

**REPORT OF THE OIC-IPHRC FACT FINDING VISIT
TO THE TERRITORIES PREVIOUSLY OCCUPIED BY ARMENIA
TO ASSESS HUMAN RIGHTS & HUMANITARIAN SITUATION**

22-26 September 2021

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A. INTRODUCTION AND BACKGROUND OF THE OIC-IPHRC FACT-FINDING MISSION TO TERRITORIES PREVIOUSLY OCCUPIED BY ARMENIA:

i. Mandate for the IPHRC Fact-finding Mission:

The Independent Permanent Human Rights Commission (IPHRC) of the Organization of Islamic Cooperation (OIC) is an independent organ of the OIC¹ with mandate to assess and report on human rights situations concerning Muslim communities in different parts of the world in accordance with the Rule 39 h(i) & (I) & Rule 64 of the IPHRC Rules of Procedures². During the 17th Regular Session of the IPHRC held from 28-31 March 2021, the Commission, on the invitation of the Government of the Republic of Azerbaijan, agreed to undertake a fact-finding visit to the recently liberated regions of Azerbaijan on a mutually agreed date³. The Representatives of the OIC Contact Group on the Aggression of the Republic of Armenia against the Republic of Azerbaijan also undertook a visit to these liberated areas from 5-10 April 2021. The report of the said visit stressed the importance of a similar fact-finding visit by IPHRC to assess the human rights situation of these liberated areas⁴.

2. Accordingly, on the invitation of the Government of the Republic of Azerbaijan⁵, an IPHRC delegation led by its Chairperson Dr. Saeed Mohammad Al-Ghufli and Vice-Chairperson Dr. Haci Ali Acikgul, and Commission Member Dr. Aydin Safikhanli undertook a fact-finding mission from 22-26 September 2021.

ii. Brief History and Legal Overview of the Conflict and Present Status:

3. Nagorno-Karabakh (NKAO), spread over 4400 square km⁶, was recognized as an Autonomous Region under Azerbaijan Soviet Socialist Republic (SSR) in 1923. After the collapse of the Union of Soviet Socialist Republics (USSR) in December 1991, the international legitimacy of the boundaries of newly independent States was secured by the international legal doctrine of *uti possidetis juris*⁷, which provides that newly-formed sovereign States should retain the internal borders that their preceding dependent area had before their independence. The procedures for changing the existing borders of Soviet Republics were stipulated in the Constitution of the USSR and the Constitutions of Soviet Republics. According to article 78 of the USSR Constitution of 1977⁸, the territory of a Soviet Republic could not be altered without its consent. The borders between Union Republics could only be redrawn by mutual agreement of the Republics concerned, subject to approval by the higher legislative bodies of the USSR. This provision was also stipulated in the Constitutions of the Azerbaijan SSR and Armenia SSR.

4. Based on this principle, the former administrative borders of Azerbaijan SSR, which included NKAO, were recognized by international law as the legitimate borders of the newly independent Republic of Azerbaijan. However, before the collapse of the Soviet

¹ Art.5 and 15 of OIC Charter

² IPHRC Rules of Procedures: https://www.oic-iphrc.org/en/data/docs/legal_instruments/OIC_HRRIT/111912.pdf

³ Report of the 17th Session of the IPHRC held from 29-31 March 2021 para.10

⁴ Report of the visit of the Representatives of the OIC Contact Group on the Aggression of the Republic of Armenia against the Republic of Azerbaijan from 5-10 April 2021, page. 4

⁵ Embassy of the Republic of Azerbaijan Note Verbale No: 3-2021/-37 dated 18th August 2021

⁶ <https://www.britannica.com/place/Nagorno-Karabakh>

⁷ [https://www.law.cornell.edu/wex/uti_possidetis_juris#:~:text=uti%20possidetis%20juris%20\(UPJ\)%20i s.wider%20application%2C%20notably%20in%20Africa.](https://www.law.cornell.edu/wex/uti_possidetis_juris#:~:text=uti%20possidetis%20juris%20(UPJ)%20i s.wider%20application%2C%20notably%20in%20Africa.)

⁸ USSR Constitution 1977, Art. 78 available at

<https://www.departments.bucknell.edu/russian/const/77cons03.html#chap08>

Union, Armenia and the Armenian separatist groups in Karabakh began armed operations in 1988, leading to the outbreak of the First Karabakh War (1988-1994)⁹. The separatist regime in Nagorno-Karabakh unilaterally declared its “independence” in 1991, which does not comply in any way with international law and remained unrecognized by any country¹⁰. The Republic of Armenia financed and provided military and operational support to the self-proclaimed Nagorno-Karabakh Republic and its forces in coordinating and helping the general planning of their military and paramilitary activities¹¹. The military hostilities were halted with the signing of the Bishkek Protocol, leading to a ceasefire in 1994¹², leaving Nagorno Karabakh and other regions of Azerbaijan- Lachin, Kalbajar, Aghdam, Fizuli, Jabrayil, Gubadli, and Zangilan - under Armenian occupation. Organization for Security and Co-Operation in Europe (OSCE) formed the Minsk Group¹³ tasked with facilitating a peace agreement between Azerbaijan and Armenia. The United States, France, and Russia, who serve as the Minsk Group’s co-chairs, do not recognize the self-proclaimed independence of Nagorno-Karabakh.

5. The legality of Azerbaijan’s position is affirmed through United Nations Security Council (UNSC) Resolutions, which demanded the withdrawal of all occupying forces from the Kalbajar, Agdam, and Zangilan districts and other occupied areas of Azerbaijan (UNSC Res 822 (1993), para. 1¹⁴; UNSC Res 853 (1993), para. 3¹⁵; UNSC Res 874 (1993), para. 5¹⁶; UNSC Res 884 (1993), para. 4¹⁷). In March 2008, the United Nations General Assembly (UNGA) demanded the “withdrawal of all Armenian forces from all the occupied territories of the Republic of Azerbaijan” (UNGA Res 62/243, para. 2¹⁸) and the Council of Europe Parliamentary Assembly (PACE) Resolution 1416 (2005)¹⁹. The Final Communique of the 14th Session of the Islamic Summit Conference in Makkah Al-Mukarramah, Kingdom of Saudi Arabia in May 2019²⁰ and Resolution No. 12/47-POL on the Aggression of the Republic of Armenia against the Republic of Azerbaijan²¹ adopted during 47th Session of the OIC Council of Foreign Ministers (CFM) reiterated OIC’s principled position on condemnation of the aggression of the Republic of Armenia against the Republic of Azerbaijan and reaffirmed that acquisition of territory by use of force is inadmissible under the Charter of the United Nations and international law as well as urged for strict implementation of UN Security Council resolutions and immediate, complete and unconditional withdrawal of the armed forces of the Republic of Armenia from Nagorno-Karabakh region and other occupied territories of the Republic of Azerbaijan.

⁹ <https://www.britannica.com/place/Nagorno-Karabakh>

¹⁰ Chiragov and Others v. Armenia, 16 June 2015, European Court of Human Rights observed that “Armenia’s military support continued to be decisive for the control over the territories in question. Furthermore, it was evident from the facts established in the case that Armenia gave the “Nagorno-Karabakh Republic” (the “NKR”) substantial political and financial support; its citizens were moreover required to acquire Armenian passports to travel abroad, as the “NKR” was not recognised by any State or international organisation. https://www.echr.coe.int/documents/fs_extra-territorial_jurisdiction_eng.pdf

¹¹ <https://www.rulac.org/browse/conflicts/military-occupation-of-azerbaijan-by-armenia#collapse1accord> & Supra note 9

¹² <https://www.ifimes.org/en/researches/brief-history-of-ceasefire-in-the-nagorno-karabakh-conflict/4681>

¹³ <https://www.osce.org/minsk-group/108308>

¹⁴ <https://digitallibrary.un.org/record/165604?ln=en>

¹⁵ <https://digitallibrary.un.org/record/170257?ln=en>

¹⁶ <https://digitallibrary.un.org/record/174420?ln=en>

¹⁷ <https://digitallibrary.un.org/record/176731?ln=en>

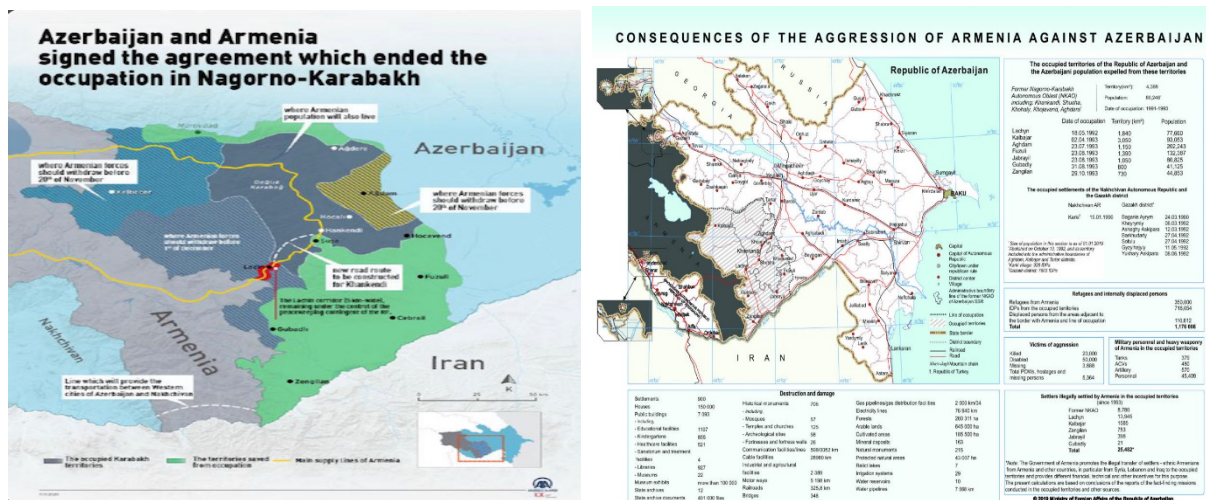
¹⁸ <https://www.un.org/press/en/2008/ga10693.doc.htm>

¹⁹ <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17289&lang=en>

²⁰ Final Communique of the 14th Session of the Islamic Summit Conference, para. 34 available at <https://www.oic-oci.org/docdown/?docID=4496&refID=1251>

²¹ <https://www.oic-oci.org/docdown/?docID=6626&refID=3255>

6. According the international law, since the end of the First Karabakh War in 1994 until the start of hostilities on 27 September 2020, Armenia was the occupying power in the Nagorno-Karabakh region, as well as in the other districts of Azerbaijan.
7. During the 2nd Karabakh War from 27 September-10 November 2020, the Armenian offensive blatantly violated the relevant provisions of International Human Rights (IHRL) and Humanitarian laws (IHL).
8. On 10 November 2020, a nine-point ceasefire agreement was concluded. Under the ceasefire agreement signed by President of the Republic of Azerbaijan, Prime Minister of the Republic of Armenia, and President of the Russian Federation²², Azerbaijan regains control of the districts which were liberated by Azerbaijan and those that were handed over by Armenia to Azerbaijan gradually in the month following the signature of the ceasefire agreement²³.



Source: <https://www.aa.com.tr/tr/azerbaycan-cephe-hatti/azerbaycanve-ermenistan-daglik-karabagda-anlasmaya-vardi/2037860>

9. There are three dimensions of the conflict, which include: (a) legal / political dimension concerning the occupation of the NKAO territories by the Republic of Armenia in contravention of the international law and breach of territorial integrity and sovereignty of Azerbaijan; (b) peace and security threat to regional stability and (c) human rights dimensions concerning widely reported grave violations of human rights committed by the Armenians in total disregard of the prevailing International Human rights (IHRL) and Humanitarian Laws (IHL) which was the focus of the IPHRC delegation’s fact-finding visit. The extensive reports by international human rights organizations point towards systemic and systematic human rights violations, which include willful targeting of civilians, destruction of cultural and religious sites, displacement of people, and widespread laying of landmines in the occupied areas, posing a threat to the lives of Azerbaijani IDPs trying to return to their native lands.

iii. Visit Program and sources of information

10. The IPHRC delegation had an extensive visit which concluded meetings with relevant government officials in Baku, visit to the recently liberated areas as well interactions with the victims and IDPs from these areas. The delegation, during its four-

²² Nine Point Cease Fire Agreement, 9 November 2020 available at <http://en.kremlin.ru/events/president/news/64384>

²³ https://www.ejiltalk.org/the-recent-ceasefire-in-nagorno-karabakh-territorial-control-peacekeepers-and-unanswered-question-of-status/?utm_source=mailpoet&utm_medium=email&utm_campaign=ejil-talk-newsletter-post-title_2

day visit from 22-26 September 2021, met with Ms. Aliyeva Sabina Yashar gizi, Azerbaijan Commissioner for Human Rights (Ombudsman); Mr. Ali Huseynli, First Deputy Chair of the Milli Majlis (Parliament); Mr. Zahid Oruj, Chair of the Human Rights Committee at the Milli Majlis; Mr. Hikmat Hajiyev, Assistant to the President & Head of the Department of Foreign Policy Affairs of the Presidential Administration; Mr. Vugar Suleymanov, Chairman of Board of Azerbaijan National Agency for Mine Action (ANAMA); Mr. Mustagim Mammadov, Head of the Executive Power of Terter Region of Azerbaijan; Mr. Adil Tagiyev, Deputy of the Head of the Executive Power of Ganja city of Azerbaijan and Ms. Ariane Bauer, Head of the International Committee of Red Cross (ICRC) in Baku.

Besides meeting with the concerned officials and agencies in Baku, the delegation visited the recently liberated territories of Azerbaijan and carried out an onsite objective and independent assessment of allegations of human rights violations and humanitarian situations. The delegation collated vital photographic, documentary, and circumstantial evidence from the testimonies of the victims, governmental and non-governmental agencies, and other independent sources about the nature and extent of intentional and collateral damage caused to the life, property, cultural heritage, and environment during the period 1992-2020.

11. The OIC IPHRC, as mandated, is exclusively concerned with the conflict's human rights and humanitarian aspects. Accordingly, the IPHRC delegation in its report has focused on this aspect to (i) assess the current human rights and humanitarian situation in the recently liberated territories in the light of prevailing international laws and standards; (ii) investigate and report upon the allegations of human rights abuses and; (iii) make recommendations to protect the human rights of the people in these territories.

B. OBSERVATIONS/FINDINGS OF THE OIC-IPHRC OVER THE HUMAN RIGHTS VIOLATIONS:

12. The delegation visited the cities of Agdam, Terter, and Ganja. During its visit to Agdam, the delegation observed noxious peppering of landmines and the damage and destruction caused to the cultural relics, museums, and religious sites. The cities of Terter and

Ganja suffered colossal damage to civilian infrastructure, including schools and the physical environment, due to indiscriminate bombing/targeting of non-combat infrastructure by the Armenian forces causing loss of innocent civilian lives and injuries and widespread displacement of the civilian population. Although the cities of Terter and Ganja are located away from the active military front/conflict zone and were of no military significance, they suffered a large number of civilian losses, including death and injuries of women and children due to the Armenian offensive.

i. Destruction of Cultural, Religious, and Historical Sites & Environment:

13. The delegation visited the recently liberated Agdam, which remained under occupation since 1993. The delegation was shocked to witness the extent of irreversible damage inflicted to the physical infrastructure, rich cultural and religious heritage, and environment of the town that once used to be a vibrant city with an estimated population of 132,170 in 1993²⁴. It was now found to be in the state of an uninhabited 'ghost town.' The physical infrastructure is in ruins with only relics of erstwhile architectural glory. The city of Agdam, prior to the Armenian occupation in 1993, had an airport, well-developed

²⁴ <https://rm.coe.int/16805abf1e>

infrastructure theatres, museums, industrial complexes, and a thriving economy, as shown in the following photos.



Aghdam before occupation (Courtesy: <https://www.rferl.org/a/inside-agdam-the-ghost-city-of-the-caucasus-after-1990s-conflict/30966555.html>)

According to information collected, since occupation due to persecution and killings by Armenians, the local Azerbaijanis fled their homes²⁵ and settled in various parts of Azerbaijan. They have become IDPs in their own country.



Aerial view of the Aghdam - A Ghost City

14. The Armenian occupation forces did not inhabit the city. Instead, they used the land as 'no-mans' buffer zone' signifying that they knew that their occupation is untenable, so they did not invest in the city. More damage occurred in the following decades when the then-abandoned town was looted for building materials and other historical possessions.²⁶ It is currently almost ruined and uninhabited²⁷, prompting the locals to refer to it as the Hiroshima of the Caucasus²⁸. A video footage of the pre- and post-occupation Aghdam

²⁵ Report of the visit of the Representatives of the OIC Contact Group on the Aggression of the Republic of Armenia against the Republic of Azerbaijan from 5-10 April 2021, page.2

²⁶ "Azeris return to their ruined old homes". The Economist. 16 December 2020

<https://www.economist.com/europe/2020/12/16/azeris-return-to-their-ruined-old-homes>

²⁷ Specter, Michael (2 June 1994). "Azerbaijan, Potentially Rich, Is Impoverished by Warfare". The New York Times. Cities like Aghdam have been emptied of people.

²⁸ Musayelyan, Lusine. "Life Among Ruins of Caucasus' Hiroshima". Institute for War and Peace Reporting.

provides a visual account of the wide-scale ‘urbicide’²⁹ and ‘culturicide’³⁰ which happened in Agdam³¹.

15. The delegation had the opportunity to visit the “Imarat of Panah Khan” complex, Central Jamia Mosque of Agdam, Central Square, and Agdam Theatre, all of which are in ruins and dilapidated. The Central Jamia Mosque, which was built in 1870 and is not only a religious site but also cultural heritage, was visibly vandalized. It had graffitis and signs of bullets and shelling both in the interior and exterior. Ironically, the mosque was desecrated during the Armenian occupation when it was used as a barn for cows and other animals³².



Archival photo of the central mosque of Agdam in 1990 & Photo taken by the delegation during the fact-finding visit 22-25 September 2021



Desecration of Central Mosque at Agdam, which was used to keep cows, horses, even pigs during the times of occupation by the Armenian forces & Interior of Agdam’s Central Mosque.

²⁹ A term which first came to be used during the 1992-95 Bosnian war as a way of referring to widespread and deliberate destruction of the urban environment. (Urbicide: The Politics of Urban Destruction by Martin Coward, 2009)

³⁰ <https://www.macmillandictionary.com/dictionary/british/culturicide>

³¹ <https://www.azerbaycan24.com/en/aghdam-region-before-and-after-armenian-occupation-videos/>

³² Carlotta Gall and Anton Troianovski (11 December 2020). "After Nagorno-Karabakh War, Trauma, Tragedy and Devastation". The New York Times available at <https://www.nytimes.com/2020/12/11/world/europe/nagorno-karabakh-armenia-azerbaijan.html>



Images of the vandalized Agdam Museum of History and the Bread Museum & Theatre

16. It was observed that the Armenian occupation had catastrophic consequences for the country's cultural heritage in its occupied territories. The occupation forces destroyed historical monuments, including the mansion of Karabakh Khan Panahali (18th century) and his tomb (19th century), the Agdam Museum of History and the Bread Museum, and other historical places were destroyed plundered in the occupied territory. A tabulated account is given as below:

Destruction and Damages (1988-1993) ³³					
Settlements	830	Houses	150,000	Public constructions	7,000
Schools	693	Kindergartens	855	Medical institutions	700
Libraries	927	Temples	44	Mosques	9
Historical monuments, palaces and museums	464	Museum pieces	40,000	Industrial and agricultural enterprises	6,000
Highways	800 km	Bridges	160	Water pipelines	2,300 km
Gas pipelines	2,000 km	Power lines	15,000km	Woods	280,000 ha
Farmlands	1000 000 ha	Irrigation systems	1200 km		

³³ Letter from Azerbaijan to the UN SG: Report on Armenian aggression against Azerbaijan and recent developments (A/58/594-S/2003/1090) available at <https://reliefweb.int/report/armenia/letter-azerbaijan-un-sg-report-armenian-aggression-against-azerbaijan-and-recent>

17. According to the preliminary data, the overall damage inflicted on the Republic of Azerbaijan as a result of Armenian aggression exceeds 20 billion USD³⁴. The scorched earth policy of purposeful destruction by the Armenians caused irreparable loss to the cultural and environmental ecology of Agdam and surrounding areas causing the death of the city and loss of a rich civilization³⁵. In its interaction with the locals who had fled the area, the IPHRC delegation was given detailed accounts of vandalism, including grave robbery, uncovering tombs and graves to steal artefacts or personal valuables, and removal of building material during the times of occupation. The deliberate destruction of the cultural heritage of Agdam and other towns and settlements of Karabakh is a grave violation of cultural rights and violation of IHL, which constitute a serious violation of Armenia's obligations under international law to respect and protect the cultural heritage of the occupied territories.

ii. Recovery of and right to know about the fate of Missing Persons:

18. The delegation, during its interaction with government officials and representative of ICRC, was apprised of the dreadful fact that around 3890 Azerbaijani citizens (3171 servicemen, 719 civilians)³⁶, including (71 children, 267 women, and 326 old people)³⁷, are still missing as a result of the conflict since the 1990s.

19. The Head of the ICRC delegation in Azerbaijan confirmed, as per Azerbaijan's complaint, thousands are still missing, and ICRC is working with relevant State agencies for decades to address the humanitarian consequences of the problem related to missing people, without much success. ICRC continues to process these cases of missing persons and has developed a consolidated list and reported that it had received thousands of calls and visits from families of missing individuals and received hundreds of tracing requests for civilians and soldiers.³⁸

20. The delegation was briefed by the Azerbaijan Commissioner for Human Rights that the Government of Armenia, despite repeated requests from Azerbaijan, is not cooperating for a prompt and effective investigation into the fate of missing persons, which is quite frustrating and agonizing for the families of the missing persons.

21. According to the IHL, including the Four Geneva Conventions of 1949 for the Protection of War Victims and Additional Protocols (I and II) of 8 June 1977, it is an international responsibility of States to protect the Prisoners of War against torture and degrading conditions. Also, two main principles that stand out are that the Parties to an armed conflict must take every possible measure to elucidate the fate of missing persons³⁹ and that families are entitled to know the fate of their relatives⁴⁰. The right to know the fate of missing relatives is a fundamental right of the families concerned and should be guaranteed. Furthermore, State practice establishes as a norm of customary international law, applicable in both international and non-international armed conflicts, the obligations

³⁴ *ibid*

³⁵ "I don't even know if my home still exists.". National Geographic. 5 February 2021. <https://www.nationalgeographic.com/history/article/i-dont-know-if-my-home-still-exists-nagorno-karabakh-conflict>

³⁶ <https://en.trend.az/azerbaijan/politics/3475998.html>

³⁷ <https://www.azernews.az/nation/182759.html>

³⁸ <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/azerbaijan/>

³⁹ Geneva Convention I, Articles 19-20; Geneva Convention II, Articles 16-17; Geneva Convention II, Articles 122- 125; Geneva Convention IV, Articles 136 – 141; Additional Protocol I, Articles 32 – 33. J.M. Henckaerts / I. Doswald-Beck. Customary International Humanitarian Law, ICRC, Cambridge, Cambridge University Press, 2005,

⁴⁰ Additional Protocol I, Article 32. . J.M. Henckaerts / I. Doswald-Beck. Customary International Humanitarian Law, ICRC, Cambridge, Cambridge University Press, 2005

of each party to the armed conflict to take all feasible measures to account for persons reported missing as a result of armed conflict, and to provide their family members with any information it has on their fate.

22. The delegation also noted allegations of secret detention of missing persons by Armenia and using them for extracting information or espionage purposes. The delegation considers that all such allegations should be fully investigated, and Armenian authorities must extend all possible assistance to ICRC and Azerbaijan authorities to disclose the state of missing persons. All concerned countries with influence as well as the international community should also pressurize the Armenian authorities to come clean on this top humanitarian matter. “Failure to disclose information on the fate and whereabouts of missing persons and refusal to hand over the remains of the deceased may amount to enforced disappearance, which both Azerbaijan and Armenia have committed to preventing.”⁴¹

23. The delegation emphasized that the issue of missing persons is a humanitarian issue with human rights and IHL implications. It should not be treated as a political issue and consequently should not be dependent on the political settlements of the disputes in the region. Further, it was stressed that resolution of missing persons could reduce levels of hostility, mistrust, and intolerance, build confidence in the region, and facilitate efforts to find a political settlement to the disputes in the region. However, time is of the essence as delays extend the uncertainty and suffering of the families and reduce the likelihood of finding, identifying, and returning the missing persons, if any, who are still alive.

iii. Land Mines infestation in the Liberated Areas:

24. The delegation received a comprehensive briefing at ANAMA and visited the vast tracts of lands in the Agdam district, heavily infested with lethal landmines. As a result of mines laid by Armenians in the area from 1992 until 10 November 2020, 2,843 persons have been reported killed and injured. Five hundred twenty-two out of whom were military servicemen, and 2321 were civilians. About half of the victims, 1,357 persons, were injured because mine blasts occurred in peacetime⁴². These landmines were not only laid down by the Armenians during the occupation but also during its forced withdrawal from the occupied territories after the recent ceasefire. Regrettably, those mines were laid in a haphazard manner in almost every part, including agricultural fields, graveyards, gardens, and other social and economic means, in order to inflict human losses as much as possible⁴³.

25. The delegation concluded that such wild laying of mines would severely impede the settlement and rehabilitation of internally displaced Azerbaijani people, which could be one of the intended purposes of the withdrawal of Armenian forces. Since the Trilateral Statement of 10 November 2020, 144 Azerbaijani citizens (as of June 2021)⁴⁴, including two journalists⁴⁵, have been killed and seriously wounded/disabled as a result of mine explosions in the liberated territories of Azerbaijan. Referring to the plethora of mines, ICRC weapons expert Chris Poole remarked that “Anti-Personnel mines, loaded

⁴¹ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26702&LangID=E>

⁴² ANAMA statistics quoted in Mine Problem in the Liberated Areas: Ad Hoc Report of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan, page 7 available at <https://www.politicamentecorretto.com/wp-content/uploads/2021/06/Ad-Hoc-Report-of-the-Ombudsman-on-landmine-problem-1.pdf>

⁴³ <https://neweasterneurope.eu/2021/04/16/mines-karabakh-and-armenias-ccrisis/>

⁴⁴ <https://mfa.gov.az/index.php/en/category/consequences-of-the-aggression-by-armenia-against-azerbaijan-en/humanitarian-consequences-en>

⁴⁵ <https://www.reuters.com/business/media-telecom/two-azeri-journalists-an-official-killed-landmine-blast-near-karabakh-prosecutor-2021-06-04/>

weapons, grenades, RPGs, mortar bombs, anti-tank missiles, long-range rockets...there is a contamination everywhere”⁴⁶.

26. The delegation observed that, due to the extremely risky and laborious nature of the demining process, the massive mine contamination of the liberated territories seriously impedes the realization of wide-ranging rehabilitation and reconstruction plans of the Government of Azerbaijan. Thus, seriously affecting the realization of the inalienable right of the hundreds of thousands of IDPs to return to their homes in safety and dignity.

27. The Government of Azerbaijan has urged the Armenian Government to provide ‘mine maps’ to enable ANAMA to demine the area quickly and with safety⁴⁷. There are reports that an agreement was reached where Armenians had provided Azerbaijan with minefield maps of 97,000 mines buried in the Agdam district in exchange for the Prisoners of Wars⁴⁸. However, the delegation was dismayed at the reports that allegedly the mine maps provided by the Armenians are either inaccurate or incomplete, which if found true would be unfortunate⁴⁹.

28. The delegation further observed that deliberate and large-scale planting of landmines by Armenia in the occupied territories, particularly in civilian areas, is a gross violation of the IHL, including the Geneva Conventions of 1949, and infringes upon the rights of Azerbaijani people, including their right to life, right for respect to private and family life, home and correspondences, right to protection of property, right to freedom of movement within the territory of a State. IHL prohibits the use of indiscriminate weapons, as well as those which cause injury disproportionate to their military purpose. These two basic rules of IHL apply to mines. According to Rule 71, “The use of weapons which are by nature indiscriminate is prohibited⁵⁰.”

iv. Deliberate Targeting of Civilians and non-military infrastructure in violation of IHL:

29. The delegation, during its visit to the cities of Barda, Terter, and Ganja, neighboring cities of the formerly occupied territories, met with the government officials, civil defense authorities, victims, and witnesses of the indiscriminate shelling and bombardment to gather firsthand information about the extent and severity of the damage inflicted upon the civilian physical infrastructure, human settlements, and human lives.

30. The delegation observed that despite being away from the active conflict zone, the nature, range, and frequency of the attacks by the Armenian forces, during the period from 27th September 2020 till 9th November 2020 reflected deliberate targeting of the human settlements, civilian population and infrastructure, and historical, cultural, religious and non-military targets. Human Rights Watch (HRW) documented 11 incidents in which Armenian forces used ballistic missiles, unguided artillery rockets, and large-caliber artillery projectiles that hit populated areas in apparent indiscriminate attacks⁵¹.

31. The delegation also visited the residential buildings and private houses hit by the ballistics and heard the firsthand accounts of the residents and victims, who were unanimous in their testimonies that these attacks/artillery shelling have all the elements of prior planning as part of the broader strategy to instill fear among the civilian population

⁴⁶ [Nagorno-Karabakh conflict: finding common ground in respect of the dead | ICRC](https://www.icrc.org/en/document/nagorno-karabakh-conflict-finding-common-ground-in-respect-of-the-dead)

⁴⁷ <https://eurasianet.org/azerbaijan-demands-mine-maps-from-armenia>

⁴⁸ <https://eurasianet.org/armenia-and-azerbaijan-exchange-detainees-for-mine-maps>

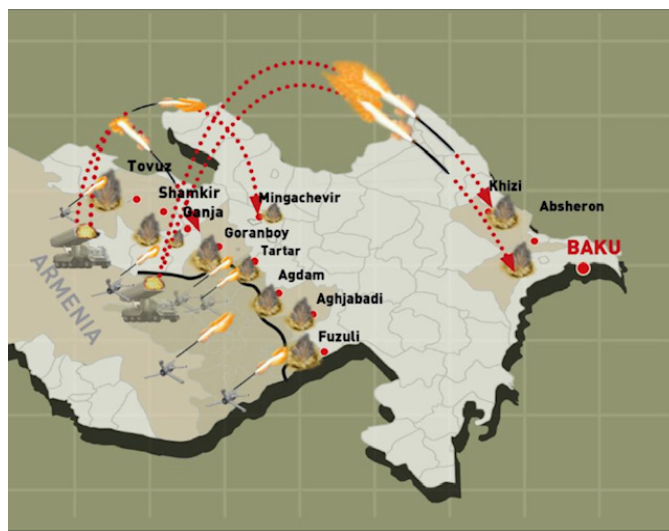
⁴⁹ <https://caspiannews.com/news-detail/president-aliyev-blames-armenia-for-providing-inaccurate-minefield-maps-2021-8-16-0/>

⁵⁰ https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule71

⁵¹ <https://www.hrw.org/news/2020/12/11/armenia-unlawful-rocket-missile-strikes-azerbaijan>

and cause widespread damage and destruction. Consequently, due to these attacks, many residential areas as well as places of worship, including Imamzadeh Mosque and the historical Orthodox Church in Ganja, were hit and suffered vast physical damage.

32. In total, as a result of direct and indiscriminate attacks carried out by the occupation forces of Armenia between 27 September and 9 November 2020, 101 Azerbaijani civilians, including 12 children, were killed, 423 civilians were wounded, almost 84,000 people were forced to leave their homes and over 4,300 private houses, and apartment buildings and 548 other civilian objects were either destroyed or damaged⁵². Even hospitals, medical facilities, ambulances, schools, kindergartens, religious sites, cultural monuments, and cemeteries were not spared. Majority of the killed and injured civilians were residents in cities far away from the zone of military operations, including the visited cities of Terter (20 km away), Ganja (100 km away), and Barda (30-40 km away).



33. During the deadliest attacks on Barda, the banned cluster munitions were used by Armenia, which claimed the lives of 27 people and injured 105. It also caused damages to historical and cultural sites as a consequence. This attack was specifically mentioned in the statement issued by the UN High Commissioner for Human Rights⁵³ and widely reported by media and international human rights organizations like HRW⁵⁴. HRW reported that upon examination of the remnants of the ballistics, it was identified as Smerch cluster munition rocket and Smerch parachute-retarded high-explosive fragmentation rocket which remain in possession of Armenian forces⁵⁵.

34. The same was highlighted by the UN High Commissioner for Human Rights Michelle Bachelet that “the rockets, allegedly fired by Armenian forces from Nagorno-Karabakh, reportedly carried cluster munitions. Due to their effects, the use of cluster munitions in populated areas would be incompatible with the IHL principles governing the conduct of hostilities”.⁵⁶

35. HRW, in its report, “Lessons of War,” has also provided an account of another attack where two Scud-B ballistic missiles hit Azerbaijan’s second-largest city, Ganja, killing 21

⁵² A/75/660-S/2020/1267 dated 22 December 2020: Letter dated 18 December 2020 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

⁵³ https://un.mfa.gov.az/files/file/letters/A_75_660_E.pdf

⁵⁴ [OHCHR | Nagorno-Karabakh conflict: Bachelet warns of possible war crimes as attacks continue in populated areas](https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan)

⁵⁵ <https://www.hrw.org/news/2020/10/30/armenia-cluster-munitions-kill-civilians-azerbaijan>

⁵⁶ UNHCHR Statement of 2 November 2020 available at <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=26464&LangID=E>

people. The blast from one missile flattened homes in the Mukhtar Hajiev neighborhood and ripped through both Kindergarten and Secondary School, which killed ten civilians in their homes, four of them children⁵⁷.

36. The targeted killing of children by the Armenian forces are violative of Article 6 & 38 (I) of the United Nations Convention on the Rights of the Child (CRC), which not only guarantees a child's right to life but also obliges all States to respect and to ensure respect for rules of IHL applicable to them in armed conflicts⁵⁸. The 1974 UN Declaration (3318) on the Protection of Women and Children in Emergency and Armed Conflict also prohibits attacks on women and children⁵⁹. Also, the UNSC Resolution 1261 categorically prohibits "attacks on objects protected under international law, including places that usually have a significant presence of children such as schools and hospitals."

v. Violation of Rights due to forced displacement & Challenges of Post-conflict reconstruction and rehabilitation:

37. The delegation, in its interaction with the government officials, ICRC, and Internally Displaced Persons (IDPs), fathomed the gravity of the issue, which continues to violate the rights of IDPs to return to their ancestral lands and have access to their properties, cemeteries of their loved ones, cultural centers, and association, as well as means of a productive livelihood. Unfortunately, Armenia's offensive of September 2020 forced 84,000 people away from the area of conflict/under occupation to temporarily abandon their places of habitual residence, suffering the tragedy of forced displacement⁶⁰.

38. Since 1994, Azerbaijan has hosted one of the highest numbers of refugees and displaced persons in the world. Between 1988 and 1994, it is estimated that approximately 750.000 Azerbaijani citizens became IDPs⁶¹ in their own country, and approximately 30.000 people lost their lives. The Armenian occupation of the surrounding seven regions also cut the link between Azerbaijan and its Nagorno-Karabakh region and turned it into no man's land⁶². Furthermore, about 250,000 Azerbaijanis were expelled from their homes in Armenia at the end of the 1980s⁶³. Their forcible deportation was accompanied by killings, disappearances, destruction of property, and pillaging. As a result, Azerbaijan had been hosting about a million IDPs and refugees who were not able to return to their homes

39. The European Court of Human Rights in its Judgement on Chiragov and Others vs. Armenia case (which concerns the complaints of six Azerbaijani refugees that they were unable to return to their homes and property in the district of Lachin, in Azerbaijan, from where they had been forced to flee in 1992), ruled that Armenia held Nagorno-Karabakh and all other adjacent regions, including Lachin District are under the occupation. The Court further noted that Armenia continues violating Article 1 of the

⁵⁷ <https://www.hrw.org/news/2021/09/08/lessons-war>

⁵⁸ UNCRC available at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

⁵⁹ https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.19_declaration%20protection%20women%20armed%20conflict.pdf

⁶⁰ <https://mfa.gov.az/index.php/en/category/consequences-of-the-aggression-by-armenia-against-azerbaijan-en/humanitarian-consequences-en>

⁶¹ Human Rights Watch, Seven Years of Conflict in Nagorno-Karabakh, 1994

⁶² Tuncel, T., Güney Kafkasya'da 2-5 Nisan 2016'da Yaşanan 4 Gün Savaşı, Ermeni Araştırmaları, (2016), Sayı:53

⁶³ <https://caspiannews.com/news-detail/azerbaijan-remembers-mass-deportations-on-world-refugee-day-2017-6-20-54/>

Additional Protocol 1 (right to property), Article 8 (respect to private and family life), and Article 13 (right to an effective remedy) of the European Convention on Human.⁶⁴

40. The delegation observed that in the follow-up to the tripartite ceasefire agreement, sustainable peace is linked to the successful repatriation of the refugees and IDPs and their reintegration into respective societies. De-occupation of territories has already created a euphoria among the IDPs keen to exercise their right to safe and dignified return to their places of origin. This would restore the economic and cultural life of these liberated regions. However, at present, the biggest challenge is the pace of the demining process, which is the major obstacle in the swift return of IDPs to these territories.

C. CONCLUSION

41. The delegation observed that there is sufficient evidence to conclude that purposeful measures were undertaken by the Armenian side, including massive contamination of the liberated territories with mines to prevent the Azerbaijani authorities and their IDPs from returning to their homes and properties. Such measures included, among others, massive militarization of the occupied territories by laying multilayer military obstacles, the complete annihilation of civilian physical infrastructure, destruction, and desecration of historical and cultural heritage and religious symbols, which constitute grave violations of IHL and IHRL. These violations impede the realization of rehabilitation and reconstruction plans for hundreds of thousands of IDPs desperately waiting to return to their homes in safety and dignity.

42. IPHRC delegation is disappointed at the lack of cooperation from the Armenian side both to provide the maps of the installed landmines in the areas previously occupied by them as well as to provide information about the whereabouts of almost 4000 innocent Azerbaijanis missing since the first Karabagh war or even to find the remains of these missing people, which is a source of deep anguish for the surviving relatives and serious violation of the IHL.

43. IPHRC also condemned the targeting of civilian and non-military installations situated away from the war zone, which were deliberately and indiscriminately targeted by the Armenian side to cause destruction and instill fear among the civilian population. The IPHRC delegation observed that these deliberate targeting of civilians by the Armenian occupation forces, without any regard and observance of the principles of 'distinction' and 'proportionality,' are violative of IHL as stipulated in the Additional Protocol (I) to the Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts Articles 35, 48, 52(2), 53 and 85.

44. IPHRC, reiterating the often repeated and well-established position of the OIC, reaffirms the Azerbaijani peoples' right to freedom and liberation from foreign occupation, which remains one of the cornerstones of IHRL. IPHRC particularly welcomed the generous offer of Azerbaijan to Armenia to put behind their hostility and start a new chapter of friendly relations, which is not only a noble gesture but also in line with Islamic values and teachings.

45. The delegation was particularly pleased to note the plan of the Azerbaijan Government to restore the physical infrastructure in the liberated territories and establishment of smart city project in Agdam to restore its erstwhile glory and architectural significance. The delegation observed that the Azerbaijan government has plans to welcome and reintegrate its citizens of Armenian origin residing in conflict-affected territories by ensuring the protection of their civil, political, economic and social, and cultural rights. Also, Azerbaijan has a palpable optimism to move beyond the past to

⁶⁴ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-155353%22%5D%7D>

normalize relations with the neighboring Armenia through revitalizing communication linkages and facilitating people-to-people contacts.

46. Finally, IPHRC commends the unfettered, open, and transparent access provided by the Government of Azerbaijan as well as the support of the Office of the Ombudsman of Azerbaijan in facilitating the fact-finding mission by providing full access to all the affected areas to collate required information needed to verify the allegations of human rights abuses, which enabled the IPHRC to undertake its mandated task with objectivity and neutrality and prepare its detailed report on the subject.

C. RECOMMENDATIONS

47. The optimism and political goodwill that is generated as a result of the Russian brokered cease-fire should be used as an opportunity to solidify the gains of peace to protect and promote the human rights of the people in the liberated areas. There are four human rights dimensions that require immediate attention: (a) Issue of missing persons; (b) Rehabilitation and repatriation of refugees and IDPs; (c) Demining of the liberated territories; (d) Accountability for the acts of wanton destruction to fix the responsibility and bring the perpetrators to justice. The international community, including the UN, OSCE MINSK Group⁶⁵, OIC, Council of Europe, Russia, and other international organizations, both at the bilateral and multilateral levels, can and must play a proactive role in addressing these emergent issues. The OIC Contact Group on Azerbaijan could become a useful platform to coordinate progress on all of the above accounts.

Following are some of the specific recommendations:

- a. There is a need to establish an international human rights monitoring mechanism under the auspices of the UN in the form of Special Procedures mandate holder or any other regional organization, i.e., OSCE or OIC, to monitor, document, and investigate allegations of human rights abuses by the Armenian occupation forces and facilitate the implementation of human rights obligations;
- b. Establish a multilateral coordination mechanism under ICRC to deal with the issue of missing persons, in particular, to collect and manage data, processes of recovery, and identification of human remains and provide psychological support for their family members. Such mechanism may impress upon Armenia to cooperate in the process of preparation of lists and identification of whereabouts of missing persons;
- c. Establishment of a UN Commission of Inquiry with the mandate to investigate the allegations of war crimes and crimes against humanity and accordingly bring to justice those who are held responsible for grave violations of IHL during the military aggression of Armenia against Azerbaijan;
- d. The OIC Member States and Multilateral Development Institutions, i.e., World Bank and Islamic Development Bank, develop a humanitarian corridor to provide financial resources and expertise to the Government of Azerbaijan to help rehabilitate the refugees and IDPs. The process involves expeditious demining of the area for which international expertise is needed. Secondly, development of physical infrastructure in the liberated areas to allow the IDPs and refugees to return in safety and dignity;
- e. OIC may consider organizing an international conference/symposium, in collaboration with the IPHRC, on the side-lines of the Human Rights Council in

⁶⁵ <https://www.osce.org/mg>

Geneva involving academics, policymakers from UN and OIC Member States and human rights experts to propose ways and means to deal with the issue of missing persons and demining of the liberated territories;

- f. OIC General Secretariat may coordinate with OIC Missions in New York and Geneva to circulate the findings of this report widely with the UN and human rights organizations.



Destruction of Residential Complex in Ganja City



Damaged House in Terter City



Ballistics fired by Armenians towards Terter City