

Forum: International Court of Justice (ICJ)

Issue: Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)

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Introduction

There has been a long-standing ethnic and territorial conflict between Armenia and Azerbaijan over a region called Nagorno-Karabakh. During the Soviet Union era, Nagorno-Karabakh was an autonomous region within Azerbaijan. During this time period Armenians were heavily oppressed and discriminated against by Azerbaijani authorities. In the early 1990s after the

Soviet Union's collapse, the ethnic Armenians that inhabited the region wanted to join Armenia, leading to war. The Armenians, with the backing of Armenia, gained control of Nagorno-Karabakh and surrounding Azerbaijani territories. Later in 1993, the United Nations Security Council adopted 4 resolutions demanding the Armenian removal from all Azerbaijani territories. This was followed by the Bishkek Protocol, a temporary ceasefire agreement between the disputing countries, which put an end to the first Nagorno-Karabakh war. Despite the ceasefire, no conclusive peace treaty was signed, leaving the conflict unresolved.

In February 2017, the Nagorno-Karabakh Republic officially became the "Republic of Artsakh". Tensions and sporadic fighting continued for years, until September 27, 2020, when a full-scale war broke out once again. Azerbaijan launched an offensive attack, recapturing much of Nagorno-Karabakh and surrounding areas. Azerbaijanis had a significant military advantage and were backed by Turkey, while Armenians were fully dependent on Russian protection. After 44 days of war, the fighting came to an end on the 10th of November with a ceasefire brokered by Russia. Azerbaijan regained control over significant territories and Russian peacekeepers were deployed in the area to maintain stability.

On the 16th of September, 2021, Armenia filed a case against Azerbaijan under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Armenia called the tribunal to take provisional measures in order to "protect and preserve Armenians rights and rights of Armenians from further harm, and to prevent the aggravation or extension of this dispute." Armenia accused Azerbaijan of systematically discriminating against Armenians, committing mass killings, torture, and other abuses, specifically during the 2020 war as well as after the ceasefire. In response, on September 23, 2021, Azerbaijan filed its own case against Armenia under the same convention, also requesting urgent measures to be taken. The trial is ongoing, and tensions

between the two countries have only increased as the conflict remains unresolved.

In September 2023, following months of blockade, Azerbaijan launched another large-scale military offensive, eventually leading to the collapse of the Artsakh forces. Faced with threats of ethnic cleansing by Azerbaijan, 100,400 ethnic Armenians (99% of the population of Nagorno-Karabakh) fled the region. Only a couple dozen people remained. Artsakh officially dissolved on January 1, 2024, leaving Nagorno-Karabakh under Azerbaijani control.



The Case in Context

This topic is centered around cultural heritage preservation as a result of the armed conflicts between Armenia and Azerbaijan. The Nagorno-Karabakh area has a predominately ethnically Armenian population and is home to many culturally significant sites. This conflict started as early as 1923 when the Soviet Union established the Nagorno-Karabakh Autonomous Oblast. At this point, it was inside the Azerbaijan Soviet Socialist Republic. Decades of racial and ethnic

tension ensued. Following this, once the Soviet Union dissolved in 1991, Armenia and Azerbaijan declared themselves states and Nagorno-Karabakh declared sovereignty. As a result, the first Karabakh war broke out with 30,000 casualties and hundreds of thousands of refugees. Finally, Russia brokered a ceasefire, on the terms that Nagorno-Karabakh would be de facto independent, with a self-proclaimed government in Stepanakert. This led to the escalation of conflict, as previously stated.

Armenia has proclaimed in front of the international court that Azerbaijan has breached the International Convention on the Elimination of All Forms of Racial Discrimination. They argue that Azerbaijan has participated in forms of racial discrimination, including systematic discrimination, mass killings, and other abuses toward those of Armenian ethnicity. Additionally, Armenia claims these actions are also in violation of the CERD (Committee on the Elimination of Racial Discrimination). Yeghishe Kirakosyan, the lead prosecutor for Armenia, further urged the ICJ to impose provisional measures to protect those of Armenian ethnicity from further abuses.

On the other hand, Azerbaijan has accused Armenia of doing the same, claiming there has been ethnic hatred towards Azerbaijanis resulting in ethnic cleansing in violation of the CERD, saying that they had refused to provide maps of land mines in the Nagorno-Karabakh region. They have further accused Armenia of violating several UN conventions and laws, including the norms and principles of international law, the UN charter, and the Helsinki Final Act, and claimed Armenia is preparing for a war between the two countries.

In response, the ICJ has proposed that Azerbaijan take all provisional measures in order to return the prisoners of war taken hostage in the 2023 conflict along with the movement of vehicles and cargo across the Lachin corridor, aiming to ensure the safe movement of Armenians living in the region. They hope that this will prevent the situation from becoming irreversible.

Authority of the Court

The International Court of Justice can only entertain two types of cases:

1. Legal disputes between sovereign states submitted to them
2. Advisory opinions on legal questions.

On September 16, 2021, Armenia instituted proceedings before the International Court of Justice against Azerbaijan. This case alleges violations of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) upon the continued aggression towards individuals of Armenian ethnic or national origin, even after a ceasefire that came into effect on November 10, 2020. The International Court of Justice has jurisdiction over this case as Article 36, paragraph 1 of the Statute of the Court states “the jurisdiction of the Court comprises all cases which the parties refer to it” and Article 22 of the CERD, under which both states are parties. The application also requested provisional measures to protect Armenian rights and prevent further harm. This request indicates that the measures are of extreme urgency. As Article 74 of the rules of the court states, “[a] request for the indication of provisional measures shall have priority over all other cases”.

Armenia has asserted that Azerbaijan has:

On December 7, 2021, the ICJ delivered its order with the following provisional measures:

1. Protect from violence and bodily harm all persons captured in relation to the 2020 Conflict who remain in detention, and ensure their security and equality before the law;
2. Take all necessary measures to prevent the incitement and promotion of racial hatred and discrimination, including by its officials and public institutions, targeted at persons of Armenian national or ethnic origin;

3. Take all necessary measures to prevent and punish acts of vandalism and desecration affecting Armenian cultural heritage, including but not limited to churches and other places of worship, monuments, landmarks, cemeteries and artifacts;
4. Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.

Side A (Prosecution)

Armenia has accused Azerbaijan of violating the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), with its ongoing campaign of ethnic cleansing and violence. against the glorified racism and discrimination directed towards Armenians in Nagorno-Karabakh. The oppression has included arbitrary detentions, torture and murder. The accusation of ethnic cleansing is substantiated by the displacement of 100,400 thousands of ethnic Armenians from the Nagorno-Karabakh region. Armenia has since become home to more than 500,000 of these refugees, who have been granted all the rights and privileges of Armenian citizens. In recent years, Armenia has been actively involved in efforts to further the case.

Side B (Defense)

Azerbaijan has maintained that Armenia has attempted to annex the region, leading to the displacement of hundreds of thousands of Azeri and loss of territory. Additionally, they have accused Armenia of using the Nagorno-Karabakh region as a base for military operations and refusing to negotiate for a peaceful solution. They claim that Armenia has planted landmines in the region and has refused to help with clearance efforts. Azerbaijan, in response to Armenia's claims of racial discrimination, has also

accused Armenia of engaging in a state-sponsored policy of Armenian hatred, leading to systematic discrimination, mass killing, and torture against Azerbaijanis. Azerbaijan has argued against Armenia's suit, stating that the Armenian complaints date back to the first Nagorno-Karabakh war, and as it was 30 years ago, Armenia should not be allowed to pursue these grievances. If Azerbaijan wins the case, it will be decided that Armenia has put forward outdated accusations and has caused unrest and racial discrimination in the Nagorno-Karabakh area.

Questions a judgment should ask

Within the bulletin the judgment has been provided with multiple points it must communicate. In order to support the process, a set of essential questions have been put forward. The questions are placed as an aid to facilitate the court's process towards the judgment. However, we highly advocate the judgment to extend this list of questions on their own to enhance the court:

- Given the evidence presented by both parties, what can be deduced by each side, and how can the court evaluate its validity?
- What is the International Court of Justice's role in providing a solution to this dispute and ending racial discrimination in Nagorno-Karabakh, how can this be done whilst maintaining a balanced interest of both parties?
- What particular events or actions demonstrate a violation of human rights and international law?

To continue, as outlined above, delegates must keep in mind the different approaches towards criteria they should make in arguments, while contributing to morals, rights, and laws. With the judgment, the ability to make questions that debilitate and reinforce the vanguards of new proposing arguments is essential. They also have the responsibility of improving the context within ideas to delegates. The judgment should communicate their questions with no bias towards the delegates, meaning not regarding the delegate's position as a defendant or prosecutor. Judges must remain unbiased through arguments since their purpose is only to enhance the court during the debate. They are not allowed to select sides or intentionally choose questions that will harm a delegate's claim. A Judge has the duty to work through clever, precise, intricate questions that will challenge the delegates and make them defend their ideas to seek the truth. With these questions judges will eventually have the ability to establish themselves with the more legal and rational side.

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