

International Accountability of Azerbaijan for the Destruction of the Armenian Cultural Heritage on its Territory. The case of Jugha

by Sarkis Shahinian, Honorary President of the Switzerland-Armenia Association (SAA), Bern

Introduction

The Switzerland – Armenia Association would like to bring to your attention the following information:

Overwhelming evidence indicates that the Azerbaijani armed forces are responsible for the destruction of the Armenian medieval Necropolis in Jugha (Julfa) in Nakhijevan in December 2005. Nonetheless, the international community, including UNESCO, neither assessed this destruction nor condemned or sanctioned it as a crime.

The Switzerland-Armenia Association (SAA), which I have the honor to represent, underlines that these acts of hatred are in violation of the principles of the Covenant on Economic, Social and Cultural Rights, mainly expressed in the preamble and in the Article 15th of the Covenant. International organizations are committed to the protection of universal values concerning cultural heritage. OSCE participating States have, for instance, adopted a wide range of commitments to combating such crimes, including the condemnation of violent acts motivated by discrimination and intolerance. In addition, OSCE participating States have also conducted response training of security-relevant officials and other public functionaries, reviewed legislation, facilitated the capacity of civil society to monitor hate-motivated incidents and assisted victims. These tangible commitments have been taken in recognition of the fact that hate crimes pose a potential threat to domestic and international security, as they undermine social cohesion and plant the seeds of violence. Yet, our Organization cannot but notice that the destruction of the Jugha Necropolis remained a matter of indifference for the civil society in Azerbaijan at large and for international organizations.

Alerts designed to monitor the behavior of States in order to prevent such hatred acts made no difference. Research, however, has proven that an effective prevention of such acts is dependent on a consequential identification, legal prosecution and punishment supported by the development of a range of information and educational skills. This approach is applicable in cases where infringements involve individuals or groups. However, what happens if hate crimes on the cultural heritage of a minority within a State are not only promoted, but also orchestrated and even committed by the State itself? This is a completely different and neglected dimension of hate crimes. By not recognizing and, consequently, not taking responsibility for such acts, the international community runs the risk to side with the perpetrators.

Situation Report

Since 1998, the Armenian archaeological complex of Jugha, in the Autonomous Republic of Nakhichevan (Azerbaijan) has been systematically submitted to the wilful destruction by the armed forces of the Republic of Azerbaijan. Between December 2005 and March 2006, these forces destroyed the Jugha complex permanently. This cemetery was culturally and historically a unique testimony of the Armenian presence in the region. With originally more than 10,000 memorial stelae, it constituted the largest collection of Armenian tombstones and cross-stones (Khatchkars), many of them bearing philologically relevant inscriptions. They covered a period from the Middle Ages (5th century) until the early 17th century. In early March 2006, the cemetery had been completely leveled. The Azerbaijani authorities established a military training camp and a firing range on the site.

Violation of national and international law

Azerbaijan's policy of destruction of the Armenian cultural heritage of Nakhijevan contradicts with the basic principles of various international instruments for the protection of cultural heritage. In particular, it violates the instruments defining the duty of a State to ensure the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage situated on its territory, in times of peace and war.

**Committee on Economic, Social and Cultural Rights
Implementation of the International Covenant on Economic, Social and Cultural Rights
Pre-Sessional Working Group 49th Session, (21-25 May 2012)**

The protection, safeguarding and respect of cultural heritage is provided in the following international documents adopted within UNESCO:

- The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (14 May 1954);
- The World Heritage Convention for the Protection of Global Cultural and Natural Heritage (16 November 1972);
- The Convention on the Protection and Promotion of the Diversity of Cultural Expressions (20 October 2005).

Additionally, it is worth remembering that other international instruments aiming at the protection of historical monuments have been violated by this ethnocide, such as:

- Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (15 April 1935);
- The European Cultural Convention (19 December 1954);
- The European Convention on the Protection of the Archaeological Heritage (6 May 1969);
- The European Convention on Offences relating to Cultural Property (23 June 1985);
- The Convention for the Protection of the Architectural Heritage of Europe (3 October 1985).

As a reminder, the Preamble of the Reviewed European Convention on the Protection of the Archaeological Heritage, subscribed to by the Republic of Azerbaijan in 2000, stresses that «[...] responsibility for the protection of the archaeological heritage should rest not only with the State directly concerned but with all European countries, the aim being to reduce the risk of deterioration and promote conservation by encouraging exchanges of experts and the comparison of experiences».

Furthermore, Azerbaijan violated its own Constitution of 1995. In particular, the provisions of Article 77 hold responsible every citizen of the Republic of Azerbaijan for the protection of historical and cultural memorials.

Diplomatic initiatives and political steps undertaken within the UNESCO and the European Parliament

Hoping to save what was still left, the Government of the Republic of Armenia at numerous occasions alerted the international community about the ongoing destruction of Armenian cultural heritage in Nakhijevan, in particular the destruction of monuments in Jugha. On 14 December 1998, the Armenian Minister for Foreign Affairs sent an official letter to the Director-General of UNESCO concerning the destruction of the medieval cemetery in Jugha and requested UNESCO's assistance in persuading the authorities of the Republic of Azerbaijan to stop the cultural genocide against Armenian cultural heritage and to organize a fact-finding mission of experts to Nakhijevan.

On 20 November 2002, the destruction of tombs and the remaining (although already reduced in number) churches and monastic sites in Jugha was accomplished. Since then, numerous workers have again been engaged in dismantling valuable relics of medieval culture.

On 16 December 2002, in an official letter addressed to the Director-General of UNESCO, the Minister for Foreign Affairs again expressed concerns about the renewed attempts of the Azerbaijani authorities to carry out the destruction of the Armenian cemetery and church in Jugha. He suggested that an inspection mission to Nakhijevan should determine the extent of the systematic destruction. Answering this letter, the UNESCO representatives promised to contact the relevant authorities in Azerbaijan to obtain the necessary prior authorization for such a mission. UNESCO's intention to send an expert commission to Nakhijevan to research the destruction first-hand did have the effect of slowing down the destructive activities of the Azerbaijani authorities; however, the destruction did not stop entirely.

The National Council of Armenians of Nakhijevan submitted several declarations to various international organizations, such as the European Parliament, the Council of Europe, the International Council on Monuments and Sites (ICOMOS) and UNESCO, requesting them to put under international protection the ancient Armenian monuments that had been destroyed in Nakhijevan from 1999 to 2003.

Committee on Economic, Social and Cultural Rights
Implementation of the International Covenant on Economic, Social and Cultural Rights
Pre-Sessional Working Group 49th Session, (21-25 May 2012)

On 10 February 2003, the Armenian National Committee ICOMOS appealed to the presidents of the National Committees of ICOMOS for their assistance in protecting Armenian historic and cultural heritage in Nakhijevan. Attached to the appeal were photographs, taken by eye-witnesses, of several destroyed monuments.

On 7 October 2005, in Paris, at the 33rd General Conference of UNESCO, the Armenian Minister for Foreign Affairs once again addressed the international community in an official Statement regarding the destruction of the Armenian cultural heritage in Nakhijevan:

«Intentional destruction of cultural heritage should be characterized as cultural terrorism and a crime against humanity, which must be fought, the perpetrators must be punished, with the same resolve and determination as those who use terrorism as a tool against man.»

On 16 December 2005, the Armenian Minister informed the Director-General of UNESCO in an official letter that Azerbaijani soldiers were destroying the remnants of historically and religiously significant Khatchkars in the medieval Armenian cemetery in Nakhijevan. The Minister urged the UNESCO officials to put an end to those acts of vandalism and violence.

In its 16 February 2006 resolution on «Cultural Heritage in Azerbaijan», the European Parliament strongly condemned the destruction of the Jugha cemetery in Nakhijevan and demanded that the Republic of Azerbaijan allow the visit of a delegation composed of experts such as those working with ICOMOS who are specialized in surveying and protecting archaeological heritage, in particular Armenian heritage, onto its territory, and that it also allow a European Parliament delegation to visit the archaeological site at Jugha.

On 16 March 2006, the Armenian Minister for Foreign Affairs sent an official complaint to the UNESCO Director-General explaining the definitive destruction of the Jugha cemetery and the construction of a military shooting-area on the site.

On 17 October 2006, an international parliamentary delegation headed by two Swiss National Councilors, Hon. Ueli Leuenberger (Green Party) and Dominique de Buman (Christian Democratic Party) met with UNESCO Director General Koïchiro Maatsura in the Organisation Headquarters in Paris in order to hand out a Memorandum, where the destruction of the Jugha Necropolis was described in details. The Delegation, which included Members of the National Parliaments of Switzerland, France, Canada, United Kingdom, Greece and Belgium, urged the UNESCO to undertake, among others, the following steps:

- To condemn in no uncertain terms the willful destruction of the cultural sites of Jugha, irreversibly annihilated during the last destruction phase begun by Azeri military forces on the 10 December 2005 and completed in mid-March 2006;
- To denounce the ethnocidal nature and context of the destruction of the site within a systematic demolition operation, to which all Armenian architectural monuments from the Middle Ages have been subjected in Nakhijevan;
- To demand a formal international investigation in this area, coordinated by UNESCO, aimed at preparing an accurate report about the destruction;
- To publish a multi-disciplinary study (archaeological, architectural, ethnographic, etc.) of the area of Jugha, to be undertaken by international experts, and overseen by UNESCO;

None of these steps have been undertaken by the UNESCO so far.

Conclusion

The destruction of the Jugha Necropolis is a major example of hate-motivated crimes committed by States. In contrast to individuals, a State committing hate crimes amounting to cultural genocide has to assume responsibilities at a higher level of accountability.

We are herewith recommending to this Working Group to consider the proper recognition and condemnation of hate crimes committed against the Armenian cultural heritage in Jugha, even if it has been directly committed by the Azerbaijani State and would therefore fall under the sanctions foreseen in such cases by public international law.

Bern, 31st March, 2012

Photographic documentation:



The Necropolis before the 1st wave of destruction in 1998 (Picture: Zaven Sargsian, 1987)



Last destruction campaign in December 2005 (Picture: A. Gevorgian, 10 to 14 December, 2005)



An Azerbaijani military training camp and firing range stationed on the site of the annihilated cemetery (photo: Arthur Gevorgian, 10 March 2006)

References :

Parliamentary Group Switzerland-Armenia: **The Destruction of Jugha and the entire Armenian Cultural Heritage in Nakhijevan**, Documentation submitted to UNESCO in October 2006 by an international Parliamentary Delegation, Bern, 2006.