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CAPSTONE PROJECT

Accountability of Armenia for war crimes committed during and after the First Karabakh War: Challenges and Perspectives

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Baku. May 24, 2024

Table of Contents

- LIST OF ABBREVIATIONS..... 3**

- CHAPTER 1. INTRODUCTION 5**

- Methodology 8**

- CHAPTER 2. PROBLEM DESCRIPTION 14**

- 2.1. The Destructive role of the Armenian Diaspora in the Karabakh conflict..... 14

- 2.2. Lack of the necessary documentation and preservation of evidence in the territory of the conflict..... 21

- 2.3. Geopolitical aspects of Western bias toward Azerbaijan via denial of Armenian accountability for committed war crimes in Karabakh..... 28

- CHAPTER 3. POLICY OPTION 36**

- 3.1. Enhancing engagement and promotion opportunity of Azerbaijani Diaspora 36

- 3.2. Introduction of Comprehensive Documentation and Evidence Management Strategy.... 40

- 3.3. Deepening political means for promoting recognition and justice for crimes committed in Karabakh 45

- CHAPTER 4. EVALUATION OF POLICY ALTERNATIVES 51**

- CHAPTER 5. CONCLUSION AND RECOMMENDATIONS 62**

- APPENDIX..... 75**

LIST OF ABBREVIATIONS

ACIA - American Committee for the Independence of Armenia

ANAMA- Azərbaycan Respublikasının Minatəmizləmə Agentliyi (Mine Action Agency of The Republic of Azerbaijan)

ANCA - Armenian National Committee of America

ARF - Armenian Revolutionary Federation

IDP - Internally Displaced Persons

POW – Prisoners of War

Abstract

Genocide represents one of the gravest crimes against humanity and ensuring that those responsible are held accountable is so important that it sends a powerful message that such atrocities will not be tolerated. According to the studies it is found that there are voids in the promotion of the evidence, lack of documentation and their preservation. This capstone project emphasizes on the gaps within promotion of evidence for holding Armenia accountable for war crimes committed during and after the First Karabakh War. The aim of the paper is to conduct an investigation into the gaps and obstacles that hinder the promotion of evidence. Based on the quantitative research methods, by analyzing articles and interviewing professionals, we tried to uncover underlying issues such as inadequate resources, institutional barriers, methodological limitations, and systemic biases that hinder the promotion of evidence-based practices, policies, and decision-making processes. We ended up emphasizing three main obstacles and problems in the promotion of evidence: 1) Armenian Diaspora and Biased Action; 2) Lack of the necessary Documentation and Preservation of evidence; 3) Political Impediments to Accountability not clear. Furthermore, this paper suggests various policy options and gives each of their evaluations according to five criteria: equity, feasibility, effectiveness, efficiency, and adaptability. Moreover, this paper also provides analysis and critiques of findings during the research and emphasize the importance of enlightenment of evidence in the international community as well.

Key words: *Karabakh War, legacy, accountability, diaspora, genocide, ethnic cleansing, documentation*

CHAPTER 1. INTRODUCTION

(Mehri Nabiyeva)

In late 1991, a bloody war broke out in the South Caucasus between the two post-soviet countries – Armenia and Azerbaijan. The war started by the consistent Armenian massacres toward Azerbaijanis in various extents, aiming to achieve gradual occupation of the internationally recognized territories of the Republic of Azerbaijan. During this period, ethnic Azerbaijanis were subjected to serious war crimes such as genocide, crime against humanity, torture and inhuman treatment both toward civilians and Prisoners of War (hereinafter: POWs) by ethnic Armenians which were directly organized, commanded and supported by the Republic of Armenia (Shaw QC & Hart, 2020).

The global approach to addressing war crimes, including genocide and ethnic cleansing, has varied over time and across regions. Following conflicts, there is often an imperative to hold perpetrators accountable for their actions. One notable instance occurred after World War I. The Allies established a commission to prosecute war criminals following World War I. They suggested having trials conducted by inter-Allied tribunals or national courts. The Kaiser was among the approximately 900 suspects that Germany was asked to turn over. But many were spared a trial; among them was the Kaiser, who took sanctuary in the Netherlands. In Germany, very few cases were tried, which resulted in few convictions and often short prison sentences (Penrose, 2024).

At the national level, trial and punishment of international crimes have been handled by both military and civilian courts. The status of the individual being tried does not appear to be a systematic factor in the decision-making process. It's interesting to note that in one instance, cases intended to decide whether a military tribunal or a civilian court had

jurisdiction over a matter were brought before the civilian courts (United States, Hamdam case (2005)). In addition, superior military officers may be held liable for the conduct in issue in situations of torture, and civilian courts may be asked to consider these cases in order to compensate the victims. (United States, Garcia v. Ford (2002); Garcia v. Romagoza (2006)) (“Analysis of the Punishments Applicable to International Crimes in Domestic Law and Practice,” 2008).

The Genocide in Khojaly did not just leave hundreds of Azerbaijani locals dead and wounded by torture, but the horrifying visual materials captured by the crying journalist Chingiz Mustafayev by what he was witnessing while the soldiers putting the corpses into the board of the helicopter that was captured in 1992 (CNN, 2010). However, lot has changed. After the nearly 30 years’ Armenian occupation, Azerbaijan completely liberated its territories both in 2020 and 2023. According to the immediate investigations carried out on the various facts including witness interviews, the mass grave areas were discovered which some of them are belong to the Khojaly victims according to the results of medical expertise (Prosecutor General's Office of the Republic of Azerbaijan, 2024). Since the formerly occupied territories were encompassing the 20% of the total Azerbaijani territory the war crimes perpetrated at, the Azerbaijani law-enforcement agencies were completely limited by not physically accessing the mentioned problem is solved via military and politics, the latter one is still a significant legal and cultural challenge. The same “machine” did not hesitate to exhume the victims to remove traces, destroy cultural heritage and prepare artificial “legacy” during those years.

This project aims to present recommendations to the challenges such as why the atrocities imposed on Azerbaijanis are not being remembered or discussed. Did the world forget it, or it was never informed about it? Indeed, there were myriad attempts to achieve the

world community's acknowledgement and attention toward it. There were methods in campaigns such as in the "Justice for Khojaly", which used the text with dark visual graphics on a truck for commuting on a pre-decided route. The youth-based initiative "Karabakh is Azerbaijan" was actively interviewed the Internally Displaced Persons (IDPs) from the First Karabakh War, in order to raise awareness about their hardships as a result of the Armenian occupation ("Karabakh Is Azerbaijan!" Milli Platforması," 2018). After the liberation, the material leftovers of those atrocities are also waiting to be discovered and promoted.

There is another challenge for collection and documentation of the evidence which is not any other restriction from Armenian mines planted until 2023. Those landmines in the mined areas of Karabakh are also another the rationale behind postponing our return back to Karabakh as the statistics of the dead and wounded in the area grows. Being the mine supplier member for the USSR military, Armenians possess the significant number of landmines which even the recently liberated territories of Azerbaijan polluted with 100,000 by them ("Defusing Azerbaijan's Landmine Challenge | Crisis Group," 2023). According to a statement released by the Republic of Azerbaijan's Ministry of Foreign Affairs, there are more than a million landmines that Armenians have planted inside Azerbaijani territory. Even though the maps provided by Armenia are partial and mostly do not demonstrate the reality, they purport to depict only 400,000 landmines supposedly placed within our borders, while the real number of landmines is much higher—more than one million which means that only 25 % of the maps provided is accurate. This factor significantly impairs the procedure (Report.az, 2024). Currently, the demining process in all areas is carried out without a map. The indicator we gave as an example above refers only to a district. The accurate and precise number of mines emplaced in Kalbajar remains undetermined, which is many times bigger than Aghdam and located in a difficult geographical area (New Azerbaijan,2021)

Without any doubt, the supporter government regime for the perpetrators of the horrific acts under the ethnic basis will conduct misinformation campaigns against even the most solid evidence exposing the truth before the world community. Therefore, the project strategy to be created will be analysed under the constant question of counter move to be attempted by them. Such attacks were especially intensive during the Second Karabakh War in September 2020. The atrocities committed by Armenians during the First and Second Karabakh Wars exposed via visual evidence on various social media platforms such as on X (former Twitter), countered by the reversed accusations for the same visuals. The digital methods of verifying visuals possess distinct importance considering the typical counter moves to be attempted as in this case. Furthermore, the recent discoveries of bodies examined by criminalistics investigation experts will enhance the evidence-solidifying and documentation processes.

The goal of this capstone project is to investigate the following research issue:

- 1) Obstacles that the Azerbaijani diaspora is facing.
- 2) Lack of proper formatting in documenting evidence in the prosecution process
- 3) Challenges in promoting justice in the international arena.

Methodology

Following methods and techniques were used in this project to collect and analyse data: conducting qualitative in-depth interviews with prosecutors and experts in the field of law and promotion to collect primary data, investigating historical content analysis, order to compile information about the massacres and genocides in Khojaly, Malibeyli, Aghdaban, Bashlibel, and other war-affected areas from official reports, documentaries, news stories, social media sites, and historical archives to collect secondary data.

1) Interviews:

Three experts were interviewed regarding the gaps and the ways to fill those gaps in promoting accountability for Armenia's war crimes. Interviews were conducted either online or via written response. The consent was given by the interviewees and before the interview they were informed about this capstone project and the main goal of this interview as well. Interviewees were informed that everything they articulated would serve as primary data resources, subject to coding for data analysis. The following questions were addressed:

- i. Could you please provide us with the various kinds of war crimes in legal context Armenians were perpetrating to Azerbaijanis during and after the First Karabakh War?
- ii. What qualifies as evidence? What is the most effective evidence (crime footage, witness interviews, crime leftovers etc.) for raising awareness about the perpetrators in general?
- iii. How effective were international efforts (e.g., international organizations, NGOs, etc.) in gathering and disseminating evidence related to war crimes in the context of the First Karabakh War?
- iv. What role have legal mechanisms such as international tribunals or investigations played in examining this evidence?
- v. How have the geopolitical atmosphere and international relations with conflict states has affected the international dissemination and acceptance of war crimes evidence in the context of Karabakh conflict?
- vi. Have you encountered instances of evidence alteration by the Armenian side, and what approaches should be taken to address this issue?

1. Are there any collaborative procedures involving historians being pursued?
- vii. In your opinion, what further steps could be taken to enhance the promotion of evidence and accountability for war crimes committed by Armenia during and after the First Karabakh war?
- viii. What can you say about the work done within the framework of international cooperation (for example, international organizations, NGOs, etc.) in collecting and disseminating evidence related to war crimes in the context of the First Karabakh War?
- ix. What was the contribution of the Diaspora in the process of bringing to the world the mass graves and other new evidence related to war crimes discovered after the First Karabakh War?
- x. Have you encountered the cases of evidence tampering by the Armenian diaspora and what approaches have been taken to address this problem?
- xi. Have any scientific projects or discussions been held with the participation of genocide experts?
- xii. What additional steps can be taken to strengthen the dissemination of evidence to hold Armenia accountable for war crimes committed during and after the First Karabakh War?
- xiii. What obstacles did the Armenian diaspora cause to prevent the propaganda of the crimes committed during the First Karabakh War?

The first interviewee was the chief prosecutor of the Investigation Department of the General Prosecutor's Office. Despite the mismatch in schedules, the research team

successfully convened with the chief prosecutor for the interview in his office. He was addressed questions related to the law aimed to understand the legal aspects of our research such as classification and collection of evidence, the roles of international tribunals and mechanisms in investigation of these evidence in international level. Chief prosecutor contributed to our research by arranging several meetings and providing with some extra sources such as legal materials, books and presentations that were presented by him in international events related to the war crimes against Azerbaijan. Questions about the obstacles that diaspora has encountered and the work that has been done in the context of genocide discussions and accountability efforts were addressed to the PhD candidate in Communication and Information Management, who works at State Committee on Diaspora Affairs as a head of International Relations and Youth Affairs Department. Our third interviewee was the Dean and Assistant Professor of Political Science at ADA University. The same set of questions were addressed to him affiliated with various concerns related to Azerbaijan's international standing, the treatment of Armenia in the international arena, the effectiveness of Azerbaijani diaspora activities, the perceived biases against Azerbaijan, and avenues for amplifying the voices of victims of genocide and war crimes globally. The main aims of questions for the professor were to evaluate the effectiveness and impact of activities undertaken by the Azerbaijani diaspora in advocating for Azerbaijani interests and raising awareness about issues such as the Nagorno-Karabakh conflict and Azerbaijan's position in the international community.

One significant limitation in any research methodology arises when a suitable candidate cannot be found for interview. This scenario poses a challenge to the study's data collection process, potentially skewing the results and limiting the depth of analysis. Addressing this limitation often requires researchers to reassess their sampling strategies, broaden recruitment

efforts, or adjust inclusion criteria to ensure a more representative sample. Despite facing limitations, such as scheduling conflicts and logistical challenges, all the interviewees actively participated by providing insightful responses to the questions posed.

2)Content analysis:

Content analysis of sources such as documents, and newspapers 1990s and afterwards, especially the external sources, is essential for disseminating the factual narratives of that historical era. These were used in this investigation as secondary data. For this purpose, we addressed to official website of Ministry of Internal Affairs and websites of local newspapers such as Report.az, Xalqəzəti, Azərtac to get the initial understanding and information. Following that, we further explored the foreign resources for instance New York times, The Guardian in order to get objective view of the context. Furthermore, we addressed to research, publications and books of prominent politicians and professors like Henry Kissinger, John Mearsheimer, Ole Wæver and Olena Oleksandrivna Nihreieva to illuminate political terms and make better understandings of them.

The structure of the project is designed to facilitate a thorough exploration and analysis of the chosen topic. In Chapters 1 and 2, the groundwork is laid for understanding the theoretical framework and context surrounding the issue at hand. Chapter 1 serves as a foundational introduction, providing an overview of the project's purpose, objectives, and the core problems it aims to address. This chapter also outlines the theoretical elements relevant to the topic, setting the stage for a comprehensive examination. Following the introductory chapter, Chapter 2 delves deeper into the theoretical underpinnings, offering a detailed discussion of the concepts, models, and frameworks that inform the analysis. Here, the methodology section elucidates the approach taken to gather and analyse data, clarifying the sources and methods employed to ensure rigor and reliability in the study. By elucidating the

research design, data collection methods, and analytical techniques, this section provides transparency and clarity regarding the study's methodology.

Moving to the second part of the project, Chapters 3, 4, and 5 focus on presenting policy options for addressing the identified issues. Each chapter is dedicated to tackling a specific problem, offering three distinct policy options for consideration. These options are informed by the theoretical insights and empirical evidence discussed in the preceding chapters, ensuring that they are grounded in a robust understanding of the problem and its complexities.

Finally, in the concluding chapter, the main findings and conclusions drawn from both primary and secondary data are synthesized. This chapter highlights key insights gleaned from the analysis and offers policy recommendations for addressing the identified issues and advancing towards solutions. By integrating theoretical insights, empirical evidence, and policy options, the project aims to provide a comprehensive understanding of the problem and offer actionable recommendations for addressing it effectively.

CHAPTER 2. PROBLEM DESCRIPTION

(Ahmad Shiraliyev, Durdana Huseynova, Fayyaz Gorchubayli)

Karabakh became graveyard not just for lives, but for truth as well. Documenting evidence for prosecution becomes a difficult battle against perpetrators who actively create falsification with the crime scene. The destruction of Azerbaijani cultural heritage during the Armenian occupation of Karabakh stands as a stark example of this violation of international law. Even after liberation, Azerbaijan faces a minefield, literally and figuratively. Landmines left behind continue to threaten lives and hinder forensic investigations, while Armenia's lack of cooperation in demining prolongs the danger and delays the pursuit of justice.

The fight for accountability is further complicated by the world of geopolitics. Powerful diasporas and the manoeuvring of nations with vested interests often overshadow war crimes, weaving political narratives that create an obstacle for the truth.

Despite these seemingly overwhelming obstacles, the strong commitment of Azerbaijan to justice shines brightly. Azerbaijan persistence in the face of such complex challenges demonstrates a resolute determination to hold those responsible accountable. Every piece of evidence meticulously gathered, every diplomatic avenue explored, is a testament to their unwavering pursuit of truth.

2.1. The Destructive role of the Armenian Diaspora in the Karabakh conflict

As mentioned before, the liberation of occupied territories put the promotion of the war crimes committed by Armenia in Karabakh as one of the main tasks before the Azerbaijani government. During the First Karabakh War, Azerbaijan have faced a huge disinformation campaign both directly and indirectly from the Armenian lobby organizations. That is also

the main reason why Azerbaijan couldn't promote the Khojaly genocide (26.02.1992), Meshaly (23.12.91), Malibayli (10.02.1992), Upper and Lower Gushchu (12.02.92), Garadaghly (15.02.92), Bashlibel (02.04.1993) and Aghdaban (08.04.1992) massacres in a broader scale. Ironically, Armenian lobby introduced Azerbaijan as a country that occupied Karabakh and deported the indigenous Armenian population. There were also myriad false narratives about the closing of Lachin road to blockade Karabakh and statements about genocide or mass deportation after the anti-terror operations of the Azerbaijani forces in Karabakh (Deutsch & Berg, 2023). Even though there is a video footage where Azerbaijan is providing Armenian civilians with necessary food and water, and a safe corridor for their transportation to Armenia (Report AZ, 2023).

In his speech, the president of Azerbaijan Ilham Aliyev stated that: "It is true that 18 countries have recognized this bloody tragedy as an act of genocide thanks to our efforts. However, there are no large countries among those. International organizations, many of them have remained indifferent to this tragedy" (Aliyev, 2024). In order to define the obstacles that the Azerbaijani diaspora is facing, it is arguable that the essence of the Armenian diaspora and its working functions should be firstly analysed. The creation of the Ministry of Armenian Diaspora in Yerevan in 2008 is an indicator of the importance of the role of the Diaspora in permanently raising the voice of Armenia over the world. That is Armenian diaspora has the function of supporting the existing state by creating important links with officials of the country where this diaspora functions by building churches for Armenians living there and by providing financial donations. Firstly, the discussion goes to the construction of churches and the idea behind this course of action. In 2015, Yevart Tomasyan asserted that the church and school are the two primary forces shaping Armenian identity in Turkey. According to him, it is not just about Turkey, as in all countries the Armenian identity is generally preserved