CAPTURE OF ARTSAKH: IMPLICATIONS OF ETHNIC CLEANSING AND GENOCIDE

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On Sept. 19, 2023, Azerbaijani military forces staged a blitzkrieg sneak attack on the people of Artsakh (Nagorno-Karabakh), killing 200 persons and wounding over 400 men, women, and children--despite a ceasefire agreement brokered between Armenia and Azerbaijan on Nov. 9, 2020, by Russia, Armenia's so-called ally and partner.

the Republic of Artsakh was captured by Azerbaijani forces, with guile and brutality. The act is tantamount to the rape of a peace-loving nation, the ethnic Armenians who had lived in their ancestral homeland for millennia.

The indigenous people of the Republic of Artsakh have reached the nadir of their suffering. Within 24 hours of surprise heavy artillery and missile strikes against Artsakh's defense forces and unarmed civilians, the capital city of Stepanakert had to surrender.

President-dictator Ilham Aliyev was caught on camera trampling on Artsakh's flag. Is this the behavior of a president or that of a barbarian?

The consequence of this brutal attack was the exodus of the 120,000 population of Artsakh: a whopping 100,000 individuals were forced to seek asylum in neighboring Armenia. The flight was triggered by a fear of war, and persecution, including ethnic cleansing and genocide by Azerbaijan. Only some old people and the ailing remained in Artsakh.

This tragic event unfolded while the international community, especially the Russian peace-keepers, the U.S., EU, UN, etc. had become spectators to a heinous crime perpetrated by monstrous Aliyev who had breached his promises of ceasefire on multiple occasions with impunity.

For some experts, the forced evacuation constitutes ethnic cleansing. For others, it's genocide.

I would like to explore the contentions of the two schools of thought: whether the brutal treatment of the people of Artsakh is ethnic cleansing or genocide. I would also like to raise the question as to whether it is possible these two concepts are related and that they are the two sides of the same coin. I shall also discuss the implications of each concept in the hope of being of some help to the tormented and exiled people of Artsakh.

Genocide Treaty

Upon Raphael Lemkin's coining of the term genocide, based on the Armenian massacres and sufferings of 1.5 million during the 1915-1923 period by the Ottoman Empire, the United Nations (UN) first defined genocide in 1948 in the Convention on the Prevention and Punishment of the Crimes of Genocide. One way to define it is by stating genocide is "the crime of intentionally destroying part or all of a national, ethnic, racial, or religious group, by killing people or by other methods."

As a result of the Convention on the Prevention and Punishment of the Crimes of Genocide, the

treaty outlines the following five acts that can qualify as genocide if they are done "with the intent to destroy an ethnic, national, racial or religious group":

1. *Killing members of the group*
2. *Causing serious bodily or mental harm*
3. *Deliberately inflicting conditions of life calculated to bring about the group's physical destruction in whole or in part*
4. *Imposing measures intended to prevent births*
5. *Forcibly transferring children.*

To constitute an act as genocide, the act must be done with the intent to eliminate an entire group or part of the people. Without provable intent, a group or individual can still be guilty of "crimes against humanity" or "ethnic cleansing" but not of genocide.

Tribunals have historically struggled to establish a legal standard for genocidal intent. The task has defied a solution because only a few perpetrators, with the notable exception of the Nazi regime, have left explicit plans detailing their intentions to eradicate groups.

Equally difficult is for the courts to decide on the punishment for genocide. The UN treaty addressing genocide states that any person or group committing the crime of genocide "shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals."

However, the UN treaty does not dictate the outcome of a genocidal conviction. Sentences have shown a range from 10 months to life in prison, depending on the person's role in the crime.

While the punishment for a crime of genocide is too little for the harm done to an ethnic group, the courts are more generous in granting restitution to the people for suffering material losses through the genocide of their people.

Overall, international courts have been toothless in convicting and punishing genocide perpetrators.

Ethnic Cleansing

Ethnic cleansing refers to a situation when "an ethnic group is forced to leave their homes due to the fear of war, violence, or persecution." It's referred to the expulsion of a group from an area usually claimed as their homeland.

It should be noted that ethnic cleansing has not been recognized as an independent crime under international law. The term was employed in the context of the 1990s conflict in Yugoslavia and is considered to have come from the literal translation of the Serbo-Croatian expression of "*etnicko ciscenje*," meaning ethnic cleansing.

The term "ethnic cleansing" has been used in resolutions of the Security Council and the General Assembly of the UN. It has also been acknowledged in judgments and indictments of the ICTY

(International Criminal Tribunal for the former Yugoslavia), although it did not constitute one of the counts for prosecution. A formal definition has never been provided.

Ethnic cleansing has not been officially defined by the UN or any relevant or related international organization. Furthermore, it is not recognized as a crime under international law according to the UN. As we shall see later, the required conditions between ethnic cleansing and genocide are not clear.

Unlike genocide, international law lacks enforcement mechanisms for ethnic cleansing: it demands approval from an international community.

The Critical Question

Here is the challenging question: Is the tragic event the people of Artsakh suffered a case of ethnic cleansing or genocide or both? Let's see if we can answer the knotty question.

If we go through the five conditions to qualify a crime as genocide, we would see that the first requirement "Killing members of a group," the second requirement "Causing serious bodily or mental harm," and the third requirement "Deliberately inflicting conditions of life calculated to bring about the group's physical destruction in whole or in part" support the position that ethnic cleansing may be the input to genocide.

Therefore, both are related concepts to criminalize the perpetrators of the crime against humanity.

Here is the supporting argument: On December 12, 2022, Azerbaijani so-called environmental activists, with Aliyev's consent, blocked the Berdzor (Lachin) Corridor, which is the only link connecting Artsakh to Armenia and beyond. The deadly blockage, thus, prevented the flow of food, medicine, and fuel from the outside world. In other words, Azerbaijan weaponized siege starvation for nine months to make the people of Artsakh starve, become weak, sick, and finally succumb to Aliyev's wish to control their ancestral land. Aliyev's premeditated plans worked.

As a consequence of the siege, 30,000 children were traumatized, many people became ill, and some even died from lack of food, medicine, heating fuel, and electricity.

Azerbaijan's corrupt leader laid a medieval-style siege on Artsakh just as his Turkic brothers had done to Constantinople in 1453.

Psychological studies have shown that fear also has profound harmful effects on children as well as on adults' mental functioning. These bodily and mental inflictions upon the people of Artsakh are testimony to the fact that Aliyev wanted to destroy the native people of Artsakh and to terrorize them to leave their homes and farms to inhabit them with Azeris.

As for Aliyev's sneak attack on Artsakh and the killing of 200 persons and the wounding of 400 is consistent with the first requirement of genocide, namely "Killing the members of a group." Had Artsakh not surrendered the casualties would have soared to many thousands.

For months, Aliyev even refused to let humanitarian aid reach the people of Artsakh. We can conclude the whole act as being ethnic cleansing as a prelude to genocide.

Emin Husynov, special representative of Aliyev, recently announced Azerbaijan plans to settle 140,000 Azeris in Artsakh by 2026. Is this not a premeditated crime to deprive the indigenous people of their homes and homeland?

Aliyev's intention to torture people with fear and famine, to force them into submission, then the assertion agrees with the second act of genocide condition: "Causing serious bodily or mental harm" and with the third genocide requirement "Deliberately inflicting conditions of life calculated to bring about the group's physical destruction in whole or in part."

When there was a heavy shelling of Artsakh on Sept. 19 and 20, people flew from their homes for safety; we call that ethnic cleansing. Doesn't Azerbaijan's suprise attack and the killing of Armenians constitute part of a genocidal plan to overcome the people of Artsakh since it involved the killings and destruction of people? That twin crimes of ethnic cleansing and genocide are intertwined is obvious in this instance. Additionally, ethnic cleansing and genocide are the twins of crimes against humanity.

It would be logical to conclude that since Aliyev's weapons have killed unarmed civilians of Artsakh, the act is nothing but the first requirement for genocide: "Killing the members of a group."

What Aliyev did to the people of Artsakh was genocide. Armenians should capitalize on this crime of genocide to get help for the people of Artsakh.

Fear, flight, destruction, killing, and the capture and the downfall of a native nation are ample evidence to convict President Aliyev of genocide.

One wonders how many members of the UN have failed to see ethnic cleansing and genocide are intertwined. The only explanation given to me by an erudite friend is that most of the members of the UN are superficially educated. A lot of them earned their positions at the UN because of their loyalty to the ruling political group of their country.

According to Prof. James Silk (Yale Law School), "Your motivation may be that you want the people out, but if in doing that you intend to destroy the group, then it's also genocide." President Aliyev has expressed his intention on several occasions on TV to destroy the Armenians in order "to teach them a lesson."

Implications of Ethnic Cleansing and Genocide

The international community should be held morally responsible for the plight and predicament of the Artsakh people. Soon the Armenian heritage of Artsakh will become the palimpsest. The Armenian Diaspora should support the Artsakh refugees in their right to return to their homes as the indigenous people of their ancestral enclave.

The new generation of Armenians should never give up the dream of liberating Artsakh for nobody knows what fortunes the future would bring. Morally and patriotically, the refugees from Artsakh should never abandon their millennial homeland. Armenia and its vast Diaspora should join in the effort to return Armenians to their native Artsakh.



A long caravan of cars helping Artsakh natives flee Artsakh. With a newborn determination, with unity, Armenia's new generation can reverse the direction of the caravans this time from the diaspora. They will head home again to their free and independent highlands of Artsakh of eons. Dreamers, not quitters, get what they wish for by working toward it diligently.

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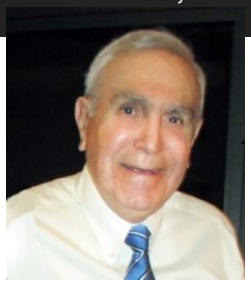

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