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ON-SITE INVESTIGATION REPORT ON HUMAN RIGHTS IN KARABAKH



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**GRAND NATIONAL ASSEMBLY OF
TÜRKİYE OMBUDSMAN INSTITUTION**

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PREFACE

Currently, there are Ombudsman Institutions in more than 140 countries in the world with different competencies at national, regional, or local levels. Ombudsman Institutions, which are impartial and independent human rights institutions, have an important role in strengthening democracy, rule of law and good administration as well as protecting and promoting human rights and fundamental freedoms.

Ombudsmen have important responsibilities in this regard. It is the duty of all Ombudsmen to react to a violation of human rights, raise awareness, and make efforts for the elimination of such violations wherever they occur in the world.

In this context, Ombudsman Institutions come together to establish associations/networks for main reasons such as ensuring information exchange between institutions, thus increasing the capacities of institutions, cooperating, and raising stronger awareness by making more voices together when necessary; they carry out joint activities through these associations/networks. As the Ombudsman Institution of Türkiye, we attach great importance to international cooperation and experience exchange. Accordingly, we are a member of 8 different international associations/networks. One of them is the Organisation of Islamic Cooperation Ombudsmen Association (OICOA), of which I have been the president since 2019. The Commissioner for Human Rights in the Republic of Azerbaijan (Ombudsman) is also a member of the OICOA Board of Directors.

Upon the invitation of the Azerbaijani Ombudsman, Ms Sabina Aliyeva, at the meeting of the OICOA Board of Directors, I conducted a study visit to Azerbaijan on 21-23 October 2020 to carry out an on-site examination re-



garding the attacks launched by Armenia along the Karabakh front line on 27 September 2020 and the alleged violations of human rights as a result. Within this scope, I visited the cities of Ganja and Mingachevir, where it is claimed that civilian settlements were hit and many civilians lost their lives, to examine the allegations on-site.

With the Ombudsman Institution delegation accompanying me, we sadly saw the wreckage of the public buildings, houses where civilians lived, and places of worship that were damaged, and we interviewed civilians who lost their family members. Afterwards, we compiled our observations and findings and published them as a report.

In this period, the end of the Second Karabakh War, also known as the 44-Day War, with the tripartite statement signed on 10 November 2020 between Russia, Azerbaijan, and Armenia, and the liberation of around 290 settlements from the occupation of Armenia as a result of the conflicts were pleasing developments in terms of the opportunity for people who had to leave their homes to return to their homes.

There is no doubt that no war has a winner. Recently, unfortunately, we have been witnessing violations of human rights in Ukraine as a result of the attacks of the Russian Federation. We are saddened to watch that civilians, including women, children, and the elderly, lost their lives in the attacks, and that millions of people left their homes and sought refuge in neighbouring countries in search of a safe haven. As a result of the unfair occupation of Azerbaijani lands by Armenia, innocent civilians have lost their lives, and hundreds of thousands of people have been forced to leave their homes. Lastly, during the 44-day war, civilian settlements were targeted by Armenia; dozens of civilians, including women and children, and even babies, lost their lives as a result of the attacks. Upon the end of the war and the liberation of Azerbaijani lands from occupation, the Ombudsman of Azerbaijan, Ms Sabina Aliyeva, once again invited the Members of the Board of Directors of OICOA to Azerbaijan. This time, during our study visit as the OICOA delegation, we conducted examinations in the provinces of Shusha, Fuzuli, and Aghdam, which were liberated from the occupation, and in the province of Tartar, a civilian settlement that was under attack for 44 days. In our examinations, we found that historical artefacts, museums, and mosques, which should not be considered as belonging to only one nation but should be protected by being considered as belonging to the whole world heritage, were damaged during the occupation to such an extent that they could not be used. We regretfully observed that the graves were deliberately destroyed, that even the vegetation disappeared, and that only a part of the walls re-



mained from the houses of those who had to leave their homes. In Tartar, we saw the traces of shrapnel on the tree in the city square and the wreckage of the house in the city where a missile fell on it as shameful examples of an attack on the most fundamental human right, the right to life, and violation of the principles of international humanitarian law.

Another very important observation was the minefields, which are scattered over a wide area and are the biggest obstacle to the return of people who had to leave their homes.

With this comprehensive report we have prepared as a result of the on-site examination, as the Ombudsman Institution of Türkiye and OICOA, we would like to draw attention to the violations of human rights committed by Armenia in Azerbaijani territory. In order to prevent further grievances and violations of human rights, we call for the necessary action to be taken to deliver the maps of the minefields to Azerbaijan.

I would like to thank especially the Ombudsman of Azerbaijan and Member of the Board of Directors of OICOA, Ms Sabina Aliyeva, for hosting our delegation, the Ombudsman responsible for women's and children's rights, Ms Celile Özlem Tunçak, for participating in the study visit to Azerbaijan, the Secretary General of OICOA and Deputy Ombudsman of Federal Tax Ombudsman's Office in Pakistan, Mr Muhammadi Javed Ghani, for accompanying us in the visit despite the pandemic conditions, and the Ombudsman Institution Expert, Ms Hande Hazneci, for writing this report.

I wish that there will be no wars in any geography and that violations of human rights will come to an end.

Şeref Malkoç

Chief Ombudsman of the Republic of Türkiye and President of OICOA

Contents

5	PREFACE
10	ABBREVIATIONS
11	1. EXECUTIVE SUMMARY
13	2. INTRODUCTION
17	3. BRIEF SUMMARY OF THE KARABAKH PROBLEM AND THE 44-DAY SECOND KARABAKH WAR
21	4. ON-SITE EXAMINATION PERFORMED BY THE OICOA DELEGATION INFORMATION, OBSERVATIONS, AND FINDINGS OBTAINED
25	FIELD VISITS
25	I. Shusha
33	II. Aghdam
41	III. Tartar
45	5. FINDINGS IN TERMS OF HUMAN RIGHTS
45	I. Minefields
49	II. Personal Property in Occupied Territories
50	III. Historical Artefacts and Cultural Assets
55	IV. Destruction of Nature
57	V. Attack on Civilian Settlement
61	6. CONCLUSION



Abbreviations

OSCE	Organisation for Security and Cooperation in Europe
ANAMA	Azerbaijan National Agency for Mine Action
UN	United Nations
ICRC	International Committee of the Red Cross
OICOA	Organization of Islamic Cooperation Ombudsmen Association
ICC	International Criminal Court



1. Executive Summary

Karabakh, which has hosted many civilizations throughout history and is a part of the State of Azerbaijan within the scope of international law, has been the subject of violence and wars between the States of Armenia and Azerbaijan since 1988. Armenia occupied 7 rayons (districts) in and around Nagorno-Karabakh and continued its occupation, which lasted for 30 years, despite the United Nations (UN) Security Council Resolutions and UN General Assembly Resolutions that demanded its withdrawal from the occupied Azerbaijani territories. In this period, the efforts of the Organisation for Security and Cooperation in Europe (OSCE) Minsk Group were also inconclusive in achieving peace in the region.

Finally, on the morning of 27 September 2020, the Armed Forces of Armenia broke the ceasefire and intensely fired the Azerbaijani army and the rayon of Tartar, Aghdam, Fuzuli, and Jabrayil with heavy weapons. The conflicts, which shifted from the battlefield to civilian settlements and during which many civilians lost their lives, ended with the statement signed between Armenia, Azerbaijan, and the Russian Federation on 10 November 2020. With the aforementioned statement, the occupation of Azerbaijan's lands by Armenia came to an end, and hundreds of thousands of people who had to leave their homes and migrate from their own lands due to the conflicts and occupation had the opportunity to return home. On the other hand, many regions, especially Aghdam, were mined by Armenia during the occupation period. From 10 November 2020, when the region was liberated, to October 2021, the mines killed or injured 65 civilians. The minefields, which threaten the life of all living things, are the biggest obstacle for internally displaced people (IDPs) to return to their homes. Clearing mines can take many years. This will continue to be an obstacle to the rebuilding of the city and to any economic



activity. Therefore, it is important that the maps showing the location of the mines that threaten the lives of all living things are delivered to Azerbaijan as soon as possible by Armenia. Another important point is that the lands occupied by Armenia for years are of great importance for the cultural and historical heritage of Azerbaijan. Unfortunately, palaces, tombs, mosques, and museums of historical and cultural importance were damaged due to attacks or neglect during the occupation period, and the museums were emptied.

In fact, abuses such as feeding animals in mosques and tombs and setting mosques on fire were committed. In addition, the properties of the people who had to leave their homes were destroyed, and the houses were emptied. In this period, the natural environment has also been severely damaged.

This report aims to reveal the violations of human rights caused by Armenia in the occupied Azerbaijani territories and to encourage Armenia to give the maps of minefields to Azerbaijan immediately.

2. Introduction

Ombudsman Institutions are impartial and independent human rights institutions tasked with protecting individuals against violations of human rights, abuse of authority, unfair decisions, and maladministration. On the other hand, Ombudsmen are also responsible for making the necessary efforts to develop the culture of seeking legal remedies, to strengthen human rights not only in their own countries but also all over the world, and to raise awareness in this regard.

Ombudsman Institutions come together and establish associations/networks for the purposes of providing mutual information and experience exchange, supporting each other, and raising stronger awareness by making more voices together, within the framework of key objectives such as promoting human rights and strengthening institutions both in their own countries and in the world. One of these associations is the Organisation of Islamic Cooperation Ombudsmen Association (OICOA), which was established in 2014. The Chief Ombudsman of the Republic of Türkiye, Mr Şeref Malkoç, has been the president of the Association as of 19 November 2019. The Commissioner for Human Rights in the Republic of Azerbaijan (Ombudsman) is also a member of the Board of Directors, and the Ombudsman of Azerbaijan, Ms Sabina Aliyeva, invited the Members of the Board of Directors to Baku to determine on-site the *“violations of human rights that have occurred along with the attacks on military and civilian targets that Armenia launched on 27 September 2020”*.

The Chief Ombudsman and President of OICOA, Mr Şeref Malkoç, organised a study visit to Azerbaijan on 21-23 October 2020 to conduct an on-site examination regarding the alleged violations of human rights while the conflict was still ongoing. In addition to the official contacts during the study visit,



the provinces of Ganja and Mingachevir, which were under heavy attack, were visited. The findings obtained as a result of the aforementioned visit were reported and shared with the World Ombudsmen and international organisations working in the field of human rights.¹

The conflicts that started with Armenia's attack on Azerbaijan on 27 September 2020, were ceased by a statement signed between the Russian Federation, Armenia, and Azerbaijan on 10 November 2020, and Armenia accepted the request to withdraw from the occupied raions.

Upon the end of the occupation, the Azerbaijani government started to take rapid actions so that the resettlement in the occupied region could begin and that hundreds of thousands of people (IDPs) who had to leave their homes and migrated from their own lands, could return to their homes as soon as possible. However, the Ombudsman of Azerbaijan, Ms Sabina Aliyeva, emphasised that the maps of anti-tank and deadly landmines placed on Azerbaijani territory by the armed forces of Armenia during the occupation period were not disclosed by the Armenian government and that it is estimated that hundreds of thousands of anti-tank and deadly landmines that threaten human life and health are in the liberated Azerbaijani territory. In this context, she invited the Members of the Board of Directors of OICOA to visit the Republic of Azerbaijan to monitor the liberated regions of Azerbaijan and the humanitarian situation in civilian settlements.

Upon the aforementioned invitation, a study visit was conducted to Azerbaijan on 14-19 September 2021. Although other Members of the Board of Directors could not participate due to pandemic conditions and different measures of countries, the President of OICOA, Mr Şeref Malkoç, and the Ombudsman Institution Delegation were accompanied by the Secretary General of OICOA and Deputy Ombudsman of Federal Tax Ombudsman's Office in Pakistan, Mr Muhammadi Javed Ghani. The Ombudsman responsible for women's and children's rights, Ms Celile Özlem Tunçak, also took part in the Ombudsman Institution Delegation.

During the study visit, meetings were held with the Speaker of the National Assembly of Azerbaijan, Ms Sahibe Gafarova, and the Assistant of the President of the Republic of Azerbaijan, Mr Hikmet Hacıyev, within the framework of official contacts; in addition, the President of the Board of Azerbaijan National Agency for Mine Action, Mr Vugar Suleymanov, was met to receive information. Following the meetings in Baku, an on-site examination was carried out in the visits to Shusha, Aghdam, and Fuzuli, which were liberated

¹ <https://www.ombudsman.gov.tr/document/raporlar/kdk-pdf/AzerbaycanRaporu/mobile/index.html>



from the occupation, and Tartar, which was under heavy attack during the 44-day war. Palaces, museums, tombs, and mosques destroyed by attacks or neglect in Shusha and Aghdam were visited, and mine clearance efforts carried out in the minefield in Aghdam were monitored. In Tartar, on the other hand, despite the fact that it is a civilian settlement, the scars left by the war in the city as a result of the heavy attack it suffered were observed. This report aims to encourage Armenia to give the maps of minefields to Azerbaijan immediately in order to ensure that internally displaced people can return to their homes as soon as possible, to create the necessary international awareness and pressure for this purpose, and on the other hand, to share our findings regarding the damage done by Armenia to the historical and cultural heritage, as well as the violations of human rights that took place during the 44-day War, with the entire world public and human rights representatives.

3. Brief Summary of the Karabakh Problem and the 44-Day Second Karabakh War

Karabakh is an area of approximately 18,000 km², located between the Kura and Aras rivers of Azerbaijan, east of Lake Sevan in Armenia. Nagorno-Karabakh, which is the subject of war between Azerbaijan and Armenia, is a mountainous area of approximately 4,388 km² covering the upper parts of the region.

Karabakh has rich vegetation and water resources and is expressed with the analogy of “heaven” in Azerbaijani literature. One-third of the area is forest area. It has hosted many festivals with its natural beauty and has become an important tourism region for Azerbaijan.²

In Karabakh, which has hosted many civilisations since ancient times, Seljuk Turks began to dominate as of the 11th century. In the 15th-16th centuries, the region was dominated by other Turkmen lords, and these lords established Ganja, Erivan, Shaki, Baku, Quba, Derbent, Nakhchivan, and Karabakh Khanates. The Karabakh Khanate, founded in 1747, came under Russian rule in 1805. Later, with the agreements made by the Russians with Iran and the Ottoman Empire, respectively, Armenians were granted the right to migrate to Russian lands, and approximately 130,000 Armenians migrated from Iran and Ottoman lands to the borders of present-day Armenia and Karabakh. Also, during the First World War, many Armenians migrated to Russian lands. Armenia, with its changing population rates, made great efforts to attach Na-

² Aygün Attar, Karabağ Sorunu Kapsamında Ermeniler ve Ermeni Siyaseti, Atatürk Araştırma Merkezi, Ankara 2021



gorno-Karabakh to itself. As a result of unceasing tensions, Nagorno-Karabakh was given the status of an autonomous region in 1923, and in November 1924, the “Autonomous Nagorno-Karabakh Oblast” was declared on the condition that its sovereignty remain in Azerbaijan. Its name was changed to “Nagorno-Karabakh Autonomous Oblast” with the 1936 Constitution of the Soviet Union.³

As the population changed in favour of Armenians over time, a decision was taken by the Executive Committee of Nagorno-Karabakh Autonomous Oblast to unite with Armenia in 1988, but this decision was annulled by Azerbaijan on the grounds that it was invalid.

The USSR also rejected this decision on the grounds that it was legally contrary to the USSR Constitution and the Constitution of the Republics. Immediately after, 2 Azerbaijanis were killed by Armenians in Karabakh, which caused conflicts and demonstrations. The conflicts gradually increased in violence, and many people lost their lives.⁴

One of the most painful examples of increasing violence was the genocide committed by Armenians in the town of Khojaly in 1992, and hundreds of Azerbaijani civilians were killed in the Khojaly massacre. In the same year, the OSCE Minsk Group was formed in order to end the conflicts between Azerbaijan and Armenia and create an amicable settlement, and for this purpose, a conference was planned to be organised in Minsk. However, this conference could not be held. Although the efforts of the Minsk group, which was formed to achieve peace in the region, were insufficient, they were the basis for the UN Security Council resolutions, and 4 resolutions, namely 822, 853, 874, and 884, were published by the Council in 1993. The purpose of the aforementioned resolutions was to stop the armed conflict, and they urged Armenia to withdraw from the occupied Azerbaijani territories.

Although the conflicts ended with the Bishkek Ceasefire Agreement signed in 1994, 20% of Azerbaijan’s territory, including Shusha, Fuzuli, Aghdam, and Lachin, was occupied by Armenia in this period.

It is estimated that around 750,000-800,000 Azerbaijani citizens were forcibly displaced from Nagorno-Karabakh between 1988 and 1994, making them internally displaced people (IDPs)⁵. Although the conflict ended with the Bishkek Agreement, the occupation did not end. With the occasional ceasefire violations, it was stated that the situation in the Nagorno-Karabakh region

³ Azer C., Yukarı Karabağ Sorunu ve Minsk Grubu, Ermeni Araştırmaları, 2013, Sayı 44

⁴ Garibov M., XX.Yüzyılda Ermenistan-Azerbaycan, Dağlık Karabağ Sorunu, Atatürk Araştırma Merkezi, Ankara 2017

⁵ Human Rights Watch, Seven Years of Conflict in Nagorno-Karabakh, 1994



continued to endanger international peace and security by referring to the 4 resolutions of the UN Security Council in the resolution 62/243 adopted by the UN General Assembly on 14 March 2008. In the same resolution, it was reminded that the sovereignty and territorial integrity of Azerbaijan were respected and supported, and a call was made for the “complete, immediate, and unconditional” withdrawal of the Armenian forces from the territory of Azerbaijan.

This effort was also not successful, and there were conflicts between the two countries, which took place on 2-5 April 2016 and were called the “4-Day War”. The conflict, in which both sides suffered losses, ended with the mediation of Russia. Finally, on 27 September 2020, conflicts started again with the attack of Armenia, and this time the intensity of the conflicts and the related losses increased.

The Armed Forces of Armenia intensely fired the Azerbaijani army and the rayons of Tartar, Aghdam, Fuzuli, and Jabrayil with heavy weapons on the morning of 27 September 2020, and the Baku administration also launched a counter-operation. During the 44-day War, civilian settlements were also attacked by Armenia; prohibited weapons were used; 94 civilians, including women and children, lost their lives, and 414 civilians were injured.

In the 44-day war, the Azerbaijani army liberated 5 provinces, 4 towns, and 286 villages from occupation, and the attacks came to an end with the statement signed between Azerbaijan and Armenia on 10 November 2020, with the mediation of Russia. According to the signed statement, the Armenian army had to leave the provinces of Aghdam, Kalbajar, and Lachin, and thus, the occupation in these regions came to an end.

4. On-Site Examination Performed by the OICOA Delegation: Information, Observations, and Findings Obtained

The on-site examination schedule first started with the official contacts held in Baku. In this context, meetings were held in Baku with the Speaker of the National Assembly of Azerbaijan, Ms Sahibe Gafarova, the Assistant of the President of the Republic of Azerbaijan, Mr Hikmet Hajiyeve, and the President of the Board of Azerbaijan National Agency for Mine Action, Mr Vugar Suleymanov. Ms Sahibe Gafarova drew attention to the number of more than 1 million Azerbaijani citizens who had to leave their homes due to the occupation of Armenia, and that there are many girls and women in this population. She emphasised the importance of the aforementioned citizens being able to return to their own lands, and therefore, the efforts made for rebuilding the cities. Mr Hikmet Hajiyeve stated in the meeting that they started to make rapid efforts for rebuilding the regions liberated from the occupation, and he informed that the region has historical and cultural importance and that maximum care has been taken and will continue to be taken in these efforts for the protection of the artefacts, regardless of whom they belong to.

The President of the Board of Azerbaijan National Agency for Mine Action (ANAMA), Mr Vugar Suleymanov, gave information about the activities of the Board. ANAMA was established in 1999 with the support of the UN Development Programme (UNDP) in order to ensure the safe return of displaced people by destroying mines and other explosive weapons in Azerbaijani lands, and it was upgraded to the status of “Public Legal Entity” with the Presidential Decree of 15 January 2021. Within the framework of the information shared by the President of ANAMA, Mr Vugar Suleymanov, it was

found out that the total area liberated from the occupation is 11,784 km² and that 3,058.5 km² of this area is temporarily under the control of the Russian peacekeepers, while the remaining 8,725.5 km² is under the control of Azerbaijan. He reported that there are *mined areas in Aghdam, Fuzuli, Jabrayil, Qubadli, Zangilan, Kalbajar, and Lachin* and that ANAMA cleared 5,100 hectares of land by finding and destroying 24,782 mines and unexploded ordnance, while the Ministry of Defence and the Ministry of Emergency Situations also carry out mine clearance activities.



Meeting with ANAMA

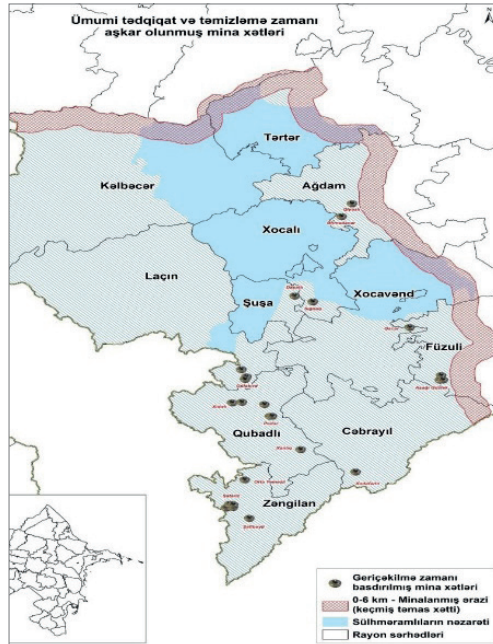
He also informed our delegation that *a total of 16,753 hectares of land were cleared and that 44,406 mines and unexploded ordnance were found and destroyed*. Mr Vugar Suleymanov stated that following the liberation of the occupied regions in 2020, ANAMA's mission has also increased considerably and that mines threaten human life. He elaborated that *20 civilians have died, while 41 people have been injured as of September 2021, and that one of those who lost their lives was a woman, and one of those who were injured was a child*.⁶ Mr Suleymanov also pointed out that *during the rebuilding of cities, it is necessary to clear mines so that power lines, railways, and roads can be built, that agricultural activities can begin, and that displaced people can return to their homes*. He emphasised that there

⁶ According to official statements, the number of civilians killed or injured by mines in October 2021 reached 65. <https://www.aljazeera.com/news/2021/10/18/azerbaijan-accuses-armenia-of-ethnic-cleansing-at-un-court>



are too many mines in Aghdam and that intensive mine clearance activities are carried out to ensure security during the rebuilding process of the city, but *it will take years to clear the minefields without a map*. He added that the team in the field will be waiting for our delegation to share information.

The photograph used by the President of ANAMA, Mr Suleymanov, in his presentation to our delegation is shown on the right side, and the Line of Contact is approximately 300 km long and 7 km wide. Tank trenches are seen at the centre of the photograph, while Ar-



Mines Detected During General Investigation and Clearance



menian positions with numerous barbed wire fences on the right and heavily mined Azerbaijani open field on the left.

On the other hand, it was observed that there are mines at the river banks, cemeteries, and entrances of destroyed or abandoned gardens, bridges, and forests outside the line of contact. It was learned that the line of contact in Aghdam is 50 km long and that as a result of the investigations carried out by ANAMA experts, many mines were detected up to 4 km deep and outside the line of contact.

FIELD VISITS

I. Shusha

Following the official visits in Baku, on 16 September 2021, the delegation set out to the region liberated from occupation to conduct an on-site examination. In this context, first of all, the city of Shusha was visited. Before coming to the city of Shusha, another city liberated from the occupation, Fuzuli, was also passed through on the route. As mentioned above, Karabakh is a region that has rich vegetation and water resources, and it has hosted many festivals with its natural beauty. In light of this information, the absence of trees on the route followed in Karabakh and the barren appearance of the land were highly interesting. On the other hand, it was observed that all the houses in the villages that used to be settlements were destroyed, that only parts of the walls of most of them remained, and that there was no furniture in the houses. The driver, who was in charge of one of the vehicles that provided the transportation of our delegation, stated that he was born in Fuzuli, that he was a child when the region was occupied, and that they had to migrate as a family due to the occupation. He explained that agriculture was an important source of livelihood in Fuzuli, but that all the trees were cut down during the occupation period. He added that after the region was liberated, he went to see the houses left behind by his family and that he saw only the walls remaining from his old, detached house with a garden. He expressed that he wants to return to Fuzuli with his family as soon as possible and that he would then quit his current job as a driver and deal with agriculture in his village.

Shusha, the first settlement where our delegation will conduct an on-site examination, is a city of strategic importance due to its geographical location dominating the region and its location on the road to Khankendi, the largest city



Bullet marks on the bust

nor's Office. Immediately after the liberation of Shusha from the occupation, renovations were made in the Governor's Office, and these renovations are still in progress. It was observed that the bust of Uzeyir Hajibeyov, the composer of the national anthem of Azerbaijan, was found in the garden of the Governor's Office but that the bust was targeted by many bullets.

Right behind the Governor's Office, there is the *house (palace) of the poet, Khurshidbanu Natavan*, who became the sole heir of Mehdiqulu Khan, Karabakh Khan, when he passed away, and who ruled the khanate until her death, and who had an important place in the social-political, cultural life, and literature of Azerbaijan, especially Karabakh, in the 19th century.

of Nagorno-Karabakh. However, another important feature of Shusha for Azerbaijan is that it has a spiritual value in terms of its cultural and historical heritage. Many important artists of Azerbaijan were from Shusha. Uzeyir Hajibeyov, the composer of the national anthem of Azerbaijan, the pioneer of modern Azerbaijani music, and the first opera composer of the East, was also born in Shusha. Therefore, his bust is located in Shusha.

The visits made within the scope of on-site examination started with the Shusha Governor's



Bust of Uzeyir Hajibeyov



Khurshidbanu Natavan's House Converted into a Museum

The house mentioned above has historical importance, as *it hosted the first children's music school established in Azerbaijan, served as the Shusha Children's Art School since 1984, and was later restored in 1987 and converted into a museum*, in addition to its distinctive architecture.



The Pre-Occupation State of Khurshidbanu Natavan's House Converted into a Museum, available in open sources

During the visit, it was seen that the house was badly damaged, and only its walls remained. Officials who guided the visit explained that after the occupation of Shusha in 1992, hundreds of rare works of art in the museum were destroyed and that the museum was emptied.



After Khurshidbanu Natavan's house, the Yukhari Govhar Agha and Ashaghi Govhar Agha Mosques were visited. It was learned that the Ashaghi Govhar Agha Mosque was built in 1875 by the order of Govhar Agha, the daughter of Karabakh Khan Ibrahim Khalil and that the Yukhari Govhar Agha Mosque was built approximately 8 years later.

During the visit, it was observed that the Yukhari Govhar Agha Mosque was restored. It was stated by the officials that the Mosque was restored by Armenia but that since it was built differently from the original, new restoration activities are currently carried out by the Azerbaijani government.

On the other hand, when the Ashaghi Govhar Agha Mosque was visited, it was observed that, unlike the Yukhari Govhar Agha Mosque, the Mosque was badly damaged, that it was not possible to pray, and that there were scribbles on its walls, while the walls in its garden were destroyed.



Inside and Walls of the Ashaghi Govhar Mosque



Walls of the Ashaghi Govhar Mosque

During the field visit in Shusha, the house of another musician from Shusha, folk artist, tenor Murtuza Mammadov, also known as Bulbul, was also visited. This house was also converted into a museum.



Damaged bust of tenor Murtuza Mammadov



It was observed that the bust in the garden of the house was also shattered, and it was considered that it was remarkable that the busts of two important figures for Azerbaijan were targeted and attacked.

The delegation wished to visit churches as well, but it was seen that restoration activities are carried out by the Azerbaijani Government, so it was not possible to enter.



In the continuation of the field study, the place, where the Iskander-M ballistic missile fell during the 44-Day War, was visited, and the trench caused by the missile was observed. It was stated by the officials that it was a great chance that the missile did not explode as, otherwise, the city could suffer great damage.

In the research available in open sources, it is stated that parts of the Iskander-M ballistic missiles were found during mine and unexploded weapons search activities carried out by the Azerbaijan National Agency for Mine Action (ANAMA) in the city of Shusha and that it remains unclear who launched the 500-kilometre-range missiles capable of carrying nuclear warheads, the dissemination of which is prohibited by an international agreement, at the cultural centre of Azerbaijan from where.⁷ On the other hand, a high-ranking official in the Armenian army declared that Armenia used Iskander missiles against Azerbaijan in the 44-Day War.⁸ According to the former President of Armenia, Serzh Sargsyan, Armenia used the most advanced missiles in its arsenal to hit the Azerbaijani forces in Shusha at the end of the 44-day war, and Sargsyan stated that the Iskander missiles should be used earlier.⁹

⁷ <https://www.aa.com.tr/tr/analiz/azerbaycana-atilan-iskender-m-fuzelerinin-sorumlusu-kim/2207390>

⁸ <https://www.bloomberg.com/news/articles/2020-11-19/armenia-fired-iskander-missiles-in-azeri-war-ex-army-chief-says>

⁹ <https://armenian.usc.edu/serzh-sargsyan-armenia-fired-iskander-missiles-at-shushi/>

II. Aghdam

The province of Aghdam is the centre of the Aghdam region, located 362 km from Baku, 3 km from the banks of the Qarqarçay river, in the south-west of the Karabakh plain. The region has borders with Aghjabadi, Tartar, Barda, Kalbajar, Askeran, Martuni, and Fuzuli regions, and its area is 1,150 km². Aghdam region was established in 1930 and consists of 1 city as well as 2 settlements and 123 villages. Before the occupation, agriculture and industry were well-developed in Aghdam; in general, people were dealing with cotton farming, fruit and vegetable production, and animal husbandry. Aghdam was one of the places under the heaviest attack in the First Karabakh War. The attacks that started on 11 June 1993 ended with the occupation of Aghdam on 23 July. As a result of the military attack that lasted until 12 May 1994, they occupied 77.4% of the territory of the Aghdam region. Due to the occupation mentioned above, thousands of people from Aghdam had to leave their homes and migrate.¹⁰

Aghdam was liberated from the occupation of Armenia on 20 November 2020, and our delegation departed from Shusha to Aghdam on 17 September 2021 to conduct on-site examinations. Before coming to the city centre of Aghdam, the greenery, trees, and large agricultural lands on the route attracted attention. At the moment of entering the occupied region, the landscape changed sharply, and any greenery or trees were not encountered. On the other hand, houses with only some stones left along the route drew attention. The on-site examination visit in the province of Aghdam started with the observation of the minefields and mine clearance efforts. Our delegation was welcomed by ANAMA's staff working in the field and carrying out the mine clearance.

¹⁰ <https://www.virtualkarabakh.az/en/post-item/27/97/aghdam.html>



The width of the minefield and the old railway in the region were noticed. The officials stated that the mine map given by Armenia was not true, and that very few mines were in the location shown on the map. (The President

of Azerbaijan, Ilham Aliyev, also states in his interviews that only 25% of the relevant map is true.) Upon our question, it was stated by the officials that the railroad we saw lost its function after the occupation and that the rails were broken up by the Armenians and used in the minefield.

A mine was detonated and destroyed by the officials in order to show our delegation about the controlled destruction of a mine.



The damaged grave of Khurshidbanu Natavan

Following the observation of the minefield, the delegation visited the complex where the house and tomb of Panah Ali Khan, the Founder of the Karabakh Khanate, is located. In the same campus, it was seen that there are the graves of his son, Ibrahim Khalil Khan, and Khurshidbanu Natavan besides the grave of Panah Ali Khan. First of all, it was noticed that the graves were heavily damaged.

As mentioned before, within the framework of the find-

ings in Shusha, the poet Khurshidbanu Natavan has an important place in the social-political and cultural life and literature of Azerbaijan, and especially Karabakh, and it was observed that the grave belonging to the aforementioned person is the most damaged one. It was observed that the grave was excavated, and the officials stated that the grave of Natavan, who is of great importance in terms of their history and culture, was opened, and her bones were stolen, and they did not know

where the bones were. The officials also reported that pigs and sheep were fed in the graves, which is why it was difficult to even breathe due to the smell of animal droppings when they first came to the region after the liberation from the occupation, and they added that for this reason, they first cleaned the region.



The damaged tomb



When entering the palace of Panah Ali Khan, a door incompatible with the stones of the building was noticed, and it was found out that the relevant door was built later to keep the pigs and sheep fed inside. In addition to the special representative who provided information about the region, the members of the press following the visit also stated that when they visited the region, which was liberated from the occupation, right after it was liberated, it was not possible to approach the graves because of the smell, and that there were animal droppings everywhere. The special representative also informed us that pigs, which are considered haram in Islam, were kept in Panah Ali Khan's grave, and that therefore, they could not approach the grave because of the smell until they cleaned it themselves. They added that they cleaned the region quickly after it was liberated from the occupation and that the smell had dissipated recently.



Another remarkable historical artefact in the same region is the historical stones with inscriptions on them. It was observed that the mentioned stones were also attempted to be moved, but it was unsuccessful.

Photojournalist Reza Deghati, who has many international awards and is especially known for his work for National Geographic, posted photographs of the interior of Panah Ali Khan's palace before it was cleaned when it was first liberated from the occupation on his social media account.



The relevant photographs confirm the information given by the Azerbaijani officials and members of the local press that animals were kept in the Palace and in the tombs and that the relevant places were used as corrals.



Photographs taken from his social media account.

After our observations of Panah Ali Khan's palace and tomb, we went to the Bread Museum. It was noteworthy that there was not a single solid building on the route with destroyed houses and their remaining parts.





Aghdam Bread Museum has the title of the second bread museum in the world and was opened in 1983. It was learned that the museum, whose ruins were seen during the visit, hosted many hand tools as well as valuable books and manuscripts on rare grain types and grain farming but was targeted by a missile fired by Armenia in 1992.



Both photographs were taken from the social media account of photojournalist Reza Deghati



Finally, Juma and Giyasly Mosques were visited within the framework of the determinations to be made in Aghdam.

Juma Mosque is an old mosque that was completed in 1870. During our visit, it was observed that the minarets of the mosque were not damaged, but the interior of the mosque was severely damaged. Officials stated that animals were kept in this mosque during the occupation period.

Giyasly Mosque, which is 4 km away from the city centre of Aghdam, was built in the 19th century.

During the visit, it was seen that this historically important building was also highly damaged, and the traces of soot accumulation on its walls attracted attention. Officials pointed out that the mosque was used as a barn during the occupation period, that the Armenians set fire to the mosque when they were withdrawing from the region in 2020, and that the traces of soot accumulation on the stones were also formed in this fire.





III. Tartar

After the regions liberated from the occupation, the city of Tartar, which was under heavy attack during the 44-day war, was visited to conduct examinations. The difference of this visit from those in Shusha and Aghdam is that Tartar is not in the occupation region and is a province where there is a civilian settlement.

Tartar Rayon is a settlement located in the west of Azerbaijan, and Tartar province is the capital of the rayon. Our first observation when we arrived in the city within the scope of the on-site examination is that Tartar is a small and regular settlement. As the first stop of our visit, we went to the Governor's Office in the city centre and met with the head of Tartar Rayon Executive Power (Governor), Mustaqim Mammadov, who accompanied our delegation and conveyed information.

Governor Mammadov informed us that during the last 44-day war, Tartar was under heavy attack and that the Armenian Army attacked civilian settlements with missiles. He emphasised that the war should have been on the front, but Armenia targeted living areas including schools, houses, and public buildings, aiming to scare people. He noted that Tartar had a population of 115,000 of which 101,000 stayed in Tartar despite the attacks.





In addition, Mr Mammadov stated that a total of 16,277 missiles and mortars, including anti-tank, artillery, grad, and banned missiles, fell on civilian settlements, and that among the targeted civilian settlements, there are 16 schools, collective or detached houses where people live, and public institutions such as police and postal centres. He expressed that as a result of the attacks, a total of 16 civilians, including 1 child and 1 woman, lost their lives in Tartar, and that 4 people were at a funeral in the cemetery during the attack, while 4 people were injured in the same attack. He pointed out that 5,949 detached houses, 106 vehicles, 544 cattle, and crop fields of 648 citizens

were damaged, and these damages were covered by the State.

Within the framework of our delegation's observations, many shrapnel traces were noticed on the trunk of the tree just across the Governor's Office in the city centre and on a pole a few metres away from the tree. The fact that so



much shrapnel fell on the square in the most central part of the city, where the Governor's Office is located, is important in terms of the size of the attack and the threat to civilian life.

In addition, in the same square, it was seen that there is a panel prepared by the Governor's Office to display photographs of the damaged settlements and missiles fired showing traces of the war.





Right next to the panel, parts of the missiles launched at Tartar are exhibited, and it is important that the missiles are banned Smerch missiles.

Governor Mammadov stated that the other remains were sent to be exhibited in the Military Trophy Park in Baku.

After the observations made in the square where the Governor's Office is located, our vehicles left to visit the wreckage of a detached house, which is about 5 minutes away. The owner of the house also accompanied our delegation and explained that they lived with his family in the house that turned into a wreck we saw, that as soon as he left the house to feed his animals, a missile fell on his house, and that luckily, there was no one at home at that time, so there were no deaths.

He stated that the State built a new house for them because it had turned into the wreckage and that they were living in this new house. The governor added that they would not touch the mentioned wreckage and that it would be turned into a museum to be exhibited as a trace of the war. It was observed that there is still poultry near the wrecked house, and the fact that this civilian living area, which is only 5 minutes away from the city centre, was attacked by a missile is noteworthy in terms of attacking civilian settlements and using prohibited weapons.

While leaving the region, sites with multi-storey apartments were seen on the route, and it was learned that these buildings were also damaged in the attacks, but the damage was repaired by the State.

5. Findings in Terms of Human Rights

The findings and information, obtained as a result of the on-site examination carried out in the regions of Azerbaijan that were liberated from the occupation and in the city of Tartar which was under heavy attack during the 44-day War, revealed that violations of human rights and war crimes were committed from different perspectives.

1. Minefields

Landmines are divided into two as anti-personnel (AP) and anti-tank (AT) mines. These mines differ in shape, size, and the metal, plastic, or similar materials from which they are made. The technology to be used in mine detection is affected by the estimated depth, burial date, and type of the mine.¹¹

In his speech on the International Mine Awareness Day on 4 April 2021, the United Nations Secretary-General, António Guterres, stated that it is necessary to investigate, clear, and destroy these deadly devices, and that landmines are an obstacle to providing humanitarian aid and peaceful solutions. In the same speech, Guterres emphasised the negative impact of landmines on the vulnerable population, and he noted that landmines, explosive remnants of war, and handmade explosive devices disproportionately affect vulnerable, forcibly displaced, and homeless people and children.¹²

An article on “Mines, a Shame on Humanity” was published in the “Bilim ve Teknik [EN: Science and Technical] Journal” of the Scientific and Technological Research Council of Türkiye (TUBITAK). In the relevant article, it was stat-

¹¹

¹²

ed that mines are frightening due to their indiscriminate destruction since there is no difference between a soldier and a child for a mine and that the survivors of the explosion have to undergo serious surgeries, long hospital days, and a life to be lived with a lacking body. Also, a child who steps on a mine has very little chance of survival because of their small bodies. In addition, the article states that mines continue to be a threat even if there is a ceasefire, even after years, and that forest areas, grasslands, and agricultural areas that are not used because they are mined are a great loss for the economy. It is emphasised that it takes more than a hundred hours to detect and remove a mine and that one of the biggest problems encountered in mine clearance is to find the mined area.

During the First World War, the first anti-tank (AT) mines were developed as a result of the use of tanks, but these mines could be located and removed to be reused against the party that placed them first; therefore, anti-personnel (AP) mines were developed. The article includes information that anti-personnel mines are designed to injure or kill people.¹³

International humanitarian law, which is based on the 1949 Geneva Conventions and their Additional Protocols of 1977, aims to protect civilians who are not a party to any conflict or war in an environment of all kinds of armed conflicts and similar hot tensions. In this context, the 1st Protocol on the Protection of Victims of International Armed Conflicts, additional to the 1949 Geneva Conventions, prohibited indiscriminate attacks and the use of weapons, bullets, materials, and methods of warfare that will cause undue serious injury or unnecessary suffering. As mentioned above, mines are classified as prohibited weapons under international humanitarian law since they do not discriminate and cause serious injuries even if they do not kill.

The United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects was adopted in 1980 with the aim of prohibiting or restricting forms of weapons that are indiscriminate and cause unnecessary suffering, including mines, and it entered into force on 2 December 1983 for ratifying States. The Convention, also known as the “Convention on Certain Conventional Weapons” (CCW), has been signed by 125 countries so far. The 2nd Protocol on the Prohibitions or Restrictions on the Use of Mines, Booby-Traps, and Other Devices, Additional to the Convention, was revised in 1996. With the Revised Additional 2nd Protocol, “It is prohibited in all circumstances to use any mine, booby-trap or other device

¹³ <https://e-dergi.tubitak.gov.tr/edergi/yazi.pdf?sessionid=SGIymZfWEVZxxBj-4fFSHP4P?dergiKodu=4&cilt=33&sayi=389&sayfa=60&yaziid=12060>



which is designed or of a nature to cause superfluous injury or unnecessary suffering.” According to the regulations under this Protocol, each State Party or party to the conflict is responsible for all mines laid by it and undertakes to clear, remove, destroy, or preserve them; all information concerning minefields, mined areas, mines, booby-traps, and other devices shall be recorded in accordance with the provisions of the technical annex, and all such records will be retained by the parties to a conflict, who shall, without delay after the cessation of active hostilities, take all necessary and appropriate measures, including the use of such information, to protect civilians from the effects of minefields, mined areas, mines, booby-traps, and other devices in areas under their control; in the event that the parties withdraw from the other’s territory, the retained information shall be disclosed as soon as security interests permit.

However, with the aforementioned Convention, the parties could not reach a consensus on the complete prohibition of anti-personnel landmines. In conclusion, as a result of the prohibition campaign implemented due to the aforementioned dangers of landmines, the “Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction” (Ottawa Convention), also known as the “Mine Ban Convention”, entered into force on 1 March 1999. It is the convention, to which 164 countries are parties, on the prohibition of the use, stockpiling, production, and transfer and on the destruction of anti-personnel mines against the growing mine problem in the world. Under the Convention, each State Party is required to make its best efforts to identify all areas under its jurisdiction or mandate that are known or suspected to have been laid anti-personnel mines. Although Azerbaijan and Armenia are not parties to the Convention, to which a total of 164 countries are parties, the Convention is important within the framework of the combat of the world countries against mines.

The International Committee of the Red Cross (ICRC), an independent and impartial humanitarian organisation whose mandate is defined in the 1949 Geneva Conventions, plays a leading role in the development of regulations on the use of certain weapons. A study on “Customary International Humanitarian Law” was conducted by the ICRC, and a List of Customary Rules of International Humanitarian Law consisting of 161 articles was prepared.¹⁴ To this extent, Rule 82 states that a party to the conflict using landmines must record their placement, as far as possible, and Rule 83 states that at the end of active hostilities, a party to the conflict which has used landmines must

¹⁴ <https://www.icrc.org/en/doc/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>



remove or otherwise render them harmless to civilians, or facilitate their removal.

The opinions and attitudes of the international community towards mines, and thus their non-use and clearance, are clearly visible through campaigns, decisions taken, and statements. The Parliamentary Assembly of the Council of Europe recognised the use of mines as a violation of international humanitarian law.¹⁵ In the publication on Customary Rules of International Humanitarian Law, prepared by the International Committee of the Red Cross, it was stated that “[a] large number of UN Security Council and UN General Assembly resolutions have been adopted ... deploring the danger to civilians of mines remaining on or in the ground and specifying the need to ensure their removal; it is no longer permissible for a party to a conflict to simply abandon mines they have laid; [m]ilitary manuals and the various UN resolutions refer to removal by the mine-layer, or the requirement to aid third parties, including international bodies, to undertake such removal through the provision of information or other appropriate resources.”

The information and findings we obtained as part of our visit for an on-site examination explain the above-mentioned concerns and attitudes about why mines should be banned and why minefields should be cleared. In his presentation to our delegation in Baku, the President of the Board of Azerbaijan National Agency for Mine Action (ANAMA), Mr Vugar Suleymanov, expressed that there are mined areas in Aghdam, Fuzuli, Jabrayil, Qubadli, Zangilan, Kalbajar, and Lachin and that ANAMA cleared 5,100 hectares of land by finding and destroying 24,782 mines and unexploded ordnance, while the Ministry of Defence and the Ministry of Emergency Situations also carry out mine clearance activities.

He added that 44,406 mines and unexploded ordnance were found and destroyed. He also reported that **20 civilians have died, while 41 people have been injured as of September 2021**, and that one of those who lost their lives was a woman, and one of those who were injured was a child. It was found out that among the aforementioned civilians, **there were 2 journalists who lost their lives after their vehicles passed over a mine while working in the Kalbajar region**, which was liberated from the Armenian occupation.

In addition to the statements of the officials, as a result of our on-site examination, we observed that the reconstruction works of the settlements were quickly started in the areas liberated from the occupation. However, it is not possible to start the construction of highways and railways or start any set-

¹⁵ <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=7822&lang=en>



tlements in the region before the minefields are cleared and the region is made safe. Mines threaten not only human life but also the life of all living things. It is not possible for internally displaced people (IDPs) to return to their homes. In addition, mines do not allow agriculture and animal husbandry, which is an important economic activity in Karabakh.

Within the framework of the aforementioned issues, it is a requirement of human rights for Armenia to give mine maps to Azerbaijan in order to clear immediately the areas where Armenia laid mines during the occupation period, which indiscriminately threaten the lives of civilians, hinder the reconstruction activities of the city, do not allow agriculture and animal husbandry, and as a result of all of them, do not allow internally displaced people (IDPs) to return to their homes they had to leave.

II. Personal Property in Occupied Territories

One of the most striking findings regarding internally displaced people (IDPs) within the framework of our on-site examination is that all of the houses left behind by these people were demolished, both in Aghdam, in Fuzuli, and in the villages on the route we followed, and we did not encounter even a single solid house. First of all, it was noticed that the structures of the houses in the region were similar to each other and that they were all made of stone. However, despite the fact that the houses were destroyed, there were no stones in the surroundings, and there was no furniture left in the houses. In this context, the information given by the guides accompanying the delegation that the stones and items were sold by the occupiers during the occupation period is consistent. However, in the Hague Convention of 1899 and 1907, damage to, seizure and looting of the enemy property was prohibited, with the exception of the obligations arising from the war. Section III of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War is about "Occupied Territories", and Article 53 prohibits any destruction by the occupying power of real or personal property belonging to private persons or public, except where such destruction is rendered absolutely necessary by military operations.

Article 52 of the 1st Protocol on the Protection of Victims of International Armed Conflicts, Additional to the Geneva Conventions of 2 August 1949, is on the "General protection of civilian objects", and all objects that are not military objectives are defined as civilian objects, and such objects are prohibited to be the object of attack or of reprisals.



In Article 17 of the UN Universal Declaration of Human Rights, the right to property is regulated as “Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.”

On the other hand, in 1998, the then special representative of the UN Secretary-General on the Human Rights of Internally Displaced People, Dr Francis Deng prepared the UN Guiding Principles on Internal Displacement to provide protection to internally displaced people on the basis of international humanitarian law and human rights treaties. It is emphasised in the document that these principles “should be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.” Principle 21 regulates that “[n]o one shall be arbitrarily deprived of property and possessions; [t]he property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts: (a) pillage, (b) direct or indiscriminate attacks or other acts or violence, ... and (e) being destroyed or appropriated as a form of collective punishment; [p]roperty and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation, or use.” Within the framework of the aforementioned issues, it was determined that the principles of international humanitarian law were violated through the destruction of the properties belonging to the civilians forced to migrate into the settlements, including villages, and the appropriation of their belongings during the occupation.

III. Historical Artefacts and Cultural Assets

The protection of cultural assets is a matter of human rights. Therefore, damaging cultural assets is also a violation of human rights.

As regulated in the UN Universal Declaration of Human Rights, “Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.” In the International Covenant on Economic, Social and Cultural Rights, it is regulated that necessary measures should be taken for the protection and development of science and culture.

Although the definition of cultural property was first made in the Hague Convention of 1954 (UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict), there are also many regulations on the pro-



tection of cultural property in times of war. In the Hague Conventions of 1899 and 1907, it was stated that in conflicts, it is necessary to protect buildings and historical artefacts belonging to worship, fine arts, sciences, and charitable purposes, and it was regulated that the properties belonging to the buildings mentioned, even if they belong to the State, should be treated as private property; all kinds of seizure, destruction, and damage of similar institutions, historical works of art, and buildings dedicated to science were forbidden.

It is seen that there are general regulations on the subject in Additional Protocols No. I and II of 1977 to the Geneva Conventions of 1949, which ensure the evolution of the rules of conflict from the law of war to humanitarian law. Article 53 of the Additional Protocol No. I of 1977 is about the “protection of cultural objects and of places of worship”, and it is prohibited to commit any acts of hostility directed against the historic monuments, works of art, or places of worship which constitute the cultural or spiritual heritage of peoples, to use such objects in support of the military effort, and to make such objects the object of reprisals. Article 85 of the same protocol states that causing destruction to historical monuments, works of art, and places of worship will be considered a serious war crime.

In Article 16 of the Additional Protocol No. II, it is prohibited to commit any acts of hostility directed against historic monuments, works of art, or places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort, without prejudice to the provisions of the Hague Convention of 1954.

The definition of cultural property was made in the first article of the Hague Convention of 1954, and accordingly, the cultural property shall cover:

- a) *Movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;*
- b) *Buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);*

- c) *centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as “centres containing monuments”.*

With the aforementioned Convention, it is regulated that cultural properties should be protected, including during the war period and occupation and that the said properties should be respected. In this context, theft, looting, or smuggling of cultural assets in any way, and any acts of destruction against them are prohibited. Armenia and Azerbaijan have also been parties to the Convention since 1993. In order to strengthen the Convention, the Additional 2nd Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict was prepared in 1999 and entered into force in 2004.

Article 9 of the Additional Protocol is about the Protection of Cultural Property in Occupied Territory, and “any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical, or scientific evidence” are among the prohibited issues. In addition, it is stated that the individual criminal responsibility arising from the national and international law of people who commit serious violations of the Protocol cannot be eliminated.

Article 38 of the Customary Rules of International Humanitarian Law published by ICRC is about cultural property, and it states that special care must be taken in military operations to avoid damage to buildings dedicated to religion, art, science, education, or charitable purposes and historic monuments unless they are military objectives.

In the same article, it is stated that the Statute of the International Criminal Court insists that deliberate attacks on the buildings and historical monuments in question, unless they are military targets, constitute a war crime in international and non-international armed conflicts. It was added that attacks on such property were condemned by States, the UN, and other international organisations, as in the conflicts in Afghanistan and Korea, between Iran and Iraq, in the Middle East and the Former Yugoslavia. As stated in the aforementioned rule, the Rome Statute of the International Criminal Court considers it a war crime to deliberately attack buildings used for religious, educational, artistic, scientific, or charity purposes, historical monuments, hospitals, and places where the sick and wounded gather, provided that they are not for military purposes. Therefore, the Court has jurisdiction over these crimes.

In the 2001 UNESCO Universal Declaration on Cultural Diversity, it is stated that the defence of cultural diversity is an ethical imperative, inseparable



from respect for human dignity and that cultural rights are an integral part of human rights, which are universal, indivisible, and interdependent.

As a result of the observations we obtained in our on-site examination within the framework of all the mentioned international legal regulations, it is quite obviously revealed that Armenia violated the principles of international humanitarian law and committed war crimes.

First of all, in the determinations made in Aghdam, it was observed that the city was completely destroyed as a result of the attacks it was exposed to during the 1st Karabakh War, and that cultural properties were included in this. To make determinations regarding cultural properties, our delegation visited respectively the complex where Panah Ali Khan's house and tomb are located, Bread Museum, Juma and Giyasly Mosques.

As detailed information is provided in the chapter on field visits, it was personally observed that the complex, where the house and tomb of Panah Ali Khan are located, was severely damaged, and that the graves of his son, Ibrahim Khalil Khan, and Khurshidbanu Natavan, as well as the grave of Panah Ali Khan, were greatly damaged. It was also seen that the grave of Khurshidbanu Natavan was excavated to remove her bones, that the whereabouts of the bones are still unknown, and that a door was later built in the palace of Panah Ali Khan. The damage to the grave of Khurshidbanu Natavan and the theft of her bones are also noteworthy due to the fact that she has an important place in the social-political, cultural life and literature of Azerbaijan, especially Karabakh.

The damage to the Juma and Giyasly Mosques and the damage to the Bread Museum, the world's second bread museum, which was targeted by a missile launched by Armenia in 1992, were sadly observed.

As a result of the OSCE Minsk Group's on-site examination of the occupied territories of Azerbaijan in 2010, it was recommended that necessary measures should be taken to protect cemeteries and places of worship¹⁶. On the other hand, both the principle of protection of cultural property and the principle of respect for the cultural property were violated due to the fact that both the palace of Panah Ali Khan and the Juma and Giyasly Mosques were used as barns, and therefore, animals including pigs, which are forbidden in Islam, are fed, and that a door is built inside in order to use the historical building as a barn. (Photographs of animals fed in the Mosque, which is a

¹⁶ Executive Summary of the "Report of the OSCE Minsk Group Co-Chairs' Field Assessment Mission to the Occupied Territories of Azerbaijan Surrounding Nagorno-Karabakh" <https://www.osce.org/files/f/1/document-s/77/d/76209.pdf>

place of worship, as well as buildings of historical and cultural importance, were shared in the relevant chapter.)

Within the scope of the principles of international humanitarian law, the traces of the fire inside the mosque have special importance, specifically in the Gıyasly Mosque. In fact, before the occupation forces withdrew, the mosque was set on fire in 2020 to start a fire.

History expert lecturer Associate Prof. Yüksel ÖZGEN, who had the opportunity to visit Aghdam on site after it was liberated from the occupation, also shared his personal impressions and determinations with us in the meeting held with him. In this context, Mr Özgen stated that as soon as they entered the region, the suddenly changing vegetation first attracted their attention and that despite the fertile lands of the region, they could not see any trees other than pomegranate trees. He shared his observations that even the water had receded and that he saw only the trunk of a plane tree remained, and he expressed that he learned that a chemical substance was poured at the bottom of the tree and that its root was dried. He pointed out that plane trees are monumental trees, that they have historical importance, and that in this respect, he finds it important to dry the plane tree. Mr Özgen, on the other hand, stated that they could not see any trace of civilian life in the settlement of Aghdam, that all the houses where the people lived in Aghdam, which had a population of around 30,000 before the occupation, were destroyed, and that only the foundation stones remained, but the destroyed stones were not found. He expressed that they learned from the officials that the stones in question and the belongings in the houses were sold and that this does not seem to be a behaviour of a society planning to settle in the region.

Mr Özgen noted that they examined the ruins of the Juma and Gıyasly City Mosques, tombs, and the bread museum in Aghdam and that he saw that the Juma Mosque was not damaged structurally, but the Gıyasly City Mosque was completely destroyed. He pointed out that there were traces of fire in the ruins, that the tombs were also damaged since, as they learned, the tombs were used as animal shelters, and that they came across tombstones with Ottoman inscriptions on the same area as the tombs, but even the officials were not aware of these damaged tombstones, so they had to show them. He emphasised that tombstones are of great value in terms of historical and demographic research, and therefore, neither tombs nor tombstones should be damaged.

The aforementioned findings reveal that Armenians did not protect cultural property during the occupation but also deliberately damaged and disrespected the property in question, thus clearly violating international hu-



manitarian law. The difference between Shusha and Aghdam in terms of our observations is that Shusha was not attacked much due to its location, but the cultural properties were damaged due to neglect, and their walls were destroyed by writing inscriptions on them, and all the artefacts/items inside the palace of Khurshidbanu Natavan, which has been converted into a museum, were emptied. It was observed that the Ashaghi Govhar Mosque, which was visited, was damaged to such an extent that it would not allow worship. On the other hand, within the framework of our study, it was found that the bust of the musician from Shusha, folk artist, tenor Murtuza Mammadov, also known as Bulbul, who is of cultural importance for Shusha, was destroyed in the garden of his house, which was converted into a museum. It was also seen that there is a bust of Uzeyir Hajibeyov, the composer of the Azerbaijani national anthem, in the governor's garden, but the bust was the target of many bullets. It is noteworthy that the busts of two people, which are culturally important to the Azerbaijani people, were attacked and destroyed. Targeting the head of a person's statue with bullets and other weapons is perceived as a sign of hatred. Therefore, as a result of our observations in Shusha, it was found that no measures were taken by Armenia to protect cultural property, but on the contrary, some of the cultural property was deliberately damaged. It was determined that Khurshidbanu Natavan's palace, which has been converted into a museum, was looted and that the works in it were destroyed, which is a clear violation of international humanitarian law.

IV. Destruction of Nature

As mentioned before, Karabakh has rich vegetation and water resources. In fact, with its natural beauty, it has taken place in literary works with the analogy of "heaven", and it has hosted many festivals.

During the field visit, green fields and various fruit trees were seen in the unoccupied areas during the transportation provided by vehicles, but it was observed that the vegetation changed sharply and that the soil became barren when entering the occupied region. No trees other than pomegranate trees were encountered in Aghdam.

Also, in the report on the on-site examination visit carried out by the OSCE to the occupied region in 2005, it was stated that in the city of Kalbajar, the delegation saw trucks transporting large logs removed from the forests in the region and that in another case, the delegation noticed a second different truck carrying wood from younger trees.¹⁷

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Satellite images were used in the report prepared by the Space Agency of the Republic of Azerbaijan (Azercosmos) and the Ministry of Foreign Affairs of Azerbaijan in 2019, which aims to reveal illegal activities in the territories occupied by Armenia. In the report in question, it was stated that the mentioned activities cause serious environmental concerns and that the forests in the occupied region were cut for timber for export, even though many tree species are in danger of extinction. The relevant report also mentioned that intensive mining activity causes too much waste and that harmful leaks of wastes damage the ecosystem. These findings were concretely demonstrated by the images taken from the satellite.¹⁸

International humanitarian law also requires the protection of the environment. Article 35 of the Additional 1st Protocol to the Geneva Conventions of 1949 prohibits to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term, and severe damage to the natural environment, whereas Article 55 also prohibits to attack against the natural environment by way of reprisals. In 1994, with the encouragement of the UN General Assembly and the assistance of relevant experts, ICRC prepared guidelines on the protection of the natural environment in armed conflict.¹⁹

On the other hand, the damage to nature brings the right to the environment to the agenda. The right to the environment is a human right, and it took place concretely in the Stockholm Declaration published in the United Nations Conference on the Environment in 1972 for the first time in this field. The declaration includes the principles that people have the fundamental right to freedom, equality, and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and they bear a solemn responsibility to protect and improve the environment for present and future generations; that the natural resources and especially representative samples of natural ecosystems must be safeguarded for the benefit of present and future generations through management as appropriate; that States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.

The first principle of the Rio Declaration, which was adopted in 1992, 20 years after the Stockholm Declaration, regulates that human beings are entitled to a healthy and productive life in harmony with nature, so the right to

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¹⁹ https://www.icrc.org/en/download/file/141079/guidelines_on_the_protection_of_the_natural_environment_in_armed_conflict_advance-copy.pdf



life, which is a fundamental human right, and the right to the environment are discussed together. Likewise, in the Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, it was recognised that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself.

The Stockholm and Rio Declarations are diplomatic conference declarations and are not officially binding. However, both Declarations have principles that reflect traditional international law and take a strong people-oriented approach²⁰. The Stockholm Declaration is seen as the foundation of international environmental law.

Within the framework of the aforementioned issues, Armenia violated the principles of international humanitarian law and human rights under environmental law, with the damage it caused to nature in the lands it occupied.

V. Attack on Civilian Settlement

Tartar, which was under heavy attack during the Second Karabakh War that lasted for 44 days, is a province where there is a civilian settlement. During our field visit to Tartar, firstly, we saw numerous shrapnel traces on the trunk of the tree opposite the Governor's Office, located in the most central square of the city, and on a pole a few metres away from the tree. Afterwards, we visited the wreckage of a detached house, which was located approximately 5 minutes away from the aforementioned square (therefore, at a location in the city centre) and on which missiles fell during the attacks. In the interview with the owner of the house, it was learned that there was no loss of life as there was no one in the house by chance. Officials stated that a total of 16,277 missiles and mortars, including anti-tank, artillery, grad, and banned missiles, fell on civilian settlements, and that among the targeted civilian settlements, there are 16 schools, collective or detached houses where people live, and public institutions such as police and postal centres. They expressed that as a result of the attacks, a total of 16 civilians, including 1 child and 1 woman, lost their lives in Tartar, and that 4 people were at a funeral in the cemetery during the attack, while 4 people were injured in the same attack. They pointed out that 5,949 detached houses, 106 vehicles, 544 cattle, and crop fields of 648 citizens were damaged. The extent of the attacks can be seen in the photographs displayed on the billboards in the city centre. These photographs show missiles falling on schools, even inside

²⁰ <https://legal.un.org/avl/ha/dunche/dunche.html>

classrooms, vehicles, and dining tables inside private property. Parts of the missiles are also exhibited in the same square.

The targeted killing of civilians is primarily a violation of the “Right to Life” regulated in Article 2 of the European Convention on Human Rights, which is the most fundamental of all rights and *cannot be violated even in times of war and other extraordinary situations that threaten the existence of the nation*. As a matter of fact, the mentioned article regulates that “Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.” On the other hand, the child’s right to life and development is regulated in Article 6 of the United Nations Convention on the Rights of the Child, and accordingly, “States Parties recognise that every child has the inherent right to life; States Parties shall ensure to the maximum extent possible the survival and development of the child.” However, the armed forces of Armenia targeted the living spaces of civilians, causing the death of one child and thus violating the child’s right to life.

In addition, the fact that schools are among the targets clearly puts children’s right to life at great risk and also violates their right to education by preventing children from going to school.

International Humanitarian Law aims to protect civilians in times of war. The following provisions were regulated in the 1st Protocol on the Protection of Victims of International Armed Conflicts, Additional to the 1949 Geneva Conventions:

- ◉ In Article 35:
 - *“1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.*
 - *It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.*
 - *It is prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term, and severe damage to the natural environment.”*
- ◉ In Article 48:
 - *“In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants*



and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.”

⊙ In the second paragraph of Article 52:

- *“Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”*

On the other hand, according to Article 85 of the same Protocol, grave breaches of the Protocol include making the civilian population or individual civilians the object of attack and launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects.

As another important regulation in terms of International Humanitarian Law, War Crimes are defined in Article 8 of the Rome Statute of the International Criminal Court (ICC). Accordingly, war crimes include *“intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities; intentionally directing attacks against civilian objects, that is, objects which are not military objectives; attacking or bombarding, by whatever means, towns, villages, dwellings, or buildings which are undefended and which are not military objectives; employing weapons, projectiles, and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles, and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123.”*

Both the Geneva Conventions and the Rome Statute of the ICC stipulate the protection of civilians, civilian property, and towns, villages, and settlements that do not constitute military objectives. The fact that Armenia targeted civilians and civil buildings and caused civil losses is a grave violation of the 1st Protocol (1977) Additional to the Geneva Conventions (1949) and is also a war crime in accordance with Article 8(b) of the Rome Statute of the ICC. On the other hand, civilian casualties were caused by attacks with ballistic missiles and heavy artillery, which is an obvious war crime due to the characteristics of these weapons and the damage they have caused/may cause.

6. Conclusion

Nagorno-Karabakh is an Autonomous Oblast within the borders of the Republic of Azerbaijan. Nagorno-Karabakh and its surrounding 7 rayons (districts) were occupied by Armenia for nearly 30 years, contrary to international law. OSCE Minsk Group was established in 1992 in order to end the conflicts in the region and create a peaceful solution, but their efforts proved fruitless. On the other hand, the efforts of the Minsk Group were the basis for the UN Security Council resolutions, and 4 resolutions numbered 822, 853, 874, and 884, were published by the Council in 1993. In the aforementioned resolutions of the UN Security Council, it was requested that Armenia should withdraw from the occupied Azerbaijani territories. In the resolution numbered 62/243 adopted in the General Assembly of the UN on 14 March 2008, referring to the mentioned 4 resolutions of the UN Security Council, a call was made for the “complete, immediate, and unconditional” withdrawal of the Armenian forces from the territory of Azerbaijan. These international efforts were insufficient, and conflicts continued in the region. After the conflicts between the two countries, which took place on 2-5 April 2016 and ended with the mediation of Russia, known as the “4-Day War”, in which both sides suffered losses, the most severe conflict started again with the attack of Armenia on 27 September 2020. The Second Karabakh War, also known as the 44-Day War, ended with the tripartite statement signed on 10 November 2020 between Russia, Azerbaijan, and Armenia. As a result of the conflicts, around 290 settlements were liberated from the occupation of Armenia.

Nagorno-Karabakh Autonomous Oblast is a part of Azerbaijan within the framework of international law. Therefore, according to Article 51 of the Charter of the United Nations, *(Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack oc-*



curs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security), Azerbaijan has the right to legally defend itself against the attacks launched by Armenia on 27 September 2020.

During the Second Karabakh War, which is known as the 44-Day War, attacks were made on civilian settlements far away from the conflict zone by Armenia, and prohibited weapons were used in these attacks.

Schools, hospitals, places of worship, public buildings, as well as private properties inhabited by civilians, were also the target of attacks, and many civilians, including women, children, and the elderly, lost their lives. During the field visit, which is the subject of the report, Tartar, one of the civilian settlements that was under heavy attack during the 44-Day War, was also visited to observe the traces of the war in the city centre, the bombed private properties belonging to civilians, and the remains of banned missiles. In the mentioned attacks, a total of 16 civilians, including a child and a woman, lost their lives in Tartar. Tartar is only one of the civilian settlements subject to attacks by Armenia. A total of 94 civilians lost their lives in the attacks carried out by Armenia, while 414 civilians were injured.

International Humanitarian Law aims to protect civilians and prohibits activities that may cause harm to civilians. In these attacks, Armenia disregarded International Humanitarian Law by directly targeting civilians and civilian structures without distinguishing between civilian property and military objectives, using disproportionate weapons, and as a result, causing the death of many civilians. It clearly committed war crimes within the framework of the 1949 Geneva Conventions, their Additional Protocols of 1977, and the Rome Statute of the ICC. The perpetrators of this crime must be prosecuted.

On the other hand, damage to nature, vegetation, therefore the environment, and cultural and historical artefacts was also observed during the on-site examination. Cultural and historical artefacts, including tombs, palaces, museums, and mosques, were either the target of conflicts, damaged by neglect during the occupation, or deliberately attacked. The use of mosques, which are places of worship for Muslims, as corrals, and the sheltering of animals, including pigs, which are forbidden in Islam, are also noteworthy. The vegetation in the occupied region has almost disappeared, and only a few trees have remained. However, neither nature nor cultural and historical artefacts belong to a single nation; on the contrary, they belong to all humanity. For this reason, both nature and cultural and historical artefacts have been protected by international conventions and have been subject to international humanitarian law. The aforementioned damages inflicted by Armenia in the



occupied territories disregard international conventions and principles of international humanitarian law, and they violate human rights.

Another important finding of the on-site examination visit is related to the minefields. The distinctive aspect of our findings regarding the minefields, which have caused the death of many civilians and are the biggest obstacle to the return of the displaced people to their homes and the start of economic activities in the region, is that it is possible to prevent further loss of life and damage in this regard. This can only be achieved if Armenia provides the maps of the mined lands to Azerbaijan. Otherwise, as stated in the relevant chapter, the clearing of such large and scattered mined lands will continue to risk the lives of all living things and will take many years. In this regard, it is imperative that the international community, institutions, organisations, and all human rights defenders put pressure on Armenia.

