

Destruction and desecration of Azerbaijani historical and cultural heritage resulting from the continuing aggression of the Republic of Armenia against the Republic of Azerbaijan

I. Essential facts

1. It is well known that at the end of 1987 Armenia overtly laid claim to the territory of the Nagorno-Karabakh region of Azerbaijan; that a number of illegal decisions were taken by both Armenia and the Armenian community of the Nagorno-Karabakh region with a view to securing the unilateral secession of this region from Azerbaijan; that shortly after the assertion of claims on the Nagorno-Karabakh region, under instructions from and with the blessing of the Armenian authorities, about 230,000 Azerbaijanis were forcibly deported from their homes in Armenia; that the process of deportation was accompanied by killings, torture, the destruction of property and pillaging throughout Armenia; that these acts were conducted on a widespread and systematic basis; and that, in all, 216 Azerbaijanis were killed in Armenia in 1987-1989, including children, women and elderly people.
2. Shortly after the Soviet Union ceased to exist at the end of 1991 and both Armenia and Azerbaijan were accorded international recognition, armed hostilities and Armenian attacks against areas within Azerbaijan intensified. Armenia unleashed the war, used force against Azerbaijan and occupied its territories, including the Nagorno-Karabakh region and seven adjacent districts, carried out ethnic cleansing of the seized areas by expelling about one million Azerbaijanis from their places of origin, committed other serious crimes during the conflict and established the ethnically constructed subordinate separatist entity on the occupied Azerbaijani territory.
3. The international community has consistently deplored and condemned the use of military force against Azerbaijan and the resulting occupation of its territories. In 1993, the United Nations Security Council adopted resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), condemning the use of force against Azerbaijan and occupation of its territories and reaffirming the sovereignty and territorial integrity of Azerbaijan and the inviolability of its internationally recognized borders. In those resolutions, the Security Council reaffirmed that the Nagorno-Karabakh region is part of Azerbaijan and demanded immediate, complete and unconditional withdrawal of the occupying forces from all the occupied territories of Azerbaijan.¹ The United Nations General Assembly adopted three resolutions on the conflict (48/114 of 20 December 1993, 60/285 of 7 September 2006 and 62/243 of 14 March

¹ See *Repertoire of the Practice of the Security Council*, Chapter VIII, Consideration of questions under the responsibility of the Security Council for the maintenance of international peace and security, Agenda Items in 1993-1995, Part 19, Items relating to the situation between Armenia and Azerbaijan, <http://www.un.org/en/sc/repertoire/93-95/Chapter%208/EUROPE/93-95_8-19-ARMENIA%20AND%20AZERBAIJAN.pdf>.

2008) and included the special item entitled “The situation in the occupied territories of Azerbaijan” in the agenda of its regular sessions. Other international organizations have adopted a similar position.

4. In its resolution 62/243 of 14 March 2008, the UN General Assembly reaffirmed continued respect and support for the sovereignty and territorial integrity of Azerbaijan within its internationally recognized borders, demanded the immediate, complete and unconditional withdrawal of all Armenian forces from all the occupied territories of Azerbaijan, reaffirmed the inalienable right of the Azerbaijani population expelled from the occupied territories to return to their homes, and stressed the necessity of creating appropriate conditions for this return, including the comprehensive rehabilitation of the conflict affected territories.
5. The documents of international organizations also make explicit reference to serious violations of international humanitarian and human rights law during the conflict. Thus, in its aforementioned resolutions, the UN Security Council condemned the attacks on civilians and bombardments of inhabited areas within Azerbaijan and expressed grave concern at the displacement of a large number of civilians in Azerbaijan. In its resolution 48/114 of 20 December 1993, the UN General Assembly noted with alarm “that the number of refugees and displaced persons in Azerbaijan has ... exceeded one million”. In its resolution 1416 (2005) of 25 January 2005, the Parliamentary Assembly of the Council of Europe, of which both Armenia and Azerbaijan are members, noted particularly that large-scale ethnic expulsion of the Azerbaijani civilian population and the creation of mono-ethnic areas resemble the terrible concept of ethnic cleansing. The European Court of Human Rights later arrived at an important conclusion qualifying the offences of the invading Armenian troops against Azerbaijani civilians as acts of particular gravity that amount to war crimes or crimes against humanity.²
6. The illegality of the separatist entity, established by Armenia on the occupied territory of Azerbaijan, has been repeatedly stated at the international level. This entity is denied any international recognition; it is under Armenia’s direction and control.
7. In flagrant violation of the generally accepted norms and principles of international law and in total disregard of the demands contained in the above-mentioned UN Security Council and General Assembly resolutions and decisions of other international organizations, Armenia continues to occupy almost one fifth of the territory of Azerbaijan, including the Nagorno-Karabakh region and seven adjacent districts.

² Judgment of the European Court of Human Rights of 22 April 2010, Application no. 40984/07, para. 87.

8. Having succeeded in realizing its territorial claims militarily, Armenia spares no effort to consolidate the results of the unlawful use of force and politically promote its annexationist aspirations. To this end, Armenia undertakes measures to illegally change the demographic, cultural and physical character of the occupied territories of Azerbaijan, thus gravely violating the relevant resolutions of the United Nations, the Geneva Conventions of 1949 and other applicable norms and principles of international humanitarian law. Over the period passed since the beginning of the conflict, tens of thousands settlers have moved to the occupied areas depopulated of their Azerbaijani inhabitants. Illegal activities in the occupied territories of Azerbaijan include also exploitation, plunder and illicit trade of assets, natural resources and other forms of wealth, permanent infrastructure development, extensive exploitation of agricultural and water resources, timber exporting, archaeological excavations, embezzlement of artifacts etc.
9. Following the OSCE-led fact-finding and field assessment missions in the occupied territories of Azerbaijan in 2005 and 2010, the Co-chairs of the OSCE Minsk Group, which is mandated to provide an ongoing forum for negotiations towards a peaceful settlement of the conflict, urged the Armenian side to refrain from actions that would change the demographic, social, or cultural character of those territories and would make it impossible to reverse the *status quo* and achieve a peaceful settlement. However, the missions' recommendations remained on paper.³
10. Moreover, the reports on increase and expansion of illegal activities in the occupied territories of Azerbaijan provide yet more evidence of Armenia's deliberate policy aimed at colonization of Azerbaijani lands. These illegal activities represent serious obstacles to the negotiated settlement of the conflict, the core elements of which are the liberation of the occupied territories of Azerbaijan and the realization by the forcibly displaced people of their inalienable right to return.

II. Interference in the cultural environment of the occupied territories of the Republic of Azerbaijan

11. Azerbaijan is one of the areas of earliest human settlement with a rich historical past and diverse cultural legacy. Different rock drawings, architectural monuments, samples of arts and crafts, as well as a great number of artifacts unearthed as a result of archaeological excavations testify to the country's distant past and its vast cultural heritage. The occupation of the territories of Azerbaijan has also had catastrophic

³ See UN Docs. A/59/747-S/2005/187, annex II, and A/65/801-S/2011/208, annex.

consequences for the country's cultural heritage both in the occupied territories and in Armenia.⁴

12. The occupation of the Nagorno-Karabakh region and seven adjacent districts of Azerbaijan (Kalbajar, Lachyn, Gubadly, Zangilan, Jabrayil, Fuzuli and Aghdam), as well as seven villages in the district of Gazakh and the village of Karki in Nakhchyvan, which are beyond the Nagorno-Karabakh region and situated on the border with Armenia, with 1,891 cultural resources, comprising 738 monuments, 28 museums with more than 83,500 exhibits, 4 picture galleries, 14 memorial complexes and 1,107 cultural establishments, led to a great cultural loss for Azerbaijan.
13. Architectural monuments of national importance in those territories include the sixth century Albanian Aghoghlan cloister and the fourteenth century Malik Ajdar tomb in Lachyn, the fourth century Albanian Amaras cloister and a considerable number of Albanian temples in Khojavand, the eighteenth century Asgaran castle, fourteenth century tombs and a number of Albanian temples dating back to the Middle Ages in Khojaly, the sixth century Albanian Saint Jacob and thirteenth century Albanian Khatiravang cloisters and the thirteenth-fourteenth centuries Lekh castle in Kalbajar, the Albanian cloister of the fifth to eighth centuries in Gazakh, the thirteenth-fourteenth centuries Mirali tomb and the seventeenth century caravanserai in Fuzuli, the fourteenth century tomb in Zangilan, the seventeenth century mosque complex in Jabrayil, the eighteenth-nineteenth centuries Yukhary and Ashaghy Govharagha and Saatly mosques⁵, caravanserais and houses in Shusha, the nineteenth century mosque in Aghdam⁶, and archaeological sites like Garakopaktapa, Khantapa, Gunashtapa, Uzuntapa, Meynatapa and Zargartapa, residential areas of the Neolithic and Bronze Ages in Fuzuli, the residential areas of Chyragtapa and Garaghajy, of the Bronze Age, and those of Gavurgala, of the Middle Ages, and Aghdam, Imangazantapa and Gyshlag mounds of the Bronze Age in Jabrayil, rock drawings of the Bronze Age in Kalbajar, the stone box necropolis of the Bronze and Iron Ages in Khojaly, the residential area and necropolis of the Bronze Age in Sadarak, mounds of the Bronze and Iron Ages in Lachyn, a cave of the Stone Age, a mound and stone box graves of the Bronze and Iron Ages in Shusha, and the Shahri-Sharifan residential area of the thirteenth-fourteenth centuries in Zangilan.
14. The monuments of world importance in the occupied territories of Azerbaijan include the 11- and 15-arch medieval Khudafarin bridges and Niftaly mounds of the Bronze Age in Jabrayil, Albanian medieval Ganjasar and Khudavang cloisters in Kalbajar, the fourteenth century Gutlu Musa oghlu tomb and Uzarliktapa residential area of the Bronze

⁴ For detailed information, see "War against Azerbaijan: Targeting Cultural Heritage" (Baku, 2007), also available at <www.war-culture.az>.

⁵ See Annex 1(a), 1(b) and 1(c).

⁶ See Annex 1(f).

Age in Aghdam, the Azykh and Taghlar caves of the Paleolithic Age in Khojavand, and mounds of the Bronze and Iron Ages in Khojaly.

15. Apart from its wealth of architectural and archaeological monuments and its spectacularly beautiful nature, Karabakh has been home to many talents, including in particular Vagif, Natavan, Nawab, Hajybayov and Bulbul, whose legacy, for their great contribution not only to the Azerbaijani but also to the world's cultural heritage, has been recognized at the international level.
16. The ongoing policy of deliberate destruction of this legacy following the occupation has been and continues to be an irreparable blow both to Azerbaijani culture and world civilization. As has clearly been demonstrated in the deliberate change of the cultural look of Shusha and other towns and settlements of Karabakh, by destroying the monuments, changing architectural features and making "archaeological" excavations, Armenia pursues far-reaching targets of removing any signs heralding their Azerbaijani origins.
17. Analysis of the period of more than 20 years since the establishment of a ceasefire in 1994 demonstrates that armed hostilities have not destroyed Azerbaijani monuments to the extent to which this has been subsequently done by the Armenian side.
18. Thus, if in the years immediately following the military operations, in Shusha town the architectural monuments, such as the Yukhary and Ashaghy Govharagha mosques with their madrasahs⁷, the mausoleum of Vagif, and the house of Natavan and caravanserais, have been destroyed, burnt and plundered; the later period proves the intensification of the barbarism, which has left almost no Azerbaijani monument without destruction or damage.
19. As for other districts, the "Imarat of Panah khan" complex, mosques in Aghdam town, Abdal and Gulably villages, the tomb of Ughurlu bay and the home museum of Gurban Pirimov in the Aghdam district, fourteenth century tombs in the Khojaly district, mosques in the Bashlybel and Otagly villages, ancient cemeteries in the Moz, Keshdak and Yukhary Ayrym villages and Kalbajar town in the Kalbajar district, mosques in the Zangilan, Gyrag Mushlan, Malatkeshin, Babayly and Ikinji Aghaly villages, medieval cemeteries in the Jahangirbayli, Babayly and Sharifan villages in the Zangilan district, ancient cemeteries in the Gayaly and Mamar villages, the mosque in Mamar village in the Gubadly district, the mosque in Garygyshlag village and the ancient cemetery in Zabukh village in the Lachyn district, the mosque complex in Chalabilar village and the ancient cemetery in Khubyarly village in the Jabrayil district, mosques in Fuzuli town and the Gochahmadli, Merdmli and

⁷ See Annex 1(a) and 1(b).

Garghabazar villages in the Fuzuli district, the cemeteries of the Khojavand, Akhullu, Kuropatkino, Dudukchu and Salakatin villages and the old cemetery of Tugh village in the Khojavand district, the ancient hammams in Umudlu village in the Tartar district and the cemetery of Karki village in the Sadarak district, have been destroyed, burnt down and plundered.

20. The Museum of History in the Kalbajar district with its unique collection of ancient coins, gold and silverware, rare and precious stones, carpets and other handicraft wares, museums in Shusha, the Lachyn Museum of History, the Aghdam Museum of History and the Bread Museum and others have also been destroyed, plundered, and their exhibits put on sale in different countries. For example, the bronze statues of the poetess Natavan, the composer Uzeyir Hajybayov, the singer and musician Bulbul would have been sold as bronze scrap metal in Georgia if the Azerbaijani Government had not bought them for \$500,000 and taken them to Baku. Similarly, a silver handbag from the Lachyn Museum of History was sold at a Sotheby's auction in London for \$80,000.
21. Acts of barbarism are accompanied by different methods of defacing the Azerbaijani cultural image of the occupied territories. Among them are large-scale construction works therein, such as, for example, the building of an Armenian church in Lachyn town, the extension of the flight line of the Khojaly airport by destroying the children's music school, library, social club and infrastructure facilities. Another widespread practice employed is the change of the architectural details of different monuments, such as the Saatly mosque⁸ and Khanlyg Mukhtar caravanserai in Shusha town, as well as replacement of the Azerbaijani-Muslim elements of the monuments with alien ones, such as the Armenian cross and writings, which have been engraved on the Arabic character of the nineteenth century Mamayi spring in Shusha town.⁹
22. Armenia has conducted "archaeological excavations" in the "Azykh" cave in the occupied Khojavand district since 2003¹⁰ and in the area near the occupied city of Aghdam since March 2005.
23. Grave robbery, uncovering tombs and graves to steal artifacts or personal valuables has been widely reported practice in the occupied territories of Azerbaijan.¹¹
24. The Azerbaijani historical and cultural heritage in Armenia shared the same fate. Thus, the Damirbulag mosque in Iravan (present-day

⁸ See Annex 1(c).

⁹ See Annex 1 (d)

¹⁰ See Annex 1(e). By the special decree of the Government of Azerbaijan of 2 August 2001, Azykh archaeological site was registered as a monument of world heritage and placed under special protection.

¹¹ See Annex 1(g).

Yerevan) – one of Azerbaijan's medieval cities – was razed to the ground, while Goy mosque in the same city was “reconstructed” to alter its original authenticity. Among the destroyed architectural monuments are also Haji Novruzali bey Mosque in Iravan, built by Gara Seyid in the second half of the XVIII century¹² and the palace complex, called “Sardar Palace” or “Khan Palace”, also in Iravan, a valuable example of the palace architecture of Safavis and Gajars periods. Sardar Mosque of Iravan (sometimes referred to as Abbas Mirza Mosque) was also subject of systematic destruction, until it was reportedly raised to the ground in 2014.¹³ To remove any sign of Azerbaijani heritage, the cupola of Amir Saad icosahedra mausoleum,¹⁴ built in 1413 in Jafarabad village (renamed into Argavand) in Armenia, with Arabic inscriptions under its cornice, stating that the tomb was built by order of Amir Pir Huseyn during the rule of Pir Budag khan and Yusif Noyan for Amir Sad, was destroyed. At the same time, this mausoleum was renamed into a “mausoleum of the Turkmen Amirs’ family”. Furthermore, both ancient and modern Azerbaijani cemeteries in Armenia were also demolished.¹⁵ Like in the occupied territories, all native toponyms of historical Azerbaijani places in Armenia have been altered to change their original character.

III. Applicable international law and arising obligations

25. Cultural property is among the most obvious civilian objects and is entitled to special protection.¹⁶ The 1907 Hague Regulations provide carefully tailored rules against the destruction of cultural property¹⁷ and confer a wide degree of protection on cultural and religious institutions in occupied territories.¹⁸ The 1949 Geneva Convention IV did not provide much guidance on the protection of cultural property during armed conflicts.¹⁹

26. The 1954 Hague Convention or Convention for the Protection of Cultural Property in the Event of Armed Conflict became the first international treaty exclusively devoted to the protection of cultural property during war. Unlike prior treaties, attackers have an obligation not only to respect and preserve cultural property, but also to take affirmative steps to prevent the theft of property in occupied territories. States parties agreed to “prohibit, prevent, and *if necessary*, put a stop to any form of theft, pillage, or misappropriation of, and any acts of vandalism directed

¹² See Annex 2(b)

¹³ See Annex 2(c)

¹⁴ See Annex 2(a)

¹⁵ See Annex 2(d).

¹⁶ Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict* (Cambridge, 2004), p. 152.

¹⁷ Articles 25, 27 and 56.

¹⁸ Dinstein, *op. cit.* p. 153.

¹⁹ The Convention forbids “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly,” (article 147), but these protections are no broader than those afforded in the 1907 Hague Regulations.

against, cultural property.”²⁰ Occupiers are also required “to take measures to preserve cultural property” and even work closely with national authorities to meet this objective.²¹

27. The Second Protocol to the 1954 Hague Convention, adopted in 1999, expanded the scope of cultural property protection during armed conflicts. In particular, and perhaps most relevant to the Armenian occupation of the territories of Azerbaijan, Article 9 of the Protocol provides that a Party in occupation “shall prohibit and prevent in relation to the occupied territory” any illicit export, other removal or transfer of ownership of cultural property, any archaeological excavation or any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical or scientific evidence.

28. In addition to the aforementioned instruments, a number of other treaties provide an important framework for the protection of cultural property.²²

29. Acts against cultural property and cultural heritage in times of armed conflict constitute a war crime under international criminal law.²³ In addition, the human dimension of cultural heritage should not underestimated, providing that humanitarian and human rights considerations underlying the protection of cultural property may be better advanced through other international criminal law provisions, in particular through the category of crimes against humanity.²⁴

30. Furthermore, due to its aggression against Azerbaijan and continuing occupation of its territories, Armenia bears full international responsibility for the breaches of international law. That responsibility, which is incurred by Armenia’s internationally wrongful acts, involves legal consequences manifested in the obligation to cease these acts, to offer appropriate assurances and guarantees that they will not recur and to provide full reparation for injury in the form of restitution, compensation and satisfaction, either singly or in combination.²⁵

²⁰ Article 4, para. 3.

²¹ Article 5, para. 2.

²² International Covenant on Economic, Social and Cultural Rights, 1966; Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 1970; Convention for the Protection of the World Cultural and Natural Heritage, 1972;

²³ Second Protocol to the Hague Convention of the 1954 for the Protection of Cultural Property in the Event of Armed Conflict, Article 15; Rome Statute of the International Criminal Court, Article 8(2)(b)(ix).

²⁴ Micaela Frulli, “The Criminalization of Offences against Cultural Heritage in Times of Armed Conflict: The Quest for Consistency”, 22 *European Journal of International Law* 1 (2011), pp. 203-217, at pp. 216-217.

²⁵ See James Crawford, *The International Law Commission's Articles on State Responsibility*. Introduction, Text and Commentaries (Cambridge, 2002), pp. 66-68, articles 28, 30, 31 & 34-37.

ANNEX

1. Azerbaijani historical and cultural heritage in the occupied territories

a) Yukhary Govhar Agha Mosque, Shusha city



Yukhary Govhar Agha Mosque (cont.)



b) Ashaghy Govhar Agha Mosque, Shusha city



c) Saatly Mosque, Shusha city.

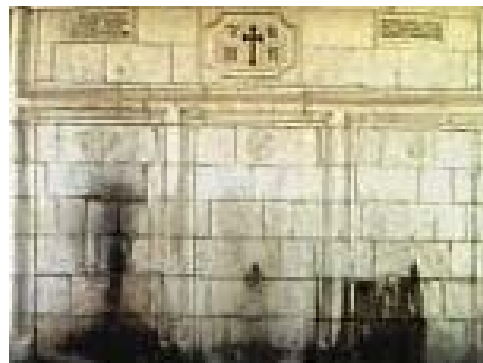


d) Mamay spring, Shusha city

before occupation



after occupation



- e) Unlawful excavations in the “Azykh” cave in the occupied Khojavand district



Excavations in the “Azykh” cave (cont.)



f) Juma Mosque, Aghdam city.



Juma Mosque (cont.)



Juma Mosque (cont.)



g) Grave robbery, uncovering tombs and graves to steal artifacts or personal valuables has been widely used practice in the occupied territories of Azerbaijan



2. Azerbaijani historical and cultural heritage in Armenia

a) Amir Saad tomb, Iravan city



b) Haji Novruzali bey Mosque, Iravan city



c) Sardar Mosque, Iravan city.



Sardar Mosque (cont.)



d) Azerbaijani cemetery in Urud village, Zangazur district, Vorotan, Sunik province, Armenia



Azerbaijani cemetery in Urud village, Zangazur district, Vorotan, Sunik province, Armenia (cont.)

