and, further, draw the attention of the United Nations Security Council and its General Assembly to the problem of protection of cultural properties in occupied territories and etc[119]. On the other hand, in implementation of various projects concerning their propaganda in order to prevent destruction, disruption and falsification of the monuments of Azerbaijan that are under occupation, role of the public organizations of Azerbaijan, in particular the Heydar Aliyev Foundation, which has a prominent position and distinguished its significant activity in this area, should be especially emphasized together with the state bodies[120].

One of the war crimes which Azerbaijan faces, is the transfer by Armenia of parts of its own civilian population into the territories it occupies. In this regard, the observations and reports made by particular international organizations are regarded as proof in this matter. For example, it was mentioned that in the Report of the OSCE Fact-Finding Mission (FFM) "To the occupied territories of Azerbaijan surrounding Nagorno-Karabakh" of 28 February 2005 that *"settlement figures for the areas discussed in this report, whose populations the Fact-Finding Mission has interviewed, counted or directly observed, are as follows: in Kelbajar District approximately 1,500; in Agdam District from 800 to 1,000, in Fizuli District under 10; in Jebrail District under 100; in Zangelan District from 700 to 1,000; and in Kubatly District from 1000 to 1,500. Thus, the FFM`s conclusions on the number of settlers do not precisely correspond with population figures provided by the local authorities, which were higher"*[121]. At the same time, according to the estimates of the Migration Representation on South Caucasus at International Committee of the Red Cross (ICRC) of 25 October 2004, approximately 15 families are

[119] www.mfa.gov.az/content/556

[120] www.heydar-aliyev-foundation.org/az/content/blog/120/Azərbaycanın-təbliği

[121] www.legal-tools.org/doc/b08893/pdf/

being transferred to Nagorno-Karabakh every month on average, and in 2004 the number of such families reached 200. Furthermore, according to open sources, 120 Armenian families were relocated to the occupied territories during the first six months of 2004. Main sponsors of illegal "transfer operation" and of the construction work in this areas, are the Western Armenian Foundation for Armenian Studies, Hayastan Foundation and the Armenian Apostolic Church. It is known that in 2004 foreign funds allocated $ 400,000 for the realization of Programme of "*Return to Artsakh" and completed construction of about 90 houses in the occupied frontier territories of Azerbaijan (it should be noted that the figures shown here are very small in scale on the documents, but in reality they are too many – **author***) [122]. Undoubtedly, it should not be ignored that this transfer policy is part of Armenia's state policy. So that, in December 2003, A.Margaryan, Armenian Prime Minister, officially stated that the transfer of the Armenian population to the occupied Nagorno-Karabakh region of Azerbaijan was a priority for the Armenian government[123]. In his interview on 18 December 2003, he confirmed that "Armenia and Nagorno Karabakh Republic (NKR) *(fictitious – **author**)* are within the common economic space" and that their "main purpose is the settlement of NKR *(fictitious – **author**)* and development of its investment field by means of creating the favourable regime for economic subjects". At the same time, during the working visit to Nagorno-Karabakh on 2 and 3 September 2000 of A.Margaryan, an agreement was concluded between the latter and the representative of the subordinate regime in the occupied territories which also includes provisions on the transfer of population to the occupied territories of Azerbaijan[124]. As per information of State Commission of Azerbaijan Republic on Prisoners of War and Missing Persons, Hostages on 2015, totally 23000 persons were transferred to the occupied territories of Azerbaijan for unlawful settlement, including to the occupied Nagorno-Karabakh of Azerbaijan 8500; Lachin 13000; Kalbajar 700; Zangilan 520; Jabrayil 280[125].

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[122] Genocide of Azerbaijanis: the Bloody Chronicle of History. Vol. 1. The author of idea R.A.Mehdiyev. Ed. by A.M.Hasanov. Baku, "Oscar" PPC, 2012, pp. 265-266 *(in Azerbaijani)*

[123] Genocide of Azerbaijanis: the Bloody Chronicle of History. Vol. 1. The author of idea R.A.Mehdiyev. Ed. by A.M.Hasanov. Baku, "Oscar" PPC, 2012, p. 266 *(in Azerbaijani)*

[124] Musayev T.F. From territorial claims to belligerents occupation: legal appraisal // Journal of "World of diplomacy", 2008, № 18-19, p. 44

[125] www.human.gov.az/imagemanager/images/xerite_big.jpg

All these acts are serious violation of international law norms, especially international humanitarian law. So that article 49 of Geneva Convention (1949) relative to the protection of civilian persons in time of war directly stresses that the Occupying Power can`t deport or transfer parts of its own civilian population into the territory it occupies. According to paragraph *a* of article 85.4 of I Additional Protocol (1977) to the Geneva Conventions of 1949, the transfer by the Occupying Power of parts of its own civilian into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, are regarded as grave breaches of the relevant international-legal document. Furthermore, the settlements in the occupied territories are incompatible with articles 27 and 49 of the Fourth Geneva Convention, was reaffirmed in the resolution adopted by the 24th International Conference of the Red Cross which was held in November 1981, Manila. Undoubtedly, committing acts like that doesn`t generate only the violation of international humanitarian law, and shapes a separate part of war crime. In this regard, according to paragraph b (VIII) of article 8.2 of Rome Statute of International Criminal Court the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, is war crime, considering as serious violation of the laws and customs applicable in international armed conflict. Besides, settlement of inhabitants and changing demographic structure was defined as "exceptional grave war crime" (article 22.2) in "Draft Code of crimes against peace and security of mankind" (1991) developed and adopted by UN International Law Commission, but in the its document of the same name of 1996 the transfer by the Occupying Power of parts of its own civilian population into the territory it occupies is envisaged as "war crime" (article 20).

Armenia`s settlement policy to the territories it occupies, as a part of war crimes embraces also its encouragement, not simply transfer of the persons. Even the documents drawn up by various international institutions clearly prove it. So that declaring provisions is a clear example of the widespread use of incentive measures for illegal transfer and settlement in the occupied territories as *"Settlers choosing to reside in and around Nagorno-Karabakh reportedly receive the equivalent of $365 and a house from the de-facto authorities"*[126] on "World Refugee Survey" issued by U.S. Committee for Refugees in 2002,

[126] www.hra.am/en/events/2002/06/08/world_refugee_survey_2002_country_report_armenia_issued_by_us_committee_for_refugees_in_june_2002

"Settlement incentives are readily apparent. In Lachin town, and to a lesser and uneven extent in Lachin District, they include social welfare, medical care, a functioning infrastructure and administration, schools, decent roads, tax exemption or tax benefits, reduced rates for utilities, cheap or free electricity, and running water..... On the basis of all of its observations and interviews in Lachin District, the FFM has concluded that the authorities pursue a proactive settlement policy"[127] in the Report of the OSCE Fact-Finding Mission to the occupied territories of Azerbaijan surrounding its Nagorno-Karabakh region of 28 February 2005, *"In the town (it`s implied Lachin town here – **author**) centre, up to 85 per cent of the houses have been reconstructed and re-distributed. New power lines, road connections and other infrastructure have made the district more dependent on Armenia and Nagorno-Karabakh than before the war. Crisis Group also observed settlers who have set up functioning administrative institutions in Kelbajar and Agdam"*[128] in the Report presented by International Crisis Group in September 2005. On the other hand, other measures are being taken to fully carry out the policy of illegal transfer and settlement. So that in order to prevent the abandonment of Nagorno-Karabakh territory since January 2003, according to the defined rules, families which leave territory with the view of permanent residence should pay about 15,000, but coscripts 10,000 USD as tax[129]. Besides, the role of the Armenian diaspora in the illegal transfer and settlement of civilian population to/in the occupied territories should also be emphasized specially. So that, reflection of provision like *"Local authorities and interviewees frequently stressed that the Armenian diaspora provides support for infrastructure, medical care, social welfare and housing. In some situations, these efforts are outside of the local authorities' knowledge and control. Thus, in certain cases, the diaspora factor can be seen as constituting an indirect element of settlement policy"* or "*The FFM saw and was told of substantial diaspora contributions to reconstruction,infrastructure and social welfare in Lachin District and Lachin town. The local authorities acknowledge the importance of this contribution. Thus, the diasporan factor is an important part of settlement policy in Lachin"*[130] in the part of the stressing role of the Armenian diaspora

[127] www.legal-tools.org/doc/b08893/pdf/

[128] www.files.ethz.ch/isn/13594/166_nagorno-karabakh.pdf

[129] Genocide of Azerbaijanis: the Bloody Chronicle of History. Vol. 1. The author of idea R.A.Mehdiyev. Ed. by A.M.Hasanov. Baku, "Oscar" PPC, 2012, p. 265 *(in Azerbaijani)*

[130] www.legal-tools.org/doc/b08893/pdf/

in the field of "improvement" of socio-economic condition of Kalbajar, Fuzuli, Jabrayil, Aghdam, Zangilan, Gubadly which are under occupation, of the Report of the OSCE Fact-Finding Mission of 28 February 2005, is should be considered as an obvious and inevitable proof. All these "encouragement" or "other stimulating" measures are considered a socially-dangerous act that constitutes war crime, being grave breach of international law norms. As exactly stated in paragraph 120 of the Advisory Opinion (2004) of the UN International Court of Justice on the "Legal consequences of the construction in the occupied Palestinian territory", the provision relating to settlement to the occupied territories under article 49 of the Fourth Geneva Convention (1949) prohibits not only deportations or forced transfers of population, but also any measures taken by an occupying Power in order to organize or encourage transfers of parts of its own population into the occupied territory.

The parties are urged to accelerate negotiations toward a political settlement in order, inter alia, to address the problem of the settlers and to avoid changes in the demographic structure of the region in Recommendations by the OSCE Minsk Group Co-Chairs on the results of the Minsk Group Fact-Finding Mission (FFM) to the Occupied Territories of Azerbaijan of 6 March 2005. Besides, the issue relating to inadmissibility of committing this kind of war crime against Azerbaijan was touched upon in the acts of other international organizations. For instance, in resolution 10/43-POL "On the aggression of the Republic of Armenia against the Republic of Azerbaijan" adopted by Organization of the Islamic Cooperation in 2016 is demanded to cease and reverse immediately the transfer of ethnic Armenian settlers into the occupied territories of Azerbaijan and all other actions taken with a view of changing unilaterally the physical, demographic, economic, social and cultural character, as well as the institutional structure. At the same time, it was specially emphasized that such cases constitute a blatant violation of international humanitarian and human rights law and has a detrimental impact on the process of peaceful settlement of the conflict.

In general, despite the use by Armenia of certain methods for settlement of the population in the occupied territories of Azerbaijan and at the same time, violating the norms of international law, the Republic of Azerbaijan is struggling with this phenomenon delivering its voice to international organizations (for example, the

relocation of Kurds from Iraq, etc .; It should be noted that the United States and other countries of the world expressed their objection to this issue)[131].

Thus, transfer policy and measures of civilian population by Armenia to the occupied territories of Azerbaijan as part of the war crime, can be can be summarized in the context of the following available pecularities:

- The available policy and consequently analogical war crimes committed as well as concrete steps *(actus reus)* taken in this direction should be characterized as direct intent with the view of intention *(mens rea)*. Because it`s characterized by any behavior that is prohibited by international law norms, as well as these acts are committed premeditated and intentionally with knowledge of the violation of the international law, just the aim manifests itself in direct form of intent. On the other hand, confessions on the priority of such a transfer at the level of the Armenian leadership should be considered as one of the circumstances that proves the intentional characterization of the intention.

- As the relevant war crime was committed by state on the context of Armenia *(its officials on behalf of state), not of any people or group, it should also be the cause of the state`s responsibility.* Because, Armenia had allowed and has been still allowing for the serious, deliberate, long-term and durable violation of obligations imposed on it under international law norms as well as international humanitarian law norms. In this regard, on the one hand, international-legal responsibility of Armenia, on the other hand, individual criminal liability of perperators who committed these acts, occur from war crimes committed entirely standpoint;

- As a socially dangerous act, transfer of population by Armenia to the occupied territories should be analysed together with other constituent elements of war crimes (for instance, extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully, want only and widespread; unlawful deportation or transfer; intentionally directing attacks against civilian objects, that is, objects which are not military objectives; 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 which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated; attacking or bombarding, by whatever means, towns, villages, dwellings or buildings

[131] More details on this topic: Mahmudov Y.M., Shukurov K.K. Garabagh: real history, facts, documents. Baku, "Tahsil", 2005, pp. 96-101 *(in Azerbaijani)*

which are undefended and which are not military objectives; destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict; pillaging a town or place, even when taken by assault, etc.), not in isolated form;

- In the case of international-legal interpretation of the relevant act that is a part of war crimes, it should also be considered the steps taken for encouragement and stimulate which cause committing of crime *(that is, transfer of civilian population to the occupied territories)*, not only specific measures taken in this area.

- It is important to analyze existing socially-dangerous act as part of Pan-Armenian policy as a whole against Azerbaijanis and Azerbaijan, not only of a state, as it is actively involved in the Armenian state and its governmental bodies, as well as the Armenian diaspora living in foreign countries. Because this type of war crimes is directly linked to the territorial claims of the Armenians against Azerbaijan, the occupation of more than the twenty percent of lands, the deportation policy, the durable and long-time genocide committed.

Another of the war crimes committed by Armenia against Azerbaijan extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly. As is known, Article 8.2 of the Statute of International Criminal Court, considering as grave breach of the Geneva Conventions of 12 August 1949, intended this acts as war crime. In addition, in Article 147 of the Fourth Geneva Convention "Relative to the protection of civilian persons in time of war" of 1949, this case, considering as grave breach, is belonged to acts committed against persons or property protected by the present Convention. According to Article 53 of the same document, any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or co-operative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations. Also, it should be noted that, as a result of the aggression of the Armenian armed forces and the other armed detachments related to them to the territory of Azerbaijan, as well as a result of the aggression to Nagorno-Karabakh and surrounding districts, our country was subject to very serious losses. So that, as a result of the occupation of the territories of Azerbaijan by Armenia during 1988-1993, 900 settlements, about 6,000 agricultural and industrial objects, 150,000 homes, 7,000 public associations, 693 schools, 855 kindergartens, 85 musical schools, 695 medical institutions, 927 libraries, 44 temples, 473 historical monuments, palaces and museums, 40,000 museum

exhibits, 2,670 kilometers of highways, 160 bridges, 2,300 kilometers of water communications, 2,000 kilometers of gas lines, 15,000 kilometers of electric lines, 280,000 hectares of forest, 1 million hectares of land suitable for agriculture, 1,200 kilometers of irrigational systems, etc. were destroyed and demolished[132]. The cost of damage caused as a result of the aggression of Armenia`s military forces exceeds 800 billion US dollars (the exact amount is being determined by the International Evaluators Association) [133].

The issue is not only about the destruction or appropriation of state or public property, but also about the protection of private property and the deprivation of use of all rights associated with the appropriate property by the legal owner (or owners). Since, forcing a person to leave his/her habitat should also be considered a violation of his/her right to property. So that, expression "*the applicants have not voluntarily taken up residence anywhere else, but live as internally displaced persons in Baku and elsewhere out of necessity..... their forced displacement and involuntary absence from the district of Lachin.....*" noted in paragraph 206 of the Decision of Grand Chamber of European Court of Human Rights on case "*Chiragov and others v. Armenia*" (2015), should be considered a clear example for the aforementioned. This, in itself, is wholly similar as war crime of "the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory", stated in Article 8.2 (*b* (VIII)) of the Statute of International Criminal Court.

Readdressing to the Decision of European Court on "*Chiragov and others v. Armenia*" case, it could be seen that, according to conclusion of the Court (paragraph 206), in the circumstances of the case, their forced displacement and involuntary absence from the district of Lachin cannot be considered to have broken the applicants' link to the district, notwithstanding the length of time that has passed since their flight. Regarding to this, the Court substantiated its position on that, "*all the applicants were born in the district of Lachin. Until their flight in May 1992 they had lived and worked there for all or major parts of their lives. Almost all of them married and had children in the district. Moreover, they earned their livelihood there and their ancestors had lived there. Also, they had built and owned houses in which they lived. It is thus clear that the applicants*

[132] The Republic of Azerbaijan: 1991-2001. Ed. by R.A.Mehdiyev. Baku, "XXI-Yeni Neshrler Evi", 2001, p. 255 *(in Azerbaijani)*; www.mct.gov.az/az/qarabag

[133] www.refugees-idps-committee.gov.az/az/pages/15.html

had long-established lives and homes in the district" (para. 206). According to the noted, it could be concluded that, extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly is constituent part of war crimes, at the same time, should be considered a violation of human rights. Since, for the reasons beyond his will or against his will, a person loses all his/her opportunities over his/her property, and, ultimately, there is a violation of the right to property as a human right. This is direct violation of the provision "*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*", stated in Article 1 of Additional Protocol II (1952) to the European Convention "For the Protection of Human Rights and Fundamental Freedoms" of 1950, as well. Furthermore, paragraph 8 of the Resolution 2009/2216 (INI) of the European Union Parliament "On the need for an EU strategy for the South Caucasus", dated May 20, 2010, states that, hundreds of thousands of refugees and IDPs who fled their homes during or in connection with the Nagorno-Karabakh war remain displaced and denied their rights, including the right to return, property rights and the right to personal security. Namely, from this point of view, in present document all parties are called on to unambiguously and unconditionally recognize these rights, the need for their prompt realization and for a prompt solution to this problem that respects the principles of international law. Also, according to the Principle 21 of "Guiding Principles on Internal Displacement", adopted by the UN International Law Commission in 1998, the property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against some acts (pillage; direct or indiscriminate attacks or other acts of violence; being used to shield military operations or objectives; being made the object of reprisal; being destroyed or appropriated as a form of collective punishment). Moreover, Property and possessions left behind by internally displaced persons *(i.e. forced replaced persons – **author)*** should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

In general, destruction, demolition or pillage of property and possessions is uniquely prohibited. Even, the related provisions can be met in judicial practice. For example, in paragraph 79 of the Judgement of Appeals Chamber of International Criminal Tribunal for the Former Yugoslavia on *"Kordić and Čerkez"* case (2004), such pillage of property and possessions directly characterized as "all forms of unlawful appropriation of property in armed

conflict for which individual criminal responsibility attaches under international criminal law, including those acts traditionally described as "pillage". In the judgement issued on the "*Krauch" case* before the US Military Tribunal at Nuremberg (1948), it was mentioned that, the crime of pillage of state and private property should be considered international crime universally recognized by international law.

It should be emphasized that, the analysis of war crimes committed by Armenia against Azerbaijan should not be limited within the time period of the occupation of territories. So that, despite the cease-fire agreement according to Bishkek Protocol, signed in 1994, Armenia still commits war crimes against Azerbaijan. As an obvious example for recent times it could be shown an aggravation of the situation in the occupied Nagorno-Karabakh region of Azerbaijan as a result of the sabotage of the Armenian Armed Forces on April 2, 2016, as well as the continuous firing of Azerbaijani villages, that are in frontline of the Armenian Armed Forces, from artillery and other heavy weapons. As a result, 4 civilians, including a 16-year-old teenager, were killed, 18 civilians (including two teenagers of ages 13 and 16) were injured, and properties of 164 people were seriously damaged. In order to ensure the safety and protect of civilians, the Armed Forces of the Republic of Azerbaijan were forced to back fire. However, despite the fact that on April 3 our state issued an official ceasefire statement, the opposite side didn`t stop the fires and as a result the fighting at the front continued until April 5, thus the losses among civilians and military personnel from the side of Azerbaijan increased significantly.

Thus, interpreted socially dangerous acts and analyzed facts constitute only one part of the crimes committed by Armenia against Azerbaijan. So that, war crimes committed by Armenia in certain form completely include all the elements of war crimes committed during armed conflicts, stated in Article 8.2 of the Rome Statute of the International Criminal Court.

V. Crimes against humanity

One of the international socially dangerous acts, which is a part of international crimes, including crimes committed by Armenia against Azerbaijan, are crimes against humanity. According to some authors, conducted researches in this field, these acts cause serious damage to the interests of the international community and include the following features:

- They are particularly odious offences in that they constitute a serious attack on human dignity or a grave humiliation or degradation of one or more persons;

- They must be considered not as isolated or sporadic events (sometimes or accidentally met), but are part of a widespread or systematic practice of atrocities that either form part of a governmental policy or are tolerated, condoned, or acquiesced in by a government or a de facto authority. Clearly, it is required that a single crime be an instance of a repetition of similar crimes or be part of a string of such crimes (widespread practice), or that it be the manifestation of a policy or a plan of violence worked out, or inspired by, state authorities or by the leading officials of a de facto state-like organization, or of an organized political group;

- Crimes against humanity are prohibited and may consequently be punished regardless of whether they are perpetrated in time of war or peace. It should be noted that, while 1940's (Nuremberg and Tokyo Military Tribunals) a link with an armed conflict was required, at present customary law no longer attaches any importance to such nexus;

- The victims of the crime may be civilians or, where crimes are committed during armed conflict, persons who do not take part (or no longer take part) in armed hostilities, as well as, under customary international law, enemy combatants[134].

Apparently, crimes against humanity, being crimes that affect the interests of the international community, form part of international crimes. Even in some cases that are found in international judicial practice, for example, the provision that "*crimes against humanity, already punished by the Nuremberg and Tokyo Tribunals……are crimes which particularly shock the collective conscience*" in paragraph 14 of the judgement of Trial Chamber of the International Criminal

[134] Cassese A. International criminal law. New-York, Oxford University Press, 2003, p. 64

Tribunal for Rwanda in the "*Kambanda*" case (1998), or the provision that "*the reason that crimes against humanity so shock the conscience of mankind and warrant intervention by the international community is because they are not isolated, random acts of individuals but rather result from a deliberate attempt to target a civilian population*" in paragraph 653 of the judgement of the Trial Chamber of the International Criminal Tribunal for the former Yugoslavia in the *"Duško Tadić"* case (1997)[135], must be considered as a clear legal assessment of the degree of public dangerousness of these acts.

As regard the normative statement in the legal point view of the analyzed international crime, it should be noted that, according to the Article 6 of the Charter of the Nuremberg International Military Tribunal, crimes against humanity were defined as follows:

- murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war;

- persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

In the Article 5 of the Charter of the Tokyo International Military Tribunal for the Far East provisions on the crimes against humanity as jurisdictional crimes almost the same as similar norm of the Charter of the Nuremberg Tribunal. The only distinctive feature is that, if the Article 5 of the Charter of the Tokyo Tribunal intends the persecutions on political or racial grounds, the Charter of the Nuremberg Tribunal embraces the persecutions on political, racial or religious grounds. On the other hand, the similar features of the Charters of both Tribunals are that, they reflected the possibility of the committing of the crimes against humanity before or during the war. Thus, the necessity of a relationship between armed conflict and committing of crimes against humanity was taken as the main criterion.

During the next stages, the provision on the necessity of a relationship between armed conflict and committing of crimes against humanity began to lose its force. This is proved by the constituent acts of the international criminal investigative institutions and by individual decisions adopted by them. So that, unlike international military tribunals, established during 1940's, in the constituent acts of *ad hoc* international criminal tribunals (for example,

[135] Akhavan P. Reducing genocide to law: definition, meaning and the ultimate crime. Cambridge, Cambridge University Press, 2012, p. 42

International Criminal Tribunal for Rwanda) and the International Criminal Court, the trend of the necessity of a relationship between armed conflict and the committing of crimes against humanity has disappeared. Moreover, in the constituent acts of these institutions, the list of acts, which are integral part of crimes against humanity, has expanded. So that, any following acts directed against any civilian population in article 5 of the Charter of International Criminal Tribunal for the Former Yugoslavia, as well as Article 3 of the Charter of the International Criminal Tribunal for Rwanda consider the crimes against humanity as following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds: murder; extermination; enslavement; deportation; imprisonment; torture; rape; persecutions on political, racial and religious grounds; other inhumane acts.

Unlike some *ad hoc* international criminal tribunals, Article 7 of the Statute of International Criminal Court looks through the crimes against humanity at wide context, and this is manifested in a number of aspects. *Firstly*, unlike the constituent acts of the international criminal tribunals (for example, International Criminal Tribunal for Rwanda), the Statute of International Criminal Court does not define any feature for the crimes against humanity concerning widespread or systematic attack against any civilian population. That is, simply using the expression "*against any civilian population*", the Statute does not intend differentiation on any feature (for example, national, political, ethnic, racial or religious, etc.). Hence, according to Article 7 of the Statute, regardless the feature, in any case systematic or widespread acts against civilian population are considered as crimes against humanity. *Secondly*, the statement of provision concerning committing of the attack with knowledge provides basis for that subjective component of crimes against humanity was defined even more accurately. *Thirdly*, the list of the acts included to crimes against humanity (murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in Article 7.3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in Article 7.1 or any crime within the jurisdiction of

the Court; enforced disappearance of persons; the crime of apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health) was stated even more widely. *Fourthly*, another progressive feature of the Statute of the Court is that, Article 7 expresses the explanation of those acts more precisely.

Thereby, taking into account the aforementioned, analysis of the distinctive features of the crimes against humanity is of great importance. *Firstly*, this is connected with the acting of civilians as target of the crimes against humanity. Even, the present problem was reaffirmed in international judicial practice. So that, the provision of "*the expression "directed against" is an expression which specifies that in the context of a crime against humanity the civilian population is the primary object of the attack*", stated in paragraph 421 of the judgement of Trial Chamber of International Criminal Tribunal for Former Yugoslavia (2001) and in paragraph 91 of the Judgement of Appeals Chamber (2002) on "*Kunarac and others*" case, is a clear example. In addition, paragraph 109 of the judgement of Appeals Chamber of the same Tribunal on *"Blaškić"* case (2004) emphasized that, "*targeting civilians or civilian property is an offence when not justified by military necessity. The Appeals Chamber underscores that there is an absolute prohibition on the targeting of civilians in customary international law*".

Secondly, for committing of crimes against humanity, their widespread or systematic characters are important conditions. Even, the expression of "*the act can be part of a widespread or systematic attack and need not be a part of both*", stated in paragraph 579 of the judgement of Trial Chamber of International Criminal Tribunal for Rwanda on the *"Akayesu"* case (1998), reaffirms the widespread or systematic character of attacks for committing of crimes against humanity. In general, "widespread act" means measures of committed acts and number of victims. Intentional and regular reiteration of similar crimes means their systematic character. Reflecting any political goal and plan, systematic character is a concrete act or ideology, aimed at extermination, persecution or weakening certain community. Systematic character is expressed in the durability of inhuman acts that are interrelated with one another, in the preparation of important public means, or their use for military or other purposes, as well as in involving the highest degree of political or military circles in the preparation, organization and implementation of a special plan[136]. In this field,

[136] Allahverdiyev A.V. Crimes against humanity as a kind of international crimes. Author's abstract to the dissertation on competition of a scientific degree of PhD on Law. Baku, 2012, p. 10 *(in Azerbaijani)*

especially in the defining of sphere of influence and implementation of these terms, international juducial practice has a great importance. As an example, at characterizing distinctive features of the attacks for committing of the crimes against humanity, in the paragraph 236 of the judgement of Trial Chamber of International Criminal Tribunal for the Former Yugoslavia on *"Naletilić and Martinović"* case (2003) and paragraph 206 of the judgement on "*Blaškić*" case (2000) the element of "widespread" is associated with the widespread nature of the attack and number of victims. Paragraph 580 of the judgement of Trial Chamber of International Criminal Tribunal for Rwanda on the "*Akayesu*" case (1998) demonstrated the possibility of characterization of the element of "widespread" as "*massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims*". Also, paragraph 236 of the judgement on *"Naletilić and Martinović"* case (2003) characterized the element of "systematic" as "*an organized nature of the acts and the improbability of their random occurrence*". Paragraph 203 of the judgement on "*Blaškić*" case (2000) stated that, the systematic character referred to four elements: the existence of a political objective, a plan pursuant to which the attack is perpetrated or an ideology, in the broad sense of the word, that is, to destroy, persecute or weaken a community; the perpetration of a criminal act on a very large scale against a group of civilians or the repeated and continuous committed inhumane acts linked to one another; the preparation and use of significant public or private resources, whether military or other; the implication of high-level political and/or military authorities in the definition and establishment of the methodical plan.

Thirdly, for committing of crimes against humanity, the occurrence of an armed conflict is not a prerequisite. That is, modern international law absolutely affirms the occurrence of these crimes in peacetime. Even, there are numerous examples in international judicial practice. For example, paragraph 144 of the judgement of Trial Chamber of International Criminal Tribunal for the Former Yugoslavia on *"Milutinović and others"* case (2009) stated that, *"the concept of an "attack" is not identical to that of an "armed conflict", seeing as an attack can precede, outlast, or continue during an armed conflict, but need not be a part of it (armed conflict – **author**). Attack in the context of a crime against humanity can be defined as a course of conduct involving the commission of acts of violence. It is not limited to the use of armed force; it encompasses any mistreatment of the civilian population. In addition, there is no requirement that an attack directed against a civilian population be related to the armed conflict".*

Fourthly, crimes against humanity are committed within the policy of the appropriate state or instigation or agitation of its leadership. As a clear example, paragraph 580 of judgement issued by Trial Chamber of International Criminal Tribunal for Rwanda on "*Akayesu*" case (1998) touched upon the relationship of systematic character of attacks against civilians with its agitation by state. So that, that provision characterized the concept of "systematic" as thoroughly organized and following a regular pattern on the basis of a common policy involving substantial public or private resources. Also, this provision states that, there is no requirement that this policy must be adopted formally as the policy of a state. There must however be some kind of preconceived plan or policy. As it is appeared from the Judgement, for committing of crimes against humanity, important thing is not the official document of the state, but its intention (*mens rea*) and certain steps (*actus reus*) in this direction.

Similar situation, as well as samples of the condition enumerated in the judgement on "*Akayesu*" case, may be seen in the crimes against humanity committed against Azerbaijanis historically lived in Armenia *(in those days the Armenian SSR)*.

Taking into consideration the aforementioned, crimes against humanity may be characterized as crimes, shocking the most important foundations of the existence of human society, as well as differed with its especial public dangerousness, threatening human rights and fundamental freedoms[137].

Undoubtedly, like every international crime, to characterize the public dangerousness of crimes against humanity, an important condition is their possession of the relevant constituent elements. So that, the object of the crime against humanity depends on the character of specific relations, which are attempted by public dangerous acts, its constituent element. For example, the object of extermination of population is the relations concerning peace and security of mankind; the object of enslavement is respect to human rights and freedoms and the system of international relations aimed at their observance, as well as liberty, honor and dignity of a person; the object of the deportation or forcible transfer of population is the principle of respect to human rights and fundamental freedoms; the object of the crime of apartheid is the fundamentals of peaceful coexistence of peoples, nations and states regardless of race, color of skin and nationality, normal development of peace, security and cooperation

[137] Zamanov G.K. Struggle with international crimes (crimes against peace and humanity). Author's abstract to the dissertation on competition of a scientific degree of PhD on Law. Baku, 2010, pp. 11-12 *(in Azerbaijani)*

among them. Objective element of crimes against humanity is committing of enumerated acts as its constituent element. Each act, that is constituent element of crimes against humanity, has its separate objective element. Subjective element of these crimes is direct attempt and certain intent *(i.e. mens rea)*. Subjects of crimes against humanity are persons, who has mental capacity and reached the age intended in criminal legislation of every state (for example, Article 20.1 of the Criminal Code of Azerbaijan defined this age as age of 16, to time of committing a crime).

With regard to crimes against humanity committed by Armenia *(in those days the Armenian SSR)* against Azerbaijanis lived in Armenia, it is necessary to consider these crimes in a complex way and interrelated with each other, but not the implementation of any particular type of act. So that, first of all, these crimes were committed in a form of murder, subsequently they turned into extermination of population and deportation. Undoubtedly, committed crimes were also accompanied by mass torture, persecution, enforced disappearance of persons, other inhuman acts, as the constituent element of crimes against humanity. Moreover, considering the aforementioned, distinctive features of crimes against humanity committed by Armenia against Azerbaijanis lived in Armenia, are committed acts in peacetime and lack of the relation with any armed conflict (it should be taken into account that, conduction of deportation of Azerbaijanis from Armenia *(in those days the Armenian SSR)* and crimes committed at that time began many years before Armenia-Azerbaijan armed conflict, as well as occupation of more than twenty percent of the territory of the Republic of Azerbaijan and in peacetime), selection of civilians as target, as well as these crimes committed as constituent part of state policy of Armenia *(in those days the Armenian SSR)* or plan, including measures of agitation.

Part of the crimes against humanity committed by Armenia *(in those days the Armenian SSR)* against Azerbaijanis lived there is murder. Even, as a clear example, from November 27 to December 7, 1988, in the Western Azerbaijan numerous people were killed as a result of mass attack to cities and villages of different regions for the purpose of establishment of the state of "Armenia without Turks". So that, innocent, unarmed, helpless, peaceful Azerbaijanis, who did not want to leave their homes were killed with different barbarian acts: 4 people in Allahverdi (Tumanyan) region, 13 people in Amasya (5 women and 1 child), 3 people (1 woman) in Akhta (Razdan), 3 people (1 child) in Barana (Noyemberyan), 44 people (8 women and 4 children) in Basarkecher (Vardenis), 23 people (6 women and 1 child) in Boyuk Garakilsa (Gugark), 6

people (1 woman) in Vedi (Ararat), 12 people (5 women) in Kalinino, 5 people (4 women) in Garakilsa (Sisian), 7 people (3 women and 1 child) in Gafan, 22 people (4 women and 3 children) in Zangibasar (Masis), 7 people (1 woman) in Karavansaray (Ijevan), 2 people in Keshishkand (Yeghegnadzor), 2 people in Gorus, 1 man in Mehri, 15 people (4 women, 2 children) in Soylan (Vayk), 15 people (5 women, 1 child) in Hamamli (Spitak), 18 people (7 women and 2 children) in Chambarak (Krasnoselski), 8 people (2 women) in Jalaloghlu (Stepanovan). On November 30, 1988, the Armenian Dashnak terrorists who didn`t regret the Azerbaijani patients in the Republican Psychiatric Hospital in the city of Sevan killed 22 Azerbaijanis, drowning in a well filled with water[138]. In general, according to the list, compiled in Azerbaijan Society of Refugees in 1990 on the basis of appropriate documents and testimonies of witnesses, during 1988-1990 in Armenia *(in those days the Armenian SSR)* 216 Azerbaijanis were brutally killed or died as the result of events on the ground of interethnic conflicts. According to that list, 52 people died as a result of suffer and 34 were killed with torture, 20 were killed by fire-arm, 15 people were burned, 8 people were hit by a car, 9 people killed in accident on the roads, 7 people died as a result of doctor's attempt and 9 people died of a heart attack from terrible feelings, 2 people committed suicide, 1 man was hung up, 2 people were killed by car detonation, 1 man was killed by electric charge, 1 man was killed by drowning in the water, 6 people were missed, 20 people were disappeared in hospital, 48 people were killed by snowstorms in the mountains[139]. If take a glance at content of murdered people, in this case it is possible to notice the fact of murder of people of different ages, 57 of which are women, 5 infants and 18 children[140].

It should be noted that, from the point of view of the subjective element of crime, the facts of murders and killings were committed intentionally. In other words, intent *(mens rea)* was the murder of Azerbaijanis lived in Armenia *(in those days the Armenian SSR)* and crime against humanity, which happened in accordance with this, must be characterized with direct attempt. Even, statement of the provisions concerning similar problems in the judgements of *ad hoc* international criminal tribunals proves the fact of intentional committing of

[138] Ahmadov B. Discrimination of Azerbaijani's living in Goycha regionand deportation of 1988-1989's // Journal of "Geostrategy", 2017, № 2, p. 57-58 *(in Azerbaijani)*

[139] www.iravan2018.com/az/deportations/7/55

[140] Crimes by Armenian Terrorist and bandit groupings against humanity (XIX-XXI centuries). Brief chronological encyclopedia. Compiled by A.Mustafayeva, R.Sevdimaliev, A.Aliyev, R,Yilmaz. Baku, ELM, 2011, p. 186.

the crime of murder as crime against humanity. So that, paragraphs 587-588 of the judgement issued by Trial Chamber of International Criminal Tribunal of Rwanda on "*Akayesu*" case intended the provisions on consideration that murder is a crime against humanity. Paragraph 139 of the judgement issued by Trial Chamber of International Criminal Tribunal for Rwanda on "*Kayishema and Ruzindana*" case (1999) states that, "*when murder is considered along with assassin, the standard of mens rea required is intentional and premeditated killing*". Undoubtedly, during 1980's it would be wrong to link the fact of the murder of Azerbaijanis as an integral part of the crimes against humanity committed in Armenia *(in those days the Armenian SSR)*, with the acts of any criminal or terrorist group, or specific individuals. In this issue, it should be taken into account the approach of the USSR leadership to these events from the point of view of "observer" and the direct participation of the leadership of Armenia *(in those days the Armenian SSR)* in the events. Namely, from this point of view, as noted in the paragraph 140 of the judgement on "*Kayishema and Ruzindana*" case (1999), that the provision "*a premeditated murder that forms part of a widespread or systematic attack, against civilians, on discriminatory grounds will be a crime against humanity. Also included will be extrajudicial killings, that is "unlawful and deliberate killings carried out with the order of a Government or with its complicity or acquiescence"* can be considered as a typical example of the precedent that the leadership of the Armenian state *(in those days the Armenian SSR)* directly, and the leadership of the former USSR, by their conduct, gave their consent to murders that are considered crimes against humanity committed against Azerbaijanis, living in the Armenian SSR. Even, according to the Article 7.2 *(a)* of the Statute of International Criminal Court, attack directed against any civilian population means a course of conduct involving the multiple committing of acts referred to in Article 7.1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack. As can be seen from the definition, committed attack directed against civilians, as well as acts forming the crimes against humanity, namely express the state's treatment. From this point of view, it would be more correct to link the crimes of murder committed against Azerbaijanis historically living in Armenia *(in those days the Armenian SSR)*, specifically with the direct activities of the leadership of the Armenian state *(in those days the Armenian SSR)*.

One of the crimes against humanity committed by Armenia *(in those days the Armenian SSR)* against Azerbaijanis, historically living there, that

is, in the homeland of their ancestors. First of all, it should be noted that, the term "deportation" in Latin – "*deportatio*" means "to be banished", "to be expelled". For the first time, deportation was envisaged in France as a special kind of expulsion and began to be applied by the 1971 Law. For the first time the provision on deportation was included in the French Criminal Code in 1810. The French Law, dated March 23, 1872, defining expulsion as spending one's life outside the boundaries of a continent, considered necessary to create a reinforced camp to create reinforced camps for deported persons in the territory of distant colonies that are unfit for habitation. According to the Law, deportation was used not only to punish the criminals, but also to inflict reprisals the revolutionaries[141]. Nowadays, provisions concerning this crime are stated accordingly in Articles 5 and 3 of the Charters of International Criminal Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda, as well as in Article 7 of the Statute of International Criminal Court. The main difference of the latter international document from others is that, the Statute uses not only the concept "deportatio", but also the term "deportation or forcible transfer of population". According to the requirement of Article 7 of the Statute, "deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law. However, it should not be forgotten that, despite the use of the term "deportation or forcible transfer of population" in Article 7 of the Statute, these concepts cannot be considered as absolute synonyms. Even, existence of these differences is proved by international judicial practice. So that, the provision *"both deportation and forcible transfer relate to the involuntary and unlawful evacuation of individuals from the territory in which they reside. Yet, the two are not synonymous in customary international law. Deportation presumes transfer beyond state borders, whereas forcible transfer relates to displacements within a state"*, expressed in paragraph 521 of the judgement of Trial Chamber of International Criminal Tribunal for the Former Yugoslavia on *"Krstić"* case (2001), clearly shows these differences. In addition, Trial Chamber of the Tribunal, analyzing the provision *"individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied*

[141] Allahverdiyev A.V. Crimes against humanity in international law. Textbook. Baku, "Elm ve tahsil" Publishing House, 2017, pp. 147-148 *(in Azerbaijani)*

or not, are prohibited, regardless of their motive" of the Article 49 of the IV Geneva Convention "Relative to the protection of civilian persons in time of war" of 1949 in the judgement on *"Naletilić and Martinović"* case (2003), come to two primary conclusions. First of them, according to the IV Geneva Convention, transfer may be justified in three situations: transfers motivated by an individual's own genuine wish to leave the country; transfer motivated by anxiety for the security of the population; military need. The Chamber found that, deportation requires transfer beyond state borders, to be distinguished from forcible transfer, which may take place within national borders.

Namely, taking into account the aforementioned, expulsion of Azerbaijanis from Armenia *(in those days the Armenian SSR)*, historically lived there, must be interpreted not as forcible transfer of population, but crime of deportation. The distinctive feature of the crime of deportation, committed by Armenia *(in those days the Armenian SSR)* against Azerbaijanis as crime against humanity, Azerbaijan *(in those days the Armenian SSR)* became the first country among the former USSR republics, facing with the problem of refugees. The first flow of refugees to Azerbaijan *(in those days the Azerbaijan SSR)* from Armenia *(in those days the Armenian SSR)* began from the late 1987[142]. However, it should not be forgotten that, the first threats addressed to Azerbaijanis were issued by Armenian nationalists in 1986, when the Karabakh issue was raised, for now unofficially, by some circles of the Armenian Diaspora abroad[143]. During 1987-1988 almost all Azerbaijani population of Zangazur deported from their native lands. In August of 1991 by the expulsion of population of the village Nuvadi of Mehri District, which had more than 1500 inhabitants and was the last Azerbaijani settlement in Zangazur, the process of "Zangazur without Turks" absolutely completed[144]. It should be noted that, the former Azerbaijan lands of historical Nuvadi village granted to Armenia *(in those days the Armenian SSR)* by the Decision of Transcaucasian Federation, dated February 18, 1929[145].

The facts of the government's encouragement of the crime of deportation against Azerbaijanis by Armenia *(in those days the Armenian SSR)* are

[142] Muradov Sh. Undergoing Azerbaijanis to deportation and genocide is a result of Armenians aggression policy // Newspaper of "Azerbaijan", 7 April 2015, № 71, p. 10. *(in Azerbaijani)*
[143] www.sumqayit1988.org/az/pogroms/
[144] Ismayilov K. Azerbaijanis genocide in the Zangezur region // Newspaper "Azerbaijan", 3 April 2015, № 68, p. 7 *(in Azerbaijani)*; Aziz B. Aziz B. Turkish Genocide by Armenian in Azerbaijan from the tragedy of March to Khojaly. Research from Turkey Turkish Dr. Sebahattin Shimshir. Istanbul, IQ Kultur Sanat Yayincilik, 2013, p. 121 *(in Turkish)*
[145] www.meclis.gov.az/?/az/qarabakh_content/21

sufficient. First of all, it should be noted that, on November 22, 1988, the Supreme Council of the Armenian SSR, having left its session unfinished, instructed the leaders of all instances "to ensure the cleansing of the republic from the Turks until November 28", which should be assessed as a full part of the state plan of the Armenian SSR and the former USSR and the "agitation" plan[146]. Moreover, as early as April 24, 1983, on the day of the memory of the victims of the so-called Armenian genocide, strong alarm signals were issued in Armenia *(in those days the Armenian SSR)*, informing about future tragic events. Furthermore, on the same day, in the center of the Masis district (Zangibasar), the attack of Armenian extremists on the wedding ceremony of Azerbaijanis, the massacre and heavy bodily harm, and as a result, despite the complaints of the victims, the failure to start a criminal case, all these facts can be considered the initial guarantee of the crime of deportation. Besides, as one of the facts leading to the crime of deportation, on April 24, 1983, in the Masis district the cemetery of Azerbaijanis was destroyed; if earlier times this issue was carelessly treated, then the leadership of the Masis district was forced to give an order for the restoration of the cemetery. The commission arrived at the place of incident from Moscow estimated this tragic event, which occurred in the background of ethnic discrimination, as a domestic conflict. In general, it should be taken into consideration that, since 1965, the leadership of the Soviet Union, at the request of the Armenian SSR approved the holding of events related to the day of the fictitious "genocide" of Armenians on April 24 of each year. Namely, since that time, on that day of each year the meetings-rallies were held, mostly such events turned into disturbances and attacks on the address of the Azerbaijani population of Armenia *(in those days the Armenian SSR)*. The most important fact proving agitation measures by the state policy and government on the deportation of Azerbaijanis from Armenia *(in those days the Armenian SSR)* is that, since the end of the 1980s, adhering to the unjust position against Azerbaijan *(in those days the Azerbaijan SSR)* and Azerbaijanis, the wrong assessment of the problem, the complete careless approach to the events of the leadership of the former USSR and the indirect creation of conditions for these crimes to be committed. As a clear example, such acts or inactions proves the presence of direct state policy and agitation on committing the crime of deportation against Azerbaijanis: M. Gorbachev`s

[146] Ahmadov B. Discrimination of Azerbaijani's living in Goycha regionand deportation of 1988-1989's // Journal of "Geostrategy", 2017, № 2, p. 57 *(in Azerbaijani)*

assent to the statement by Academician A.Aganbegyan, advisor to USSR leader M.S.Gorbachev at that time, for the "L'Humanite" newspapers, published in 1987 in Paris, on his desire to "see the Nagorno-Karabakh Autonomous Region as part of Armenia *(in those days the Armenian SSR)"*; in February, 1988, arrival of the third Karabakh delegation of "writers and artists" in Moscow and in the mean time delivery of tens of thousands of leaflets to Nagorno-Karabakh, with calls for the struggle "for miatsum" *(unification of Armenia (in those days the Armenian SSR) and the Nagorno-Karabakh Autonomous Region)*; in 1988, at one of the rallies in Yerevan, openly urging the crowd by "Karabakh" Committee activist R.Kazaryan "*with help of the detachments which were created in advance, we must guarantee emigration*"; at the 18 July 1988 session of the USSR Supreme Council Presidium on the situation in the Nagorno-Karabakh Autonomous Region of the Azerbaijan SSR, M.S.Gorbachev's (Leader of USSR at that time) dialogue with S.A.Ambartsumyan, the rector of Yerevan State University at that time: "*by saying this, I do not want to accuse Armenians that they have pushed Azerbaijanis out of there. Apparently, some processes were under way there, which we should find out more about*," etc[147]. It is true that, afterwards such "camouflage" events not only did not show their effectiveness, on the contrary, led to the persistence of the criminal activity of Armenians. Some examples for such activities, that did not have any effect, are following: after the expulsion of all Azerbaijanis from Armenia *(in those days the Armenian SSR)* – on December 6, 1988, the adoption in the Soviet Union of the Decision "On unacceptable acts of individual officials in local offices of the Azerbaijan SSR and Armenian SSR in forceful abandonment of the citizens from their residences"; on December 15, 1988, in order to create illusion of returning the deported Azerbaijanis to Armenia *(in those days the Armenian SSR)*, the Armenian *(in those days the Armenian SSR)* authorities discussed the implementation of the above-mentioned document, dismissal of 13 high-ranking officials from the party, 68 people reproached, etc. However, such "measures" were carried out after the actual expulsion of Azerbaijanis from the historical and ethnic lands and the Azerbaijanis did not have any benefit from them[148], at the same time, these measures did not provide any guarantee and did not create circumstances for the return and safe living of Azerbaijanis in the homeland of their ancestors, where they historically lived.

[147] www.sumqayit1988.org/az/pogroms/

[148] www.iravan2018.com/az/deportations/7/55

According to the report by the UN High Commissioner for Refugees, the Azerbaijani population, which was the largest ethnic minority in Armenia until 1988, "was driven out of the republic with participation of the local authorities"[149]**.** In general, during those times, 250 thousand Azerbaijanis were expelled from the territory of Armenia *(in those days the Armenian SSR)***,** from the homeland of their ancestors – from 185 villages and other settlements, 31000 houses and private farms, 165 collective and state farms were looted, 1154 people were injured, hundreds of people were tortured, female girls were offended. More than 15,000 Kurds and several thousand Russians were expelled from Armenia *(in those days the Armenian SSR)*[150]. The territory of Armenia *(in those days the Armenian SSR)*, in which the Azerbaijanis lived, was 25% of the territory of the republic, or 7.5 thousand square kilometers out of 29.8 thousand square kilometers[151].

Another of the crimes committed by Armenians against Azerbaijanis is torture. So that, this is clearly proven by the presence of a number of people killed by torture amongst the dead, as well as the exposure of hundreds of Azerbaijanis to incomprehensible tortures, cutting off the organs of the body, tearing eyes out[152]. Also, in 1988 in the Gugark region of Armenia *(in those days the Armenian SSR)*, Armenians bound 14 people to trees and lit them up, 70 Azerbaijani children living in the Leninakan Orphanage were sealed alive inside the pipe in Spitak, which was welded[153]. Such crimes committed by Armenians against Azerbaijanis, and the number of which are sufficient, are unequivocally considered as crimes against humanity. However, due to the fact that torture is considered a violation of human rights and an integral part of crimes against humanity, this circumstance requires to clarify the problem concerning the existing violations. Since, it should be taken into account that, according to universal international documents (for example, Universal Declaration of Human Rights of 1948; International Covenant on Civil and

[149] www.sumqayit1988.org/az/pogroms/

[150] History of Azerbaijan. In 7 volumes. Vol. VII (from 1941 to 2002). Baku, "Elm", 2008, p. 237 *(in Azerbaijani)*

[151] Arzumanli V., Mustafa N. Black pages of history. Deportation. Genocide. Refugees. Baku, "Gartal", 1998, pp. 130-151 *(in Azerbaijani)*

[152] Mammadov N.R. Socio-political life, economic and cultural development in Nagorno-Karabakh Autonomous Region of Azerbaijan Soviet Socialist Republic (from 1923 to 1991). Baku, "Tahsil", 2008, p. 421 *(in Azerbaijani)*

[153] Nuriyeva I.T. History of Azerbaijan (from ancient times to the beginning of the XXI century). Textbook. Baku, "Mutarjim", 2015, p. 289-290 *(in Azerbaijani)*

Political Rights of 1966; Convention against torture and other cruel, inhuman or degrading treatment or punishment of 1984; European Convention for the protection of human rights and fundamental freedoms of 1950; European Convention against torture and other cruel, inhuman or degrading treatment or punishment of 1987), torture is considered as violation of human rights. Even, according to Article 1 of the Convention against torture and other cruel, inhuman or degrading treatment or punishment of 1984, "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Apparently, as a violation of human rights, at commission of torture, namely, one of the parties must be state official in a certain form. However, constituent acts of *ad hoc* international criminal tribunals, as well as International Criminal Court, define torture as a crime against humanity. For example, in the paragraph 343 of the judgement of Trial Chamber of International Criminal Tribunal for Rwanda on "*Semanza*" case (2003), as a crime against humanity, torture was characterized as *"the intentional infliction of severe physical or mental pain or suffering for prohibited purposes including: obtaining information or a confession; punishing, intimidating or coercing the victim or a third person; or discriminating against the victim or a third person"*. Furthermore, the relationship between torture, as a violation of human rights, and torture, which is an integral part of crimes against humanity, was very clearly explained in international judicial practice in the context of clarifying their common and distinctive features. So that, paragraph 148 of the judgement of Appeals Chamber of International Criminal Tribunal for the Former Yugoslavia on "*Kunarac and other"* case (2002) stated that, *"the public official requirement is not a requirement under customary international law in relation to the criminal responsibility of an individual for torture outside of the framework of the Convention against torture and other cruel, inhuman or degrading treatment or punishment of 1984"*. As it is seen from mentioned provision, in distinction from torture, which is a violation of human rights, a person who commits torture as a crime against humanity does not have to be a person who represents the country or acts on its behalf, and also has the status of an "official". As a crime against

humanity, "torture" can be committed by individuals who are not considered as "officials". The main distinctive feature in committing of this crime is the existence of a fact of a widespread or systematic torture directed against the civilian population, based on discrimination. In this case, the post, position or status of a person is not so important. Paragraph 595 of the judgement of Trial Chamber of International Criminal Tribunal for Rwanda on "*Akayesu*" case (1998) states that, if additional elements are satisfied, it is possible to interpret the torture as a crime against humanity. Such additional elements are the following: torture must be perpetrated as part of a widespread or systematic attack; the attack must be against the civilian population; the attack must be launched on discriminatory grounds (namely, national, ethnic, racial, religious and political grounds). Namely, taking into account aforementioned, widespread character of torture committed against Azerbaijanis in Armenia *(in those days the Armenian SSR)*, its characterization with attacks against civilians, as well as its accompaniment of national-ethnic features and persecutions on the ground of discrimination, all these facts give the reason for the assessment of them as crimes against humanity. On the other hand, in the end of 1980s, facts of deportation and torture, that faced Azerbaijanis, must be considered. Generally, such issues, having global character, are possibly met in domestic judicial practice. So that, in the Judgement on "*Eichmann*" case (1961), concerning similar issues, which happened many years ago, and was the subject-matter of the Israel Court, it was noted that serious bodily or mental harm could be caused by the enslavement, starvation, deportation and persecution and by detention in ghettos, transit camps and concentration camps in conditions which were designed to cause their degradation, deprivation of their rights as human beings, and to suppress them and cause them inhumane suffering and torture[154]. Leaving the homeland of their ancestors, crossing high mountain in unfavorable weather conditions, strive to reach Azerbaijan, due to cold weather, hunger, lack of necessary clothing, exposure of our compatriots more difficulties and loss of some lives, was, a kind of, an accurate manifestation of the situation in the case "*Eichmann*" in the 1980s. Namely, from this point of view, crimes of deportation and torture, committed against Azerbaijanis, historically lived in the homeland of their ancestors *(nowadays the territory of Armenia)* and forced to leave those territories, must be considered in complete relationship.

[154] Schabas W.A. The crime of torture and the international criminal tribunals // Case Western Reserve Journal of International law, 2006, Vol. 37, Issue 2, pp. 355-356.

Moreover, there are a substantial amount of facts about other types of crimes against humanity (for example, rape, enforced disappearance of persons, etc.), historically continued and committed by Armenia *(in those days the Armenian SSR)* against Azerbaijanis in the 1980s.

However, it should be emphasized that, the ground for crimes against humanity, committed against Azerbaijanis, there was persecution on the national and ethnic bases of our compatriots. Namely, these persecutions played "ideological basis" in committing of researched crimes against humanity. On the other hand, each committed act, that is part of crimes against humanity, must be interpreted separately, and also they must be considered in interrelation and in a complex manner. Since, one of such acts was leading to committing of another, or was creating a circumstance, the basis for accomplishment of the other act. In general, Armenia's direct participation in the crimes committed against humanity makes it necessary to carry out measures of international responsibility in this direction.

VI. Terrorism

The protection of the international legal order, as well as the maintenance of international peace and security, depends not only on the prevention and elimination of international crimes, but also on activities in the field of combating acts of a transnational nature, in particular, of terrorism. However, the relationship between terrorism and transnational crimes in the modern period should not be overlooked. Since, as some authors correctly note, terrorism is acquiring transnational character in modern period[155]. So that, in the Resolution 55/25 of the UN General Assembly, dated November 15, 2000, adopted in connection with Convention against Transnational Organized Crime, it was noted the provision concerning the growing links between transnational organized crime and terrorist crimes and was called upon all states to recognize these links. In order to consider a committed act as terrorism, it is necessary to include, at least, four conditions of it (its participants and their range; the target of terror; the goals of the committed act; the means of the crime)[156].

In the modern period, in particular, after 40-50 years of the XX century, international terrorism should be regarded as a specific socially dangerous act, as well as violation of *jus cogens* norms, which are considered as general and basic principles of international law. As an international legal confirmation of the latter, it is possible to show the inclusion of international terror in the Declaration 2625 of the UN General Assembly "On Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations", dated 1970, as a violation of the principles of international law (in particular, the principle of refraining from the threat or use of force, the principle of non-intervention in matters which are essentially within the domestic jurisdiction of any state), as well as the reflection of the provisions on the negative impact of terrorism on international relations in the Preamble of the Declaration 42/22 "On the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations" of 1987. Specifically, from this point of view, the terrorist acts of Armenians and Armenia against Azerbaijanis and Azerbaijan can be viewed in three aspects – as a violation of the principles

[155] Cassese A. International criminal law. New York, Oxford University Press, 2003, pp. 120-122
[156] Novotny D.D. What is terrorism? In: Focus on terrorism. Volume 8. Edited by E.V.Linden. New-York: Nova Science Publishers, 2007, pp. 26-30

of international law, as socially dangerous act in relationship with committed international crimes, and just as terrorism. The results of the Armenian terrorist policy against Azerbaijan and the Azerbaijani people can be described as a "durable and systematic terrorist campaign", stipulated in UN Security Council Resolution 941 "On the violations of international humanitarian law in Banja Luka, Bijeljina and other areas of Bosnia and Herzegovina under the control of Bosnian Serb forces" in 1994, as well as in paragraph 302 of the Judgement of the International Court of Justice in the *"Case concerning application of the Convention on the prevention and punishment of the crime of genocide (Bosnia and Herzegovina v. Serbia and Montenegro)"* (2007). However, it should be noted the fact that, if the scale and results of the terrorist crimes of Armenians and Armenia against Azerbaijanis and Azerbaijan are characterized as "a duration and systematic terrorist campaign", then it would not be right to link it with only one stage. On the other hand, the target of Armenian terrorism was not only Azerbaijanis and Azerbaijani statehood, it was and still is of a global and universal nature.

Undoubtedly, Armenians used different organizational groups to implement their terrorist policy. In some cases, despite "political party" images of such groups, their main purpose and result was the agitation and implementation of terror. A clear example is marking in the programme of the Armenian Party of "Hunchak" the expression "*Agitation and terror, we need to, elevate the spirit of the people. Terror was to be used as a method of protecting the people and winning their confidence in the Hunchak program*"[157]. K.S. Papazian wrote of the Dashnak society: "The purpose of the A.R Federation (Dashnak) is to achieve political and economic freedom in Turkish Armenia, by means of rebellion … terrorism has, from the first, been adopted by the Dashnak committee of the Caucasus, as a policy r a method for achieving its ends. Under the heading "means", in their program adopted in 1892, we read as follows: The Armenian revolutionary Federation (Dashnak) in order to achieve its purpose through rebellion, organizes revolutionary groups". Method no 8 is as follows: "To wage fight and to subject to terrorism the Government officials, the traitors" Method no. 11 is: "To subject the government institutions to destruction and pillage"[158]. In addition, during the mid-1980s "Armenian Secret Army for the Liberation of Armenia" (ASALA) began publishing the magazine

[157] www.foreignpolicy.org.tr/documents/books/the_armenian_issue.pdf
[158] www.foreignpolicy.org.tr/documents/books/the_armenian_issue.pdf

of "Armenia", in which provided detailed information on terrorist attacks and their motives. Published in the city of Beirut in Lebanon in 1980 and 1981, this magazine was published twice[159]. In general, numerous organizations existed and continue to operate today, which in certain form implement the Armenian terror: "The Armenakan Party", "The Hunchak Party", "The Dashnaksutyun – The Armenian Revolutionary Federation Party", "Armenian Secret Army for the Liberation of Armenia" (ASALA), "Gegaron", "The Armenian Liberation Movement"(ALM), "The Armenian Liberation Front", "The Orly Group", "Justice Commandos of the Armenian Genocide", "Armenian Community", "Young Armenians Union", "9 June Group", "Sweden Group", "Democratic Front", "Suicide Squadron", "The Apostol"[160]. Even, "exclusive services" of Armenian terrorist associations and groups during military operations in Nagorno-Karabakh and adjacent areas, as well as during the occupation of these territories was fully proven[161].

Considering the aforementioned, generally, from the point of view of the variety of targets and the composition of victims and injured persons, the state terrorist policy of Armenia and the activities of Armenian terrorist organizations can be assessed in three aspects. The first one is related to committing of various terrorist acts in certain states of the world on a global scale by Armenian terrorist organizations. In this regard, there are numerous examples. So that, October 4, 1977 in Los Angeles in front of the house of American professor of European origin Stanford Shaw, who carried out researches on Turkish history, a bomb was blown up. Despite serious damage, no one was hurt. Responsibility for the fact of the explosion as a result of an anonymous phone call to the "United Press International Agency" was assumed by the "28 May Armenian Organization"[162]. Moreover, such terrorist crimes committed by Armenians could be shown, as terrorist acts committed on July 20, 1983 in Tehran in the administrative building of the Embassy of France and in the building owned by France Airlines, the destruction of pavilions belonging to the former USSR, the USA and Algeria, as a result of the deployment of the explosive device on

[159] Pluchinsky D. Political terrorism in Western Europe: some themes and variations. In: Terrorism in Europe. Edited by Y.Alexander, K.A.Myers. London: Routledge, 2015, p. 75.
[160] www.mfa.gov.az/content/846
[161] Kuznetsov O. The history of transnational Armenian terrorism in the twentieth century: A historico-criminological study. Berlin: Verlag Dr. Köster, 2016, pp. 142-153
[162] Gayibov I.I., Sharifov A.A. Armenian Terrorism. Baku, "Azerbaijan"Publishing, Azerinform, 1991, p. 11 *(in Russian)*

October 1, 1983, after the International Trade Fair held in Marseille, Republic of France (1 dead, 26 injured), an explosion in a bus belonging to the Embassy of the Republic of France in Islamic Republic of Iran on October 6, 1983 (2 injured passengers), a terrorist threat related to the bombing of an aircraft in Paris on 8 February 1984 owned by France Air Lines, the bombing of two French buildings in Beirut on 29 December 1984, etc. Also, on March 18, 1994, near the city of Khankandi Armenian terrorists shot down an airplane "Hercules" belonging to the Iranian Air Forces, 34 were killed.

As evidence of terrorist acts of the Armenians in various foreign countries, statistical and other information noted in official documents should be considered. So that, as it was shown in Letter dated 9 May 2012 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, according to the Federal Bureau of Investigation, between 1980 and 1986, Armenian terrorism accounted for 24.1% of all terrorist acts in the United States of America. Furthermore, in Australia, the conservative Armenian community was labeled "terrorists" by a 1984 Government Report[163]. Similar issues can also be found in the opinions and attitudes of various foreigners. For example, a letter of the American diplomat Bruce Laingen, addressed to the "Washington Post" on June 21, 1983, notes: "The brutal terrorist attacks at Orly Airport and the killing in Brussels of yet another Turkish diplomat are part of a tragic and continuing affront to all norms of human conduct and diplomatic discourse. Where is the voice of what surely must be the overwhelming majority of all Armenian communities everywhere denouncing such brutality? What is to be achieved by such senseless terror? Surely, nothing real or imagined in the history of the Armenian community can justify its continuance"[164]. The prevention of attempts of Armenian terror in foreign countries proves the organized nature and advance deliberations of the crimes that would be committed. For example, five Armenian terrorists, ranging in age from 19-29, were arrested in October 1982 by the F.B.I. on charges of possessing guns and explosives and transporting explosives interstate without a permit (V.V.Yakubyan V.A.Sarkisyan-Hovsepyan, D.S.Berberyan,

[163] Dugan L., Huang J.Y., Gary LaFree G., McCauley C.Sudden desistance from terrorism: The Armenian Secret Army for the Liberation of Armenia and the Justice Commandos of the Armenian Genocide // Dynamics of Asymmetric Conflict, 2008, Vol. 1, No. 3, p. 245.

[164] "Armenian Genocide": Myth and Reality. Compiled and published by Assembly of the Turkish-American Association. Translated from Russian by A.Jahangir. Edited and advised by A.Hasanov. Baku, Adiloglu, 2012, pp. 46-47 *(in Azerbaijani)*

K.K.Sarkisyan S.J.Dadayan). Four were arrested in California and one was arrested in Boston's Logan International Airport. It was proved that, the terrorists were planning to attack Turkey's Honorary Consul in Philadelphia[165].

The Turks and the Republic of Turkey are considered the second target of the Armenian terrorism, where it is necessary to emphasize Turkish diplomats as victims. For instance, explosion of two bombs outside the offices of the Turkish Consulate in Paris on April 4, 1973; assassination of the Extraordinary and Plenipotentiary Ambassador of Turkey by three Armenian terrorists in Vienna on October 22, 1975; a rocket attack against the Turkish Embassy in Beirut on October 28, 1975; assassination of the First Secretary of the Turkish Embassy in Beirut on February 16, 1976; destruction of the Turkish Embassy's Tourism Attaché in Rome by a bomb explosion on November 8, 1979; assassination of the Tourism Attaché at the Turkish Embassy in Paris on December 22, 1979; killing of the Administrative Attaché at the Turkish Embassy and his fourteen-year-old daughter, wounding of his wife and sixteen-year-old son, in Athens on July 31, 1980; the seriously wounding the Labor Attaché of the Turkish Embassy in Copenhagen on April 3, 1981; the serious wounding of the Commercial Attaché of the Turkish Embassy in Canada on April 8, 1982; assassination of the Administrative Attaché at the Turkish Embassy and his wife in Lisbon on June 7, 1982; assassination of the Administrative Attaché at the Turkish Embassy in Brussels on July 14,1983. Moreover, the attempt to take over the Turkish Embassy in Tehran by a group of ASALA terrorists on March 12, 1981, as well as wounding of the Turkish Ambassador, the hostages, included the wife and daughter of the Ambassador, as a result of the storming the Turkish Embassy in Ottawa on March 12, 1985 are the results of Armenian terrorism[166]. Thus, from 1973 to 1985, Armenian terrorists earned a "deadly and infamous international reputation" by murdering 30 Turkish diplomats or members of their immediate families. Generally, 188 terrorist operations occurred on four different continents, including Western Europe, southwest Asia, North America, and even Australia[167]. All this is deemed direct evidence of a breach of the norms of international law, in particular, the committing of acts provided for in article 2 of the Convention "On the prevention and punishment of crimes

[165] www.tallarmeniantale.com/terror-case-study.htm

[166] Feigl E. A myth of terror. Armenian extremism: its causes and its historical context. Salzburg: Edition Zeitgeschichte, 1986, pp. 124-139.

[167] Gunter M.M. Armenian terrorism: a reappraisal // The Journal of Conflict Studies, 2007, Vol. 27, No 2, pp. 121-122

against internationally protected persons, including diplomatic agents" of 1973 (for example, a murder, kidnapping or other attack upon the person or liberty of an internationally protected person; a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty; a threat to commit any such attack; an attempt to commit any such attack, etc.). Moreover, the members of different Armenian terrorist organizations, who have committed the above-mentioned terrorist acts against Turkish diplomats or other similar terrorist crimes should be included in the scope of the term "alleged criminals", enshrined in Article 1.2 of the 1973 Convention. So that, according to this norm, "alleged offender" means a person as to whom there is sufficient evidence to determine prima facie that he has committed or participated in one or more of the crimes. Namely, terrorist acts against Turkish diplomats committed by Armenian terrorist organizations were fully proved by the related organs of the States in which these crimes were committed.

The third and most important aspect of state terrorist policy of Armenia and the activities of Armenian terrorist organizations is criminal activity against Azerbaijanis and Azerbaijan. This activity should be considered in two directions.

The first direction is connected with the terrorist acts committed by Armenians prior to the occupation of the territories of Azerbaijan – in the 80s-90s of the XX century. These acts not only pursued the goal of violating public security, creating horror among the population, or influencing the adoption of any decision by State authorities, at the same time, they had the goal to force people to leave their homes, to build distrust against the State among the population by creating a gap between society and the State. Main goal on the second direction is to represent Armenians as "offended nation" and victims of "terror", allegedly committed by Azerbaijanis, on the basis of provocative activities.

Terrorist acts committed under the first direction can be classified in three circumstances:

1) Terrorist crimes committed against or in transport means. For example, in 1984 a bus No. 106 exploded in Baku, a woman dead and three people injured; on September 16, 1989, the passenger bus, moving by the route "Tbilisi-Baku", was exploded, 5 people dead and 25 injured;on February 13, 1990, the bus moving on Shusha-Baku route was exploded in 105 km of Yevlakh-Lachin highway, 13 Azerbaijanis were injured; on August 10, 1990, "LAZ" model bus,

plate number of 43-80 AQF was exploded nearby Nadel village of the District of Khanlar (currently the District of Goy-Gol) on "Shamkhor-Ganja" (currently "Shamkir-Ganja") motorway, 17 people were killed, 16 were injured; on August 10, 1990, a passenger bus moving on Tbilisi-Aghdam route was exploded 20 people died, 30 were injured; on May 30, 1991, Moscow-Baku passenger train was blown up near Khasavyurd station of the Republic of Daghistan, 11 people died, 22 were injured; on June 30, 1991, Moscow-Baku passenger train was blown up near Temirtau station of the Republic of Daghistan, 16 people died and 2 were injured; on December 12, 1988, IL-76 airplane that was sent from Azerbaijan to Armenia carrying humanitarian aid to the Armenians suffered from the earthquake was shot down with "Stinger" missile near Gugark city of the district of Spitak of Armenia; 76 Azerbaijanis were dead; on November 20, 1991, MI-8 type helicopter was shot down near Garakand village of the district of Khojavand; 22 people of the state representatives and authorized persons from Azerbaijan, Russia and Kazakhstan died; on January 8, 1992, "Krasnovodsk-Baku" passenger ferry was blown up, 25 people died and 88 were seriously injured; on January 28, 1992, a civil helicopter carrying passengers on Aghdam-Shusha route was shot down near Shusha city, 41 passengers and 3 members of crew were killed; on March 19, 1994, an electric train in "20 January" station of Baku Subway a bomb was exploded, 14 people were killed and 49 were injured; on July 3, 1994, an electric train between "28 May" and "Ganjlik" stations of Baku Subway a bomb was detonated, 13 people were killed and 42 people were injured, etc.

2) Terrorist crimes committed against individuals regardless of their status (i.e. civilians or military servicemen). For example, on May 15, 1988, a house belonging to K.Ismayilov was blown up in Kapaly village of Kalbajar District, 3 people were killed; in July, 1988, two explosions happened as a result of a grenade thrown by Armenians to the courtyard of Azerbaijanis living in the Khojavand District, 2 civilians were injured; on October 19, 1989, indigenous inhabitants G.Bayramov and I.Gafarov were killed near Arafsa village of the Julfa District; on November 24, 1989, 3 inhabitants of Garadaghly village were killed; on January 9, 1990, S.Bayramov, chairman of kolkhoz named after N.Narimanov, of Garadaghly village was killed; on January 31, 1990, A.Jamilov, M.Valiyev, A.Zeynalov, A.Gurbanov, I.Huseynov, F.Niftaliev were killed in Gadabay District; on June 26, 1990, local residents Nuriyev, Naghiyev and Orujov were killed in an area called Goyally of Gadabay District; on August 08, 1990, "GAZ-53" model lorry was blown up in Lachin District,

2 people were killed, 1 was seriously injured; on January 9, 1990, a vehicle, in which a correspondent of the newspaper "Azerbaijani Youth" S.Askarova and servicemen – lieutenant-colonel S.Larinov, major I.Ivanov and sergeant I.Goek were moving, was shelled by Armenian terrorists in 5th kilometer of Lachin-Shusha highway, all of the passengers were killed; on April 6, 1991, "Moskvich-412" model car with "93-69 AG" state license plate moving from Aghdam District to Fizuly District was exploded in Martuni District, 2 people were killed, 2 were seriously injured; on April 7, 1991, deputy of commandant Y.Babak and 2 people were killed, 4 were seriously injured in Yukhari Kibikly village of the Gubadly District; on May 3, 1991, a person was killed and 2 were seriously injured in security post locating near Yukhari Farajly village of Hadrut District; in May, 1991, 4 policemen of Lachin District Department of Internal Affairs in security post locating in Sadillar village of Lachin District that is border on Armenia; on January 6, 1992, Armenian robbers attacked to a shepherd tent called Humaylar in Murovdagh plateau of Imarat-Garvand village, 2 Azerbaijanis were injured; on March 31, 1993, civilians that left Kalbajar District forcibly were fired by Armenian robbers in an area called Tunel, 1 person was seriously wounded and 3 year old girl was killed; in August, 1993, "Zil" model truck was exploded in Hogha village (present Uchbulag) of Hadrut District, 2 civil residents were killed; on December 27, 1993, Khachinstroy village of Aghdam District was subject to the armed attack, 14 people were killed; in December, 1993, a military unit in Beylagan District was subject to the armed attack, 3 people were killed, 14 were wounded; in December, 1993, Kohne Gishlag village of Aghstafa District was subject to the armed attack, 1 person was killed, 6 were wounded; in December, 1993, Janaly village of Gazakh District was subject to the armed attack, 5 people were killed, 14 were wounded, etc.

3) Terrorist acts committed against civil and state objects. For example, on September 20, 1989, Zod mine located in Siryudlu pasture of Kalbajar District was detonated with explosive device, one person was wounded and at that time government was suffered 28929 manat damage; on October 7, 1989, the bridge in Khankandi city on Khalfalichay River, that connected Shusha city, where lived Azerbaijanis, with Aghdam highway was blown up; on January 4, 1991, a bridge on Asgaran Aghdam highway was exploded; in January, 1990, the Winery was exploded in Sadarak settlement of Sharur District of Nakhchivan Autonomous Republic, 5 residential house were destroyed, 6 people were killed, 23 were wounded; on September 15, 1990, Radio and Television Center

of Nagorno-Karabakh Autonomous Region in Khankandi city was blown up; on April 28, 1991, 2 five-story dwellings were destroyed in Shusha city, 3 people were seriously injured; on October 11, 1991, water-line providing Shusha city with drinking water was exploded near Nabilar village of Shusha District, etc.[168]

The existence of an armed conflict doesn`t in any way justify committing of a crime of terrorism. This, in particular, concerns terrorist acts committed by Armenia and Armenians in the territories of Azerbaijan or against Azerbaijanis. So that, according to the Article 33 of the IV Geneva Convention relative to the "Protection of civilian persons in time of war" 1949, terrorism against protected persons is directly prohibited. Article 51 of the First Additional Protocol of 1977 to the Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts states that, acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited. International judicial practice, in particular, Paragraph 113 of the judgement of the International Court of Justice on case *"Concerning Military and Paramilitary activities in and against Nicaragua (Nicaragua v. United States of America)"* (1986) interpreted the spreading of terror and danger to non-combatants as an end in itself with no attempt to observe humanitarian standards and no reference to the concept of military necessity as a violation of the obligation of a State, provided for international law.

Such terrorist acts not only serve to destroy people and their property, create fear and threat among the population, but should also be deemed a violation of international legal documents in the field of combating terrorism (Montreal Convention "For the suppression of unlawful acts against the safety of civil aviation" 1971; Rome Convention "For the suppression of unlawful acts against the safety of maritime navigation" 1988; International Convention "For the suppression of terrorist bombings" 1997; International Convention "For the suppression of the financing of terrorism" 1999; Council of Europe Convention "On the prevention of terrorism" 2005; Convention of the Commonwealth of Independent Countries Member-States "On the cooperation in combating terrorism" 1999, etc.). The actual circumstances of the crime of terrorism against Azerbaijan and Azerbaijanis are fully in conformity with the provisions of the aforementioned international legal documents. So that, regardless of the definition of general and broad (Article

[168] www.mfa.gov.az/content/847; Crimes committed by Armenian terrorist and bandit groupings against humanity (XIX-XXI centuries). Brief chronological encyclopedia. Compiled by A.Mustafayeva, R.Sevdimaliev, A.Aliyev, R,Yilmaz. Baku, ELM, 2011, pp. 170-244

1 of the Council of Europe Convention "On the prevention of terrorism" 2005), as well as more precise criteria (Article 1 of the Convention of the Commonwealth of Independent Countries Member-States "On the cooperation in combating terrorism" 1999) for the concept of terrorism, the committed crimes create a legal basis for the interpretation of these acts as terror. Since, along with terrorist acts against civil aviation or terrorism bombings, it could be met such acts, as noted in the 1999 CIS Convention, as violence or the threat of violence against natural or juridical persons, destroying or threatening to destroy property and other material objects so as to endanger people's lives, causing substantial harm to property or the occurrence of other consequences dangerous to society. In addition, terrorist acts using explosive or other lethal devices within public places or in public transport necessitate the application of International Convention "For the suppression of terrorist bombings", 1997. In general, committing or creating conditions for committing of terrorism, Armenia has violated some of its positive and entirely negative obligations.

It should be further noted that, the Armenians committed terrorist acts not only against Azerbaijanis, but also against Armenians who had close and kind relations with Azerbaijanis. A clear example of this, on July 14, 1990, in Khankandi on Martuni Street, during the terrorist operation "Black Ring", an explosion was detonated in a house belonging to Sartaryan, as a result, he and his son were seriously wounded, and his wife, working at a local airport, was murdered. The main cause of the explosion was Sartaryan's transport of detachments of soldiers (detachments in duty) performing patrol service. Moreover, inhabitant of Khankandi V.Grigoryan, who dared to meet with the representatives of the Azerbaijani community to build mutual understanding in order to find the way out of the complicated Armenia-Azerbaijan relations, was brutally killed by machine gun. Despite the numerous Armenians on the street at the opening of the fire, no one tried to help him[169].

The most obvious examples for the second direction are the events that were committed in February 1988 in the city of Sumgait by the incitement, organization and support of Armenian terrorist organizations, but in which the Azerbaijanis were shown as the main criminals. In fact, a group of pillagers, consisting of more than 20 people, was guided by three times convicted recidivist Eduard Robertovich Grigoryan, as was evident from the testimony, a decisive, insidious, cold-blooded, able to subordinate others to his will, resident

[169] Tsertsvadze F.E. Forgotten Genocide. New-York, 2005, pp. 57-66 *(in Russian)*

of Sumgait. This group was the only group that organized the Sumgait events, prepared in advance for pillage, having its own action plan, password, a place to re-meet after the take-off in extreme situations and its goals[170]. It should be noted that, the beginning of the committed murders, pillage and violence by this group, also Grigoryan's criminal acts were proved by testimony obtained by Soviet investigators conducting the investigation of the criminal case at that time[171]. In addition, it was determined during the investigation process that, in the result of mass disorders carried out in the city of Sumgait 32 people died, more than 400 people suffered injuries of varying severity, the apartments of 250 people were attacked and destroyed, 50 cultural-welfare facilities were damaged and more than 40 vehicles were wrecked or burnt as a result of these disorders. 7 million roubles-worth of damage was caused to state property[172]. Close relations of Eduard Grigoryan, leader of the detachment, main executor of the Sumgait provocations, with Armenia and Armenian terrorist organizations, as well as receiving instructions from them, was proved by the materials of investigation, also was especially emphasized in the secret report of the then Chief of the Sumgait City Department of the Azerbaijan SSR State Security Committee, in the confidential encrypted plan of operational activities, approved by the Deputy Chief of the Azerbaijan SSR State Security Committee. Even, in the latter document Grigoryan's relations with extremist people in Nagorno-Karabakh Autonomous Region was clearly shown[173].

The terrorist activities of Armenians and Armenia against Azerbaijan should be considered as a violation of the principles of international law, in particular, the principle of refraining from the threat or use of force. So that, in the Declaration 2625 of the UN General Assembly "On Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nation", dated 1970, as an integral part of this principle, it is noted that every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities

[170] Mammadov I.M.The Sumgait Provocation against Azerbaijan – "The Grigoryan Case". Baku, "Tahsil" Publishing House , 2013, p. 114 *(in Azerbaijani)*

[171] www.prokurorluq.gov.az/sumqayit/index.php

[172] Mammadov E., Mammadov R. Sumgait 1988: Crime and Punishment. Baku, "NURLAR" Publishing-Poligraphy Center, 2014, p. 19 *(in Azerbaijani)*

[173] Mammadov I.M.The Sumgait Provocation against Azerbaijan – "The Grigoryan Case". Baku, "Tahsil" Publishing House, 2013, pp. 251-252, 255-256 *(in Azerbaijani)*

within its territory directed towards such committed acts. A similar provision can be found in paragraph 6 of the Declaration 42/22 "On the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations" of 1987. So that, according to that norm, the State shall fulfill their obligations under international law to refrain from organizing, instigating, or assisting or participating in paramilitary, terrorist or subversive acts, including acts of mercenaries, in other States, or acquiescing in organized activities within their territory directed towards the commission of such acts. Furthermore, the Declaration 2625 of the UN General Assembly, as well as the Article 2 of the Declaration 2131 of the UN General Assembly "On the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty", dated December 21, 1965, provides that, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State. Even, the "Joint Declaration by the Heads of State of the Organization for Democracy and Economic Development – GUAM on the issue of conflict settlement", dated May 23, 2006, stating the provision concerning unsolved conflicts in the territories of Azerbaijan, Georgia and Moldova, expresses deep concern with regard to increasing security threats emerging from conflict zones, including international terrorism, aggressive separatism, extremism, organized crime and other related dangerous phenomena. Apparently, international organizations demonstrate an approach to the issue of the relationship between the crime of terrorism and the crime of aggression, appeared in the context of armed conflict in the territories of Azerbaijan.

Moreover, it should not be forgotten that, the main goal of Armenian terrorism was the further strengthening of Armenia's territorial claims against Azerbaijan and its use for the implementation of the crime of aggression. Even, in the "Information on some facts testifying to the organization and implementation by Armenia of terrorist acts against Azerbaijan", Annex to the letter, dated May 9, 2012, addressed to the Security Council by the Permanent Representative of Azerbaijan to the United Nations, provided that, after the open assertion by Armenia in the late 1980s of its territorial claims on Azerbaijan and the launching of armed operations in the Nagorno-Karabakh region of Azerbaijan, terrorism has been actively used as one of the means to achieve annexationist aspirations. In general, as a result of terrorist acts against Azerbaijan perpetrated since the late 1980s by the Armenian secret service and Armenian terrorist

organizations closely connected with it, over 2,000 citizens of Azerbaijan have been killed, the majority of them were women, the elderly and children. On the other hand, the interrelation between Armenia's territorial claims against Azerbaijan and the crimes of aggression, with the terrorist acts committed by Armenia and Armenians in connection with our country is fully proved on separate facts. For example, after Sumgait events on February 26, 1988, even the Armenians themselves admit that had it not been for the Sumgait events, the Nagorno-Karabakh conflict would have evolved differently, the rallies in Khankandi would have gradually subsided and the Dashnak plans would have crashed[174]. The most important fact proving the connection of terrorist acts committed by Armenians against Azerbaijan, with the Armenia's policy of aggression is that, the instigators, organizers and executors of these acts were those, who performed as participants in the implementation of the crime of aggression. As a clear example, an armed separatist Armenian group in the territory of the Nagorno-Karabakh region was first formed in 1988-1990 on the basis of a special regiment of the Ministry of Internal Affairs of the Armenian SSR comprised of militants from illegal militarized cells of the "KRUNK" organization, "Astvatsatsin", "Aydat", "Tigran Metz", and "White Crusaders" militant groups, the Armenian National Army, and the Yerkrapah Volunteer Union as the "Nagorno-Karabakh Defence Army". Razmik Petrossyan, Murad Petrossyan, Arkady Karapetyan, and Samvel Ahayan were among the organizers of the first volunteer groups. It reached its full "*development*" in the fall of 1991 during the collapse of the Soviet Union under the name of Karabakh Self-Defense Forces and has had its current name since 9 May, 1992. On the other hand, it took part in military operations during the intensive phase of the Armenia-Azerbaijan conflict. In addition, the "Nagorno-Karabakh Defence Army" is actually a component of the Armenian armed forces. Even, leaders of this group then acted as the highest officials in Armenia (for example, Seyran Ohanian, former Minister of Defence of Armenia, etc.) and today this trend continues. At the same time, the former president of Armenia Robert Kocharyan, and the current president Serzh Sargsyan, were members of the "Nagorno-Karabakh Defence Army" command during the war waging in Nagorno-Karabakh and adjacent districts in 1988-1994. Unit No. 33651 of the Armenian armed forces carries out operational and tactical coordination of the interaction between the

[174] Mammadov I.M.The Sumgait Provocation against Azerbaijan – "The Grigoryan Case". Baku, "Tahsil" Publishing House, 2013, p. 169 *(in Azerbaijani)*

"Nagorno-Karabakh Defence Army" and the Armenian armed forces[175]. The members of the "Nagorno-Karabakh Defence Army" not only engaged in the commission of terrorism against Azerbaijanis and the Republic of Azerbaijan, the implementation of separatist activities, but also played a "specific role" in spreading racial ideas. A clear example is the opinions of the former President of Armenia Robert Kocharyan, who represented in the commanding staff of the Army, on "incompatibility of Armenians and Azerbaijanis"[176]. Moreover, during the presidency of R.Kocharyan his lady Bella Levonovna Kocharyan, at the opening ceremony of the Yerevan Blood Transfusion Center, proposing to create in the 21st century a separate blood bank center, consisting exclusively of Armenian blood and protecting R.Kocharyan's racist idea, said that, "there are specific genetic factors in the Armenian blood, and Armenians need only to pour Armenian blood"[177]. On the other hand, despite the reality and the existence of actual circumstances, as well as the possession of goals for the implementation of terrorist activities, the "Nagorno-Karabakh Defence Army" linked its creation with "ridiculous and unreasonable" reasons and factors (for example, the defense of Nagorno-Karabakh's population against Azerbaijani military aggression; the first organizations that confronted and successfully fought against Islamic terrorism; successful military operations for "the defense" of Nagorno-Karabakh; "contribution" to regional stability in the Southern Caucasus; "main guarantor" of security of the people of Nagorno-Karabakh, etc.)[178].

It should also be considered that, the terrorist acts committed by Armenians provide the basis for their assessment as the state policy of Armenia and the interpretation of committed crimes as state terror ("a state-supported terrorism" or "a state-sponsored terrorism"). The following facts can be shown as obvious examples: attendance of officials (especially, the President of Armenia) in the funeral ceremony, organized in Yerevan in 1993, of the Monte Melkonyan, who a leader of the revolutionary wing of "ASALA", condemned to imprisonment for a 6-year term on November 28, 1985, and prematurely released from the

[175] Kuznetsov O. The history of transnational Armenian terrorism in the twentieth century: A historical-criminological study. Berlin: Verlag Dr. Köster, 2016, pp. 208-209.
[176] Adibekyan A., Elibegova A. Armenophobia in Azerbaijan. Yerevan, "Information and Public Relations Center" of the President of the Republic of Armenia, 2013, pp. 16-17 *(in Russian)*
[177] Markhulia G., Nuriyeva S. "The long-suffering Armenia": Myth and Reality. Baku, 2011, p. 46 *(in Russian)*
[178] www.nkrusa.org/country_profile/nkr_army.shtml

French prison in 1990, came to Armenia and was sent to continue the terrorist activity to Nagorno-Karabakh; naming of the one of the sabotage centers of the Ministry of Defense after him and declaration of him as a national hero of Armenia, erection of his monuments in Khankandi and Yerevan; the activity of Grant Markaryan, a member of the terrorist group "Dro" of the "Dashnaksutyun" Party, and a well-known terrorist, to provide terrorist groups with weapons from the creators of terrorist groups in Nagorno-Karabakh and brought from Armenia; sending from Yerevan to Khankandi in 1992 Vazgen Sislyan, the organizer of the attack on the Embassy of the Republic of Turkey in the Republic of France in 1981, and his honoring by the former President of Armenia Robert Kocharyan as a "hero of the Karabakh war" for his active participation in committing of terrorist acts against Azerbaijanis; active participation in the murders of peaceful Azerbaijanis in Nagorno-Karabakh by terrorists from the Middle East Abu Ali and Gilbert Minasyan, who were covered by the special services of Armenia[179]. Furthermore, Armenia conducted the campaign to collect signatures at the state level for Varuzhan Garabedyan, who was sentenced to life imprisonment in 1985 in France for placing an explosive device in the registration department, belonging to the Turkish Airlines at the OrlyAirport of the Republic of France and for committing a terrorist act that caused human losses (8 were killed, 60 injured) in 1983. As a result, in April 2001, the terrorist released by the French court, deported to Armenia and received an official asylum there. His reception personally by the Prime Minister of Armenia and honoring citizenship is one of the factors that confirms the status of the "terrorist state" of this country[180]. By the way, as a result of terror in the Orly Airport, four of the dead were citizens of France, 2 citizens of Turkey, one citizen of Sweden and one citizen of the US[181]. One of the facts confirming the status of the terrorist state of Armenia is that, one of the Armenian National Movement leaders, Ashot Manucharyan, who seized an authority in the country in 1990 and had become Armenia's Interior Minister in 1991, helped the paramilitaries by giving them illicitly bought weapons and transport to Karabakh. Even, most of the arms, Manucharyan admits, came from Soviet army bases. "We bought a lot of weapons in Georgian military units". They were mostly hand-held weapons,

[179] www.xalqqazeti.com/az/news/politics/83247

[180] Waal Th.D. Black garden: Armenia and Azerbaijan through peace and war. 10th – year anniversary edition, revised and updated. New-York: New-York University Press, 2013, p. 364

[181] Hoffman B. Inside terrorism. Revised and expanded edition. New-York: Columbia University Press, 2006, pp. 72-73

automatic weapons, and grenade launchers that could be taken either by helicopter or on foot across mountain paths into Karabakh[182]. Moreover, on March 19, 1994, as a result of an explosion in the subway station "January 20" of Baku, 14 people were killed and 49 people were wounded. It was proved in court that this terrorist act was prepared by the special services of Armenia and committed by members of the separatist Lazghi organization Sadval. At the same time, it became known that the activists of the separatist organization Sadval had visited Armenia several times since 1992. The main Department of National Security of Armenia closely participated in the formation, financing and armament of this organization. In April-May 1992, 30 Azerbaijani citizens, Lazghi by nationality, underwent special training in subversion at the training base located in the settlement of Lusakert in the district of Nairi of Armenia. It has become evident in the process of investigation that, beside the "January 20" station, the saboteurs planned to commit explosions in the cinema house of Nizami of Baku and in the Republican Palace (presently Heydar Aliyev Palace), in the Baku Lamp Producing Plant in conformity with the instructions given to them. In general, 30 former members of the separatist Sadval organization were charged with the explosion in the subway station of "January 20", all of them had undergone special terrorist-subversive training in Armenia[183]. Moreover, A terrorist act, committed at the Baku subway stations "May 28" and "Ganjlik" on July 3, 1994, and causing death to 13 people and wounding 42 civilians, was also organized by the special services of Armenia. For these purpose the mother of Azer Aslanov, captivated during military actions was deceived and called to Yerevan, then brought to the occupied Azerbaijani areas and kept hostage there thus obliging A.Aslanov to commit the crime. Even, this fact was reflected in the book "Between Hell and Paradise" by Zori Balayan. A.Aslanov with false documents, provided by special service agencies of Armenia, arrived in Baku by the route "Yerevan-Mineralnievodi-Baku" on July 3, 1994, committed the terrorist act and again returned to Yerevan. Only then his mother, who had remained as a hostage in Yerevan, was released. The investigation and court trial proved that, A.Aslanov's ideological training as a terrorist was participated by former president of Armenia Robert Kocharian, then leader of Armenian separatists of Nagorno-Karabakh and Zori Balayan. The instructors of the

[182] Waal D.Th. Black garden: Armenia and Azerbaijan through peace and war. New-York: New-York University Press, 2003, p. 115

[183] www.human.gov.az/az/view-page/44/Azərbaycan+ərazisində+törədilmiş+terror-təxribat+aktları#.WmN9pah9Vc8

terrorist act were Colonel Karen Bagdasaryan and Captain Seyran Sarkisyan from the special service agency of Armenia[184]. Indeed, it should be noted that the book "The Hearth" of Zori Balayan, falsifying history, first published in Armenian, then in Russian in a large circulation in the 80s of the XX century, propagated hostile feelings against Azerbaijanis, Armenians were urged to obligatory expel Azerbaijanis from their places of residence. Similar provisions can be found in other works and various publications, the authors of which were Armenians[185]. Moreover, despite the prohibition of activity for a short time (presumably in 1994-1998), the creation of the favourable circumstances for the full independent activity of the "Dashnaksutyun" party in Armenia, in particular, in the period after the resignation of the former President of Armenia Levon Ter-Petrosyan, and since the governance of Robert Kocharyan[186],as well as informing the RAND Corporation and the Oklahma City Memorial Institute for the Prevention of Terrorism about the inclusion of former members of the "Justice Commandos of the Armenian Genocide" organization into the military forces of Armenia and involving them in active military operations in 1988-1994 in Nagorno-Karabakh and surrounding regions[187], are the facts confirming the status of the terrorist state of Armenia. The terrorist-state status of Armenia not only expresses its criminal intentions, it is also shown in its act as a violation of the norms of international law (*i.e. actus reus*). So that, expressing concern at the gradual increase in state terrorism among states, the Article 1 of the Resolution 39/159 of the UN General Assembly "Inadmissibility of the Policy of State Terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States", dated December 17, 1984, stated the norm on resolute condemnation of policies and practices of terrorism in relations between States as a method of dealing with other States and peoples. Also, according to the Paragraph 2 (*m*) of the Declaration 39/159 of the UN General Assembly "On the Inadmissibility of Intervention and Interference in the Internal Affairs of States", the duty of a State is to refrain from using terrorist practices as state policy against another State or against peoples under colonial

[184] www.azerbaijan.az/portal/Karabakh/ArmenianAgression/armenianAgression_a.html?armenianAgression_04

[185] Genocide of Azerbaijanis: the Bloody Chronicle of History. Vol. 1. The author of idea R.A.Mehdiyev. Ed. by A.M.Hasanov. Baku, "Oscar" PPC, 2012, p. 181 *(in Azerbaijani)*

[186] Waal D.Th. Black garden: Armenia and Azerbaijan through peace and war. New-York, New-York University Press, 2003, p. 257

[187] Anderson S.K., Sloan S. Historical dictionary of terrorism. Third edition. Lanham, Scarecrow Press, 2009, pp. 343-344

domination, foreign occupation or racist regimes and to prevent any assistance to or use of or tolerance of terrorist groups, saboteurs or subversive agents against third States. Moreover, the document of the UN General Assembly on measures to abolish international terrorism (for example, Resolution 49/60, dated December 9, 1994; Resolution 51/210, dated December 17, 1996; Resolution 69/127, dated December 10, 2014; Resolution 50/53, dated December 11, 1995) stated that, criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them. On the other hand, despite the international legal documents, wherein the Armenia is one of the parties, stated the obligation to adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature (for example, Article 6 of the UN International Convention "For the Suppression of the Financing of Terrorism" 1999; Article 5 of the UN International Convention "For the suppression of terrorist bombings" 1997, etc.), this state, with its criminal intent (*mens rea*) and concrete acts (*actus reus*), repeatedly, constantly, systematically and in a large-scale manner violated these obligations.

The authors who conducted research in this area, characterizing the states that support terrorist organizations, providing them with material, ideological, military and technical assistance, put forward the following features: a) the creation by states in their territories or in the territories under their control of a "necessary and comprehensive" environment for the support of terrorist policies against another state or states; b) providing terrorists with "special attention and care"; c) attention to the media that are able to support terrorist policies; d) the formation of a "special image" for terrorists or "raising their image"[188].

In international judicial practice, state terror is also assessed as an integral part of the use of force. For example, Paragraph 205 of the Judgement of the International Court of Justice on case "*Concerning military and paramilitary activities in and against Nicaragua*" (1986) considered that, the element of coercion, which defines, and indeed forms the very essence of prohibited

[188] Sevdimaliyev R.M. International Terrorism and Political and Legal Problems of its Combating. Baku, "INDIGO", 2011, p. 374 *(in Russian)*

intervention, is particularly obvious in the case of an intervention which uses force, either in the direct form of military action, or in the indirect form of support for subversive or terrorist armed activities within another State.

In general, the terrorist policy of Armenia against Azerbaijan and its connection to crimes committed in this direction should be considered proving, as concrete facts, and from the point of view of the application of the term "effective control", interpreted by the Judgement of the International Court of Justice on case "*Concerning military and paramilitary activities in and against Nicaragua*" (1986) and the Judgement of the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia on the case of "*Duško Tadić"* (1999), in a similar situation. On the other hand, the responsibility of Armenia in connection with the committing of the crime of terrorism against Azerbaijan and Azerbaijanis should be determined on separate paragraphs for its behavior, that is, at least for supporting and creating the necessary environment, financing and instructing terrorists, as well as in some cases for "silent" consent and deliberate demonstration of inaction. In addition, the interpretation of the Article 51 of the Additional Protocol I (1977) to the Geneva Conventions (1949) in paragraph 98 of the Judgement of the International Criminal Tribunal for the former Yugoslavia on the case of *"Stanislav Galić"* (2003) as "*Prohibition against terror is a specific prohibition within the general prohibition of attack on civilians. The general prohibition is a peremptory norm of customary international law",* must necessarily be taken into account as a referenced international judicial precedent.

At the same time, regardless of the target state (including against Azerbaijan), the acts committed by Armenia should be assessed in two aspects. So that, firstly, these terrorist acts should be considered as international terrorist acts, as well as should be considered as means of threatening international peace and security. Since, most international documents, including Resolutions 1368, 1373 and 1377 of the UN Security Council (2001), determine international terrorism as a mean of threat to international peace and security. Even, the Preamble of the Agreement among the Governments of the Black Sea Economic Cooperation Participating States on "Cooperation in combating crime, in particular in its organized forms" of 1998, where in Azerbaijan is a party, recognizes that national and international crime, in all its forms (including in the terrorist acts, according to the Article 1.1 of the Agreement), poses a serious threat to the health, security and welfare of human beings, and adversely affect the economic, cultural and political foundations of society. Similar provisions could be seen in

the Declaration of the Council of the Ministers of Foreign Affairs of the Member States of the Black Sea Economic Cooperation "On support to security and stability of the Black Sea Economic Cooperation", dated June 25, 2004. Also, the Preamble of the Agreement between the governments of GUAM member countries "On the fight against terrorism, organized crime, drug trafficking, and other dangerous crimes", dated July 20, 2002, reaffirmed the threat of terrorist operations to international peace and security.

In the second case, these crimes must be considered as violation of human rights. Since, the Resolutions 48/122 (December 20, 1993), 49/185 (December 23, 1994), 50/186 (December 22, 1995), 52/133 (December 12, 1997), 54/164 (December 17, 1999), 55/158 (December 12, 2000), 56/160 (December 19, 2001), 58/174 (December 22, 2003) of the UN General Assembly "On Human rights and terrorism" unequivocally condemn all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomever committed, as activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of States.

Conclusion

So, I would like to note some important ideas and results that have been made relating to the analysis.

First of all, taking into consideration full dependence of the effectiveness of norms of international law on its realization and implementation, compliance with international law norms must be achieved in every aspect of the problem being analyzed. From this point of view, non-settlement of the Armenia-Azerbaijan conflict, as well as continuation of crimes against the Azerbaijani statehood and people in more serious form by Armenia as a state level policy, not only means ignoring the international legal norms in the field of international relations, but also gross and serious violation of them. As it was noted in analysis on this research, despite the existence of the right to self-defense in accordance with Article 51 of the UN Charter, our state once again showed its loyalty to the worldwide recognized principles and norms of international law, including the peaceful and war rejection policy of the state, offers all possible compromise options and existing practices for peace in the world and in the region. Armenia does not abandon its policy of aggression and the ongoing international crime, and refuses to comply with the international organizations' decisions on the settlement of the conflict, rejects all suggestions proposed by the OSCE Minsk Group on the settlement of the Nagorno-Karabakh conflict within the territorial integrity of Azerbaijan and internationally recognized borders, under various pretexts in this or other forms, not justified by international law. Thus, this problem, which is a serious threat to the world and the region, remains unresolved. In this case, it should be considered that, occupation of the territories of Azerbaijan by Armenia by using force, continuation of the occupation status by artificial prolongation of the negotiation process, as well as forcing Azerbaijan, which was subject to occupation, to compromise its territories, all these facts are gross and serious violations of international law.

Regarding specific international legal norms in this area, it is regrettable to note that the decisions of the United Nations, which are at the heart of all international organizations, are not fulfilled by Armenia and are not properly controlled. In this context, the talk goes directly from four resolutions (822, 853, 874, 884) adopted by the UN Security Council, one of the most important and essential bodies of the UN, in solving the problem. In essence this is the biggest obstacle. Occupation not only Nagorno-Karabakh, which is allegedly claimed by Armenia and they consider it as so called disputed territory, but also other territories (adjacent districts to the

Nagorno-Karabakh region and surrounding 7 districts (Lachin, Kalbajar, Aghdam, Fuzuli, Jabrayil, Gubadli, Zangilan and 1 district of Nakhchivan Autonomous Republic, 13 settlements of Tartar region and 7 settlements of Gazakh region), as a result of which Armenia forced Azerbaijan to compromise and, in the meantime, the issue of liberation from other occupied territories is a complete violation of all international legal norms. It should be borne in mind that Nagorno-Karabakh is historically an Azerbaijani land (territory), its being integral part of Azerbaijan (*in those days the Azerbaijan SSR*) and the inadmissibility of changing borders were one of the legal norms in legislative system of the former USSR as well.

Additionally, the elementary norms reflecting the principles of international law, which all states refer to and that no national-legal is required for their implementation have been seriously violated. If *jus cogens* norms, referring to interstates relations playing important political legal role for their development, constituting a legal basis for the establishment of other legal rules, principles of international law are seriously violated and that no action is taken to execute them, in such case realization of other international law norms can't be dwelled on. The key to this is still remaining of the invaded Azerbaijani lands under Armenian occupation, and, more precisely, Armenia still continues this situation. Failure to comply with the above-mentioned norms has resulted in the complete impunity of the international crimes committed by Armenia (aggression, genocide, war crimes, crimes against humanity, terrorism).

As the subject of international law Azerbaijan also has the right to comprehend its commitment to comply with the principles of international law and to demand the world states to respect the principles of these guidelines. The most important of these factors are the fact that there is a clear violation of the existing principles in relation to Azerbaijan and that the international community does not react to this problem seriously. Thus, in the preamble of the Constitution of Azerbaijan, the people of Azerbaijan, continuing their centuries-old traditions of statehood, taking into consideration the principles reflected in the Constitutional Act of Azerbaijan "On the State Independence of the Republic of Azerbaijan", wishing for the prosperity of all society and everyone, seeking justice, freedom and security, understanding its responsibility before the past, present and future generations, one of the intentions uttered solemnly by using sovereign right is to live in harmony with universal values and live in friendly, peaceful and tranquil environment with all nations of the world. Article 10 of the Constitution of Azerbaijan, which is called under "Principles of International Relations", states that the Republic of Azerbaijan establishes its relations with other states on the basis of generally accepted norms of international law.

Finally, it is particularly important to resolve the issue of international legal responsibility for committed international crimes. Certainly, international crimes such as violation of the principles of international law, aggression, genocide, war crimes, crimes against humanity, terrorism are historically and at present it is continued by Armenians, obeying human rights, including recognition of main principles of international legal documents as an international customary law as all in all and reaffirms Armenia's international legal responsibility once again. In this case the legal solution of the issues of responsibility for international crimes committed by Armenia in relation to Azerbaijan, as well as the ethnic and national groups of Azerbaijanis, should be considered in two contexts.

In the first case, the responsibility of Armenia should be put forward. Failure to comply with the international obligations of *jus cogens* and customary norms, as well as non-fulfillment of the obligations under international treaties are the basic condition of Armenia's responsibility. Article 1 of the "Draft Articles on Responsibility of States for Internationally Wrongful Acts" developed by the UN International Law Commission in 2001, clearly states that every international wrongful act of the State causes an international liability for that State. Even in the judgement of Permanent Court of International Justice on the case of *"Phosphates in Morocco"* (1938), it was clearly stated that international responsibilities arose as a result of the action that is contrary to the rights, considered in international treaties, belonging to concrete state or another state. At the same time, in the Advisory Opinions of the International Court of Justice *"On the reparation for injuries suffered in the service of the United Nations" (1949)* and *"On the interpretation of Peace Treaties with Bulgaria, Hungary and Romania" (1950), "refusal to fulfill the contractual obligation entails international liability"* should be considered as important provisions that may affect the emergence of state responsibility. Furthermore, it should be taken into consideration that Armenia has been going on obviously, continuously, systematic and widespread violation of the provision *"Every treaty in force is binding upon the parties to it and must be performed by them in good faith"* set out in article 26 of the Vienna Convention "On the law of treaties" of 1969 which Armenia is state-party to it. Even the reference to domestic law does not relieve the state from international obligations. The provisions relating to this, are set out in Article 27 of the Vienna Convention "On the law of treaties" of 1969. These obligations embrace the violation of provisions of international law arising from whatever treaty norms in the context of any international crimes. The second aspect of responsibility for international crimes committed by Armenia is related to the application of the principle of individual responsibility for committing of international crimes. For this purpose, as

well as in the UN Security Council Resolutions (822, 853, 874, 884), it is essential to establish *ad hoc* International Criminal Tribunal in accordance with Chapter VII of the Charter of the United Nations, taking into consideration that the facts such as Armenia's attack and aggression against the territory of Azerbaijan as a threat to regional peace and security. At the same *ad hoc* International Criminal Tribunal, the trial of those accused of committing international crimes against Azerbaijan and Azerbaijani people should be ensured, and international crimes should be assessed as human rights violations. Even the historical confirmation of this is the establishment and activity of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. However, it would be expedient to include not only these international justice authorities, as well as some provisions of the Statute of the International Criminal Court (for example, "deportation or forcible transfer of population" or Article 8 *bis* related to aggression) to Statute of the *ad hoc* International Criminal Tribunal which will be established. Undoubtedly, first of all, despite mentioning of the fact of occupation of the territories of Azerbaijan by Armenia in certain form in the UN Security Council resolutions 822, 853, 874, 884, this act should be recognized as a "act of aggression" in accordance with Article 39 of the UN Charter (however, it should be especially noted that in the decision of the Grand Chamber of the European Court of Human Rights on the case of "*Chiragov and others against Armenia*" (2015), the fact of the occupation of the territory of Azerbaijan by Armenia was confirmed and it was emphasized that it was interrelated with the violation of the applicants' rights). In this case, one of the important goals is to practice real action on the broad interpretation of the same documents in the direction of the implementation of resolutions 822, 853, 874 and 884 adopted by the UN Security Council, as well as the UN General Assembly Resolution 62/243 "The Situation in the Occupied Territories of Azerbaijan" of March 14, 2008 through the International Court of Justice. Finally, full realization of articles 41 and 42 of the UN Charter should be ensured with the view of implementation of the resolutions adopted by the UN Security Council.

We hope that the solution of these issues will lead to the restoration of international justice, increase our hopes on international legal norms, elimination of impunity at the international level and, lastly, restoration of violated rights of the victims of crimes. However, contrary to all this, the international community's remaining indifferent to these events and, in the end, the inactivity of international law will be very disappointing, leading to a widening of such cases as a precedent in the future, as well as further increasing the environment of international injustice and impunity.

About the Author

Amir Ibrahim oghlu Aliyev was born on April 4, 1973. In 1994, he graduated from the Law Faculty of Baku State University majoring in Law and entered the doctoral (postgraduate study) programme majoring in "International law; Human Rights". Since 1996, Amir Aliyev has worked as a lecturer at Baku State University, from 2006 to 2011 as the Deputy Dean in the Faculty of International Relations and International Law, from 2011 up to present time as the Dean of the Law Faculty and at the same time as the Head of UNESCO Department of "Human Rights and Information Law".

Amir Aliyev by the relevant decision of the Higher Attestation Commission under the President of the Republic of Azerbaijan got PhD degree in Law on October 22, 2003, degree of Doctor of Jurisprudence on January 25, 2008 and on November 30, 2012 the title of Professor. He is the author of 6 textbooks, 3 manuals, 2 monographs, more than 20 teaching programmes, about 250 scientific works and up to 50 scientific articles published abroad. About 40 dissertation works to get the Doctor of Philosophy degree in Law and 2 doctoral works to get the degree of Doctor of Jurisprudence have been successfully defended under his supervision.

Amir Aliyev is the Chairman of the Permanent Dissertation Council responsible for defending dissertations for the degree of Doctor of Philosophy in Law and Doctor of Jurisprudence by the relevant decision of the Higher Attestation Commission under the President of the Republic of Azerbaijan, a member of the Republican Specialty Commission on Attorneys and also the co-editor of the journal of "International Law and Integration Problems".

Amir Aliyev has been awarded the Taraggi (Progress) Medal by the Order of the President of the Republic of Azerbaijan, dated October 30, 2009.

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