

LEGAL AND POLITICAL ASPECTS OF THE DE-ARMENIZATION OF NAGORNO-KARABAKH: ETHNIC CLEANSING, GENOCIDE, FORCED DISPLACEMENT OR VOLUNTARY EXODUS?

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Abstract

From September 2020 to September 2023, Azerbaijan applied a combination of hard and soft tactics, military and hybrid methods to depopulate Nagorno-Karabakh (Artsakh) of its indigenous Armenian population.

Different terms are used by various official, policy and academic circles to describe the de-Armenization of Nagorno-Karabakh. The choice of term often depends on their stance, beliefs, interests and expertise. These terms include “genocide”, “ethnic cleansing”, “forced displacement”, “displacement”, “exodus”, “voluntary exodus”, “migration”, among others. Some also use terms that mock or deny the genocide and ethnic cleansing.

This article explores the most accurate terms to describe the de-Armenization of Nagorno-Karabakh. It does this by comparing various perspectives and examining the compliance of the used terms with those implied in international law and relations, as well as their political applicability. The article also revisits the methods and scenarios employed by Azerbaijan, which resulted in the depopulation of Nagorno-Karabakh Armenians. The combined analysis of those aspects and overwhelming evidence shows that the de-Armenization of Nagorno-Karabakh is ethnic cleansing. Legally, it also corresponds to most of the genocide criteria; however, it may be a difficult claim politically and compared with other ongoing conflicts.

Keywords: ethnic cleansing, genocide, forced displacement, Nagorno-Karabakh/Artsakh, Armenians, Azerbaijan

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Various Positions and Perspectives

Armenian officials, including the diplomatic corps,¹ most of the civil society, as well as many non-Armenians in international political,² policy³ and academic circles refer to the displacement of Armenians of Nagorno-Karabakh and the events leading to it as an “ethnic cleansing”. On 16 April 2024, during the hearing in relation to the Application of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (Armenia v. Azerbaijan) filed in September 2021,⁴ Armenia urged the International Court of Justice (ICJ) to hold Azerbaijan responsible for ethnic cleansing in Nagorno-Karabakh. Yeghishe Kirakosyan, Armenia’s official representative for international legal cases stated during the ICJ hearing in relation to Armenia’s case under the CERD: “After threatening to do so for years, Azerbaijan has completed the ethnic cleansing of the region and is now systematically erasing all traces of ethnic Armenians’ presence.”⁵

According to other scholars, it is questionable “whether ethnic cleansing should be used to describe the forced displacement of Armenians when the concept itself is not criminalized and, as such, does not trigger any criminal liability.”⁶ Some Armenians, especially from Nagorno-Karabakh⁷ and the Diaspora, as well as international human rights lawyers and watchdogs, also disagree with the term “ethnic cleansing”. They characterize the forced displacement of Armenians from Nagorno-Karabakh as a genocide, and as such, a continuation of the Armenian Genocide carried out by the Ottoman Empire and culminating in 1915, largely recognized as such by the governments and parliaments of many countries. In his report published in August 2023, the first prosecutor of the International Criminal Court (ICC), Luis Ocampo Moreno, called the situation in Nagorno-Karabakh a genocide

¹ Mirzoyan emphasized that Nagorno-Karabakh was factually subjected to ethnic cleansing, despite numerous targeted appeals of international partners, including the USA, *Aravot*, 11 October 2023, <https://en.aravot.am/2023/10/11/334975/>.

² H.R.5686 - Preventing Ethnic Cleansing and Atrocities in Nagorno-Karabakh Act of 2023 118th Congress (2023-2024), <https://www.congress.gov/bill/118th-congress/house-bill/5686/text?s=1&r=93>.

³ David J. Scheffer, “Ethnic Cleansing is Happening in Nagorno-Karabakh. How Can the World Respond?,” <https://www.cfr.org/article/ethnic-cleansing-happening-nagorno-karabakh-how-can-world-respond#:~:text=The%20ethnic%20Armenian%20population%20of,have%20fled%20west%20to%20Armenia>.

⁴ “Application instituting proceedings and request for the indication of provisional measures,” *International Court of Justice*, 16 September 2021, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20210916-APP-01-00-EN.pdf>.

⁵ Yeghishe Kirakosyan Represents Armenia in Case Against Azerbaijan at ICJ, *The Armenian Mirror-Spectator*, 18 April 2024, <https://mirrorspectator.com/2024/04/18/yeghishe-kirakosyan-represents-armenia-in-case-against-azerbaijan-at-icj/>.

⁶ Edita G. Gzoyan, Svetah A. Chakhmakhchyan, and Edgar S. Meyroyan, “Ethnic Cleansing in Artsakh (Nagorno-Karabakh): Issues of Definition and Criminal Responsibility,” *International Journal of Armenian Genocide Studies* 8, no. 2 (2023): 77.

⁷ Stepanyan and Beglaryan advocate for rights and safe return of Artsakh’s Armenians. ANCA News, *Armenian Weekly*, 16 February 2024, <https://armenianweekly.com/2024/02/16/stepanyan-and-beglaryan-advocate-for-rights-and-safe-return-of-artsakhs-armenians/>.

when it reached its critical stage, became total, and started evolving into a genocide through starvation. He repeated the same opinion in September 2023, right in the aftermath of Azerbaijan’s military offensive in Nagorno-Karabakh.⁸

He took it further in May 2024, publishing an article suggesting the International Criminal Court consider the genocide petition of Armenian human rights defenders because it is not only about the Armenian community in Nagorno-Karabakh but different forms of genocide committed against Armenians in Armenia itself.⁹ The petition was submitted to the ICC by the Center for Truth and Justice (CFTJ) on 18 April 2024,¹⁰ based on their detailed report on “The Planning, Inciting, Ordering, Instigating, and Implementing of Genocide by President Ilham Aliyev and Other High Ranking Officials” to prove the state-planned nature of Azerbaijan’s actions, which is another criterion under the Genocide Convention.¹¹

The Lemkin Institute uses both terms — genocide and ethnic cleansing — for the situation in Nagorno-Karabakh. Its director, Dr. Elisa von Joeden-Forge, urges the international community to call it a genocide.¹² She refers to the impossible conditions for livelihood created by Azerbaijan for Nagorno-Karabakh Armenians and to the threats and Armenophobic language used by Azerbaijan’s President Aliyev and other key figures as indicators of genocidal intent.¹³ She has called it “one of the most successful genocides in history.”¹⁴

The European Parliament (EP) used the term “ethnic cleansing” in the resolutions adopted in October 2023¹⁵ and March 2024.¹⁶ The resolution adopted by the Parliamentary

⁸ Luis Ocampo Moreno, “A Genocide is Unfolding in Nagorno-Karabakh,” *Washington Post*, 22 September 2023, <https://www.washingtonpost.com/opinions/2023/09/22/nagorno-karabakh-genocide-armenia/>.

⁹ Luis Moreno Ocampo, “The ICC Should Consider the New Armenian Genocide Petition,” *Politico*, 10 May 2024, <https://www.politico.eu/article/icc-armenian-genocide-nagorno-karabakh-azerbaijan-ilham-aliyev/>.

¹⁰ Molly Quell and Mike Corder, “Armenian Victims Group Asks International Criminal Court to Investigate Genocide Claim,” *Associated Press*, 18 April 2024, <https://apnews.com/article/armenia-azerbaijan-genocide-claim-international-court-4331781a6213e82a78b9ce152ed8d27c>.

¹¹ “The Planning, Inciting, Ordering, Instigating, and Implementing of Genocide by President Ilham Aliyev and Other High Ranking Officials,” *Center for Truth & Justice*, 18 April 2024, <https://www.cftjustice.org/the-planning-inciting-ordering-instigating-and-implementing-of-genocide-by-president-ilham-aliyev-and-other-high-ranking-officials/>.

¹² “Forced Deportation in Nagorno Karabakh is Genocide: Lemkin Institute Director,” 1 May 2024, <https://www.youtube.com/watch?v=jHtokNiQln4>.

¹³ Davit Mamyán, “Lemkin Institute Director Urges to Call Azerbaijan’s Actions in Karabakh as Genocide and Apply Relevant Convention,” *Armenpress*, 8 April 2024, <https://armenpress.am/eng/news/1134238.html>.

¹⁴ Elisa von Joeden-Forgey, “Why Prevention Fails: Chronicling the Genocide in Artsakh,” *International Journal of Armenian Genocide Studies* 8, no. 2 (2023): 87.

¹⁵ P9_TA(2024)0158 Closer ties between the EU and Armenia and the need for a peace agreement between Azerbaijan and Armenia European Parliament resolution of 13 March 2024 on closer ties between the EU and Armenia and the need for a peace agreement between Azerbaijan and Armenia (2024/2580(RSP)), https://www.europarl.europa.eu/doceo/document/TA-9-2024-0158_EN.pdf.

Assembly of the Council of Europe (PACE) in October 2023, regrets the “long-standing and continuing failure on the part of the authorities of Azerbaijan to reassure the Armenian population of the region of their safety and the full respect of their rights”, which has led to “allegations and reasonable suspicion that this can amount to ethnic cleansing”.¹⁷ They urge the creation of a climate of trust and conditions to ensure the return of Armenians from Nagorno-Karabakh. However, Armenians are not likely to return without minimal conditions, such as an international multilateral (UN or EU) presence and a level of self-governance, to which Azerbaijan will not agree.¹⁸

The U.S.,¹⁹ the EU²⁰ and the governments of its member states, and international intergovernmental organizations like the UN use more neutral and reserved language. They use terms like “displacement” or “exodus” to describe the de-Armenization of Nagorno-Karabakh. The UNHCR refers to Armenians who have fled Nagorno-Karabakh as “refugees” or “refugee-like persons”.²¹ This suggests forced displacement under the Refugee Convention, which defines refugees as those “unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality[...].”²²

Azerbaijan denies the allegations of ethnic cleansing of Armenians in Nagorno-Karabakh. After the mass exodus of Armenians from Nagorno-Karabakh, Azerbaijan and its lobbyists began asserting that the exodus of Armenians is a “personal and individual decision,”²³ and they have rejected Azerbaijan’s offer of “reintegration”.²⁴ During the

¹⁶ “European Parliament resolution of 5 October 2023 on the situation in Nagorno-Karabakh after Azerbaijan’s attack and the continuing threats against Armenia (2023/2879(RSP)),” *European Parliament*, 5 October 2023, https://www.europarl.europa.eu/doceo/document/TA-9-2023-0356_EN.html.

¹⁷ “PACE Calls on Azerbaijan to ‘Prove its Goodwill’ Towards the Armenian Population of Nagorno-Karabakh,” *Council of Europe*, Parliamentary Assembly session, 13 October 2023, <https://www.coe.int/en/web/portal/-/pace-calls-on-azerbaijan-to-prove-its-goodwill-towards-the-armenian-population-of-nagorno-karabakh>.

¹⁸ Sossi Tatikyan, “Can the International Community Reverse the Ethnic Cleansing of Armenians of Nagorno-Karabakh? How to Overcome the Failure of Preventive Diplomacy and Humanitarianism? The Role of the U.S., EU and UN,” Part 2, *EVN Report*, 17 October 2023, <https://evnreport.com/politics/can-the-international-community-reverse-the-ethnic-cleansing-of-armenians-of-nagorno-karabakh-part-2/>.

¹⁹ Suren Sargsyan, “Key Takeaways from an Interview with US Ambassador Kvien,” *The Armenian Mirror-Spectator*, 14 April 2024, <https://mirrorspectator.com/2024/04/14/key-takeaways-from-an-interview-with-us-ambassador-kvien/>.

²⁰ “Azerbaijan: Statement by the Spokesperson on the Displacement of People from Nagorno-Karabakh,” *European Union External Action*, 29 September 2023, https://www.eeas.europa.eu/eeas/azerbaijan-statement-spokesperson-displacement-people-nagorno-karabakh-0_en.

²¹ “UNHCR Increasingly Concerned for Refugees Fleeing Karabakh Region,” *UNHCR*, 23 September 2023, <https://news.un.org/en/story/2023/09/1141457>.

²² “The 1951 Refugee Convention,” *UNHCR*, <https://www.unhcr.org/about-unhcr/who-we-are/1951-refugee-convention>.

²³ Jack Parrock, “Armenians Leaving ‘in a Free Manner,’ Azerbaijan Official,” *DW*, 26 September 2023, <https://www.dw.com/en/armenians-leaving-in-a-free-manner-azerbaijan-presidential-advisor/video-66932505>.

blockade leading to breaking resilience of Armenians in Nagorno-Karabakh before the military offensive, Azerbaijan and its advocates were denying the fact of the blockade through disinformation and false narratives. Moreover, Baku mocked the situation, claiming that it is self-imposed, for which Azerbaijani propagandists even invented the term “self-genocide”.²⁵

However, as underlined in the Elements of Crimes of the International Criminal Court, “the term ‘forcibly’ is not restricted to physical force, but may include a threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.”²⁶

Azerbaijani narratives have implied that Azerbaijan conducted military operations against Armenians without harming civilians. They suggested that Nagorno-Karabakh Armenians feared retaliation by Azerbaijan for the first Karabakh war and harbored “ethnic hatred to Azerbaijanis, and that is why they did not want to co-exist with them.”²⁷ Earlier, the Azerbaijani propaganda machine was trying to prove throughout the nine and half months of the blockade of Nagorno-Karabakh that there was no blockade, including when starvation started in July 2023.²⁸ A spokesperson of the Russian Foreign Ministry echoed the Azerbaijani perspective, claiming that there is no evidence of ethnic cleansing in Nagorno-Karabakh.²⁹

On 15 April 2024, Azerbaijan urged ICJ to dismiss the Armenian case under the CERD, while continuing to pursue its mirroring case against Armenia under the same Convention.³⁰ Its experts and supporters argue for the dismissal of Armenia v. Azerbaijan

²⁴ Sossi Tatikyan, “‘Integration’ of Nagorno-Karabakh Armenians. A Tool for Subjugation and Ethnic Cleansing by Azerbaijan,” Part I, *EVN Report*, 28 July 2023, <https://evnreport.com/politics/integration-of-nagorno-karabakh-armenians-a-tool-for-subjugation-and-ethnic-cleansing-by-azerbaijan/>.

²⁵ Sossi Tatikyan, “Deliberate Starvation of Nagorno-Karabakh Armenians. A Tool for Subjugation and Ethnic Cleansing by Azerbaijan,” Part II, *EVN Report*, 10 August 2023, https://evnreport.com/politics/deliberate-starvation-of-nagorno-karabakh-armenians/?fbclid=IwAR2pITwvD2ekUW3baQdo8EIOpNYYNMCCc0OQX8zfkOIQOotUZglDJ_yyoWI.

²⁶ Elements of Crimes (The Hague: International Criminal Court, 2013), 4, ft. 12.

²⁷ “Presidential Aide: Baku, Yerevan Working Directly on Drafting Peace Treaty,” *Caliber.az.*, 4 January 2024, <https://caliber.az/en/post/214892/>.

²⁸ Tatikyan, “Deliberate Starvation of Nagorno-Karabakh Armenians,” Part II.

²⁹ “Zakharova Has No Evidence of Ethnic Cleansing in Nagorno-Karabakh: False and Manipulative Statements of the Russian Foreign Ministry,” *Fact-investigation Platform*, 12 January 2024, <https://fip.am/en/23928>.

³⁰ “Azerbaijan Asks World Court to Throw out Armenian Ethnic Cleansing Case,” *Reuters*, 15 April 2024, <https://www.reuters.com/world/middle-east/azerbaijan-asks-world-court-throw-out-armenian-ethnic-cleansing-case-2024-04-15/>.

case at the ICJ, denying the allegations of ethnic cleansing.³¹ This is part of Azerbaijan's war of narratives and lawfare against Armenians.³²

Lastly, Azerbaijan is reportedly pressuring Armenia to withdraw its claim *v.* Azerbaijan at the ICJ as a pre-condition for signing a peace agreement, claiming that the lawsuit indicates a territorial claim by Armenia to Azerbaijan. That demand is based on the main narrative of Azerbaijan's lawfare against Armenians, claiming that Armenia is an aggressor that occupied part of Azerbaijan's territory.³³ It relies on autocratic legalism, misusing sovereignty and territorial integrity notions to justify its methods.³⁴ This was reflected in the official statements of President Aliyev and the Ministry of Foreign Affairs of Azerbaijan in early 2024.³⁵ The latter also negatively reacted to Armenia's ratification of the Rome Statute in October 2023 and the accession of Armenia to the ICC in February 2024.³⁶

During the press conference on 12 March 2024, Armenia's Prime Minister Nikol Pashinyan admitted that the withdrawal of lawsuits between the two countries was being considered during peace treaty negotiations. Human rights lawyers and defenders from both conservative³⁷ and liberal³⁸ camps in Armenia have expressed strong opposition to the withdrawal of the interstate lawsuits of Armenia *v.* Azerbaijan from international legal bodies, such as the ICJ and the European Court of Human Rights.

Finally, those Armenian and international human rights defenders and criminal justice lawyers who suggest using the term "genocide" instead of ethnic cleansing for Nagorno-Karabakh Armenians underline that de-Armenization of Nagorno-Karabakh is the continuation of the genocidal policies carried out by the Ottoman empire at the beginning of

³¹ Nurlan Mustafayev, "Azerbaijan *v.* Armenia Before the ICJ: When Military Occupation is Racial Discrimination under CERD?," <https://cilj.co.uk/2024/04/20/azerbaijan-v-armenia-before-the-icj-when-military-occupation-is-racial-discrimination-under-cerd/>.

³² Sossi Tatikyan, "Azerbaijan's War of Narratives Against Armenians," Narratives in Relation to Nagorno-Karabakh, Part II, *EVN Report*, 7 September 2022, <https://evnreport.com/politics/azerbajians-war-of-narratives-against-armenians-part-ii/>.

³³ Sossi Tatikyan, "How Azerbaijan Deceives and Harasses the International Community: Baku's Expansionist Objectives Under the Spotlight," Part I, *EVN Report*, <https://evnreport.com/politics/how-azerbaijan-deceives-and-harasses-the-international-community/>.

³⁴ Nerses Kopalyan, "Autocratic Legalism and Azerbaijan's Abuse of Territorial Integrity," *EVN Report*, 18 August 2023, <https://evnreport.com/politics/autocratic-legalism-and-azerbajians-abuse-of-territorial-integrity/>.

³⁵ "In Azerbaijan, President Says Peace Treaty Only Possible after Amendments to Armenia's Constitution," *ConstitutionNet, International IDEA*, 2 February 2024, <https://constitutionnet.org/news/azerbaijan-president-says-peace-treaty-only-possible-after-amendments-armenias-constitution>.

³⁶ No:051/24, Commentary by Aykhan Hajizada, MFA Spokesperson, regarding the speech of the Minister of Foreign Affairs of Armenia Ararat Mirzoyan during the ceremony dedicated to the accession of Armenia to the Rome Statute of the International Criminal Court (ICC), <https://www.mfa.gov.az/en/news/no05124>.

³⁷ "Withdrawal from Lawsuits against Azerbaijan in International Courts will Cause Irreparable Damage to Armenia, Armenians," *News.am*, 18 March 2024, <https://news.am/eng/news/812811.html>, accessed 18.05.2024.

³⁸ "On the Inadmissibility of Withdrawing Interstate Complaints of Armenia vs Azerbaijan," *Helsinki Citizens' Assembly-Vanadzor*, 18 March 2024, <https://hcav.am/en/statement-19-03-2024/>.

the 20th century and it aims to continue in Armenia itself through Azerbaijan's expansionist policies manifested by its military offensives in the territory of the Republic of Armenia and occupation of part of its territory accompanied with war crimes and grave human security issues. This is also the main argument of Ocampo's article published in May 2024, urging the ICC to consider the genocide petition submitted by Armenian human rights defenders and lawyers in April 2024.³⁹

Meanwhile, Armenia's PM Pashinyan made an unconventional statement on the day of commemoration of the Armenian genocide in April 2024, suggesting learning lessons from the experience and transcending its trauma. Andranik Kocharyan, Head of the Defense and Security Committee of the National Assembly of Armenia, representing the ruling political faction,⁴⁰ suggested to constitute the list of the victims of the Armenian Genocide. Both statements were perceived by many as an attempt to question the Armenian Genocide, echoing some of the Turkish narratives aimed to justify it.⁴¹ They were criticized domestically, by the Armenian Diaspora, as well as by the Lemkin Institute that made an unprecedented statement in May 2024, condemning PM Pashinyan's "cryptic engagement with genocide denial".⁴² The statement urges to stand firmly against genocide and its denial while working toward acknowledging historical truths to foster healing and prevent future atrocity crimes. It suggests that it is harmful and unacceptable for the leader of a nation that has experienced genocide to engage in narratives crafted by perpetrators to deny their responsibility, not to downplay genocides, as it sets a dangerous precedent that can embolden perpetrators and diminish the urgency of preventing future atrocities.⁴³ Commenting on that statement, Ruben Rubinyan, Deputy Speaker of the National Assembly from the ruling party and Armenia's Special Envoy for Armenia-Türkiye dialogue process, implied that the Lemkin Institute has been influenced by the Armenian opposition.⁴⁴

³⁹ Ocampo, "The ICC Should Consider the New Armenian Genocide Petition."

⁴⁰ Arshaluys Barseghyan, "Armenian MP Accused of Promoting Genocide Denial," *OC Media*, 16 April 2024, <https://oc-media.org/armenian-mp-accused-of-promoting-genocide-denial/>.

⁴¹ George Aghjayan, "MP Andranik Kocharyan Proposes a List of Victims of the Armenian Genocide – Why and How?" *The Armenian Weekly*, 17 April 2024, <https://armenianweekly.com/2024/04/17/mp-andranik-kocharyan-proposes-a-list-of-victims-of-the-armenian-genocide-why-and-how/>.

⁴² "Statement Condemning Prime Minister Nikol Pashinyan's Cryptic Engagement with Genocide Denial," Lemkin Institute for Genocide Prevention, 10 May 2024, https://www.lemkininstitute.com/statements-new-page/statement-condemning-prime-minister-nikol-pashinyan's-cryptic-engagement-with-genocide-denial?fbclid=IwZXh0bgNhZW0CMTAAR0to-G2vA0ot_-Q-oFJlky-6ffEloYv_NI3cPAaFhoMMzR-jt03a4ZaK8w_aem_ARXecDnFk1Y3qctT6hJ3wtmoX3m4bYhbi4Aj-GgWfK6JYJYI4chKEIBN940WDtcr5UFR_kudTEQEBhh0rjo8hCo2.

⁴³ *Ibid.*

⁴⁴ Deputy Speaker of the National Assembly Ruben Rubinyan's briefing, *Factor TV*, 11 June 2024, <https://factor.am/782164.html>.

The Applicability of the Terms “Ethnic Cleansing” and “Genocide”

The term ethnic cleansing means “rendering an area ethnically homogeneous by using force or intimidation to remove from a given area persons of another ethnic or religious group, which is contrary to international law.”⁴⁵

Ethnic cleansing has not been fully recognized as an independent crime under international law. The term first appeared during the conflict in the former Yugoslavia in the 1990s; it is believed to derive from a literal translation of the Serbo-Croatian expression “etničko čišćenje”. Although it has been used in the UN Security Council and General Assembly resolutions and recognized in the International Criminal Tribunal for the former Yugoslavia (ICTY) judgments and indictments, it has not constituted a count for prosecution.

A UN Commission of Experts defined ethnic cleansing in its interim report S/25274 as “... rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area.” In its final report S/1994/674, the same Commission described ethnic cleansing as “... a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas.”⁴⁶

The Commission identified several coercive practices that could be used to remove a civilian population. These include murder, torture, arbitrary arrest and detention, extrajudicial executions, rape and sexual assaults, severe physical injury to civilians, confinement of civilian population in ghetto areas, forcible removal, displacement and deportation of civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, use of civilians as human shields, destruction of property, robbery of personal property, attacks on hospitals, medical personnel, and locations with the Red Cross/Red Crescent emblem, among others. The Commission of Experts added that these practices can “... constitute crimes against humanity and can be assimilated to specific war crimes. Furthermore, such acts could also fall within the meaning of the Genocide Convention.”⁴⁷

Later, ethnic cleansing was classified as a crime against humanity, alongside genocide, mass atrocities, and war crimes in the Responsibility to Protect principle (R2P).⁴⁸ UN member states endorsed R2P at the 2005 World Summit as a global political

⁴⁵ George J. Andreopoulos, “Ethnic cleansing,” *Britannica*, <https://www.britannica.com/topic/ethnic-cleansing>.

⁴⁶ Ethnic Cleansing. United Nations Office on Genocide Prevention and The Responsibility to Protect. <https://www.un.org/en/genocideprevention/ethnic-cleansing.shtml>.

⁴⁷ “Ethnic Cleansing,” United Nations, *Office on Genocide Prevention and the Responsibility of Protect*, <https://www.un.org/en/genocideprevention/ethnic-cleansing.shtml>.

⁴⁸ “What is R2P?” Global Center for Responsibility to Protect, <https://www.globalr2p.org/what-is-r2p/>.

commitment. This principle evolved with the 2009 UN SC Resolution 1894 on the Protection of Civilians in Armed Conflict.⁴⁹

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) and the 1998 Rome Statute of the ICC (Rome Statute) criminalize genocide; however, they do not specifically mention ethnic cleansing. The Genocide Convention defines genocide as any of the five acts deliberately inflicted on conditions of life for a national, ethnic, racial or religious group, with the intent to physically destroy it, in whole or in part. These five acts include killing members of the group, causing them serious bodily or mental harm, imposing living conditions intended to destroy the group, preventing births, and forcibly transferring children out of the group.⁵⁰ The intent to destroy constitutes a crucial element in the definition and understanding of genocide.⁵¹ According to Schabas, “where the specified intent is not established, the act remains punishable, but not as genocide. It may be classified as crimes against humanity, or it may be simply a crime under ordinary criminal law.”⁵²

The International Criminal Court (ICC) was founded in 2002 based on the Rome Statute to prosecute individuals for perpetrating the most serious international crimes. These include genocide, crimes against humanity, and war crimes, but its mandate doesn’t mention ethnic cleansing.⁵³

Thus, unlike genocide, “ethnic cleansing” is a political rather than a legal term. However, it is based on ethnic discrimination and is therefore covered by the CERD in line with which Armenia has filed a case against Azerbaijan in the ICJ in 2021, following the 2020 Karabakh war.⁵⁴ While initially the case was aimed to prevent impunity for Azerbaijan’s 2020 military aggression in Nagorno-Karabakh accompanied with war crimes against Armenians based on their ethnicity, it also sought to prevent further discrimination

⁴⁹ Security Council Resolution 1894 (2009) [on the Protection of Civilians in Armed Conflict], United Nations Digital Library, <https://digitallibrary.un.org/record/671179?ln=en>.

⁵⁰ Convention on the Prevention and Punishment of the Crime of Genocide. Approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (III) of 9 December 1948 Entry into force: 12 January 1951, in accordance with article XIII, United Nations, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

⁵¹ Gzoyan et al., “Ethnic Cleansing in Artsakh,” 69.

⁵² William Schabas, *Genocide in International Law: The Crime of Crimes* (Cambridge: Cambridge University Press, 2009), 214.

⁵³ Rome Statute of the International Criminal Court. International Criminal Court. Published by the International Criminal Court ISBN No. 92-9227-386-8 ICC-PIOS-LT-01-003/18_Eng. <https://www.icc-cpi.int/sites/default/files/Publications/Rome-Statute.pdf>.

⁵⁴ Application of the International Convention on the Elimination of all Forms of Racial Discrimination (Armenia v. Azerbaijan). International Court of Justice, <https://www.icj-cij.org/case/180>.

and execution against them in the territory. However, Azerbaijan first rejected and neglected, then deliberately misinterpreted and even mocked the provisional measures by ICJ, to justify its non-compliance with them.

Due to the slow pace of the trial and the lack of enforcement mechanisms, ICJ provisional measures adopted between 2021 and 2023 were unable to prevent and stop the blockade imposed on Nagorno-Karabakh Armenians to prevent the military offensive against them and their forced displacement.⁵⁵ In the January 11 hearing of the South African case v. Israel, Blinne Ní Ghrálaigh KC, an Irish lawyer serving as Counsel and Advocate for the Republic of South Africa to the International Court of Justice, referred to the fact that ICJ provisional measures did not prevent the forced displacement of Armenians from Nagorno-Karabakh.⁵⁶ Due to its politicization, the UN Security Council did not follow up on ICJ measures on Nagorno-Karabakh and did not adopt a resolution to condemn their violation even after the ethnic cleansing had occurred.⁵⁷

This is why human rights defenders and genocide watchdogs disagree with the term ethnic cleansing, considering it a “euphemism to deny and whitewash the genocide”⁵⁸ and avoid criminal responsibility. They even mention that the term “ethnic cleansing” was invented by Slobodan Milosevic and its propaganda machine to cover up the genocidal crimes of his regime. The supporters of this perspective assert that the choice between the terms "ethnic cleansing" or "genocide" should not depend on the number of killed people. They also suggest that the choice of whether atrocities are called "ethnic cleansing" or "crimes against humanity" instead of “genocide” is determined by willingness to take forceful action to stop it.⁵⁹

Forgotten Historical Aspects of Nagorno-Karabakh Conflict Dynamics

It is difficult to determine the nature of the de-Armenization of Nagorno-Karabakh (Artsakh) without a reference to the roots of the conflict dating back to the 20th century.

Historically Armenian Artsakh, populated predominantly by Armenians, was integrated into Soviet Azerbaijan as the Nagorno-Karabakh Autonomous Oblast/Region

⁵⁵ Tatikyan, “Can the International Community Reverse the Ethnic Cleansing of Armenians?”

⁵⁶ “In full: South Africa Legal Team Lawyer Praised for ‘Stunning’ Closing Statement,” *Islam Channel*, 12 January 2024, <https://www.youtube.com/watch?v=zeqB9Mk3UuE>.

⁵⁷ Sossi Tatikyan, “How Azerbaijan Deceives and Harasses the International Community.”

⁵⁸ Gregory H. Stanton, “‘Ethnic Cleansing’ is a Euphemism Used for Genocide Denial,” *Genocide Watch*, 10 September 2023, <https://www.genocidewatch.com/single-post/ethnic-cleansing-is-a-euphemism-used-for-genocide-denial-1>.

⁵⁹ Rony Blum, Gregory Stanton, Shira Sagi, Elihu Richter, “‘Ethnic cleansing’ Bleaches the Atrocities of Genocide,” *European Journal of Public Health* 18, no. 2 (2008): 204-209.

(NKAO) in 1920-1921. Earlier, in March 1920, there had been massacres of Armenians by Azerbaijanis in Shushi, the cultural center of Nagorno-Karabakh, because of which Armenians turned from a majority to a minority in the town.⁶⁰ Throughout the 70 years of the Soviet period, Nagorno-Karabakh had local self-governance institutions. However, the Azerbaijani SSR conducted oppressive policies against the Armenian population in the region, including preventing social-economic development, preventing education in Armenian, changing the demography and misappropriating Armenian culture in the region. Another autonomous entity of the Soviet Azerbaijan – Nakhichevan with significant Armenian population, was subjected to oppression and gradually but entirely depopulated from Armenians throughout the Soviet period, with the last of them being expelled during the First Nagorno-Karabakh War.⁶¹ In the beginning of the 21st century, it was revealed that Azerbaijani authorities had destroyed tens of thousands of UNESCO-protected cross-stones (*khachkars*) at the Armenian cemetery in Julfa, called as an act of cultural genocide not only by Armenian but also international circles.⁶²

When the dissolution of the Soviet Union started in 1991, the NKAO's regional parliament claimed self-determination, declaring the right to break away from Azerbaijan, which it was entitled to in line with the Soviet constitution. In response, Azerbaijani authorities started the massacres⁶³ of Armenians in Azerbaijani cities of Sumgait⁶⁴ and Kirovabad (later renamed Ganja)⁶⁵ in 1988, and in Baku in 1990.⁶⁶ They were followed by Operation "Koltso" (Ring) in 1991,⁶⁷ when Azerbaijani authorities, with the support of Soviet troops, deployed tanks, combat helicopters and artillery to kill and deport Armenians from Getashen and Shahumyan regions in Nagorno-Karabakh and committed Maragha massacre in

⁶⁰ Vahram Balayan, "The Massacre of the Armenians of Shushi on March 23, 1920 as a Consequence of Impunity of the Armenian Genocide in 1915," *Review of Armenian Studies* 2 (2016): 95-105.

⁶¹ Sossi Tatikyan, "What May Happen to Armenians in Nagorno-Karabakh? Comparable Conflicts: Nakhichevan, South Ossetia, Northern Cyprus, Bosnia and Herzegovina, East Timor, Kosovo," *EVN Report*, Part II, 27 April 2022, <https://evnreport.com/politics/part-ii-what-may-happen-to-armenians-in-nagorno-karabakh/>.

⁶² Dale Berning Sawa, "Monumental Loss: Azerbaijan and 'the Worst Cultural Genocide of the 21st Century,'" *The Guardian*, 19 March 2019, <https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars>.

⁶³ "Ordinary Genocide," Series of Documentaries, https://karabakhrecords.info/english_video.html.

⁶⁴ Samvel Shahmuratian, *The Sumgait Tragedy: Pogroms against Armenians in Soviet Azerbaijan, Volume I, Eyewitness Accounts* (US & Canada: Aristide D. Caratzas and Zoryan Institute, 1990).

⁶⁵ Caroline Cox and John Eibner, *Ethnic Cleansing in Progress: War in Nagorno Karabakh* (Switzerland: Institute for Religious Minorities in Islamic World, 1993).

⁶⁶ Tatul Hakobyan, *Karabakh Diary: Green and Black. Neither War nor Peace* (Antelias-Lebanon, 2010).

⁶⁷ *Bloodshed in the Caucasus: Escalation of the Armed Conflict in Nagorno-Karabakh*, Human Rights Watch (USA, 1992).

1992, allegedly in the presence of the Soviet troops.⁶⁸ This was accompanied with the abolishment of the autonomous status of the Nagorno-Karabakh region by the Soviet Azerbaijan in 1991.⁶⁹ These developments resulted in a war between Armenian armed groups and Azerbaijani armed forces that lasted until 1994, killing thousands of people on both sides and considerable material damage.

The escalation of the Nagorno-Karabakh conflict, which began in the late 1980s, bears resemblance to the initial dynamics of the Kosovo conflict in the same period, in particular the claim for self-determination, the reduction of Kosovo's autonomous status and a series of military operations and massacres by the Milosevic regime against Kosovo Albanians. However, the scenarios diverged significantly after NATO's military intervention against Belgrade and deployment in Kosovo to protect civilians. This was followed by the establishment of a multi-pillar UN-mandated international peacekeeping mission that has transformed in its composition but exists until now without an exit strategy.

Unlike Kosovo, there was no robust intervention by any international actor to protect Armenians in Nagorno-Karabakh. As a regional power, Russia was present on the ground; however, its role was ambivalent. While Azerbaijan has promoted the idea that Armenians have won in the first Karabakh war thanks to Russia, the latter did not assist Armenians against Azerbaijan. In contrary, when in 1991 NKAO declared independence from Azerbaijan in accordance with the Soviet legislation,⁷⁰ the central Soviet authorities sided with the Soviet Azerbaijani authorities and rejected their aspiration. It has been reported that, during Azerbaijan's massacres of Armenians in Sumgait, Kirovabad, and Baku, as well as the subsequent military operations in Nagorno-Karabakh, the Soviet special purpose militia units (OMON) not only refrained from intervening but also assisted Azerbaijanis in Operation Ring and Maragha massacre. Furthermore, Gorbachev's administration covered up the extent of these massacres.⁷¹ Reportedly, Russia supplied weapons to both parties, and its different

⁶⁸ Lucy Poghosyan, "The Maragha Massacre: The Other Face of the Coin in the Karabakh War," *The Armenian Weekly*, 10 April 2020, <https://armenianweekly.com/2020/04/10/the-maragha-massacre-the-other-face-of-the-coin-in-the-karabakh-war/>.

⁶⁹ Law of the Azerbaijan Republic of November 26, 1991, no. 279-XII. About Abolition of the Nagorno-Karabakh Autonomous Region of the Azerbaijan Republic, <https://cis-legislation.com/document.fwx?rgn=2890>.

⁷⁰ Law on Secession from the USSR. Law on Procedure for Resolving Questions Connected with a Union Republic's Secession from the USSR, 3 April 1990, Original Source: Ведомости Съезда народных депутатов СССР и Верховного Совета СССР, 1990, № 15, 252, <https://soviethistory.msu.edu/1991-2/shevarnadze-resigns/shevarnadze-resigns-texts/law-on-secession-from-the-ussr/>.

⁷¹ Sossi Tatikyan, "What's Next for Armenia's Foreign and Security Policy? How the Balance of Power Failed and Ended Up With "Bandwagoning," Part II, *EVN Report*, 27 December 2023, <https://evnreport.com/politics/whats-next-for-armenias-foreign-and-security-policy-part-ii/>.

factions, including troops, volunteers, and mercenaries, have assisted either Armenia or Azerbaijan during different periods of the war.

The presence of an international multi-lateral operation in Kosovo and its lack in Nagorno-Karabakh resulted in different subsequent dynamics of those two conflicts. While Albania did not have to intervene in the Kosovo conflict and was able to distance itself from it, Armenia had to step in the Nagorno-Karabakh conflict to prevent the massacres and ethnic cleansing of Armenians. In the heat of the war, when Azerbaijan was blocking the Lachin Road and bombarding Stepanakert from Aghdam, Armenian armed groups took control of not only Nagorno-Karabakh but also the surrounding regions, creating a buffer zone, which resulted in the depopulation of Azerbaijanis from those areas.

Control of the surrounding regions of Nagorno-Karabakh for more than two and half decades as a security zone or bargaining chip was highly controversial from the conflict resolution and international law perspectives.⁷² However, sources involved in the negotiations suggest that there were attempts by Armenian leaders to return those territories, in exchange for an acceptable status and security guarantees for Armenians in Nagorno-Karabakh. Azerbaijan rejected these offers, pursuing maximalist objectives.⁷³

Those dynamics allowed Armenians to have a military victory but also created problems for the legitimacy of their case and gave an opportunity to Azerbaijan to present themselves as victims and Armenians – as aggressors, although Azerbaijan had started military operations and massacres with an obvious aim of ethnic cleansing of Armenians. During that period, when there was no social media, and even televised media, especially international, did not reach such a remote region for international community, carrying out ethnic cleansing there would be unavoidable if it fell under Azerbaijan's control. It is also probable that it would happen not through relatively softer methods as in 2023, to be explored further in this article, but through large-scale massacres of civilians that could reach the threshold of the genocide.

Azerbaijan launched long-planned and large-scale military operations, i.e. a war, against Nagorno-Karabakh in September 2020 in violation of Article 33 of the UN Charter on Peaceful Settlement of Disputes,⁷⁴ as well as the UN's call for Global Ceasefire during

⁷² Laurence Broers, "The Nagorno-Karabakh Republic: The Life and Death of an Unrecognized State," *EurasiaNet*, 2 January 2024, <https://eurasianet.org/the-nagorno-karabakh-republic-the-life-and-death-of-an-unrecognized-state>.

⁷³ Tatikyan, "How Azerbaijan Deceives and Harasses the International Community."

⁷⁴ Pacific Settlement of Disputes (Chapter VI of UN Charter). United Nations Security Council, <https://www.un.org/securitycouncil/content/pacific-settlement-disputes-chapter-vi-un-charter#:~:text=Article%2033%20of%20the%20Charter,means%20to%20settle%20their%20dispute>.

pandemic.⁷⁵ The 44-day war resulted in the victory of Azerbaijan, its reestablishment of the control over the territories surrounding Nagorno-Karabakh, as well capturing part of Nagorno-Karabakh itself. The controversial trilateral cease-fire statement mediated by Russia led to the deployment of a Russian “peacekeeping” contingent without an international mandate that did not ensure the maintenance of the cease-fire regime and did not prevent ethnic cleansing of Armenians.

At first glance, Armenians had less than 100 civilian victims during the 2020 war. However, most of over 4000 casualties on the Armenian side were 18-20-year-old conscript soldiers and not professional servicemen from both Nagorno-Karabakh and Armenia, which means a significant loss of a generation of a small nation with demographic problems.⁷⁶ Reportedly, the population of Armenia was 2,78 million (plus 120,000 in Nagorno-Karabakh) vs. 10,14 million population of Azerbaijan in 2022.⁷⁷ According to the 2022 census, the war was accompanied with various violations of international humanitarian, customary and human rights law. Human Rights Watch reports violations of international law and civilian lives: Azerbaijan shelled residential areas and civilian infrastructure with cluster munitions and bombs, ballistic missiles and rocket launchers,⁷⁸ targeting kindergartens, schools and monasteries, and medical facilities, including a maternity hospital.⁷⁹ There is evidence that civilians, military servicemen, and prisoners of war (PoWs), both civilian and military, were subjected to mutilation and decapitation; some of them were tortured and subjected to extrajudicial execution.⁸⁰

Azerbaijan has been aiming to legitimize its initiation of the war with a false narrative of a legitimate action, which it falsely framed as “self-defense” envisaged under the UN Charter,⁸¹ to restore its territorial integrity and sovereignty, blaming the lack of progress in

⁷⁵ Now is the Time for a Collective New Push for Peace and Reconciliation. Global Ceasefire, *United Nations*, <https://www.un.org/en/globalceasefire>.

⁷⁶ Ariel Karlinsky and Orsola Torrisi, “The Casualties of War: An Excess Mortality Estimate of Lives Lost in the 2020 Nagorno-Karabakh Conflict,” *Population Research and Policy Review* 42, no. 41 (2023), <https://link.springer.com/article/10.1007/s11113-023-09790-2>.

⁷⁷ UN Population Division Data Portal. Interactive access to global demographic indicators, <https://population.un.org/dataportal/home?df=7e147586-2fb3-40dc-a0bc-cc2d7bb66e57>.

⁷⁸ “Azerbaijan: Unlawful Strikes in Nagorno-Karabakh. Investigate Alleged Indiscriminate Attacks, Use of Explosive Weapons,” *Human Rights Watch*, 11 December 2020, <https://www.hrw.org/news/2020/12/11/azerbaijan-unlawful-strikes-nagorno-karabakh>.

⁷⁹ “Unlawful Attacks on Medical Facilities and Personnel in Nagorno-Karabakh,” *Human Rights Watch*, 26 February 2021, <https://www.hrw.org/news/2021/02/26/unlawful-attacks-medical-facilities-and-personnel-nagorno-karabakh>.

⁸⁰ “Survivors of Unlawful Detention in Nagorno-Karabakh Speak out about War Crimes,” *Human Rights Watch*, 12 March 2021, <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>.

⁸¹ Charter of the United Nations. Chapter VII- Action with respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression, <https://legal.un.org/repertory/art51.shtml>.

negotiations. Although neither the Armenian nor Azerbaijani sides were committed to reaching a mutually acceptable peaceful resolution of the conflict during twenty-seven years of negotiations, Azerbaijan obstructed more peace proposals by the OSCE Minsk Group, the formal mediation body, than Armenia.⁸² Starting from 2005, Azerbaijan directed substantial profits from oil and gas exploitation toward strengthening their army, actively arming and preparing for a new war.⁸³

Methods Used by Azerbaijan in 2021-2023 Which Meet the Criteria of Ethnic Cleansing

Azerbaijan started violating the cease-fire statement a month after its conclusion, making further military advances in the remaining part of the Hadrut region, killing elderly civilians left behind, and capturing new Armenia PoWs without being prevented by Russian peacekeepers.⁸⁴ Still in 2021, Azerbaijan surrounded Nagorno-Karabakh with military infrastructure, i.e. military and dual-use airports.⁸⁵ Azerbaijani armed forces started shelling at civilians who were trying to carry out agricultural, construction and other livelihood activities, kidnapping or killing some of them.⁸⁶ This was the beginning of the Azerbaijani campaign aimed at creating impossible living conditions for Armenians in the region.

At the political level, Azerbaijan refused from the mediation of the OSCE Minsk Group, any level of autonomous status to Nagorno-Karabakh, and any discussion of an international, such as the UN, OSCE or EU-mandated peacekeeping or even humanitarian presence in the territory.⁸⁷

⁸² Karen Harutyunyan, "A Recap of the 7 Plans Proposed for the Settlement of the Karabakh Conflict," 23 October 2024, *Civilnet*, <https://www.civilnet.am/en/news/637117/a-recap-of-the-7-plans-proposed-for-the-settlement-of-the-karabakh-conflict/>.

⁸³ Sossi Tatikyan, "How Do Energy Security and Euro-Atlantic Integration Correlate in the Southern Caucasus?" *Occasional Research Papers*, NATO Defense College, March 2008, https://www.academia.edu/11587177/HOW_DO_ENERGY_SECURITY_AND_EURO_ATLANTIC_INTEGRATION_CORRELATE_IN_THE_SOUTHERN_CAUCASUS.

⁸⁴ "Statement by the Foreign Ministry of Armenia on the Violation of the Ceasefire Regime by Azerbaijan," *Ministry of Foreign Affairs of the Republic of Armenia*, 13 December 2020, https://www.mfa.am/en/interviews-articles-and-comments/2020/12/13/v_az/10715.

⁸⁵ Gunay Hajiyeva, "President Aliyev Breaks Ground for New Airport Construction in East Zangazur Region," *Caspian News*, 19 August 2021, https://caspiannews.com/news-detail/president-aliyev-breaks-ground-for-new-airport-construction-in-east-zangazur-region-2021-8-18-0/?fbclid=IwZXh0bgNhZW0CMTAAR1kNwKSDKhLD-2GiU-jAzl0WRFanei9TXpOLXL0lwGyl0ZrbF519a4_roY_aem_AQcjpP8_F8FTthK32yejStkYGgKIsBBf6qvvmVAVXFUCtgainBs3ewfzj0qK0bzPsZWf3hkPKITQ3lkqbpZ8YQE.

⁸⁶ Sossi Tatikyan, "The Fragile Situation in Artsakh in Light of the 2020 War and the Crisis in Ukraine," *EVN Report*, 11 March 2022, <https://evnreport.com/politics/the-fragile-situation-in-artsakh-in-light-of-the-2020-war-and-the-crisis-in-ukraine/>.

⁸⁷ Tatikyan, "Azerbaijan's War of Narratives Against Armenians," Part II.

Azerbaijan promised cultural and social rights; however, it continued to destroy, distort, or appropriate Armenian monasteries and other cultural heritage that it had captured in Shushi and Hadrut. It claimed that medieval Armenian monasteries in the region, such as Dadivank, were either Caucasian Albanian, Udi, or Russian.⁸⁸ This was a violation of ICJ provisional measures urging Azerbaijan “take all necessary measures to prevent and punish acts of vandalism and desecration affecting Armenian cultural heritage, including but not limited to churches and other places of worship, monuments, landmarks, cemeteries and artefacts.” It intensified its campaign of ethnic hatred and false narratives, and alleviated historical revisionism to a new level claiming that Armenians are not indigenous to Nagorno-Karabakh.⁸⁹ This was the violation of another provisional measure of ICJ, urging to “take all necessary measures to prevent the incitement and promotion of racial hatred and discrimination, including by its officials and public institutions, targeted at persons of Armenian national or ethnic origin.”⁹⁰

However, the beginning of the systematic ethnic cleansing campaign can be considered the last week of February 2022, turning Armenians in Nagorno-Karabakh into the collateral victims of Russia’s war in Ukraine considering its geopolitical and normative implications.⁹¹ Taking advantage of the complex geopolitical realities, Azerbaijan intensified its creeping military advances in March-August 2022,⁹² and in December 2022, imposed blockade on Nagorno-Karabakh.

During the blockade, Azerbaijan diversified and intensified its tools used against Armenians of Nagorno-Karabakh. Azerbaijan tested different scenarios, employing a combination of methods that meet the criteria of ethnic cleansing. This included Balkan-style

⁸⁸ Hayastan A. Martirosyan, “Azerbaijan’s Policy of Forced Cultural Appropriation after the Second Artsakh War: The Case of Dadivank Monastery,” *International Journal of Armenian Genocide Studies* 7, no. 2 (2022): 91-135.

⁸⁹ Tatikyan, “Azerbaijan’s War of Narratives Against Armenians,” Part II.

⁹⁰ International Court of Justice reports of Judgements, Advisory Opinions and Orders. Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan) Request for the Indication of Provisional Measures. Order of 7 December 2021, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20211207-ORD-01-00-EN.pdf>.

⁹¹ Sossi Tatikyan, “The Impact of Russia’s War in Ukraine on the Nagorno-Karabakh Conflict and Armenia,” A World Order in Transformation? A Comparative Study of Consequences of the War and Reactions to these Changes in the Region. CBEES State of the Region Report, 2024. Collection by Södertörn University, Centre for Baltic and East European Studies (CBEES). Country Reports, <https://sh.diva-portal.org/smash/get/diva2:1846696/FULLTEXT01.pdf>; ISBN: 978-91-85139-15-6 (print) OAI.

⁹² Sossi Tatikyan, “International Community Must Prevent Azerbaijan’s Creeping Ethnic Cleansing in Nagorno-Karabakh,” *EVN Report*, 28 March 2022, <https://evnreport.com/spotlight-karabakh/international-community-must-prevent-azerbajjans-creeping-ethnic-cleansing-in-nagorno-karabakh/>.

military offensives and sieges, forced displacement similar to the displacement of Finns from Karelia in 1944 and deliberate starvation.⁹³

Regarding the “confinement of civilian population in ghetto areas,” Azerbaijan, in collaboration with Russian peacekeepers lacking an international mandate, has been increasingly turning Nagorno-Karabakh into a gray zone since February 2021, like South Ossetia. They had progressively prohibited the entry of international NGOs and journalists and later, the access of Armenian officials and public figures, individuals from the Armenian diaspora.⁹⁴ This was followed by a nine and half month blockade starting in December 2022, which initially was partial, depriving Nagorno-Karabakh Armenians from the freedom of movement and allowing only Russian peacekeepers and ICRC to deliver humanitarian convoys but later became total, effectively turning Nagorno-Karabakh into a large concentration camp.⁹⁵

The arbitrary detentions of a number of Armenian men in Nagorno-Karabakh, including its political leadership, and reports of lists containing 300 to 30,000 names of individuals to be detained, along with the construction of a large prison in Aghdam, led to the mass exodus of the population after the offensive.⁹⁶ Several men were kidnapped from ICRC vehicles, which also falls under the criteria of ethnic cleansing. Baku created an atmosphere of fear among Armenians in Nagorno-Karabakh, making them believe that if they stayed, they would be executed or prosecuted, particularly the male population.⁹⁷ The United Nations Committee against Torture has noted the continued detention of 23 individuals of Armenian ethnic or national origin for terrorism and related offenses.⁹⁸

Cognitive warfare (psychological intimidation of Armenians to make them leave) also played a significant role in the exodus of Armenians. For instance, in February 2022, the Azerbaijani military intensified the intimidation of Armenian civilians in Artsakh, using

⁹³ Tatikyan, “Can the International Community Reverse the Ethnic Cleansing of Armenians,” Part I.

⁹⁴ Sossi Tatikyan, “Russia’s Complicity in the Failure of Peacebuilding and Peacekeeping in Nagorno-Karabakh,” *OstWest Monitoring*, 12 Dec 2023, <https://ostwest.space/articles/armenia/198-russia-s-complicity-in-the-failure-of-peacebuilding-and-peacekeeping-in-nagorno-karabakh-en>.

⁹⁵ Tatikyan, “Can the International Community Reverse the Ethnic Cleansing of Armenians,” Part I.

⁹⁶ Simon Maghakyan, Artyom Tonoyan, Siranush Sargsyan and Lori Berberyan, “Investigation: Armenian Fears of a ‘Concentration Camp’ in Nagorno-Karabakh May Have Been Warranted,” *New Lines Magazine*, 11 January 2024, <https://newlinesmag.com/reportage/investigation-armenian-fears-of-a-concentration-camp-in-nagorno-karabakh-may-have-been-warranted/>.

⁹⁷ Sossi Tatikyan, “All Armenian Men in Nagorno-Karabakh are Now Targets for Arbitrary Detention,” *EVN Report*, 31 July 2023, <https://evnreport.com/politics/all-armenian-men-in-nagorno-karabakh-are-now-targets-for-arbitrary-detention/>.

⁹⁸ “UN Committee against Torture Publishes Findings on Austria, Azerbaijan, Finland, Honduras, Liechtenstein, and North Macedonia,” *United Nations Human Rights*, Office of the High Commissioner, 10 May 2024, <https://www.ohchr.org/en/press-releases/2024/05/un-committee-against-torture-publishes-findings-austria-azerbaijan-finland>.

loudspeakers to demand that the inhabitants of the border villages stop agricultural activity and leave the area, threatening to use force if they refuse to comply.⁹⁹ In January 2023, Azerbaijan's President Aliyev stated that "whoever does not want to become our citizen, the road is not closed, it is open," encouraging Armenians to leave.¹⁰⁰

In relation to "military attacks, targeting civilians," and "murder, torture, extrajudicial executions, severe physical injury to civilians," 27 Armenian civilians, including women and children, and more than 200 Armenian military were killed in addition to those Armenians who were killed, injured and tortured in the 2020 war. A further 200 civilians and 400 militaries were injured during the military offensive of September 19-20, 2023. Some civilians, including children, were reportedly tortured and killed deliberately.¹⁰¹ At least 218 more people were killed and around 240 injured in the fuel depot explosion on September 25 in Nagorno-Karabakh.¹⁰² The majority of the victims, all men, were queuing for fuel for their vehicles on their way to Armenia. Sixty-four more people died during the mass exodus in the last week of September 2023, unable to endure the difficult journey after a long-term blockade and starvation.¹⁰³ The United Nations Committee against Torture noted that it was alarmed by alleged extra-judicial killings, torture, and ill-treatment of national and ethnic Armenians during armed conflict and anti-terrorism operations and the perceived lack of investigations and prosecutions of these allegations.¹⁰⁴ In one week, more than 100,000 Armenians fled Nagorno-Karabakh, leaving behind only a dozen Armenians, mostly elderly. It is obvious that this displacement was forced through three years of systematic actions. Azerbaijan transformed Stepanakert into a ghost town akin to Varosha in Northern Cyprus. The Azerbaijani leadership stated that Armenians could return, but its leadership and security forces are conducting actions in Nagorno-Karabakh making their return impossible: changing

⁹⁹ Tatikyan, "The Fragile Situation in Artsakh."

¹⁰⁰ "Whoever Does not Want to Become our Citizen, Road is not Closed, it is Open - President Ilham Aliyev," *Trend.am.*, 10 January 2023, <https://en.trend.az/azerbaijan/politics/3693367.html>.

¹⁰¹ Preliminary ad hoc report on results of fact-finding missions conducted from Sept 24 to Sept 30, 2023 by the delegations of the Human Rights Defender's Office to the places where the displaced people were received. *The Human Rights Defender of the Republic of Armenia*, Yerevan, 2023, <https://www.ombuds.am/images/files/e76a3b67b4a56fad3271705e33eeec5.pdf>.

¹⁰² Artak Khulian, "Confirmed Dead in Karabakh Fuel Depot Blast," 22 December 2023, <https://www.azatutyun.am/a/32743695.html>.

¹⁰³ Susan Badalian, "Dozens Reported Dead During Karabakh Exodus," *EVN Report*, 8 May 2023, <https://www.azatutyun.am/a/32660106.html>.

¹⁰⁴ "UN Committee against Torture Publishes Findings on Austria, Azerbaijan, Finland, Honduras, Liechtenstein, and North Macedonia," *United Nations Human Rights*, Office of the High Commissioner, 10 May 2024.

all Armenian names to Azerbaijani, conducting military parades¹⁰⁵ and central elections, demolishing public buildings, destroying or appropriating cultural monuments, and destroying private residences.

Azerbaijan is trying “greenwashing” ethnic cleansing by constructing smart villages in areas ethnically cleansed from Armenians. It has announced “green energy zones” in the Karabakh region, aiming to legitimize the conquest of Nagorno-Karabakh, amongst other justifications, “under the pretense of helping fight climate change.”¹⁰⁶

Baku is claiming that smart houses are being rebuilt for resettling its citizens who were internally displaced (IDPs) during the conflict. However, Armenians have constituted the predominant majority of the population in Nagorno-Karabakh before their full ethnic cleansing in 2023, therefore, Azerbaijan cannot repopulate it only with IDPs – in order not to leave the territory empty, they are now populating it by Azerbaijanis who are not originally from Nagorno-Karabakh.

Tools Used by Azerbaijan During the Blockade and Final Military Offensive

“Imposing living conditions intended to destroy the group” is one of the criteria for a genocide under the Genocide Convention and the most applicable for the methods used by Azerbaijan starting end of February 2022 and during the blockade between December 2022 and September 2023. It included weaponization of energy (gas and, at times, also electricity),¹⁰⁷ food,¹⁰⁸ and humanitarian assistance¹⁰⁹ leading to deliberate starvation. The inability of freedom of movement even within Nagorno-Karabakh due to the lack of fuel also prevented the ability to reach maternal clinics and hospitals for months, which may have “caused serious bodily and mental harm”, thus meeting another criterion for genocide. This is the probable reason of 64 deaths during exodus following the military offensive of 19-20 September.¹¹⁰

¹⁰⁵ “Military Parade Dedicated to 3rd Anniversary of the Victory in the Patriotic War was Held in City of Khankendi,” President of the Republic of Azerbaijan Ilham Aliyev, 8 November 2023, <https://president.az/en/articles/view/62139>.

¹⁰⁶ Matteo Civillini, “In Nagorno-Karabakh, Azerbaijan’s Net Zero Vision Clashes with Legacy of War,” *Climate Home News*, 15 May 2024, <https://www.climatechangenews.com/2024/05/15/in-nagorno-karabakh-azerbaijans-net-zero-vision-clashes-with-legacy-of-war/>.

¹⁰⁷ Ani Avetisyan, “Weaponizing Energy: Nagorno-Karabakh’s Energy Supplies Under Siege,” *EVN Report*, 9 February 2023, <https://evnreport.com/spotlight-karabakh/weaponizing-energy-nagorno-karabakhs-energy-supplies-under-siege/>.

¹⁰⁸ Tatikyan, “Deliberate Starvation of Nagorno-Karabakh Armenians,” Part II.

¹⁰⁹ Tatikyan, “Can the International Community Reverse the Ethnic Cleansing of Armenians,” Part I.

¹¹⁰ “At Least 64 Reported Dead during Mass Karabakh Exodus,” *Civilnet*, 31 October 2023, <https://www.youtube.com/watch?v=wHLqhzOya-0>.

The inability of reaching the maternal clinic also caused documented miscarriages.¹¹¹ Besides, according to social media posts of young women from Nagorno-Karabakh, many of them abstained from getting pregnant.¹¹² This falls into third criteria of genocide – “preventing births.”

Genocides are organized at the level of leadership of the country. Reportedly, all actions in Nagorno-Karabakh, even pseudo-protests of environmental pseudo-activists, were organized or sponsored by the high authorities in autocratic Azerbaijan.¹¹³ Azerbaijan’s Ilham Aliyev frequently incited ethnic hatred amongst Azerbaijanis against Armenians.¹¹⁴ As early as April 2015, Aliyev published a statement on the Azerbaijan government’s official website, warning ethnic Armenians: “If you do not want to die, then get out of Azerbaijani lands.” He has also repeatedly dehumanized ethnic Armenians, referring to them as a “virus,” “rats,” “dogs,” “devils,” “terrorists,” “fascists,” “enemies,” “usurping interlopers,” “barbarians and vandals.”¹¹⁵

Although Azerbaijan did not commit mass civilian massacres in September 2023, the rapid mass exodus of Armenians eliminated that necessity. Furthermore, Azerbaijan would likely avoid mass civilian massacres even if Armenians remained, due to from the international community, particularly, the U.S. and EU. Large-scale massacres in 2023 would stigmatize Azerbaijan and result in significant political costs.¹¹⁶ Instead, Azerbaijan would employ a manipulative policy of “integration” severing the links between Nagorno-Karabakh Armenians and Armenia, suppressing their ethnic identity, stripping them of political and civil rights, leading to their complete subjugation and prosecuting many of them, especially males who had served in the self-defence force.¹¹⁷ Eventually, it would result in either resistance and new casualties, displacement or feeling trapped in case of another blockade.

¹¹¹ “Miscarriages Surge in Karabakh Amid Widespread Food Shortages,” 20 July 2023, <https://www.civilnet.am/en/news/745150/miscarriages-surge-in-karabakh-amid-widespread-food-shortages/#:~:text=The%20number%20of%20early%2Dstage,balanced%20diet%20amid%20Azerbaijan's%20blockade>.

¹¹² Social media posts by young women from Nagorno-Karabakh.

¹¹³ The Planning, Inciting, Ordering, Instigating, and Implementing of Genocide by President Ilham Aliyev and Other High Ranking Officials, *Center for Truth & Justice*, 18 April 2024, <https://www.cftjustice.org/the-planning-inciting-ordering-instigating-and-implementing-of-genocide-by-president-ilham-aliyev-and-other-high-ranking-officials/>.

¹¹⁴ Naira Sahakyan, “The Rhetorical Face of Enmity: The Nagorno-Karabakh Conflict and the Dehumanization of Armenians in the Speeches of Ilham Aliyev,” *Southeast European and Black Sea Studies* 23, no. 4 (2022): 863–882. <https://doi.org/10.1080/14683857.2022.2153402>.

¹¹⁵ “Azerbaijani Ongoing Hatred Policy towards Armenians: A State Sponsored Motivation for Atrocities,” *Tatoyan Foundation. Center for Law & Justice* (Yerevan, 2022), <https://tatoyanfoundation.org/wp-content/uploads/2022/09/%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81.pdf>.

¹¹⁶ Tatikyan, “Can the International Community Reverse the Ethnic Cleansing of Armenians.”

¹¹⁷ Tatikyan, “Integration” of Nagorno-Karabakh Armenians,” Part I.

Lastly, the deliberate starvation of Armenians in Nagorno-Karabakh by Azerbaijan from July to September 2023 mirrors other examples of the “genocide by starvation” tactic. The Ottoman Empire used this during the Armenian genocide, the Nazi regime in concentration camps, and Stalingrad, the Stalin regime during the Holodomor in Ukraine, and the Milosevic regime during the Sarajevo and Srebrenica sieges.¹¹⁸ Ocampo described the situation in Nagorno-Karabakh as a genocide when the blockade reached a critical stage, leading to impossible living conditions, particularly starvation. He noted that people would start dying in significant numbers after a few weeks.¹¹⁹

The Rome Statute stipulates “[i]ntentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions” constitutes a war crime in international armed conflicts.¹²⁰ The ICJ ruled that “deprivation of food, medical care, shelter or clothing” in Bosnia have constituted Genocide within the meaning of Article II(c) of the Genocide Convention.¹²¹

The starvation of Armenians in Nagorno-Karabakh was met with increasing international criticism, including at the UN Security Council meetings in August 2023. Surprisingly, the primary reason for Baku’s decision to initiate a military offensive in September 2023 likely stemmed from a desire to avoid accusations of causing mass civilian deaths and potential charges of genocide. The offensive was launched when the resilience of the people had been worn down as a result of the starvation.

Conclusion

The methods, tools and scenarios used by Baku demonstrate an explicit intent and a complex set of actions aimed at creating impossible conditions for life of Armenians, forcing them to flee their indigenous homeland.

¹¹⁸ Tatikyan, “Deliberate Starvation of Nagorno-Karabakh Armenians.”

¹¹⁹ Luis Moreno Ocampo, “Expert Opinion: Genocide against Armenians in 2023,” 7 August 2023, https://luismorenoocampo.com/lmo_en/report-armenia/.

¹²⁰ Rome Statute of the International Criminal Court, *International Criminal Court*, <https://www.icc-cpi.int/sites/default/files/Publications/Rome-Statute.pdf>.

¹²¹ Summary of the Judgment of 3 February 2015, ICJ. <https://www.icj-cij.org/node/103932>.

To accomplish its strategic goal, Azerbaijan carried out large- and small-scale military operations, weaponized blockade, energy, food and humanitarian assistance, arbitrary executions, detention and trials of civilians. It stripped them of their right to self-governance and self-defense under the false promise of “integration”. To legitimize these methods, it engaged in lawfare, cognitive warfare, and spread false narratives and disinformation.

The process of revising and falsifying history, destroying and appropriating Armenian cultural heritage and material property continues, with the aim to erase any traces of an Armenian presence and prevent their return to Nagorno-Karabakh. Caucasus Heritage Watch has reported that the number of Armenian cultural heritage sites destroyed in Nagorno-Karabakh multiplied since the displacement of Armenians from Nagorno-Karabakh in October 2023.¹²² According to scholars, according to the Role Statute and other international norms, the elimination of the cultural heritage of Nagorno-Karabakh Armenians may also serve as a basis and evidence for the forced nature of their displacement.¹²³

Azerbaijan’s actions against Nagorno-Karabakh actions were a collective punishment for their aspiration of self-determination. However, as the ICJ has concluded in its 2010 Advisory Opinion on Kosovo’s Declaration of Independence, the declaration for independence is not a violation of international law.¹²⁴ In general, the notion of territorial integrity has not given a green light to any state to oppress an ethnic group under its jurisdiction. In accordance with the UN General Assembly Resolution 2625 (XXV) adopted in 1970, “every State has the duty to refrain from any forcible action which deprives peoples [...] of their right to self-determination and freedom and independence [...] The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.”¹²⁵

There is overwhelming evidence about the forced nature of the displacement of Armenians from Nagorno-Karabakh proves the occurrence of ethnic cleansing. Azerbaijan refrained from committing mass massacres of civilians, likely to avoid international

¹²² Ian Lindsay, Adam T. Smith, Husik Ghulyan, and Lori Khatchadourian, *Caucasus Heritage Watch. Monitoring Report 7* (Cornell University: Cornell Institute of Archaeology and Material Studies, 2024), <https://indd.adobe.com/view/b1b54fc0-dce2-4eb0-ba83-eb728c49dd20>.

¹²³ Armine Tigranyan, “Destruction of Cultural Heritage and Forced Displacement of Artsakh Armenians as Crimes Against Humanity,” *Analytical Bulletin (CCCS)* 18 (2023): 107-160. DOI: 10.56673/18294502-24.18-107.

¹²⁴ International Court of Justice. Reports of Judgements, Advisory Opinions and Orders Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo. Advisory Opinion of 22 July 2010, <https://www.icj-cij.org/public/files/case-related/141/141-20100722-ADV-01-00-EN.pdf>.

¹²⁵ Resolution adopted by the General Assembly [Adopted on a Report from the Sixth Committee (A/8082)], 2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, <http://www.un-documents.net/a25r2625.htm>.

condemnation. However, its military operations did target civilians. The conditions during the blockade and exodus resulted in significant casualties, affecting demographics, and potentially causing long-term health issues, including reproductive problems, which are also indicators of genocide. It seems Azerbaijan shifted its strategy from deliberate starvation to a brief but intense military offensive to avoid the stigma of having carried out genocide by starvation.

The terms “ethnic cleansing” and “genocide” don’t exclude each other. Nonetheless, the international political, legal, and academic community is conservative and reserved in applying the term “genocide” to prevent its overuse. Armenia has already filed a case *v. Azerbaijan* under CERD and not under the Genocide Convention, in difference to *The Gambia v. Myanmar* case regarding atrocities against the Rohingya. Given the higher intensity of Russia’s war in Ukraine and the Israeli-Palestinian conflict, the focus of international legal bodies remains on those cases, making an additional genocide case potentially unwelcome. Although in theory, the number of the killed should not define genocide, in practice, it defines the scope of the tragedy and defines the positions of key international actors. Naming the ethnic cleansing in Nagorno-Karabakh a genocide may also undermine the cause of the Armenian genocide in the Ottoman Empire, rather than proving to be its continuation.

Armenia’s best strategy is to consistently pursue its interstate case at the ICJ under CERD as ethnic discrimination and hatred have led to the ethnic cleansing of Armenians from Nagorno-Karabakh and actions that may be considered genocidal. Armenian organizations may also consider a claim to the ICC for holding the masterminds and organizers of ethnic cleansing accountable. The non-use of the term “ethnic cleansing” in legal conventions is not an obstacle because it falls under the category of “crime against humanity” that is criminalized in both the Genocide Convention and the Rome Statute.

Azerbaijan’s pressure on Armenia to withdraw its inter-state lawsuit against Azerbaijan at the ICJ as a precondition for a peace agreement is aimed at ensuring impunity for Azerbaijan. Azerbaijan’s claim that Armenia’s lawsuit is a territorial claim is unjustified, as it is a human rights, criminal and restorative justice issue in the same manner as *The Gambia v. Myanmar* case in protection of Rohingya or the *South Africa v. Israel* case in protection of Palestinians’ rights. As Armenian human rights defenders have asserted, “protection of the rights claimed by lawsuits cannot be subordinated to or replaced by political processes and political documents, peace cannot be positive and sustainable without restoration of justice, and withdrawal of interstate applications will lead to total impunity of

Azerbaijan for human rights violations and crimes committed, will serve the confirmation of its false narratives, and will enable new violations and crimes.”

First, impunity will embolden Azerbaijan’s expansionism towards Armenia itself. However, there are also indications that implications of the failure to prevent ethnic cleansing in Nagorno-Karabakh will also have implications for other conflicts.

Azerbaijan’s conquest of Nagorno-Karabakh is already being manipulated by Serbia’s President Vucic, who stated in December 2023 that he would use the precedent of Azerbaijan’s takeover of Nagorno-Karabakh as a model for Serbia’s aspirations to regain control over Kosovo. Serbia cannot follow suit due to the presence of KFOR and EULEX in Kosovo, but it also means that NATO and the EU cannot have an exit strategy from their peacekeeping presence in Kosovo.¹²⁶

After Aliyev’s final conquest of Nagorno-Karabakh, the Former President of Georgia Saakashvili hunted that Georgia should follow Azerbaijan’s example, presumably meaning the restoration of its territorial integrity through a military intervention in Abkhazia and South Ossetia, which would be problematic for an aspiring EU country aiming to increase its standards of democracy and human rights.

The violation of ICJ provisional measures by Azerbaijan created a precedent for non-implementation of ICJ orders that are considered legally binding, for Israel’s actions in Gaza. Israel’s prevention of the entry of humanitarian aid to Gaza and its attempt for a forced displacement of Palestinians intensifies those concerns and echo the precedent about the prevention of the ICRC, as well as humanitarian aid to Nagorno-Karabakh by Azerbaijan and its forced displacement of Armenians through a military intervention.

International community’s failure to prevent ethnic cleansing of Armenians in Nagorno-Karabakh has already undermined the global governance system, the decisions made by the ICJ and the role of the UN Security Council by not enforcing them. Failure to accurately label ethnic cleansing and its normalization doesn’t save the reputation of key international actors for their inability and failure to prevent this crime against humanity. Instead, it strengthens popular stereotypes and suspicions about the prioritization of geopolitical interests over human rights by key international actors and legitimizes the use of coercion versus international law, leading to impunity and setting dangerous precedents for other conflicts.

¹²⁶ Sossi Tatikyan, “How Azerbaijan Deceives and Harasses the International Community: Baku’s Expansionist Objectives Under the Spotlight.”

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