







# Legal Aspects of the Nagorno-Karabakh Conflict

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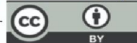
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## Abstract

Branches of international law closely concern international and non-international armed conflicts. So, these principles are trying to be operationalized in the Nagorno-Karabakh conflict. From the point of view of international law, the disputed region is recognized as a part of the territory of Azerbaijan, and no country has recognized the self-proclaimed Republic of Armenia there. The Nagorno-Karabakh region belongs to Azerbaijan from the perspective of international law and based on the resolutions of the Security Council. This study is conducted to examine the legal aspects of the Nagorno-Karabakh crisis, seeking an answer to its legal implications. According to the results, Azerbaijan's rights to maintain its territorial integrity are undeniable and legitimate. However, the actions of the Republic of Azerbaijan, even in the context of defending its territorial integrity, should not pose a threat to the Armenian people of Karabakh. Referring to the acceptance of the principle of territorial integrity regarding the right of nations to self-determination in international law, any action against this principle is not legitimate, and the right to self-determination is accepted as long as the said principle is not violated.

**Keywords:** Territorial Integrity, Self-Determination, International Law, Nagorno-Karabakh.



## **Introduction**

The Nagorno-Karabakh conflict continues while the parties have expressed their claims in accordance with international law. Armenia and Azerbaijan have been in a fierce conflict over the Nagorno-Karabakh region on their borders since 1991. Armenia has tacitly supported the region to some extent. The conflict has resulted in thousands of deaths. However, no real progress has been made on this front (Mantazeran, 2020, p. 3). Azerbaijan adheres to the principle of territorial integrity, which is included in the United Nations Charter and international conventions and treaties. On the other hand, Armenia insists on its right to self-determination. However, according to international law, the right to self-determination for minorities does not include separatism and secession but includes participation in various elections, other civil and political affairs, and the preservation of cultural heritage. The United Nations has issued several resolutions, including resolutions 822, 853, 874, and 884, regarding the status of Nagorno-Karabakh. The most recent resolution, issued in 1993, recognized Nagorno-Karabakh as part of the territory of Azerbaijan. These resolutions reflect the official stance of the United Nations on the matter. The evidence indicates that the legal foundations and international law for the territorial separation of Nagorno-Karabakh from Azerbaijan are weak, but historical experiences such as Kosovo and Crimea should not be ignored. However, the conflicts in this region are endless and may not end for a long time. We should wait for the United Nations and the great powers to take a serious step in this regard. From the point of view of international law, the commitment and emphasis on territorial integrity prevail over the recognition of the separatist rights of the people of Karabakh (Azizpour, 2012, p. 50).

### **1. The status of the occupation of Nagorno-Karabakh in terms of international law**

In Article 1 of the United Nations General Assembly resolution approved in 1974, aggression is the use of force against the territorial integrity and political sovereignty of any state, and in Article 2 of this resolution, any state that resorts to force for the first time is considered an aggressor at first sight. The Security Council can consider the act committed not aggression, depending on the case and the specific circumstances. According to Article 3 of this resolution, several acts are aggression, including invasion or attack, occupation or annexation of the territory or a part of the territory of a state, bombing, siege, use of military force in the territory of a

state in a manner not specified in an agreement, the sending of regular or irregular armed groups by a state or in the name of a state to carry out severe military acts against another state, or to intervene in such acts (Beigzadeh, 1993, p. 318). Accordingly, as the most important decision-making pillar of the United Nations, the Security Council published four resolutions on the Nagorno-Karabakh conflict in 1993. Although most of the permanent members of the Security Council support Armenia and the political goals of the members are involved in the decisions of this council, a look at the provisions of this resolution partially reflects the conditions of the occupation of Nagorno-Karabakh in terms of international law. While expressing its concern about the intensification of armed military operations between Azerbaijan and Armenia, including the attack of Armenian forces on the Kalbajar District of the Republic of Azerbaijan and the relocation of a large number of civilians in the region, On April 30, 1993, in Resolution 822, which was unanimously approved in the 3205th session, the Security Council announced that it once again emphasized the right of national sovereignty and territorial integrity of all countries in the region, the inviolability of borders recognized in the international arena, and the inadmissibility of using force to acquire land (UN, 2014, p. 2).

In this resolution, the United Nations Security Council acknowledges that the borders of Azerbaijan have been violated through aggression. It calls for an immediate end to all military operations and hostile actions to establish a lasting ceasefire. The resolution also emphasizes the need for the withdrawal of occupying forces from the Kalbajar District of Azerbaijan, the resumption of negotiations, and the unhindered provision of humanitarian aid in the region. The resolution expresses support for peace negotiations within the framework of the Organization for Security and Cooperation in Europe (OSCE). Besides, two months later, on July 29, 1993, in Resolution 853, which was unanimously approved in the 3259th session, the Security Council expressed great concern over the intensification of military operations, including the seizure of the Ağdam District of the Republic of Azerbaijan, and that the existence of such a situation threatens peace and security in the region. The Security Council has not mentioned Armenia as an aggressor in any of its four resolutions. Nevertheless, it described the actions of the Armenian militias as occupying part of the territory of the Republic of Azerbaijan, emphasizing the territorial integrity of the Republic of Azerbaijan and the inadmissibility of violating the inviolability of

international borders. The Security Council's emphasis on the immediate and unilateral withdrawal of Armenian forces from the occupied territories of the Republic of Azerbaijan, including Ağdam, Füzuli, Zəngilan, and Horadiz, showed that the justifications of the Armenian separatists of Karabakh for the use of force were not acceptable to the UN Security Council. At the same time, not only did the Security Council not mention in any of its resolutions the situation of Armenians in Karabagh and the claim that the Republic of Azerbaijan has violated their rights, but it also confirmed the violation of the rights of civilians and refugees. Acknowledging the reality of Azerbaijan's land occupation in four Security Council resolutions is a great achievement for Baku, which strengthens the legal and political position of this country. Baku could not use the opportunity of its membership as a non-permanent member of the Security Council, including the one-month chairmanship of this council at the end of 2013, to re-introduce the issue of the Nagorno-Karabakh conflict in the Security Council due to these objections. The facts of the Nagorno-Karabakh conflict can be understood regardless of the political noises of the beneficiaries of the current conflict on the northern borders of the Islamic Republic of Iran and by looking at the legal claims of the parties to the conflict and the resolutions of the United Nations Security Council.

### **1-1. The Claims of the Republic of Armenia**

Adhering to the principle of the right to self-determination, Armenia claims that the majority of Armenians living in the territories of Nagorno-Karabakh gained independence from the Republic of Azerbaijan through a referendum and that they consider themselves not a party to the conflict but only supporters of the autonomous republic of Karabakh.

### **1-2. The Claims of the Republic of Azerbaijan**

Against the legal claims of Armenia, the Republic of Azerbaijan has identified Armenia as an occupying country by insisting on the principle of prohibiting land acquisition by force and the principle of respect for the territorial integrity and sovereignty of countries. Moreover, according to the argument of the Republic of Azerbaijan, the right to self-determination belongs to an entire nation. If a referendum were held for the independence of the Autonomous Republic of Karabakh, it should have been held in the entire territory of the Republic of Azerbaijan, and it is invalid because it was held during the occupation and against the wishes of the

government of Azerbaijan as the legitimate ruler of those lands.

### **1-3. The Full Logistic Support of Turkey and the Intelligence and Operational Support of the Zionist Regime in Azerbaijan**

The most important international source of the escalation of the Nagorno-Karabakh crisis between Azerbaijan and Armenia is the competition and conflict of interests of regional and extra-regional actors. These conflicts have complicated the issues and prevented an urgent solution (Abasov, 2004, p. 26). The Russian Federation, America, the Minsk Group, the Islamic Republic of Iran, and Turkey are the main actors in this issue (Vaezi, 2010, p. 74). On the other hand, the Republic of Azerbaijan was pushed into another military confrontation as a result of its military incapacity and desperation in recapturing its occupied territories from Armenia through negotiations and mediation. On the other hand, the Republic of Azerbaijan gained the necessary preparation for a serious confrontation with Armenia and managed to seriously enter the battle with Armenia by turning its foreign policy, establishing strategic relations with the West, Turkey, and the Zionist regime, and resorting to a sharp increase in its oil revenues and economic prosperity in recent years, while taking into account past tactical and weapon weaknesses and extensive military purchases, especially in the drone fields, under the support of Turkey and the Zionist regime's intelligence and advisory arms (Avdaliani, 2021).

### **1-4. Agreements between the heads of the two countries centered on Russia to establish a ceasefire**

The Russian Federation is one of the main actors in analyzing the role of competition between regional and extra-regional actors in the continuation of the Nagorno-Karabakh crisis. Above all, this country seeks to restore its long-standing influence in the South Caucasus due to its sense of belonging to the region (Koulaei 2006, p. 173). Being superior in the Nagorno-Karabakh crisis, it tries to marginalize other actors in this scene. Russia seeks to play a dominant role in the Nagorno-Karabakh crisis. So, it has openly and covertly supported Armenia in such a way that the Republic of Azerbaijan claims that Russia has given Armenia free-of-charge heavy weapons worth more than one billion dollars, including missiles that have a range up to Baku, between 1996 and 2000 (Abasov, 2004, p. 27). Russia has focused a lot on the South Caucasus in general and Karabagh in particular due to facing two

major challenges: the growing influence of America and the Islamic world (Cornell, 1999: 55). It should be noted that the wars between Azerbaijan and Armenia, apart from the initial period from 1994 to 1998, always lasted three to five days and were mostly border wars. International organizations and numerous countries have conducted numerous negotiations and mediations since then to peacefully resolve the Nagorno-Karabakh conflict in the past 28 years, but they have not brought satisfactory results to the countries of the region. However, a ceasefire was established on November 10 with a tripartite agreement between the presidents of Azerbaijan and Russia and the prime minister of Armenia in the recent clashes between the two countries that lasted 44 days after causing massive casualties. As a result of this war, Azerbaijan took back 70% of the occupied areas and took over 30% of the other areas based on the agreement. The Nagorno-Karabakh tripartite ceasefire agreement came into effect at midnight on November 10, Moscow time. The agreement was signed by Ilham Aliyev- the President of the Republic of Azerbaijan; Nikol Pashinyan- the Prime Minister of the Republic of Armenia; and Vladimir Putin- the President of the Russian Federation. Arayik Harutyunyan, the self-proclaimed president of Artsakh, agreed to end the war as well. According to this agreement, the two sides agreed to end the military conflict, return a part of the disputed areas under the control of Armenia in Nagorno-Karabakh to Azerbaijan until the beginning of December, station two thousand Russian peacekeeping forces at the Lachin Canal for at least five years, and open a road from the Siunik Province of Armenia for the access of the Republic of Azerbaijan to the Nakhichevan Autonomous Republic, which would be protected by Russian forces too.

## **2. Violation of the UN Security Council Resolution**

As an institution that maintains global peace and security, the United Nations Security Council issued four resolutions concerning the Karabakh conflict in 1993. Although none of these resolutions mentioned the Armenian government as the occupier, they asked it to refrain from helping the so-called autonomous republic of Nagorno-Karabakh. Furthermore, the resolutions of the Security Council have repeatedly emphasized the right to national sovereignty and territorial integrity of the Republic of Azerbaijan and the occupation of cities by Armenian militias. So, the continuous military presence of the Armenian army in Nagorno-Karabakh is a violation of United Nations Security Council

Resolution 884 dated November 12, 1993. This is why Baku is superior to Yerevan in the field of international law. At the same time, the current world is governed by the logic of power, not the power of logic, and the Nagorno-Karabakh conflict is strong evidence of the ineffectiveness of the structures and the sanctions arising from international law, including the Security Council, which is in the hands of the political elites of the permanent members of the Council with an unfair combination.

### **3. Referring to the Principle of the Right to Self-Determination**

Referring to the principle of the right to self-determination is among the most prominent legal solutions for the peaceful settlement of the Nagorno-Karabakh conflict in the last three decades so that the Armenians living in Nagorno-Karabakh can decide about the future of their political destiny, including the continuation of the state of autonomy in the Republic of Azerbaijan (the same as during the rule of the Soviet Union), independence in the form of the Republic of Artsakh (the de facto state of the past three decades), or annexation to Armenia. However, the implementation of this principle in the Nagorno-Karabakh conflict is faced with numerous legal and executive complications, some of which include the opposition of the reference to the legal principles of national sovereignty and territorial integrity by the Republic of Azerbaijan against the principle of the right to self-determination by the Armenians, the reference of the Republic of Azerbaijan to the Almaty Declaration on December 21, 1991 concerning the non-change of the borders of the Soviet republics (such as the non-return of the Tajik-inhabited cities of Samarkand and Bukhara from Uzbekistan to Tajikistan despite the historical dissatisfaction of the Tajiks) against Armenia's reference to the Law Arrangements for the resolution of issues related to the withdrawal of the (autonomous) Soviet Republic from the Soviet Union approved on April 3, 1990, ambiguity and differences in the geography of holding a referendum on the right to self-determination due to Azerbaijan's reference to the geographical area of Karabakh (not seven surrounding cities) and Armenia's reference to the geographical area of the Republic of Artsakh (Karabakh plus all its surrounding areas), and ambiguity and differences in "who are entitled to participate in the referendum on the right to self-determination" due to the reference of the Republic of Azerbaijan to the participation of Armenians living in Nagorno-Karabakh before the war of the early 1990s, in addition to Azeri immigrants and refugees living in this region who were driven out

as a result of the war against Armenia's reference to the participation of the only Armenians of Karabakh and its surrounding areas (before and after the war). The fact is that the Republic of Azerbaijan and the international community will not agree to hold a referendum on the right to self-determination in Karabakh without clarifying the situation of the seven cities around the Nagorno-Karabakh region and returning them to the sovereignty of the Republic of Azerbaijan, just as none of the referendums on self-determination, changing the name of the Republic of Karabakh to the Republic of Artsakh, or the presidential and parliamentary elections in this region have been recognized by any country in the international community in the last three decades, and even the Republic of Armenia has not recognized the independence of Nagorno-Karabakh. Thus, holding a referendum on the right to self-determination in Nagorno-Karabakh requires determining the situation of its seven surrounding regions. This has been proposed in many Karabakh peace plans, including the 1+1+5 plan (Robert Kocharyan and Ilham Aliyev's talks in 2005), the Madrid Principles plan (the OSCE in 2007), and the Kazan Action plan (Russian Federation in 2011). According to the above, this study aims to provide a better understanding of the legal and executive complications of referring to the principle of the right to self-determination in the Nagorno-Karabakh conflict (Kuzegar Kaleji, 2020, p. 10). From the legal point of view, like other ethno-territorial conflicts such as Abkhazia, South Ossetia, Transnistria, the Crimean Peninsula, Kashmir, and the Kurdistan region, we are faced with the legal principles of national sovereignty and territorial integrity and the principle of the right to self-determination in the Nagorno-Karabakh conflict. The legal principle of national sovereignty and territorial integrity is always invoked by the country from which these regions are separated. In this way, this principle is invoked by Georgia concerning Abkhazia, South Ossetia, Moldova concerning Terence Dniester, Ukraine concerning the Crimean Peninsula, India concerning Kashmir, Iraq concerning the Kurdistan Region, and the Republic of Azerbaijan concerning Nagorno-Karabakh. These countries believe that the above regions, with any history and background and any ethnic, linguistic, and religious composition, are part of their land and national sovereignty and that they cannot be separated and independent without the consent of the central government and by adopting different methods, including holding a referendum and foreign military intervention.

The solution proposed by all these countries is to grant autonomy, within the framework of which the desired area has the authority to approve and implement its regulations in political, economic, cultural, social, religious, linguistic, and educational affairs, except for defense and foreign policy matters, which are under the authority of the central government. The Republic of Azerbaijan has always called for the granting of the highest level of autonomy to Nagorno-Karabakh, which was granted the status of autonomy during the Soviet Union, citing the legal principle of “national sovereignty and territorial integrity” (Kuzegar Kaleji, ۲۰۲۰, p. ۱۰).

In contrast, regions such as Abkhazia, South Ossetia, Transnistria, the Crimean Peninsula, Kashmir, the Kurdistan Region, and Nagorno-Karabakh invoke the legal principle of the right to self-determination. In line with this principle, they emphasize that their placement under the sovereignty and territory of the country in question (Georgia, Moldova, Ukraine, Pakistan, Iraq, and the Republic of Azerbaijan) was imposed from the beginning without the consent of the people and elites of these regions. Therefore, the residents of these areas have the right to decide on their status, such as remaining under the rule of the same previous country, dismemberment and declaration of independence, or joining another country by referring to the legal principle of the right to self-determination. Accordingly, the Armenians living in Karabakh and, in a sense, the Armenians of Artsakh also want to invoke the legal principle of the right to self-determination by referring to the historical records of this region being under the rule of the Republic of Azerbaijan during the Soviet era.

Referring to the Almaty Declaration and the Commonwealth of Independent States (CIS) statute, of which both the Republic of Azerbaijan and Armenia are members, the Republic of Azerbaijan emphasizes the immutability of the Soviet-era borders and considers Nagorno-Karabakh to be a part of the national sovereignty and territorial integrity of the Republic of Azerbaijan based on the legal principle of national sovereignty and territorial integrity. Baku argues that dissatisfaction with the imposed borders and divisions of the Soviet era cannot become the legal basis for the separation and independence of different regions of the republics, as the historical and Tajik cities of Samarkand and Bukhara were placed inside the borders of Uzbekistan despite the protests and dissatisfaction of the Tajiks during the Soviet era, and there was no change in the geographical borders of the two countries even after the collapse of

the Soviet Union.

On the other hand, in line with the legal principle of determining the right of destiny, the Armenians living in Nagorno-Karabakh and the Republic of Armenia refer to this principle in the law of the Soviet Union dated April 3, 1990, entitled *Arrangements for the Resolution of Issues Related to the Withdrawal of the (Autonomous) Soviet Republic from the Soviet Union*, which states that the people of the autonomous units have the right to solve the question of their existence in the USSR and raise the question of their state-legal identity if any of the autonomous republics of the Soviet Union withdraws from the USSR. From a historical point of view, Armenians undermine the sovereignty of the Republic of Azerbaijan over the Karabakh region in addition to providing such an interpretation of the law of the Soviet Union dated April 3, 1990.

According to the Armenians, Nagorno-Karabakh was not considered part of the Azerbaijan Democratic Republic when it was formed in 1918-1920. They argue that when the Parliament of the Republic of Azerbaijan approved the Declaration on the restoration of the independence of the Republic of Azerbaijan on August 30, 1991, Nagorno-Karabakh was not included in the territory of the Azerbaijan Democratic Republic established during that time by Mahammad Amin Rasulzade. So, Baku's reference to the principle of the immutability of Soviet-era borders and the Almaty Declaration is invalid. On the other hand, the Republic of Azerbaijan considers the consolidated and stabilized state of the borders of the republics during the seventy years of Soviet rule as the basis of the Almaty Declaration and the formation of the Commonwealth of Independent States (CIS). By referring to it, it emphasizes the principle of immutability of Soviet-era borders, the sovereignty of the Republic of Azerbaijan over Nagorno-Karabakh, and the sovereignty of Georgia over Abkhazia and South Ossetia, Moldova over Transnistria, Ukraine over Crimea, and Uzbekistan over Samarkand and Bukhara (Kuzegar Kaleji, 2020, p. 10).

Armenians living in Nagorno-Karabakh recognize all of these regions as the Republic of Artsakh and have held all referendums on the right to self-determination and the presidential and parliamentary elections in this region (without international recognition). However, the Republic of Azerbaijan only believes in granting autonomy to the main part of Nagorno-Karabakh, that is, the same area of about 40,000 km<sup>2</sup>, and considers the seven cities around this region, such as Kalbajar, Qubadli, Cəbrayıl,

Füzuli, Zəngilan, Ağdam, Laçın, Tartar, and Shusha, to be part of the mainland of the Republic of Azerbaijan, which cannot be granted autonomy or cannot hold a referendum on the right to self-determination. In this way, the disputes over the geography of holding the referendum on the right to self-determination are other complications of the legal settlement of the long-standing Nagorno-Karabakh conflict. Another complication is the ambiguity and dispute over “who should participate in the referendum on the right to self-determination” in the Nagorno-Karabakh conflict. More than 35,000 people were killed, and more than 800,000 people were displaced and forced into exile in the disputed areas as a result of this long and erosive war. Thus, all Azeris living in Armenia, Karabakh, and its seven surrounding cities were forced to migrate, and many of them have been living in very poor conditions in Baku and other cities of the Republic of Azerbaijan for more than three decades. On the other hand, all the Armenians living in Baku and other cities of the Republic of Azerbaijan for many years were forced to leave their homes and immigrate to Russia, Armenia, or other countries.

Under such conditions, the Republic of Azerbaijan suggests that if a referendum on the right to self-determination is to be held, only Armenians and Azeris living in the region before the collapse of the Soviet Union and the beginning of the comprehensive war, their survivors and children, and Azeri immigrants who were forced to leave this region during the war can participate in this referendum in the geographical area of Nagorno-Karabakh (4,000 km<sup>2</sup>). The immigrant Armenians who came from Armenia and other countries in recent years and from Syria in recent years will not have the right to participate in the referendum. According to the Armenian perspective, they believe that the areas in question have been historically inhabited by Armenians. They argue that only Armenians residing in Nagorno-Karabakh and its surrounding areas should have the right to participate in any referendum or decision-making process regarding the region. Additionally, Armenians claim that the Azerbaijani government intentionally resettled Azeris in the area to alter the demographic composition of the population. This viewpoint highlights the belief that the population dynamics in the region have been influenced by deliberate actions taken by the Republic of Azerbaijan.

Finally, the most important point is how to implement the results of the referendum on the right to self-determination of Nagorno-

Karabakh. Even if all the above problems, including the different legal interpretations of Azerbaijan, the geography of the referendum, and the participants in the referendum, are assumed to be solved, which is a very difficult and complicated task, the bigger and more important problem is how to implement it. The Republic of Azerbaijan and the international community will not agree to hold a referendum on the right to self-determination in Karabakh without clarifying the situation of the seven cities around the Nagorno-Karabakh region and returning them to the sovereignty of the Republic of Azerbaijan, just as none of the referendums on self-determination, changing the name of the Republic of Karabakh to the Republic of Artsakh, and the presidential and parliamentary elections in this region have been recognized by any country in the international community in the last three decades, and even the Republic of Armenia has not recognized the independence of Nagorno-Karabakh.

Accordingly, holding a referendum on the right to self-determination in Nagorno-Karabakh requires determining the situation of its seven surrounding regions. This has been proposed in many Karabakh peace plans in the past three decades. Another important point to consider is that if a referendum on the right to self-determination is conducted in Karabakh, and the Armenian population votes for independence and annexation to Armenia or Russia, the consent and cooperation of the Azerbaijani government are crucial for the implementation of the referendum results. This is necessary for the international community to accept and recognize the outcome of the self-determination referendum. According to Article 2, Clause 4 of the United Nations Charter, “all members must refrain from any threat or use of force that is against the territorial integrity or political independence of a country or is contrary to the purposes of the United Nations in their international relations.”

Consistent with international law, even though this region receives support from Armenia, it does not have the legal status to function as an independent country and engage in diplomatic relations with other nations. If it wants to join Armenia, a question arises from the legal point of view and international law: has Armenia invaded Azerbaijan? This situation has similarities to Russia's occupation of Crimea, although Russia claims that this occupation is legal because the people of Crimea voted to join Russia. However, international rules consider Crimea's accession to Russia illegal. If this comparison with the crises in Azerbaijan and

Armenia is assumed to be true, there is a possibility of an indictment for illegal occupation.

However, if Armenia has legally occupied this land, punishments such as sanctions will be considered for it, following international law. They seem to be a little weak considering Armenia's allies, such as Russia, and the possibility of its veto on the one hand and the reluctance of some countries to sanction the country on the other. However, the conflicts in this region are endless and may not end for a long time. We should wait for the United Nations and the great powers to take a serious step in this regard. From the point of view of international law, the commitment and emphasis on territorial integrity prevail over the recognition of the separatist rights of the people of Karabakh (Azizpour, 2012, p. 50).

#### **4. Humanitarian Rights Violations in the Nagorno-Karabakh Crisis**

Humanitarian rights are among the most important and profound concepts in the international system, whose purpose is to regulate the rules of war so that war does not become uncontrollable and reduce the suffering of war. The concept of humanitarian rights, including protecting ambassadors, children, women, and holy places, has been raised throughout the history of mankind in different ways, although different from the contemporary era. There have always been rules in the civilizations of ancient Greece and Islam to control the dimensions and scope of war. A group of philosophers and legal experts have recently tried to regulate the rules of war, the leader of which is perhaps Hugo Grotius, who divided the war into just and unjust. Although many efforts have been made by humanity, unfortunately, the animal nature of man sometimes overcomes it, and there are still wars and conflicts in the current world. One of the wars in the contemporary world is the Nagorno-Karabakh war, whose humanitarian issues are of great importance. Examining the human aspects of this war from the point of view of humanitarian law rules reveals important points and cases of human rights violations. On the other hand, each of the Western countries has a specific approach and view to this war (Zarei, 2014, p. 1).

#### **5. The geopolitical consequences of the Nagorno-Karabakh crisis for the relations of the Islamic Republic of Iran in the Caucasus**

Iran's geopolitical atmosphere in the north of Aras will be narrower

if the decision on Nagorno-Karabakh proceeds based on the current agreement. Iran is still a silent observer of the current developments and will continue the security, economic, and political relations and mechanisms of the north of Aras that have been abandoned in the past three decades. Trying to remove the US from the Caucasus region, Turkey and Russia gradually became strategic partners. Turkey has the ultimate goal of turning regions into the sphere of influence of Russia and Libya in the Mediterranean, despite recent riots in Syria and the Caucasus.

America once played a more important role in the Caucasus. American and European influence in this region decreased after Georgia was left alone in the war of 2008. American intervention in the Caucasus ended with the war between Azerbaijan and Armenia. The goal was to restore Russia as a mediator in the Caucasus and clear the region of Western influence. The Caspian Energy Corridor, which was the focus of England and Israel, will reach from Turkmenistan and Kazakhstan to the south of Baku and from there to Zanglan and Nakhichevan. Iran will surrender in this energy battle. If any energy and rail corridor is established along Iran's borders, it will create geopolitical security for the companies and countries that own it and impose a new geopolitical atmosphere on the country. The north of Aras will be opened to the Ottoman gate for Turkey to enter the Caspian Sea area; Turkey will become an active player in the Caspian Sea area; and Iran will face a strategic and geopolitical disaster if Turkey enters the Republic of Azerbaijan through Nakhichevan. Iran will then have to face a new actor who can very well attract the cooperation of Turkic-speaking countries, including Turkmenistan and Kazakhstan, in the field of Caspian Sea relations.

Another damage will be done to Iran's geopolitical position if the new Caucasus Corridor is formed in the southern axis, i.e., Iran's borders, the energy axis is created in a way that is detrimental to Iran, and a gas pipeline is laid in this region. It should be noted that this is not just a gas pipe but a strategic corridor that makes the countries contributing to this path find a geopolitical position with each other. The shareholders of this corridor— we don't know which countries they are—will be Iran's new neighbors.

## **6. International Mediation in the Geopolitical Crisis of Nagorno-Karabakh**

The nature of international mediation in the framework of the efforts of the United Nations and the Organization for Security and Cooperation in Europe is discussed here.

### **6-1. Mediation by the United Nations**

The United Nations was established after the Second World War to maintain international peace and security, develop friendly relations, and ensure international cooperation. Following this principle, the United Nations has the right to resolve disputes between two governments to achieve peace. The United Nations did not have the right to directly interfere in the internal affairs of the Soviet Union during the development of the Nagorno-Karabakh crisis, that is, from 1988 to 1991, when the Republic of Azerbaijan and Armenia were still part of the Soviet Union.

When the parties involved in a dispute, such as Nagorno-Karabakh, became official members of the United Nations by declaring independence, the United Nations gained the authority to investigate and mediate the conflicts between them. This allowed for a potential pathway towards peace to be explored and pursued under the auspices of the United Nations. Therefore, the United Nations pursued the management and resolution of the Nagorno-Karabakh crisis for the first time with the statements of the President of the Security Council on July 29 and April 6, 1993, about the Nagorno-Karabakh conflict and the report of the Secretary-General of the United Nations on April 14, 1993, about the Nagorno-Karabakh conflict and the worsening of the situation in the region and the relations between Azerbaijan and Armenia to the Security Council following the request of Azerbaijan and Turkey to the United Nations to deal with the aggression of Armenians on the territory of the Republic of Azerbaijan (Vali Gholizadeh, 2012, p. 82). The efforts of the United Nations to resolve the Nagorno-Karabakh crisis can be evaluated in two parts: the efforts of the Security Council and the efforts of the United Nations General Assembly.

### **6-2. United Nations Security Council**

According to Article 24 of the United Nations Charter, the Security Council is one of the main organs of the United Nations and is responsible for maintaining international peace and security, and the members of the United Nations have agreed that the Security Council should act on their behalf in the implementation of the duties that it is responsible for. The Security Council must perform its duties in the form of peaceful intervention in resolving disputes that may endanger international peace and security and provide the conditions for resolving disputes, coercive intervention or adopting coercive methods (Mosazadeh, 2004, p. 106).

### **6-3. UN General Assembly**

Although the Assembly has made an effective contribution to maintaining international peace and security by electing non-permanent members of the Security Council, the role of the UN General Assembly in maintaining international peace and security increased significantly with the adoption of the United Nations Resolution for Peace on November 3, 1950, by the Assembly. According to this resolution, if the Security Council fails to take action to deal with peace violations or aggression, the General Assembly will decide during an extraordinary meeting to send military forces to critical areas (Hashemi, 2003, p. 134).

### **6-4. The Mediation of the Organization for Security and Cooperation in Europe (OSCE)**

The philosophy of the role of Europeans in the Nagorno-Karabakh crisis is rooted in their strategic goals to penetrate the South Caucasus. Since the beginning of the Nagorno-Karabakh crisis, the Europeans have been active mediators in the management and resolution of the crisis. To facilitate crisis management, they made Azerbaijan and Armenia members of the OSCE at its second meeting on January 31, 1992, in Prague. In this meeting, it was decided to send a delegation from the Organization to investigate the situation in Nagorno-Karabakh and the possibility of establishing a ceasefire. This delegation was sent to the region on February 18. The Ministers of Foreign Affairs of the OSCE then decided at the Helsinki meeting on March 24, 1992, that the Minsk Group should be formed to manage and resolve the crisis. The serious efforts of the OSCE to solve the Nagorno-Karabakh crisis reached their peak with the formation of the Minsk Group and the delegation of these efforts through the UN Security Council in resolutions 822, 853, 874, and 884 (Khaliyov, 2008, p. 92).

The Nagorno-Karabakh region belongs to Azerbaijan from the perspective of international law and based on the resolutions of the Security Council. So, Azerbaijan's rights to maintain its territorial integrity are undeniable and legitimate. However, the actions of the Republic of Azerbaijan, even within the framework of defending its territorial integrity, should not pose a threat to the Armenians living in Nagorno-Karabakh because the people of Nagorno-Karabakh have the characteristics of a people from the perspective of human geography and history and have the right to self-determination, as stipulated in international law, even though the previous separatist

elections of these people were unacceptable by the United Nations and the OSCE as the most important custodians of the Nagorno-Karabakh conflict resolution. So, the possibility of the people of Nagorno-Karabakh resorting to the doctrine of remedial separation and their legitimate separation from Azerbaijan will be raised if Azerbaijan's actions lead to the threat of mass killing of Armenians living in Nagorno-Karabakh. The most similar case realized concerning the right to self-determination was the advisory theory obtained from the International Court of Justice about Kosovo's unilateral declaration of independence, in which Kosovo's separatist action was not considered contrary to international law. In the meantime, the Islamic Republic of Iran emphasizes respecting the territorial integrity of Azerbaijan, human rights, and the right to self-determination of the people of Nagorno-Karabakh in the conflict between Azerbaijan and Armenia because it looks at the Nagorno-Karabakh conflict from the perspective of international law.

### **7. The Legal Justifications of Both Parties to the Conflict Over Nagorno-Karabakh**

The Republic of Azerbaijan argues that the Security Council has declared Nagorno-Karabakh as the territory of Azerbaijan by issuing four consecutive resolutions, including Resolutions 822, 853, 874, and 884, and emphasized the withdrawal of Armenian forces from it. The authorities of Azerbaijan refer to the last resolution of this council concerning the Nagorno-Karabakh conflict since 1993, i.e., Resolution 884, which explicitly calls for the unilateral withdrawal of the occupying forces from Zəngilan and the occupied parts of the Republic of Azerbaijan.

### **8. International Law and the Nagorno-Karabakh Conflict: Territorial Integrity or the Right to Self-determination**

The Nagorno-Karabakh conflict continues while the parties have expressed their claims in line with international law. Armenia and Azerbaijan have been in a fierce conflict over the Nagorno-Karabakh region on their borders since 1991. Armenia has tacitly supported the region, in part because it includes an Armenian majority. Azerbaijan opposes the recognition of this region as separate because it is officially located in Azerbaijan. This conflict has led to thousands of deaths. Despite the initially violent nature of the conflict, the dispute has reached a deadlock. However, the violence has made life difficult for the people of this region. The two countries have been inactive and silent when it comes to finding

solutions. Many Western powers, including Russia and the United States, as well as regional powers like Iran, have been encouraging the two countries to come to a permanent agreement. These influential nations and regional players have been actively supporting and urging the involved parties to reach a lasting resolution. However, no real progress has been made on this front. Azerbaijan adheres to the principle of territorial integrity, which is included in the United Nations Charter and international conventions and treaties. On the other hand, Armenia insists on its right to self-determination. However, according to international law, the right to self-determination for minorities does not include separatism and secession but includes participation in various elections, other civil and political affairs, and the preservation of cultural heritage. Several resolutions, such as resolutions 822, 853, 874, and 884, have been issued by the United Nations, the last of which, in 1993, considered Nagorno-Karabakh to be part of the territory of Azerbaijan. Territorial integrity and political independence are the two main elements of statehood. Territorial integrity refers to the country's territorial integrity. As a norm of international law, it protects the territorial framework of the sovereign state and is the foundation for the sovereignty of countries.

Territorial integrity in international law is a principle that demands respect for the territory of other countries in the international arena. This principle states that the territory of a country should never be violated, invaded, or illegally divided. The principle of territorial integrity means that the country's territory as a whole is safe and indivisible and cannot be changed or divided by resorting to external force. According to Article 2, Clause 4 of the United Nations Charter, all members must refrain from any threat or use of force that is against the territorial integrity or political independence of a country or is contrary to the purposes of the United Nations in their international relations. Any military, economic, political, etc. pressure against the territorial integrity of a state is unjust. A country's territory should never be occupied militarily. Any domination over land or its occupation as a result of the use of force or threats is illegal. It is worth noting that changing the territory based on the agreement of governments or the right of people to determine their destiny is legal in some cases. According to international law, people have the right to take charge of their destiny if their rights are violated. People can form a separate government or join another government as a result of exercising the

right to self-determination in a land. Moreover, several independent states may emerge from a single state in the same territory. Although Azerbaijan's claim to preserve its territorial integrity is correct, it should not be denied that the people of Nagorno-Karabakh are somewhat willing to support separatism and hold previous separatist elections. The United Nations has not declared Kosovo's separatist actions against international law in some cases. Concerning the Nagorno-Karabakh conflict, it has not recognized such separatist actions and elections so far but insists on respecting human rights and the right to determine the fate of the people of Nagorno-Karabakh.

The evidence indicates that the legal foundations and international law for the territorial separation of Nagorno-Karabakh from Azerbaijan are weak, but historical experiences such as Kosovo and Crimea should not be ignored. Although this region is supported by Armenia, it cannot form an independent country in terms of international law and communicate with other countries as a state or country. We should wait for the United Nations and the great powers to take a serious step in this regard. From the point of view of international law, the commitment and emphasis on territorial integrity prevail over the recognition of the separatist rights of the people of Karabakh (Khalghinejad and Kakavandi, 2021, p. 2).

### **9. The Agreements Between the Parties After the War and the Plan to Create the Zangezur Corridor**

The 44-day Nagorno-Karabakh war in the Caucasus region, the tensions between Armenia and the Republic of Azerbaijan following the recapture of the regions by Baku, and the competition of regional and extra-regional actors brought this area into a new phase of development. Some issues that have made the future of the South Caucasus region unclear are Turkey's view of the region, the role of Russia as a powerful actor, the Minsk Group, and NATO. Tensions and unrest have reigned recently in Kazakhstan, a big country in Central Asia. An important controversial issue in the relations between Iran and the countries of this region is the “fake Zangezur Corridor” and the threats arising from it, i.e., the occupation of the border between Iran and Armenia. The issue of the opening of the Zangezur Corridor by the Republic of Azerbaijan, despite the opposition of Armenia, has been raised many times in the last two to three years. By changing the political geography of the Caucasus region, the resolution of the tension and the second Nagorno-

Karabakh war between Armenia and the Republic of Azerbaijan caused the Republic of Azerbaijan to quickly launch the Zangezur Corridor. However, it will connect the country and the Nakhichevan Autonomous Republic through Armenia, Russia, and Turkey, creating a route from Asia to Europe and the Middle East. Elham Aliyev did not shy away from his alleged position, trying to launch this corridor even despite the negotiations between the authorities of the two countries. He argues that this project will not only bring many economic opportunities but will also create long-term peace in the Caucasus region. The establishment of this corridor will permanently cut the border between Iran and Armenia and will give Baku unimpeded access to the Nakhichevan Autonomous Republic. Besides, Iran will be deprived of the economic and geopolitical benefits of exiting the nuclear deal deadlock just as it seeks to become an alternative energy supplier to Europe. Meanwhile, extensive measures are being taken to open the Zangezur Corridor with the construction of railways and motor roads. By opening this corridor, the Republic of Azerbaijan has proven its firm commitment; everything is going according to plan, and its construction will be completed by 2024. However, Iran is not satisfied with the prospect of opening this corridor to reconnect the Turkic-speaking countries of Central Asia with Turkey, while hindering Iran's trade relations with Armenia and weakening its influence as a transit route in the region. Iran has expressed its opposition to the establishment of this corridor. On the other hand, Iran seeks to reduce the strategic losses of reducing or cutting close cooperation and communication with Armenia and the decline of its strategic position in the region in the event of launching this corridor. This issue is raised while the economic and commercial relations between Iran and Armenia have improved significantly since last year. Armenia is the only member of the Eurasian Economic Union that shares a border with Iran, and trade between the two countries increased significantly in the first half of 2022.

### **Conclusion**

A country's territory should never be occupied militarily. Any domination over land or its occupation as a result of the use of force or threats is illegal. It is worth noting that changing the territory based on the agreement of governments or the right of people to determine their destiny is legal in some cases. According to international law, people have the right to take charge of their destiny if their rights are violated. People can form a separate

government or join another government as a result of exercising the right to self-determination in a land. Moreover, several independent states may emerge from a single state in the same territory. Although Azerbaijan's claim to preserve its territorial integrity is correct, it should not be denied that the people of Nagorno-Karabakh are somewhat willing to support separatism and hold previous separatist elections. The United Nations has not declared Kosovo's separatist actions against international law in some cases. Concerning the Nagorno-Karabakh conflict, it has not recognized such separatist actions and elections so far but insists on respecting human rights and the right to determine the fate of the people of Nagorno-Karabakh. The evidence indicates that the legal foundations and international law for the territorial separation of Nagorno-Karabakh from Azerbaijan are weak, but historical experiences such as Kosovo and Crimea should not be ignored. It can be argued that one of the reasons for the non-ending of this military-political conflict is the adherence of each of the parties involved in the Nagorno-Karabakh conflict to one of the important principles of international law and the use of these principles to justify their positions in the conflict. Meanwhile, the separatists of Nagorno-Karabakh rely on the right to self-determination as one of the principles of international law as a legal justification. To justify their separatism, the Armenians living in Nagorno-Karabakh say that the overwhelming majority of the residents of Nagorno-Karabakh are Armenians who do not want to be under the rule of a government that oppresses them religiously and tries to deny their rights and gradually eliminate them among the majority of the people of the Republic of Azerbaijan ethnically. Accordingly, they held an independence referendum and parliamentary, presidential, and even local elections and formed a government based on the presidential system called the Republic of Artsakh, which was officially known as the Nagorno-Karabakh Republic and was a de facto independent state with an Armenian majority.



Karabakh. *Journal of Central Asia and The Caucasus Studies*, (79).

Vaziri, Saeed (2020). *The Nagorno-Karabakh conflict, a challenge between law and politics, Proceedings of the International Legal and Political Forum of the Iranian Association for United Nations Studies*. Available at <https://unstudies.ir/iauns-forum/>  
مخاصمه-قره‌باغ،-چالش‌ی-میان-حقوق-و-سیاست

Zarei, Ramin (2014). *Violation of humanitarian rights in the Nagorno-Karabakh crisis with an emphasis on the approach of Western governments*, Master's thesis, University of Tehran, Supervisor: Ebrahim Mouszadeh.