



Security Council

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Letter dated 1 November 2023 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council

I am writing in follow-up to my letter dated 31 August 2023 ([A/78/335-S/2023/642](#)), in which I transmitted the preliminary report by the first Special Adviser to the Secretary-General on the Prevention of Genocide, Professor Juan Mendez, entitled “On the situation in Nagorno-Karabakh and on the need for the international community to adopt measures to prevent atrocity crimes”.

In culmination of its systematic policy aimed at the expulsion of the Armenian people from their ancestral homeland, on 19 September 2023, Azerbaijan launched a military aggression resulting in the forced displacement of the entire Armenian population from Nagorno-Karabakh.

Enclosed, I am providing the final report of Professor Mendez entitled “Ethnic Armenians in Nagorno-Karabakh: report on prevention of genocide”, stressing that the international community – and especially the Security Council – has the responsibility to act and protect the rights of the people of Nagorno-Karabakh, and to adopt appropriate measures, including by ensuring their right to dignified return (see annex).

I should be grateful if the present letter and its annex were urgently brought to the attention of the members of the Security Council and issued as a document of the Council.

(Signed) Mher **Margaryan**
Ambassador
Permanent Representative



Annex to the letter dated 1 November 2023 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council*

Ethnic Armenians in Nagorno-Karabakh

Report on Prevention of Genocide

Juan E. Mendez¹

I. Executive Summary

On August 23, 2023, I presented an advance report that was meant as an early warning to the international community that the Armenian population of Nagorno-Karabakh was at risk of suffering “serious bodily or mental harm to members of the group” (Article II, paragraph (b) of the Convention on the Prevention and Punishment of Genocide).² I mentioned previous reports providing similar early warnings and I identified the blockade of humanitarian assistance as constituting genocide under art 2 (c) of the Convention: the infliction on the group of conditions of life calculated to bring about the destruction in whole or in part of the community as such. I urged “the state parties to the Genocide Convention” to “exercise their responsibilities to protect that population.”

Regrettably, on September 19, 2023, Azerbaijan conducted a “military operation” against Nagorno-Karabakh that resulted in the death of two hundred persons, at least 18 of them civilians including six children.³ There were also 14 cases of torture, including the cutting off of ears. The military operation also caused the removal of the entire Armenian population from their ancestral land. In a few days, more than 100.000 persons escaped, leaving their homes and their belongings. The decision to leave – caused by the attack but also by the nine months of deprivation of food and medicine – exposed the serious mental harm produced in all ethnic Armenians by official policy and practice of Azerbaijan, which fits the definition of the genocidal act contemplated in Article 2 (b) of the Convention: causing serious bodily or mental harm in members of the group.

The same day as the Azerbaijan attack, leaders of the state parties to the Convention opened the UN General Assembly without mentioning the risk of genocide in Nagorno-Karabakh.

Except for pushing the departure of almost all inhabitants of Nagorno-Karabakh with the threat of force and the creation of a coercive environment, Azerbaijan continues its blockade of the Lachin Corridor to this day.⁴ After forcing the deportation *en masse*, the Azerbaijani government has stated that the ethnic Armenians of Nagorno-Karabakh will be allowed to return if they apply for and are

* The present annex is being issued without formal editing.

¹ Former Special Advisor to the UN Secretary General on the Prevention of Genocide (2004–2007). Former UN Special Rapporteur on Torture (2010–2016).

² Juan E. Mendez, *PRELIMINARY OPINION on the situation in Nagorno-Karabakh and on the need for the international community to adopt measures to prevent atrocity crimes*, 23 August 2023.

³ Arman Tatoyan, former Ombudsman of Armenia, in <https://en.armradio.am/2023/10/09/>.

⁴ The Lachin Corridor had been established in 2020, following 44 days of war between Azeri and Armenian forces (including forces of the autonomous Nagorno-Karabakh government) that had concluded with the withdrawal of Armenian forces and a cease fire agreement to be supervised by Russian Federation forces. See *Full text of the agreements between the leaders of Russia, Armenia and Azerbaijan*, 10 November 2020, in [commons.wikimedia.org](https://commons.wikimedia.org/wiki/File:Agreements_between_the_leaders_of_Russia,_Armenia_and_Azerbaijan_10_November_2020.pdf) (unofficial translation).

granted Azerbaijani citizenship. The forced deportation, the hate speech and the violence understandably prevent this option; Azerbaijan has not established conditions for a safe return. This means that the departed ethnic Armenians cannot in practice return to their land or their houses, to retrieve possessions needed for their livelihood, or to inquire about the fate and whereabouts of neighbors and relatives who have been separated by the attack and the mass expulsion.

In addition, Azerbaijan has detained several leaders of the autonomous government of Nagorno-Karabakh on vague charges of “terrorism.” It has reported the names of the detainees to the European Court of Human Rights and provided photographs to the families, purportedly describing conditions of detention. However, the detention sites are not available for independent and impartial monitoring and the evidentiary bases for the charges have not been revealed. For now, therefore, they are deprived of liberty solely because of their political role as leaders of Nagorno-Karabakh. This kind of attack on the leadership of a community at risk is likewise indicative of genocide, as it signifies the intent to destroy the community “in whole or in part” (Article II of the Convention, opening paragraph), especially when coupled with the mass deportation of the totality of its members.

All these actions have taken place as the culmination of a sustained campaign of hate speech, harassment and acts of violence – some amounting to massacres and murders – against the members of the community of ethnic Armenians in Nagorno-Karabakh. Those murders, as well as the deaths of 200 ethnic Armenians in the course of armed encounters on September 19 and 20, 2023, amount to the genocidal act described in Article II a) of the Convention: Killing members of the group.

As described at length in the following paragraphs, genocide has been committed against ethnic Armenians in Nagorno-Karabakh, but the danger of more suffering of this kind is by no means over. The international community still bears a responsibility to act to protect this population from further harm, to prevent further genocidal acts against them and to restore them in their dignity and worth as a cultural and religious community.

II. Background

Last August, about 120,000 persons of Armenian ethnicity were living in an enclave in the region of Azerbaijan known as Nagorno-Karabakh. Since December 2022 they had been subjected to increasingly aggressive measures beginning with the closure of the Lachin Corridor that connected Nagorno-Karabakh with neighboring Armenia. The closure meant that Azerbaijani forces prevented any traffic or travel between Nagorno-Karabakh and Armenia; effectively, the population of Nagorno-Karabakh has been deprived of access to commerce, food, medical supplies, fuel and other necessities between December 2022 and October 2023.⁵

In 2021 Armenia had brought a judicial action against Azerbaijan before the International Court of Justice charging that several against the people of Nagorno-Karabakh amounted to violations of the Convention on Elimination of Racial Discrimination. During that litigation, Azerbaijan shut down the Lachin Corridor in December 2022. At the request of Armenia, the ICJ issued two sets of “provisional measures” (in February and in July 2023) ordering Azerbaijan to reopen the Lachin

⁵ For a detailed account of the effects of the closure and of the events in September 2023, see University Network of Human Rights, *The Tip of the Iceberg* (Briefing Paper), Aug. 24, 2023, and University Network on Human Rights, *Monitoring Ethnic Cleansing in Nagorno-Karabakh*, opened Sept. 18 and closed Oct. 2, 2023. Also, Memo to Author from field reporters of University Network for Human Rights, Oct. 18, 2023.

corridor and allow the delivery of humanitarian assistance to the enclave, among other precautionary measures.⁶ Azerbaijan had refused to abide by those judicial orders. By mid-2023 the United Nations and the International Committee of the Red Cross (ICRC) had confirmed that the humanitarian situation inside Nagorno-Karabakh was indeed dire. In addition, statements by Azerbaijani authorities had grown increasingly belligerent and threatening, some amounting to hate speech. And of course, between 1994 (the end of the first war between Armenia and Azerbaijan over Nagorno-Karabakh) and 2023, there had been numerous incidents of violence in Azerbaijan victimizing citizens of Armenian ethnicity. It was that situation that prompted this author to urge the international community – in the aforementioned “preliminary report” – to exercise early warning and take early action for the purpose of prevention of genocide and other mass atrocities.

The events of September and October 2023 have not put an end to the precarious situation of the ethnic Armenians of Nagorno-Karabakh. There is still a risk that their plight might take a turn for the worse. Consequently, the international community and the political organs of the United Nations are legally and morally obliged to heed new early warnings and adopt measures of early action to protect this population.

III. Events since August 2023

The Lachin Corridor remains closed as of late October 2023. On September 18, the ICRC was allowed to deliver cargoes of humanitarian assistance simultaneously from Azerbaijan and Armenia, which had been prohibited during the previous three months. On the very next day, September 19, 2023, Azerbaijan conducted a “military operation” against Nagorno-Karabakh that resulted in the death of more than 200 persons. According to Gegham Stepanyan, the Ombudsman of Nagorno-Karabakh, at least ten were civilians, including five children.⁷ The operation concluded in 24 hours with the surrender of all civilian authorities, police and military units of the regional self-government calling itself the Republic of Artsakh. The local armed forces were disarmed immediately, and the regional authorities announced the dissolution of the autonomous government, to be completed by January 2024.

The military operation resulted also in the arrest and transfer to Baku of several prominent leaders and former leaders of the autonomous government, as well as civilian, law enforcement and military officials and troops, to be accused on vague charges of “terrorism.” The exact number and identities, legal status and conditions of detention of these persons deprived of freedom are not known as of this writing, save for the names of a handful of well-known regional leaders, several of them arrested by Azerbaijani forces before they could enter Armenia through the Lachin Corridor.⁸ The Baku government has not allowed any independent monitoring of those matters.

The ethnic Armenian population of Nagorno-Karabakh, estimated at 120,000 persons as of August 2023, immediately left towards Armenia. In a few days, more than 100,000 men, women and children crossed the border into Armenia, mostly on their own and in motor vehicles or on foot. On October 29, an Armenian Investigating Committee announced that 64 persons had perished during the march. Belatedly, the government of Azerbaijan announced that the ethnic Armenians of Nagorno-

⁶ Anoush Baghdassarian, *The History Behind the Violence in Nagorno-Karabakh*, *Lawfare*, October 19, 2020. See the text and discussion of the ICJ provisional measures in Anoush Baghdassarian, *Provisional Measures at the International Court of Justice in the Cases of Armenia and Azerbaijan*, *Lawfare*, April 6, 2023.

⁷ Cited in Memo to Author from... (see Fn. 4 supra).

⁸ AP, *Azerbaijan arrests several former top separatist leaders of Nagorno-Karabakh*, Oct. 3, 2023.

Karabakh would be allowed to return if they applied and obtained Azerbaijan citizenship, but as of this writing it seems that no ethnic Armenians have chosen to do so. Local experts and journalists state that the number of ethnic Armenians who remain in Nagorno-Karabakh as of late October 2023 is no more than 40. The first mission by the United Nations to the region (mentioned below) estimated that number as between 50 and 100.

On September 25, 2023, as hundreds of persons assembled in a town near the capital city of Stepanakert to seek fuel that had been extremely scarce, as well as means of transportation out of the country, a terrible explosion occurred in a fuel depot. Initially, it was reported that at least 68 civilians perished in the disaster, more than 290 were injured and 105 were pronounced missing. Later estimates place the figures as 220 dead and 50 persons still reported as missing.⁹ The hospital to which they were taken collapsed almost immediately due to the high number of patients suddenly arriving, but also because medical supplies had been exhausted after months of closure. There has been no investigation of the cause of the explosion.¹⁰

The exodus to Armenia was essentially completed by October 1. Some of the families arriving at the border were distressed that in the rush to leave they had become separated from children and elderly relatives, friends, and neighbors.¹¹ They had to leave behind most of their possessions. The drive along the Lachin corridor, in mountainous terrain, had been slow and dangerous. Many of those escaping Nagorno-Karabakh had previously suffered hunger and serious hardship given the scarcity of food and medicine caused by the closure that had lasted nine months. Once they arrived in Goris, a city on the Armenian side of the border, many expressed that they also did not wish to stay in temporary or permanent housing in Armenian villages near the border because they feared attacks from Azerbaijani forces or militias. They mostly wanted to continue their migration towards the capital, Yerevan. The government of Armenia had begun planning for their orderly reception and resettlement in the country.

In early October, a hastily arranged United Nations mission visited Nagorno-Karabakh to assess the humanitarian situation. It confirmed that the cities and countryside were deserted. In essence, it established there was no need for further humanitarian assistance because no recipients of such aid remained in the territory; however, the mission also ventured that it had seen no signs of destruction of civilian property, although the international press had published photographs of burnt vehicles and other signs of serious violence. The visit was conducted by UN staff resident in Baku with the addition of one senior official of the Office of Coordination of Humanitarian Affairs (OCHA) – a principal line unit within the UN Secretariat. Contrary to the standard practice of UN missions of this sort, it appears that all along it was accompanied by Azeri officials. An early opportunity to establish the facts as well as the future needs was wasted on account of the lack of independence of the mission, resulting in the dubious credibility of its findings.¹²

⁹ Ministry of Internal Affairs of Armenia, <https://www.aztutyun.am/a/32639653.html>.

¹⁰ Memo to Author from... (see Fns. 4 and 6 supra).

¹¹ *Ibid.*

¹² Hasnik Egian, *Is the UN Whitewashing Azerbaijan's Ethnic Cleansing in Nagorno-Karabakh?*, *Passblue*, October 19, 2023.

IV. The Failure to Prevent Genocide and Mass Atrocities

The early warning that the ethnic Armenian inhabitants of Nagorno-Karabakh were in danger of mass atrocities was visible in August of 2023 and even earlier. Equally visible was the kind of early action that could have prevented those atrocities:

- A. Russian forces that had been deployed in 2020 as guarantors of that year's cease fire arrangements were in the territory but failed to protect the free flow of people or merchandise along the Lachin corridor. The government of Azerbaijan had announced that it closed the corridor to intercept the flow of weapons to the regional government of the self-proclaimed Republic of Artsakh. It has never explained why the closure also impeded the flow of non-lethal merchandise, including fuel and especially humanitarian relief, once the international community had made it clear that the situation in the self-governing region was desperate.
- B. The UN Security Council was seized of the situation in August of 2023, but it failed to issue a resolution urging the Russian Federation to exercise its duties as guarantor of the 2020 agreement, or to urge Azerbaijan to comply with the commitments it had made in the same treaty. Refusal to protect the civilian population by both the Russian Federation and Azerbaijan was an immediate cause of the tragedy that was unfolding, and it would have been incumbent on the Security Council to call for those actions that had been previously agreed upon.
- C. To be sure, there were many calls by UN mandate-holders, leaders of other States and international organizations to protect the civilian population from attack and to allow the deployment of humanitarian assistance. Such calls were made, among many others, by the US Secretary of State and the European Union's High Representative for Foreign Affairs.¹³ The UN Special Advisor to the Secretary-General on the Prevention of Genocide, Alice Wairimu Ndiritu, issued several statements.¹⁴ However, no decision with binding authority has yet emerged from the political organs of the United Nations.
- D. Azerbaijan flatly refused to comply with the provisional measures ordered by the International Court of Justice under the Convention on Elimination of All Forms of Racial Discrimination (CERD). Those measures were ordered because the Court had been satisfied that the actions of Azerbaijan were discriminatory against the ethnic Armenians of Nagorno-Karabakh and their continuation could have lasting consequences to their rights against racial, ethnic or religious discrimination. The binding nature of provisional measures under international law is beyond dispute. In addition, non-cooperation with judicial orders and investigations has been ruled by the International Court of Justice as evidence of violation of the duty to prevent genocide.¹⁵ Like Serbia during the Balkans war, Azerbaijan is the State in the most influential position to prevent genocide in this case. At the very least the Security Council should have ordered Azerbaijan to comply with the Court's provisional measures.

¹³ Memo to Author from... see Fns. 4, 6 and 9 supra.

¹⁴ In her most recent one, dated October 10, 2023, ten days after the exodus had ended, she stated that "the risk of atrocity crimes remains present."

¹⁵ ICJ, *Bosnia and Herzegovina v. Serbia and Montenegro*, Judgment on Appeal, 3 Feb. 2003.

V. Legal analysis of recent events and future risk

1. The definition of genocide in international law is limited to five kinds of acts if perpetrated with the “specific intent” of destroying in whole or in part a community designated by race, religion, ethnicity or national origin.¹⁶ The four categories of communities protected from genocide (identified by race, religion, ethnicity or national origin) are a closed number; for example, international law does not recognize genocide inflicted against a group designated by political affiliation or ideology. The five genocidal acts listed in the article are also exclusive. For that reason, international law at this stage does not recognize as genocide the destruction of cultures by integration or assimilation, sometimes called “cultural genocide” or “ethnocide.”¹⁷
2. In keeping with the prevalent analysis of genocide and genocide prevention in today’s world, it is useful to determine which is the “population at risk” that deserves and requires protection.¹⁸ In the present case, that population is formed by the racial and religious minority of ethnic Armenian citizens of Azerbaijan who until a few weeks ago populated the area known as Nagorno-Karabakh (and in fact were the majority in that distinct region of Azerbaijan).
3. The acts perpetrated against this human group since 2020 qualify as genocidal acts under international law.
 - a) Some of its members were killed during sniper attacks and in the military action of September 19, or perished of hunger or illness due to the nine-month-long closure of access to humanitarian assistance (Article II (a) of the Genocide Convention).¹⁹
 - b) Other members of the group suffered severe bodily or mental harm in the form of arbitrary arrests that have not been independently investigated. More importantly, the closure of the Lachin corridor subjected *all* members of the community to mental torture or ill-treatment that caused anxiety in relation to survival from hunger and disease (Article II (b) of the Genocide Convention).
 - c) Significantly, the blockade that lasted nine months constituted the deliberate infliction of conditions of life designed to bring about the destruction in whole or in part of the group as such (Article II (c) of the Genocide Convention).

Historically, genocide has often taken place in the context of mass deportations, either because these forced migratory movements put the population at risk of murderous attack or because the deprivations that force people to migrate are themselves the cause of immense human suffering, including exposure to hunger and disease and loss of access to work and means of subsistence for children and the elderly. In the last minute, Azerbaijan offered citizenship to the members of the community of ethnic Armenians in Nagorno-Karabakh. Days later, Azeri officials

¹⁶ Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, entry into force 12 January 1951, Article II.

¹⁷ William Schabas, *Genocide in International Law: The Crime of Crimes*, 2d. ed., Cambridge: Cambridge University Press, 2009.

¹⁸ Global Center for the Responsibility to Protect, *Atrocity Alerts No. 358* (Aug. 2, 2023) and *No. 366* (Sept. 27, 2023; *Populations at Risk: Nagorno-Karabakh (Armenia/Azerbaijan)*, Aug. 31, 2023).

¹⁹ At least one attack on that day was directed at the village of Sarnaghbuyr, which lies in the midst of a forest with no apparent legitimate military targets anywhere near. BBC News of the World, *‘They bombed everywhere’: Survivors recount Karabakh attack*, 27 Sept. 2023. At least three children and two elderly persons died; fifteen villagers were wounded.

proffered the cynical assertion that they had left because of individual voluntary decisions.²⁰

There can be little doubt that it was Azerbaijan's official policy to force the deportation of the totality of ethnic Armenians living until September 2023 in Nagorno-Karabakh.

The exodus was caused by the deprivations suffered during nine months of deliberate action by Azerbaijan, in addition to the hate speech proffered against this population during the same period and even before.

The arrest of the leadership of the community is also a factor that must be considered as a cause for the mass exodus, at least while the reasons for the detentions, their access to due process of law and the conditions in which they are held remain unexplained.

4. It is true that incorporation of the Nagorno-Karabakh Armenians into the territory of Armenia has provided safety and security from different risks to those who have succeeded in crossing the border. That fact, however, does not deny the infliction of genocidal acts against this population, particularly because the forced deportation may well result in the dilution of their specific identity as ethnic Armenians in Nagorno-Karabakh. It must be noted that this specific area of Azerbaijan has been home to this community for millennia.²¹ The link with the land along several centuries is very central to its identity, as is the case with all communities that have settled regions of the world for many generations. The ethnic Armenians of Nagorno-Karabakh have now been deprived of the territory they once occupied, together with access to the landmarks, religious buildings and cultural artifacts that constitute the group's heritage. In addition, families have been deprived of land, urban property, and possessions – including the destruction of vehicles – and the means of securing survival for themselves and their relatives.
5. This is not to say that Azerbaijan did not have a right to preserve its territorial integrity or to oppose and prevent secessionist efforts by the self-proclaimed Republic of Artsakh. After the dismemberment of the former Soviet Union, the international community has recognized that Nagorno-Karabakh lies within the territory of Azerbaijan. On the other hand, it is possible to conceive of autonomy, independence or statehood as a legitimate remedy against severe discrimination that can deteriorate into genocide. In any event, territorial integrity and remedial secession both lie beyond the scope of this study. It is, however, important to say – emphatically – that Azerbaijan's measures to preserve its territorial integrity could not and should not have included genocidal acts against the ethnic Armenians of Nagorno-Karabakh.

In recent months, some authors have placed more emphasis on Azerbaijan's right of self-defense as purportedly legitimizing the use of force to prevent secession of its territory and put down the separatist attempt.²² The characterization of the situation in Nagorno-Karabakh as one of occupation seems exaggerated. It is true that Armenia invaded the area in 1991 and remained in it with its own forces until 2020. That year, Azerbaijan effectively defeated the Armenian forces and caused them to

²⁰ Isabel Debre, *Israeli arms quietly helped Azerbaijan retake Nagorno-Karabakh, to the dismay of region's Armenians*, AP, Oct. 5, 2023.

²¹ Anoush Baghdassarian, *The History...*, see footnote 4.

²² Michael N. Schmitt and Kevin S. Coble, *The Evolving Nagorno-Karabakh Conflict – An International Law Perspective* (Parts I and II), in *Articles of War*, Lieber Institute, West Point, September 29, 2023. It must be noted that, by reference to the laws of war, the authors find the closure of the Lachin corridor unjustifiable on account of its broad effect on the civilian population.

leave, a decision that was verified and established by the cease-fire agreement of November 2020. The secessionist efforts of the self-proclaimed Republic of Artsakh since that date were not in fact supported by Armenian troops but rather by Artsakh's own constabulary and militia. Nor can the situation be considered occupation by proxy by reference to previous military actions by Armenia. Nagorno-Karabakh had been a self-governing territory under Persian and Russian Empire domination, and as an *oblast* dependent on Azerbaijan under the Soviet Union. Their decision to seek independence may have violated Azeri domestic law; but it did not make that regional government a proxy of Armenia. In effect, the approach that considers them mere proxies of Armenia negates the agency of the ethnic Armenians of Nagorno-Karabakh and their rights as a religious and racial minority within Azerbaijan, rights that include the enjoyment of their cultural identity and of course their right to survive. It also ignores their long-standing, centuries old, relationship to the land.

The use of force cannot be used to put down a secessionist effort that had been conducted by referenda and proclamations of independence but without its own use of force. Nor can it be considered an act of self-defense happening thirty years after the Armenian military attack on Azerbaijan's territory.²³

In the end, however, the characterization of the conflict as an international or a non-international armed conflict (NIAC), even assuming that an armed conflict does or did exist, is irrelevant to the prohibition of aggressive actions against the civilian population.

6. To constitute genocide, the actions described in Article II of the Genocide Convention of 1948 need to be conducted with the specific intent of destroying a community "as such" in whole or in part. This special *dolus* is what makes genocide difficult to prevent, as it is very infrequently the case that *genocidaires* will show us the smoking gun of their intention to suppress a population at risk in whole or in part. On the other hand, it is well established that genocidal intent can be inferred from the circumstances in evidence.²⁴
 - a) The instances of aggressive hate speech.
 - b) the various incidents of racial discrimination and lethal violence against ethnic Armenians.
 - c) the detention of leaders of that community.
 - d) the deprivations imposed on the population during the nine-month-long blockade.
 - e) the military operation of September 19 which included attacks on civilian targets.
 - f) the forced displacement of the whole population in its immediate aftermath, and
 - g) the open refusal to comply with an order of the UN's highest judicial organ, all seen in combination are sufficient *prima facie* evidence that

²³ Self-defense rules in customary international law (reaffirmed at Nuremberg and by the UN Charter in 1945) require adherence to the principles of necessity and proportionality. The threat must be "...instant, overwhelming and leaving no choice of means and no moment for deliberation..." *The Caroline Case*, 1837–1842. An act of self-defense requires "an armed attack" to the political independence or territorial integrity of a State. Even in case of an armed attack, the State exercising the right of self-defense is required immediately to report the matter to the Security Council, *United Nations Charter*, articles 2(4) and 51. See also articles 33, 36(3) and 37.

²⁴ International Criminal Tribunal for Rwanda, *Akayesu*, Trial Judgment 2 September 1998; Appeal Judgment 1 June 2001.

these acts were taken with the specific intent of removing the people and the culture of the ethnic Armenians of Nagorno-Karabakh from that part of Azerbaijan's territory.

7. It must be considered that the removal of all ethnic Armenians from Azerbaijan already endangers their survival as a distinct cultural, religious, and ethnic population. In addition, their situation is by no means one of security of survival as a distinct community. They express fear of attacks across the border, especially if they remain close to it. In addition, their chance to remain as a distinct community of ethnic Armenians (formerly) in Nagorno-Karabakh depends in large measure on their capacity to recover possessions and property (or their fair value) left behind in Nagorno-Karabakh. Their survival as a distinct community within Armenia will also depend on their ability to visit places of worship and cultural sites in the land of their ancestors to maintain their traditions and to do so in conditions of safety and respect for their beliefs and customs. It is by no means evident that the Azeri authorities would be willing to allow such exchanges, yet they are a demand that the international community should support.
8. Some voices have claimed that the events of the last several months present a threat also to all Armenians, especially those living in the Republic of Armenia, neighboring Azerbaijan in the East and Türkiye in the West. Given the history of the genocide perpetrated against Armenians beginning in 1915, these are not fears that can easily be dismissed. In addition, there are reports of a build-up of Azerbaijani armed forces near the border with Armenia between Goris and Ijevan, as well as of a joint military exercise between Türkiye and Azerbaijan, named "Ataturk," on the centennial of the founding of the Turkish republic. Early warning may require close vigilance and preparedness by the international community to engage in early action if a growing threat against Armenia itself – as opposed to the ethnic Armenians of Nagorno-Karabakh – becomes apparent.

VI. Conclusion

There continues to be a need for the international community to protect the rights of the ethnic Armenians of Nagorno-Karabakh and to be aware of early warning signs of continued deterioration of their situation. In keeping with an accepted approach to early action, the international community – and more specifically the Security Council – should contemplate initiatives in four areas (and be ready to incorporate specific measures of a dynamic nature in response to changing circumstances):

1. Protection:

The ethnic Armenians of Nagorno-Karabakh should be recognized as cultural minorities in Armenia and in Azerbaijan, as well as by human rights protection organs specializing in minority rights and preservation of cultural heritage.

Specific commitments should be sought from Azerbaijan that it will not take discriminatory action against any citizen of Armenian ethnicity or national origin, including most especially any violence against them.

Azerbaijan must also be asked to commit to strict enforcement of its laws against hate speech, discrimination or similar actions committed by private parties.

Armenia and Azerbaijan should be asked to guarantee security of travel across borders to those who wish to visit their farms and houses and places of worship

or of cultural identity, without prejudice to reasonable controls and measures to prevent the transit of weapons or materials that could be used for violence.

If necessary, the international community must be willing to guarantee these arrangements by deploying peace-keeping forces in the appropriate places with the consent of Azerbaijan and Armenia and their solemn pledge to cooperate with them.

2. Humanitarian assistance:

The international community should assist Armenia in the resettlement of the persons forcibly displaced from Nagorno-Karabakh, including emergency food, and lodging as well as specific work training and placement to ensure their ability to survive, to raise their children and care of their elderly in conditions of dignity. Medical attention should immediately be made available to those injured or suffering from illnesses.

3. Accountability:

There must be an independent investigation of abuses by all sides, including of actions taken by private parties that may amount to acts of violence or of hatred. The governments of Armenia and Azerbaijan should be asked to agree to an independent and impartial Commission of Inquiry to provide credibility to such investigations. If breaches of international humanitarian law and other serious crimes of violence can be established, the governments must recognize and implement their obligation to prosecute and punish those responsible.

The more than 100,000 victims of forced displacement must be offered adequate reparations for the displacement itself and for any property taken from them.

Azerbaijan must account for every person detained during these events, including names, detailed information on the charges against them, the status of their investigations or prosecutions, their places of detention and the conditions in which they are held. They should be allowed to be visited by families and by attorneys of their choice, as well as by the ICRC. The places of detention should be visited periodically by independent monitors.

4. Peace negotiations:

To bring confidence in a long-lasting settlement of this dispute, the international community must offer its services to Azerbaijan, to legitimate representatives of the ethnic Armenians of Nagorno-Karabakh, and to Armenia, to agree to long-lasting solutions of this dispute and its tragic consequences, consistent with the obligations imposed on all States by International Law.

October 30, 2023