

GLOSSARY

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| ANAMA | Azerbaijan National Agency for Mine Action |
| AT mines | Anti-tank mines |
| AP mines | Anti-personnel mines |
| AP I | Protocol I additional to the Geneva Conventions of 1949 |
| AP II | Protocol II additional to the Geneva Conventions of 1949 |
| CoE | Council of Europe |
| CCW | 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons |
| ECtHR | European Court of Human Rights |
| EPW | Explosive Remnants of War |
| ICC | International Criminal Court |
| ICRC | International Committee of the Red Cross |
| IHL | International humanitarian law |
| IDPs | Azerbaijanis subjected to forced internal displacement from Nagorno-Karabakh as a result of occupation and surrounding districts |
| NHRIs | National human rights institutions |
| Ombudsman | The Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan |
| OSCE | Organization for Security and Co-operation in Europe |
| POWs | Prisoners of War |
| Refugees | Azerbaijanis subjected to forced mass deportation from the present territory of the Republic of Armenia |
| SDGs | Sustainable Development Goals |
| UN | United Nations |

INTRODUCTION

Warfare or armed conflicts are accompanied by severest and total human rights violations and caused numerous human casualties, which undermine full and comprehensive protection of the rights and freedoms of human beings. Hence, ensuring human rights in both, pre and post-conflict periods is crucial.

As a result of the next military aggression of the armed forces of Armenia on the territory of Azerbaijan since September 27, 2020, numerous casualties were reported among the civilian population, and educational and health facilities, social, cultural, historical, and religious property were destroyed by heavy artillery and banned weapons which constitute to the crimes against peace and humanity as well as war crimes

In this context, the National human rights institutions (NHRIs) take an important role in the rapid elimination of human rights violations committed during and post-armed conflict periods, more effective work to ensure the rights of the vulnerable groups, calling the parties to the peace and consequently, and the prevention of human rights violations.

From the very beginning, the Ombudsman of Azerbaijan has conducted Fact-Finding Missions on the front line, in the areas nearby, and in cities and districts where the civilian population was targeted. Consequently, the Ombudsman issued several Mission Reports, various Statements, and Public Appeals to the relevant international human rights organizations, trying to draw the attention of the world community to the human rights violations.

Thus, the Ad-hoc Report presents the information about human casualties caused by the anti-tank (AT) and anti-personnel (AP) mines planted by Armenia in the liberated territories of Azerbaijan, as well as mine terror due to Armenia's refusal to provide minefield maps, the overall damage inflicted upon human life and health, human rights, and the regional development.

The Ad-hoc Report has been prepared to draw the attention of the international community to the facts about war crimes and the non-fulfillment of international obligations by Armenia. The Report has been prepared to be submitted to international and regional organizations and foreign National Human Rights Institutions.

BRIEF HISTORY OF THE CONFLICT BETWEEN ARMENIA AND AZERBAIJAN

The conflict between Armenia and Azerbaijan dated back to the early XIX. It may be well-argued that this conflict had erupted due to Armenia's groundless territorial claims and ethnic cleansing policy against Azerbaijan.

The conflicts started with the eviction of hundreds of thousands of ethnic Azerbaijanis from Armenia and resulted in the occupation of the territory of Azerbaijan for a period of 30 years.

Thus, in 1992-1993 years, the armed forces of the aggressor Armenia had occupied around 20 percent of the territory of Azerbaijan, including Nagorno Karabakh, as well as surrounding Fuzuli, Jabrayil, Zengilan, Gubadli, Agdam, Lachin, and Kalbajar districts. In the period of occupation, Armenia had committed series of violations of IHL, along with the openly using of force against Azerbaijan in blatant violation of international law.

Nagorno-Karabakh and seven surrounding districts are an integral part of the Republic of Azerbaijan under international law, including UN Security Council Resolutions 822, 853, 874, and 884 of 1993, the UN Resolution “the Situation in the Occupied Territories of Azerbaijan” dated 14 March 2008, CoE PACE Resolution No. 1416 of 2005 and Recommendation No. 1690, European Parliament Resolution on Nagorno-Karabakh of 23 October 2013, and the EU Parliament Resolution of 12 December 2018 also once more prove that.

In response to the provocative offensive operations launched by Armenia on 27 September, 2020 with the purpose of seizure of new territories of Azerbaijan, the armed forces of Azerbaijan launched a counterattack and the 44-day war was ended on November 10, 2020, according to a tripartite Statement concluded between Azerbaijan, Russia and Armenia (*hereafter* tripartite Statement) had liberated its territories kept under the occupation nearly 30 years.

LANDMINES – HIDDEN DANGEROUS ENEMY

The 1980 Convention on Certain Conventional Weapons (CCW) prohibits the use of weapons that are indiscriminate by nature. Article 2 (1) of the 1980 Protocol II to the CCW provides that “Mine” means any munition placed under, on, or near the

ground or other surface area and designed to be detonated or exploded by the presence, proximity or contact of a person or vehicle, and “remotely delivered mine” means any mine so defined delivered by artillery, rocket, mortar or similar means or dropped from an aircraft.¹

By the way, in accordance with the General and Complete Disarmament Policy, Azerbaijan, which attaches great importance to the establishment of mine action legislation and standards and is constantly working on it, on December 5, 2007, voted in favor of the UN General Assembly Resolution 62/41 dated 5 December 2007, requiring the universalization and full implementation of the UN Mine Action Policy.

According to some information, more than 110 million landmines are buried in 60 countries. In 2015 alone, around the world, more than 6,500 people were killed or injured in mine explosions. The mine clearance process in itself is a difficult and long-term process. For instance, in Mozambique, this process lasted more than 22 years and ended in 2015.²

According to UNICEF, about 1 million people have been killed by landmines since 1975, one-third of them were children under the age of 15. In addition, according to ICRC statistics, about 2,000 people are killed by landmines every month, three-quarters of them were civilians.³

It is generally agreed that Afghanistan, Cambodia, Laos, Bosnia and Herzegovina, and Angola are the areas most heavily deployed with mines in the world.⁴ Considering the current situation, it is safe to say that the liberated territories of Azerbaijan occupy one of the leading places on this list.

In practice, there are different types of mines, which include AP mines and AT mines. The use of AP mines as weapons of war is a real humanitarian tragedy on a global scale. Mines are indiscriminate by nature, that is, landmines are unable to distinguish between a civilian and a combatant. The practice shows that in many cases, the victims of landmines are civilians. AP mines explosions take the lives or health of human beings and making them disabled, leading to long-term severe psychological trauma.

The placement of landmines, especially during and after prolonged armed conflicts, impede the return of those who have been forced to flee their homes as a result of the conflict, as well as settlement in general.

¹ Protocol II to the CCW, (1980), Article 2 (1)

² <https://www.bbc.com/russian/vert-fut-39492388>

³ slovar-gumanitarnogo-prava.org

⁴ <https://www.bbc.com/russian/vert-fut-39492388>

It is also a well-known fact that landmines are a major obstacle to rehabilitation and humanitarian aid in the affected areas.



“Trenched graves” – photo from a cemetery in the village of Marzili in Agdam district

Minelaying limits access to available resources, destroys agriculture, paralyzes transport and communications, and lags behind the region’s economic development. The information about the presence of mines is enough to prevent tourists from visiting the region. Thus, it hinders the faster recovery of the economy, which was negatively affected by the war.

The contamination of the region with weaponry was also verified by the International Committee of the Red Cross (ICRC) weapons expert, Chris Poole saying that “AP mines, loaded weapons, grenades, RPGs, mortar bombs, anti-tank missiles, long-range rockets...there is a contamination everywhere”.⁵

⁵ ICRC Article, (16 April 2021), Nagorno-Karabakh Conflict: finding common ground in respect of the dead, at <https://www.icrc.org/en/document/nagorno-karabakh-conflict-finding-common-ground-respect-dead>

Photos of Landmines found in the liberated territories



MINE TERROR OF ARMENIA

A mine impact study carried out in 2002 found that 643 communities in our country were affected by landmines and explosives. The number of people in these communities was 111,000. Today, that number is close to 600,000, as a result of the population growth and return.⁶

⁶ ANAMA statistics

On 10 November 2020, a tripartite Statement was concluded to cease the hostilities. According to official statistics, even though more than 35,000 landmines have been cleared in the area of about 100 million square meters in the 200 days since the signing of the tripartite Statement the number of casualties of landmines continues to rise.⁷

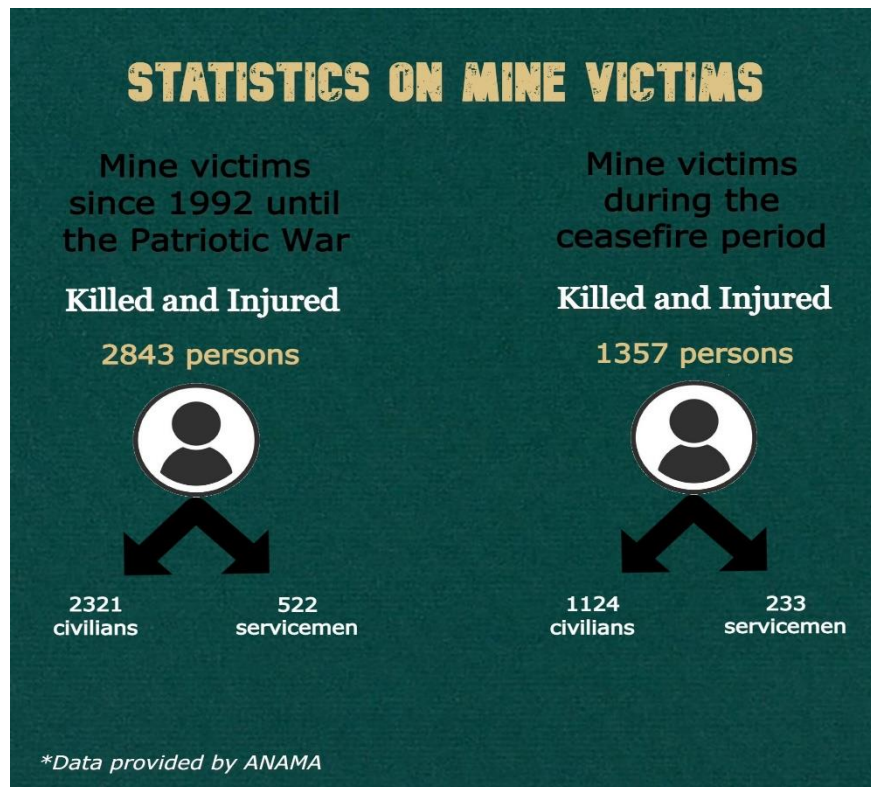


The AP and AT mines were widely used during the conflict between Armenia and Azerbaijan. As a result of mines buried by Armenia in the area from 1992 until 27 September 2020, 2,843 persons were killed or injured. 522 out of whom were military servicemen, and 2321 were civilians. About half of the victims, 1,357 persons were injured because mine blasts occurred only in peacetime.⁸

After the signing of the tripartite Statement, the armed forces of Armenia planted unmarked landmines while leaving the areas they held under the occupation, and until recent days, made attempts to plant new landmines by its subversive sabotage groups.

⁷ ANAMA statistics

⁸ ANAMA statistics



Since 10 November 2020, 27 persons were killed, and 115 others were injured as a result of explosion of various types of mines and explosive remnants of war (ERW). During this period of seven months, among the total 142 landmine victims, 49 were civilians.⁹ The other 93 servicemen were killed and injured as a result of mine explosions during the humanitarian missions, which included the search for the bodies (including the bodies of Armenian servicemen) and mine clearance, as well as a supplement of food and other supplies of vital importance to the region, etc.

On November 28, 2020, a landmine exploded in a dangerous area in the village of Ashagi Seyidahmedli, Fizuli region, where civilians were not allowed to enter. Four people who wanted to visit their ancestral homes, including the female editor-in-chief of the “Gayidish” newspaper, which specializes in covering the problems of IDPs, were killed by an AT mine in a car.

⁹ The statistical data was verified by the ANAMA and approved by the prosecutorial authority.



The result of a mine explosion in Fizuli district, which killed 4 people

On December 13, 2020, in the Aghdam district, 3 people, one military serviceman and two civilians were hit by the landmine, as a result of which one civilian was killed and two others were injured.

On February 2, 2021, three civilians were hit by a mine while entering the liberated area in Yukhari Yaglivand village, Fizuli district. One of the mine victims died on the spot, and the others received various injuries.

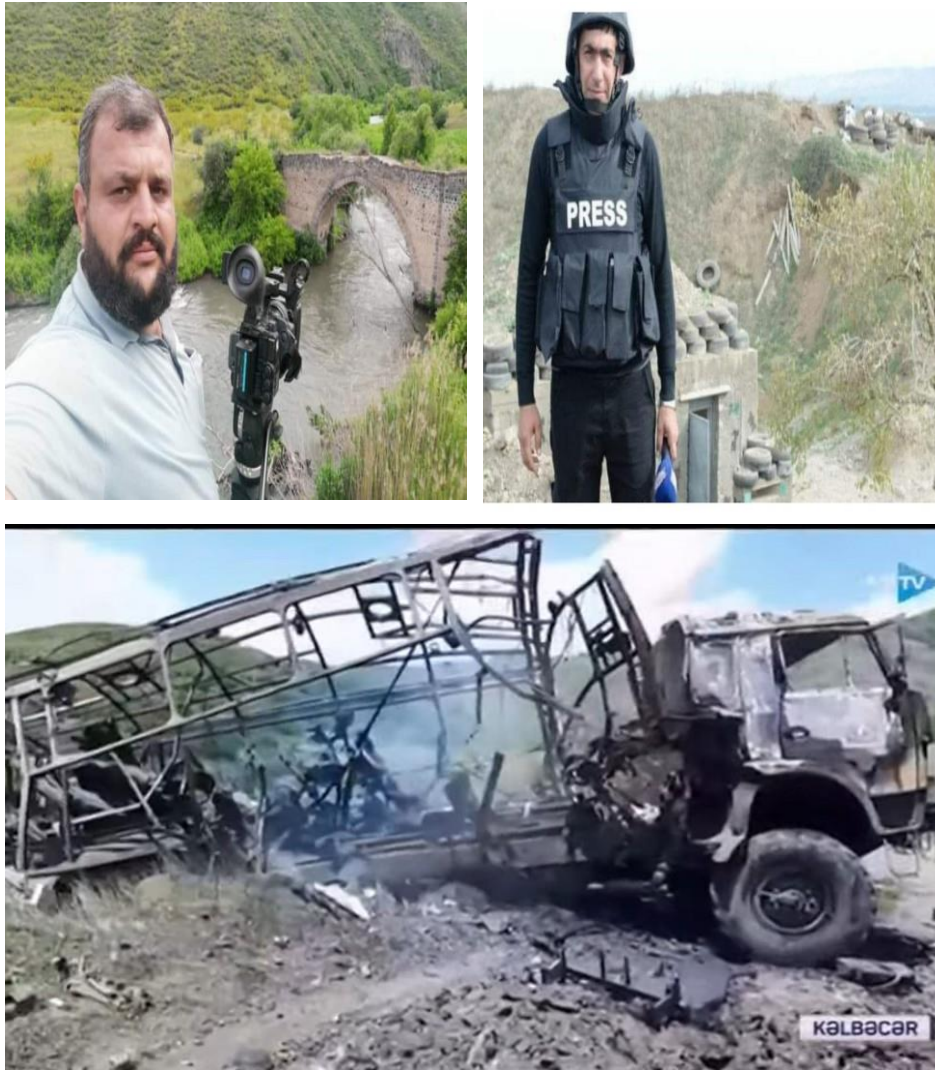
On February 4, 2021, three people were hit by an AT mine in a civilian vehicle in the village of Nuzgar, Jabrayil district, as a result, one person was killed and two others were injured.

On April 16, 2021, as a result of the landmine explosion, 2 out of 6 civilians were killed and 3 others were injured while returning from visiting the graves of their relatives buried in the cemetery in the liberated Yusifjanli village of Aghdam.

A mine explosion near the liberated Sugovushan settlement (village) killed a colonel of the Armed Forces of Azerbaijan, who was carrying out a humanitarian mission to search for bodies, and wounded five people, including a Russian peacekeeper and four Armenian servicemen.

The latest incident of the mine explosion and related human casualties occurred on June 4, 2021. According to the joint information of the Office of Prosecutor General and the Ministry of Internal Affairs of Azerbaijan, employees of the Azerbaijan State Information Agency and Azerbaijan Television, who were filming in the liberated territories, were hit by a mine on June 4 in Susuzlug village of Kalbajar district. Three people - two journalists, who were on duty and a local state

official, were killed and four others were injured when a vehicle carrying the film crew hit an AT mine on the road.



It must be reiterated that in late May, a sabotage group of the armed forces of Armenia was detained while entering the territory of Azerbaijan in the direction of Kalbajar and committing provocation aimed at planting landmines on the roads in the area.¹⁰ This fact shows that along with military servicemen, Armenia continues to pose a serious threat to the lives and health of civilians and further aggravates the situation in the region.

The planting of new mines by Armenians, while leaving the occupied territories pursuant to the tripartite Statement, should be considered as a support for

¹⁰ Ministry of Foreign Affairs of Azerbaijan, Press release, No:202/21, Information of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan on the death of civilians as a result of a mine explosion in Kalbajar, see at <https://mfa.gov.az/en/news/7381/view>

the continuation of terrorism, undermining the peace process. In an interview with local television, Colonel of the Armenian army Koryun Gumashyan said they have planted a large number of landmines in Azerbaijan's Lachin and Kalbajar districts, saying that *"By the order of General Ter-Grigoryants, we have mined about 500-600 hectares of territory in Kalbajar. My contingent and I have placed 17 trucks of mines near Lachin and Kalbajar, and you cannot do anything in those areas because of mines,"* and added that *"Return us our prisoners of war, and I will provide you with the map of mines"*.¹¹

Currently, the relevant agencies involved in demining operations, including the Ministry of Defense of the Republic of Azerbaijan and the Azerbaijan National Agency for Mine Action (ANAMA), are carrying out mine clearance operations in the liberated areas. According to ANAMA, in May 2021, the Agency neutralized 1,533 mines and unexploded ordnance in the liberated territories. As part of mine clearance operations in May, the Agency's staff found and defused 369 AP mines, 74 AT mines, as well as 1,090 unexploded ordnance.¹²

THE ISSUE OF SUBMISSION OF MINE MAPS

Even though a long time had passed since the signing of the tripartite Statement, no systematic steps have been taken to submit mine maps by Armenia. This not only leads to more casualties but also hinders peace in the region.

Armenia must act responsibly to avoid the loss of lives of both, the military, and civilians, and support the realization of peace, security, and cooperation in the region.

On a Twitter account, the CoE Commissioner for Human Rights, Dunja Mijatovic also emphasized the importance of urgent need of demining process in the areas affected by the Nagorno-Karabakh conflict, tweeted in her post as such: *"The explosion of a landmine which killed three people, including two journalists, and wounded several others in Kalbajar shows the urgent need to demine the areas affected by the conflict in Nagorno Karabakh, including through international cooperation"*.

Meanwhile, the Head of the EU Delegation to Azerbaijan, Ambassador, Kestutis Jankauskas, in his interview with "AzerTag" News Agency, expressed the sorrow and condolences on behalf of the EU at the occasion of the killing of two journalists in Kalbajar district and added that the EU European Civil Protection and

¹¹ Video link of the interview at <https://www.youtube.com/watch?v=zzdRKplrS1s>; also at <https://defence.az/en/news/153238/armenian-colonel-we-have-planted-17-trucks-of-mines-in-azerbaijan%E2%80%99s-lachin,-kalbajar-%E2%80%93%C2%A0video>

¹² Please click on the link to watch the video about the demining process <https://drive.google.com/file/d/1YA6tuOM8HMRaZ7VXmW2yzTFSueG9OCUY/view?usp=sharing>

Humanitarian Aid Commission (ECHO) seeks to support Azerbaijan in the process of demining the territories liberated from the Armenian occupation.

In general, under the IHL, the Parties to the conflict should accurately record all places of mines and “*effective advance warning shall be given of any delivery or dropping of remotely-delivered mines which may affect the civilian population, unless circumstances do not permit*”.¹³ In addition, the IHL also prohibits to use of booby-traps and other devices near burial and cremation sites or graves.

The Protocol II to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons provides that the Parties shall accurately record the location of mines while being placed and after the cessation of active hostilities, they shall come into agreement on the provision of information, and technical and material assistance, including joint operations for removal or rendering ineffective minefields.¹⁴ In addition, in some Military manuals of various States, e.g. Switzerland, Sweden,¹⁵ it is stated that such maps should be handed over to the adverse Party and to the UN.

Azerbaijan has made numerous appeals to the ECtHR over Armenia’s refusal to provide maps of mines in the formerly occupied areas. Armenia’s refusal to disclose the maps of mines, which will save human lives and reduce the risk of casualties among the population seriously infringe the rights of life, right for respect to private and family life, home and correspondences, right to protection of property, the right to freedom of movement within the territory of a State and the prohibition of the expulsion of nationals that are stated in European Convention on Human Rights and its Protocols 1 and 4.

In the period of preparation of the Report, more precisely, on June 12, 2021, it was reported that Armenia had provided Azerbaijan with minefield maps of 97,000 AT and AP mines buried in the Aghdam district. 15 Armenians detained in Azerbaijan were handed over to Armenia in exchange for the map.

The fact of planting about 100,000 different types of mines in only one liberated district of Azerbaijan, as well as the official statement made by the acting Prime Minister of Armenia Nikol Pashinyan during the meeting with his voters in the frame of the election campaign in the city Yeghvard, about that the mine map presented to Azerbaijan is a small part of those maps, have once again, demonstrated how well-founded our ongoing concern to international organizations is and the need of rendering all minefield maps as quickly as possible.

¹³ Protocol II to the CCW (1980), Article 6 (4)

¹⁴ CCW Protocol II, Articles 5(1)(A) and 9

¹⁵ Basic Military Manual of Switzerland (1987); Sweden IHL Manual (1991), Section 3.3.2



From this point of view, the opinion expressed by the former President of the Republic of Armenia Serzh Sargsyan at his speech during the election campaign in the Gegharkunik region can be considered chrestomathic, ie typical. According to the 3rd President of this country, *“The importance of mine maps is enormous. These areas have been mined in the period of 30 years. These maps would give us more than a chance to return 15 servicemen.”*¹⁶

As a result of the 30-year minelaying process, 18-20 mine lines are sometimes required to be cleared during demining operations to ensure the safety of the area.

It is unfortunate that in the Armenian society, instead of appreciating the handing over of mine maps to Azerbaijan, this act is considered a crime and is declared dissemination of state secrets.¹⁷

Obtaining mine maps would not only save the lives and the health of people, including deminers but also accelerate the process of reconstruction projects and the return of IDPs in the region.

In this regard, the Ombudsman of Azerbaijan once again appealed to international organizations about that Armenia violated the principle of distinction under international humanitarian law, as well as the requirements of Additional Protocol I of the 1949 Geneva Conventions by planting AP mines in the liberated territories and refusing to provide minefield maps and once again demonstrated an open disrespect to the international community officially declaring it.

¹⁶ <https://www.google.com/amp/s/ru.armeniasputnik.am/amp/politics/20210613/27915133/Mozhno-bylo-vernut-bolshe-Serzh-Sargsyan-prokommentiroval-vozvrashchenie-plennykh.html>

¹⁷ <https://news.am/rus/news/648600.html?fbclid=IwAR0BdVIWazZ1IXWsw-U9aZNXe7Cmbu5ZEhkw3bXL4gCt617ihk9CGqWPy7g>

At the same time, for the sake of the protection of the lives and health of innocent people and ending human rights abuses, in the appeal, the Ombudsman strongly urge for rendering minefield maps of other liberated areas and called on all relevant international organizations to take urgent action within their mandates.

OTHER REMIFICATIONS OF THE MINES

Furthermore, the demining processes and clearances of cluster munitions (bombs) and EPWs have positive-impact factors in both, prevention of human loss, as well as economic, social, cultural, and environmental development.

Armenia's refusal to share mine maps not only cause loss of civilian lives but also delays mine clearance, which at the same time, prevents IDPs - a vulnerable population being displaced from their homes for the period of 30 years, to return to their homes and daily livelihood.

The Armenian aggression policy had resulted in the occupation of 20 percent of the territory of Azerbaijan, our cities were subjected to urbicidal terrorism, as a result of which residential areas, schools, religious sites, and cultural property belonging to Azerbaijani population were deadly damaged. So, the economic damage inflicted on the country can be estimated in billions of US dollars.

The restoration of our liberated territories within a short period of time, resettlement there, creating workplaces, and construction of industrial enterprises will have a positive impact on the development of the South Caucasus region as a whole, leading to the prosperity of the Region.

In addition, demining process is also important for the achievement of the UN SDGs. The Goal 16.1 specifically seeks to "significantly reduce all forms of violence and related death rates everywhere" that directly interlinked to the clearance of weapon contamination. The Mine Action will remove physical blockages and mobility constraints and facilitates safe access to basic social services for beneficiaries, such as healthcare services (SDG 3), education (SDG 4), and water and sanitation (SDG 6). Furthermore, access to economic markets and natural resources can provide livelihood opportunities and yield productivity improvements in affected communities that can help address issues of poverty, malnutrition, and food insecurity (SDGs 1 and 2).

Similarly, infrastructure to be (re)built (SDG 9) and economies to recover with mine action programs offering decent work (e.g. deminers, medics, support services) and transferable skills (like teamwork, communication, personal development etc.) in affected communities which often include youth and women (SDG 8). Furthermore, the clearance of mines for (re) constructing power network infrastructures to allow energy services to become more accessible as a public good

for all, including affected and non-affected communities, cities and other development sectors (SDG 7).¹⁸

So, clearance of these areas from the weapon contamination would facilitate the rapid accomplishment of the goal “no one left behind” in the context of the landmine action and to attain a Zero Victim Target.

VIOLATIONS OF THE NORMS AND PRINCIPLES OF IHL BY ARMENIA

Under IHL, more precisely according to the Rule 149 about the Responsibility for violations of IHL, a State is responsible for violations of international humanitarian law attributable to it, including:(a) violations committed by its organs, including its armed forces; (b) violations committed by persons or entities it empowered to exercise elements of governmental authority;(c) violations committed by persons or groups acting in fact on its instructions, or under its direction or control; and(d) violations committed by private persons or groups which it acknowledges and adopts as its own conduct.¹⁹

The above-mentioned show that Armenia, which is waging an aggressive war against our country by seizing the territories of Azerbaijan, recognized by the world community, has a direct international legal responsibility.

Principle of Distinction

As already mentioned, Armenia violated and continues to violate its international obligations under the 1949 Geneva Conventions and its Additional Protocols, more precisely, the principle of distinction, which is one of the core principles of IHL, by putting at risk the lives of civilians- the protected persons under the IHL.

This obligatory principle must be considered by all Parties to the conflict as provided in Article 48 of the AP I of 1977. So, Armenia as a State that consented to be bound by this treaty, blatantly broke this norm.

Given that mines are blind to differentiate between a civilian and a combatant, and therefore, have indiscriminate effects,²⁰ and that AP mines may be used intentionally to cause the loss of civilian lives, civilian damages, and injuries, Armenia violated this principle. Because the enemy State used Anti-vehicle mines and AP mines not only for military purposes but also targeted civilians by placing them in residential areas and

¹⁸ <file:///C:/Users/HP/Desktop/AdHoc%20Report/UNDP%20GICHD%20Mine%20Action-SDG%20Study%20-%20web.pdf>

¹⁹ https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule149

²⁰ Article 3 (5), Protocol II to the Convention on Certain Conventional Weapons (1980)

cemeteries. Regretfully, it must be noted that the refusal to hand over maps of the areas contaminated with unexploded weapons, mines and ERWs planted in the occupied areas of Azerbaijan by the armed forces of Armenia will definitely cost further human casualties.

The prohibition of indiscriminate weapons is also recalled in numerous Resolutions adopted by the UN General Assembly.

CONCLUSION

We are deeply concerned about this situation, posing a serious threat to the lives and health of human beings, and overall, to human rights in the Region. We strongly believe that disclosure of minefield maps would be an important step forward to peace.

Armenia seriously breaches the right to life, right for respect to private and family life, home and correspondences, right to protection of property, the right to freedom of movement within the territory of a State, and the prohibition of the expulsion of nationals that are stated in the European Convention on Human Rights and its Protocols 1 and 4.

The facts of refusal to provide mine maps by Armenia, planting new mines in civilian areas in the liberated from the occupation areas by the Armenian army while leaving those areas, and the recent attempts to plant new mines by provocative groups are serious violations of IHL and create new hotbeds of conflict in the region.

Refusal to provide minefield maps by Armenia leads to ongoing human rights violations, including the violation of the rights to life, property, health, etc., that stipulated in the international human rights treaties to which Armenia is a party too.

As the Ombudsman Institution of Azerbaijan, we once more, express our concern on the existing situation, urging the relevant human rights international organizations to take effective and resolute measures against Armenia to provide the maps for the clearance of the mine to Azerbaijan. We consider that relevant international human rights organizations should take appropriate actions within their mandate. The UN and international organizations, must take action and increase pressure on the aggressor. The clearance of areas and roads from mines, saving the lives of dozens and hundreds of human beings, and the restoration of peaceful coexistence and cohabitation in the region is impossible without the removal of mines.

Finally, as the Ombudsman, I urge the international community to join efforts to establish full peace in the region, create a secure environment, ensure the speedy return of IDPs to the liberated territories, and call for action to prevent the increase of the number of civilian casualties caused by landmines in the world.