

ԻՐԱՎԱԳԻՏՈՒԹՅՈՒՆ

WAR CRIMES OF TURKEY AND AZERBAIJAN 2020-2022*

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This article aims to represent the military crimes committed by Turkey and Azerbaijan on 2020-2022, based on the relevant international conventions. It is clearly emphasized that impunity is preparing fertile ground for new crimes. The following issues are on the heart of the study to implement the above-mentioned purpose:

- *Legal definition of the term "military crime";*
- *Responsibility for war crimes;*
- *Turkish and Azerbaijan's military crimes committed by 2020-2022.*

The relevance of the topic is due to the fact that the Turkish-Azerbaijani-terrorist tandem Military crimes and state terrorist policy continue to this day.

The study is set by a complex investigation of existing facts using the method of documentary analysis.

The article is based on the fact that the military crimes committed by Turkey and Azerbaijan are being held at the state level and are the component of the anti-Armenian policy of these states, which shows that neither Turkey nor Azerbaijan has a peace agenda.

As a result of the study, we came to the conclusion that Turkey and Azerbaijan continue their genocidal and conquest policy in the region.

Keywords: Republic of Artsakh, war crimes, Turkish-Azerbaijani-terrorist tandem, International law, Armenian Genocide, Armenian-phobic policy, hostage-taking and killing, premeditated murder.

Introduction

A war crime, a collective term indicating particularly grave violations of international humanitarian law in the conduct of military (combat) operations¹, includes:

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Տպագրության է երաշխավորել ՄՄՀ իրավագիտության ամբիոնը: 21.04.2022:

Հոդվածը տպագրության է ընդունվել 21.04.2022:

¹ Cassese A., Gaeta P., Baig L., Fan M., Gosnell C., Cassese's International Criminal Law, Oxford University Press 2013, p. 63-66.

- *murder, torture of prisoners of war, as well as civilians caught in the war zone, and their enslavement;*
- *hostage-taking and killing;*
- *destruction of civilian infrastructures;*
- *destruction of settlements without military necessity;*
- *etc¹;*

War crimes of a massive nature, with a large number of victims, are considered crimes against humanity, and they are subject to the competence of international military tribunals, not national military courts. Due to the exceptional seriousness of crimes against humanity, the statute of limitations does not apply². It is necessary to separate war crimes from military crimes, that is, from crimes directed against military service by military personnel (non-compliance with orders, desertion, etc.)³. The Armenian Genocide is often considered one of the largest war crimes committed during the First World War and in the XX century⁴.

Genocide and the Armenian-phobic policy implemented by Turkey and Azerbaijan, neither legal nor political they did not receive an appropriate assessment, which created an atmosphere of impunity, which, in turn, prepared fertile ground for further crimes.

In this study, the research group of the Center for Caucasian Studies of Mesrop Mashtots University, comparing the available facts, refers to the war crimes committed by Turkey and Azerbaijan in 2020-2022.

LEGAL DEFINITION OF THE TERM "WAR CRIME"

The legal definition of the term "war crime" is given in part 2 of article 8 of the Rome Statute (Charter) The International Criminal Court, according to which war crimes are committed⁵.

a) violations of the Geneva Conventions of August 12, 1949, namely: each of the following actions against persons or property protected in accordance with the provisions of the Geneva Convention:

- 1. premeditated murder;*
- 2. torture or inhuman treatment, including biological experiments;*
- 3. intentional severe suffering, serious bodily injury or injury to health*
- 4. illegal, senseless and large-scale destruction and appropriation of property not caused by military necessity;*

¹War crimes, an Encyclopedic Dictionary of Economics and Law, (in Russian) https://gufo.me/dict/economics_dict/%D0%92%D0%BE%D0%B5%D0%BD%D0%BD%D1%8B%D0%B5_%D0%9F%D1%80%D0%B5%D1%81%D1%82%D1%83%D0%BF%D0%BB%D0%B5%D0%BD%D0%B8%D1%8F.

² Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity. Adopted and opened for signature, ratification and accession by General Assembly resolution 2391 (XXIII) of 26 November 1968. Entry into force: 11 November 1970, in accordance with article VIII, https://www.un.org/en/genocideprevention/documents/atrocitycrimes/Doc.27_convention%20statutory%20limitations%20warcrimes.pdf.

³ Règle 156. La définition des crimes de guerre, <https://ihl-databases.icrc.org/customary-ihl/fre/docs/v1rulrule156>.

⁴Barack Obama called the Armenian Genocide a terrible war crime, (in Russian) <https://p.dw.com/p/N5ae>.

⁵Rome Statute of the International Criminal Court. The text of the Rome Statute, circulated as document A/CONF.183/9 of 17 July 1998, as amended by the Protocols of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002. The Statute entered into force on 1 July 2002, (in Russian) [https://www.un.org/ru/law/icc/rome_statute\(r\).pdf](https://www.un.org/ru/law/icc/rome_statute(r).pdf).

5. *forcing a prisoner of war or other protected person to serve in the Armed Forces of an enemy state;*
6. *deliberate deprivation of a prisoner of war or other protected person of the right to a fair and normal trial;*
7. *illegal eviction or relocation or illegal deprivation of liberty;*
8. *hostage taking.*

b) other serious violations of laws and customs applied within the framework of international law in international armed conflicts, in particular one of the following acts:

1. *deliberate attacks on civilians who are not directly involved in hostilities, as such, or on individual civilians;*
2. *deliberate attacks on civilian objects, that is, on objects that are not military targets;*
3. *deliberate targeting of personnel, facilities, materials, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the UN Charter, as long as they have the right to protection enjoyed by civilians or civilian objects in accordance with international law on armed conflict;*
4. *deliberate attack, when it is known that such an attack will cause accidental death or injury to civilians or damage to civilian objects or long-term, long-term and serious damage to the environment, which will clearly be disproportionate to the specific and directly expected overall military superiority;*
5. *an attack on an unprotected and non-military city, village, apartment or building or their shelling with the use of any means¹.*

In addition, Part 3 of the Geneva Convention provides that its effect also applies to conflicts that are not of an international nature. The signatory States have undertaken that in the event of an armed conflict that has arisen on their territory and is not of an international nature, each of the conflicting parties is obliged to apply at least the following provisions:

Persons who do not take direct part in hostilities, including those who have laid down their arms, as well as those who have stopped participating in hostilities due to illness, insult, arrest or for any other reason, must in all circumstances enjoy humanitarian treatment without discrimination based on race, skin color, religion or belief, gender, origin or property status or other similar criteria.

For this purpose, the following actions against the above-mentioned persons are prohibited and are constantly and everywhere prohibited:

- a. *attacks on life and physical integrity, in particular, murder, mutilation, ill-treatment and torture;*
- b. *hostage-taking;*
- c. *encroachment on human dignity, in particular, insulting and humiliating attitude;*
- d. *the decision and application of punishment without prior judicial guarantees recognized by civilized peoples as necessary, in the presence of a proper judicial decision².*

In December 2017, the following actions were introduced into the Rome Statute of the UN

¹Rome Statute of the International Criminal Court, (in Russian) [https://www.un.org/ru/law/icc/rome_statute\(r\).pdf](https://www.un.org/ru/law/icc/rome_statute(r).pdf).

²Geneva Convention of 12 August 1949 on the Protection of Civilian Persons in Time of War, (in Russian) https://www.un.org/ru/documents/decl_conv/conventions/geneva_civilian_1.shtml.

International Criminal Court (ICC), which will be classified as war crimes¹:

- 1. Use of biological or toxic weapons;**
- 2. The use of weapons whose striking elements cannot be identified by X-ray radiation;**
- 3. The use of dazzling laser weapons.**

The commission of any of the prohibited acts is a war crime, and the perpetrators are war criminals.

The deliberate destruction of historical values and cultural heritage is also a war crime.

RESPONSIBILITY FOR WAR CRIMES

International law clearly defines not only personal, but also command responsibility for war crimes. Article 86 of Protocol 1 of the Geneva Conventions of 1949 states that a commander is responsible for violating the conventions of subordinates if he knew about the possibility of committing crimes by them, but did not take the necessary measures to prevent them.

WAR CRIMES COMMITTED BY TURKEY AND AZERBAIJAN

Below we will briefly touch upon the war crimes committed by Turkey and Azerbaijan during the large-scale war unleashed against the Republic of Artsakh in 2020.

The artificial state of Azerbaijan created on the basis of the genocidal policy he has been pursuing an Armenian-phobic policy for many years. A vivid proof of this is the Armenian Genocide organized in Sumgait and other settlements and the ongoing wars. The organization by Azerbaijan at the state level is, first of all, a genocide that has not yet received either political or legal assessment from the international community. Due to ignorance of assessments, an atmosphere of impunity has formed, which has given Azerbaijan the opportunity to commit new war crimes. We witnessed its consequences during the 2016 war, during the large-scale military actions unleashed against Artsakh in 2020.

In 2020-2022, the Turkish-Azerbaijani terrorist tandem committed the following war crimes:

- a. Decapitation-** *During the war unleashed by Azerbaijan against Artsakh in 2020, at least two cases of beheading of Armenian soldiers are known. There is clear information from both open and closed sources that a certain number of military servicemen of the Republic of Artsakh or the bodies thereof are under the control of the Azerbaijani armed forces. Some Azerbaijani media and social media representatives have already spread some videos and photos showing some possible crimes against Artsakh combatants. Taking into account those preliminary proofs and the large number of examples of the 2016 April war, the likelihood is very high that the Artsakh military servicemen and/or their bodies might be extensively abused by the Azerbaijani armed forces again. During the April war of 2016, about 90% of soldiers and/or their bodies that were under Azerbaijani control underwent war crimes and the perpetrators were decorated and encouraged by the authorities of Azerbaijan.¹³ In particular, in 2016 April war, the Azerbaijani armed forces perpetrated tortures, executions and mutilations of dead bodies against the civilians and combatants of Artsakh. All of those actions are considered war*

¹The UN has recognized the use of laser weapons as a war crime, (in Russian) https://news.rambler.ru/other/38687007/?utm_content=news_media&utm_medium=read_more&utm_source=copylink.

crimes under international law¹.

- b. **Torture of corpses-** Most of the collected facts are related to the torture of corpses of soldiers. There is a lot of irrefutable evidence of how the Turkish military cut off the ears of the Armenian army servicemen. Numerous cases were also noted by the ugliness of the faces of the Armenian army servicemen from the Armed Forces of Turkey and Azerbaijan.*
- c. **Cases of shooting/killing of prisoners-** Human rights activist Siranush Sahakyan met with journalists on September 8, 2021: 38 prisoners were killed, there are suspicions about another 30 murders².*
- d. **Purpose destruction of civil infrastructure-** From the Turkish-Azerbaijani tandem, civilian infrastructures of Artsakh have been periodically shelled and continue to be shelled. The propaganda, military, psychological and economic threats and terrorist acts of the Azerbaijani side intensified in February-March 2022. If in the past, the Azerbaijani Armed Forces fired mainly with small-caliber firearms, since March 7, 2022, high-caliber weapons has been used. From March 7 to March 12, 2022 the Azerbaijani side used a 60 mm grenade launchers in different parts of Artsakh, firing a total of 57 projectiles. At the same time, the ceasefire continued to be violated by firearms, targeting homes and civilian infrastructure.*

Khramort, Khnapat, Nakhichanik, Parukh communities of Askeran region and Karmir Shuka, Taghavard, Khnushinak communities of Martuni region were main targets during the mentioned period.

The recorded cases and their circumstances according to the chronology are presented below.

***March 7, 2022** - at around 17:30, the Azerbaijani Armed Forces fired 3 projectiles from a 60 mm caliber grenade launcher in the administrative area of Khramort community of Askeran region. The mines exploded near the village cemetery.*

***March 9, 2022** - at around 14:20, the Azerbaijani Armed Forces fired 4 projectiles from a 60 mm caliber grenade launcher in the direction of the gardens and nearby bases in the administrative area of Khnushinak community of Martuni region. Agricultural work was stopped immediately to avoid casualties.*

***March 9-10, 2022** - a total of 24 projectiles were fired 16 times from a 60 mm caliber grenade launcher in the direction of Khramort and Khnapat communities in the Askeran region. On the night of March 9-10, women and children of the Khramort community (about 150 people) were evacuated to nearby villages.*

***March 9, 2022** - at around 22:50, the Azerbaijani side brought two tanks to an Azerbaijani combat position located near the Khramort community in the Askeran region, which were withdrawn at around 07:50 the next morning.*

***March 9-10, 2022** - a tractor parked in a field in the administrative territory of Nakhichevanik community of Askeran region was shot and damaged by the Azerbaijani Armed Forces.*

¹ The updated edition of the second interim report on the Azerbaijani atrocities against the Artsakh population in september-october 2020, Stepanakert, 2020 p.27-28, <https://artsakhombuds.am/en/document/735>, Publication date 18.10.2020.

² 38 prisoners were killed, there are suspicions about another 30 murders, <https://lurer.com/?p=432576&l=en>.

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March 10, 2022 - at around 10:00, the Azerbaijani side fired a projectile in the direction of Khramort community using a 60 mm caliber grenade launcher, which exploded and wounded a resident of the same community Suren Baghryan (born in 1971).

March 10, 2022 - at around 10:45 am, two projectiles were fired in the direction of the forests adjacent to Parukh community of Askeran region, and at around 10:55, one projectile was fired in the direction of Khramort community and one in the direction of the combat positions of Artsakh Defense Forces.

March 11, 2022 - at around 10:00, the Azerbaijani side fired 2 projectiles from a 60 mm caliber grenade launcher in the direction of the gorge near the school of Khnapat community in Askeran region. Classes were stopped, and schoolchildren and teachers were evacuated immediately.

March 11, 2022 - at around 16:00, 2 projectiles exploded in the administrative areas of Khramort and Khnapat communities.

March 11, 2022 - at 16:05, 19:57, 20:54, 4 projectiles exploded in the administrative territory of Khnapat community.

March 11, 2022 - at 16:20, 16:30, 17:15, 17:20, 17:28, 18:00, six projectiles exploded in the direction of Askeran town.

March 11, 2022 - 7 projectiles exploded in the direction of Parukh village of Askeran region between 12:00-19:00¹.

- a. **Violence against Armenian prisoners;**
- b. **Cultural genocide-** Cultural genocide , the destruction or appropriation of historical and cultural monuments of a people or ethnic group, spiritual values, and other elements of national culture. It is considered a crime against humanity. The destruction and appropriation of cultural heritage in the occupied Armenian settlements takes place at the state level and is a component of the genocidal and aggressive policy of Turkey and Azerbaijan. In 2020-2022, many facts of appropriation and destruction of the Armenian cultural heritage carried out by Turkey and Azerbaijan at the state level were recorded.
- c. **Call for violence against Armenians by the military-political leadership and public figures of Turkey and Azerbaijan;**
- d. **Use of weapons prohibited by international conventions².**

In 2020-2022, military crimes committed by the Turkish-Azerbaijani tandem, documented and presented to international organizations by the offices of the Artsakh Republic and Human Rights Defenders of the Republic of Armenia.

Conclusion

Summing up the results of this study, we came to the following conclusions:

- a) *The war crimes committed by Turkey and Azerbaijan are the result of impunity;*

¹ Republic of Artsakh Human Rights Defender, Interim report On violations of the rights of Artsakh people by Azerbaijan in February-March 2022, Stepanakert 2022, p.6-8.

² Avanesov H., Davtyan Y., The Use of Prohibited Weapons by the Azerbaijani Armed Forces During the 44-day War, Mesrop Mashtots university bulletin,2, 2021, Yerevan, Limush 2021, P.81-88, Turkey and Azerbaijan's war crimes during the 44-day war in 2020, Mesrop Mashtots university bulletin,1, 2021, Yerevan, Limush 2021, P. 114-124.

- b) *The appropriation and destruction of the Armenian cultural heritage is a component of the anti-Armenian policy of Turkey and Azerbaijan.*

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ԹՈՒՐԲԻԱՅԻ ԵՎ ԱՂՐԵՋԱՆԻ ՈԱԶՄԱԿԱՆ ՀԱՆՑԱԳՈՐԾՈՒԹՅՈՒՆՆԵՐԸ 2020-2022

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Հոփիկ Ավանեսով

*Մեսրոպ Մաշտոց համալսարանի Պատմության և կուլկասագիտության ամբիոնի դասախոս,
Կուլկասագիտության կենտրոնի ղեկավար, Արցախի Հանրապետություն*

Յանա Դավթյան

*Մեսրոպ Մաշտոց համալսարանի տնտեսաիրավաբանական ֆակուլտետի դեկան, ՄՄՀ
դոցենտ*

Բանալի բաներ՝ Արցախի Հանրապետություն, ռազմական հանցագործություններ, թուրք-ադրբեջանա-ահաբեկչական տանդեմ, Միջազգային իրավունք, Հայոց ցեղասպանություն, հայատյաց քաղաքականություն, պատանդներ և սպանություններ, կանխամտածված սպանություն:

Սույն հոդվածը նպատակ է հետապնդում ներկայացնելու 2020-2022 թթ.-ին Թուրքիայի և Ադրբեջանի կողմից իրականացված ռազմական հանցագործությունները՝ հիմք ընդունելով միջազգային համապատասխան կոնվենցիաները: Հստակորեն ընդգծվում է, որ անպատժելիությունը պարարտ հող է նախապատրաստում նոր հանցագործությունների իրականացման համար:

Վերոնշյալ նպատակի իրականացման համար հետազոտության առանցքում դրված են հետևյալ խնդիրները.

- «ռազմական հանցագործություն» եզրույթի իրավական սահմանումը,
- պատերազմական հանցագործությունների համար նախատեսված պատասխանատվություն,
- Թուրքիայի և Ադրբեջանի կողմից 2020-2022 թվականների ընթացքում կատարված ռազմական հանցագործությունները:

Թեմայի արդիականությունը պայմանավորված է նրանով, որ թուրք-ադրբեջանա-ահաբեկչական տանդեմի կողմից իրականացվող ռազմական հանցագործությունները և պետական ահաբեկչական քաղաքականությունը շարունակվում են մինչև օրս:

Ուսումնասիրությունը շարադրված է առկա փաստերի համալիր քննությամբ՝ փաստագրական նյութերի վերլուծության մեթոդի կիրառմամբ:

Հոդվածում հիմնավորված է այն իրողությունը, որ Թուրքիայի և Ադրբեջանի կողմից իրականացվող ռազմական հանցագործությունները կատարվում են պետական մակարդակով և հանդիսանում են նշված պետությունների հայատյաց քաղաքականության բաղադրիչ, որն ակնհայտորեն ցույց է տալիս, որ ո՛չ Թուրքիան, ո՛չ էլ Ադրբեջանը խաղաղության օրակարգ չունեն:

Հետազոտության արդյունքում եկել ենք այն եզրահանգման, որ Թուրքիան և Ադրբեջանը տարածաշրջանում շարունակում են իրենց ցեղասպան ու նվաճողական քաղաքականությունը:

РЕЗЮМЕ

Военные преступления Турции и Азербайджана в 2020-2022 гг.

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Ключевые слова: Республика Арцах, военные преступления, турецко-азербайджано-террористический тандем, Международное право, Геноцид армян, армянофобическая политика, захват заложников и убийства, преднамеренное убийство.

Целью данной статьи является анализ военных преступлений, совершенных Турцией и Азербайджаном в 2020-2022 годах, на основе соответствующих международных конвенций. Четко подчеркивается, что безнаказанность готовит благодатную почву для новых преступлений. Для реализации вышеупомянутой цели был определен следующих крөг вопросов:

- Юридическое определение термина "военное преступление";
- Ответственность за военные преступления;
- Военные преступления Турции и Азербайджана, совершенные в 2020-2022 годах.

Актуальность темы обусловлена тем, что турецко-азербайджано-террористический тандем, военные преступления и государственная террористическая политика продолжаются и по сей день.

Статья представляет собой комплексное исследование существующих фактов с использованием метода документального анализа.

Статья основана на том факте, что военные преступления, совершенные Турцией и Азербайджаном, проводятся на государственном уровне и являются составной частью антиармянской политики этих государств, что показывает, что ни у Турции, ни у Азербайджана нет мирной повестки дня.

В результате исследования мы пришли к выводу, что Турция и Азербайджан продолжают свою политику геноцида и завоеваний в регионе.