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ABSTRACT

of the dissertation for the degree of Doctor of Laws

THEORETICAL AND PRACTICAL PROBLEMS OF INTERNATIONAL LEGAL RESPONSIBILITY FOR WAR CRIMES IN MODERN PERIOD

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GENERAL CHARACTERIZATION OF THE DISSERTATION

Relevance of the topic and degree of research. Fighting international crimes is one of the most important tasks facing the international community. A number of directions can be mentioned as the main characteristics that make the fight against international crimes relevant: international crimes directly contradict the legal interests of states, including the interests of the international community; international crimes grossly, massively, and systematically violate universally recognized human rights and freedoms; the composition of international crimes is determined by important international law and customary norms and is expressed in actions or inactions contrary to international law; the expansion of the scope of international crimes requires a new trend of international cooperation, including closer and more realistic cooperation of states, and finally the implementation of relevant national measures.

The fight against international crimes requires the formulation and further development of issues related to international responsibility, which is a fundamental principle of international law and arises from the nature of the international legal system, the doctrine of sovereignty, and the equality of states[1]. Observing the norms of international law related to membership in the international society is directly derived from international responsibility[2]. International responsibility combines the responsibility of states (international organizations) and individual responsibility (the responsibility of natural persons to commit international crimes)[3].

[1] Malcolm N. Shaw QC. International Law. Eighth edition. Cambridge, Cambridge University Press, 2017, p.589.

[2] Лукашук И.И. Право международной ответственности. Москва, Волтерс Клувер, 2004, с. 18.

[3] Защита прав человека во время вооруженных конфликтов и в постконфликтных ситуациях: международно-правовой аспект. Отв. ред. У.Маммадов, Т.Гусейнов. Институт Права и прав человека. Баку, Elm və Təhsil, 2023, с. 950.

Provisions related to this containing the main content of the Draft articles on the Responsibility of States for Internationally Wrongful Acts made it urgent to adopt it soon.

In the legal literature, international crimes are classified in several directions. First of all, international crimes are treated narrowly based on the Rome Statute of the International Criminal Court, which includes only aggression, genocide, crimes against humanity, and war crimes[4]. Taking a broader approach to the problem, it includes international crimes and crimes of an international nature. It is noted that unlike international crimes, which are directed against the entire humanity and attack its vital interests as a manifestation of the state's criminal policy, crimes of an international nature are characterized as crimes committed by individuals, not related to the policy of any state, against the interests of several states[5]. As a whole, in the legal literature, international crimes are characterized as contrary to international human rights law, and the need to implement measures in a mutual and related manner by states within the framework of international and national law is justified[6].

War crimes are a type of international crimes, sometimes characterized as crimes against peace and security of humanity, directly related to wars and military conflicts. In modern international law, wars and the horrors they bring have always been seriously discussed and fundamentally criticized. It is directly related to the impact of these wars, which are not erased for a long time, and most importantly, to humanity. Sources indicate that between 3000 BC and the end of the 20th century, approximately 145 million to 2 billion people died in wars. 90-95 percent of societies known in

[4] Schabas W. An Introduction to the International Criminal Court. Cambridge, Cambridge University Press, 2017, p. 74-75.
[5] Hüseynov L.H. Beynəlxalq hüquq. Dərslik. Bakı, ABU, 2008, s. 136-137.
[6] Əliyev Ə.İ. İnsan hüquqları. Dərslik. Bakı, Nurlar, 2019, s. 184; Çeçen A. İnsan hakları. Genişletilmiş 4. Baskı. Ankara, Sözkesen Matbaacılık, 2015, s. 250-252; Dogan İ. İnsan hakları hukuku. 1. Baskı. Ankara, Astana Yayınları, 2013, s. 42-43.

history fought for a certain period throughout their history, and some fought constantly[7].

In the last hundred years, the number of wars, various armed conflicts, and the violence of people against each other has increased quite a bit. The use of scientific and technical innovations for military purposes, and the new types of weapons in wars have created more serious threats to humanity in general. There were two world wars in the 20th century, and although there are no real threats of a world war in the 21st century, the number and victims of both international and non-international armed conflicts has increased in modern times, so that in 2008, 56 thousand people died in 63 active armed conflicts, in 2012, 110 thousand people died in 51 armed conflicts, and in 2014, 180 thousand people died in 42 armed conflicts. In 2013, the number of internally displaced people due to armed conflict exceeded 50 million, and according to World Bank estimates, approximately one-fifth of the world's population suffers from violence or insecurity[8]. The fact that some of the organizers of the international crimes committed by Armenia against the Republic of Azerbaijan, in which 10 thousand people died, are still unpunished, and now, in the Russia-Ukraine war, many innocent people lose their lives every day, shows that the states still do not understand their responsibilities on this problem and necessary international measures are not implemented against those states.

All these statistics are indicators of the increasing negative impact of such armed conflicts on people's lives, health, and peaceful living, as well as basic human rights and freedoms. One of the most effective ways to combat this problem is to prosecute and punish those who commit international crimes during armed conflicts. At different times, this problem was fought at the international level, relevant legal and organizational measures were implemented. The establishment of international criminal tribunals in Nuremberg in

[7] War. History - https://en.wikipedia.org/wiki/War - 10.12.2023.

[8] Global armed conflicts becoming more deadly, major study finds- https://www.theguardian.com/world/2015/may/20/armed-conflict-deaths-increase-syria-iraq-afghanistan-yemen – 12.12.2023.

1945, Tokyo in 1946, Former Yugoslavia in 1993, Rwanda in 1994, the International Criminal Court in 1998, and the activity of various hybrid courts are indicators of practical activity in this direction. However, the increase in the number of human casualties, various acts of violence, and inhumane treatment and behavior in armed conflicts of the modern era make new approaches and improvements in the issue of bringing war criminals to justice, the development of modern international mechanisms and comprehensive directions of action in this field an urgent and necessary problem for the entire international community. The active activity of states in this direction (from participation in important international agreements and international mechanisms to the implementation of effective domestic measures) should be considered one of the most necessary issues.

In the 21st century, the nature of armed conflicts, the way they are conducted, and the reasons for their occurrence have also changed. In addition, the recent trend of increasing international conflict centers requires closer cooperation of states accompanied by taking serious measures in this direction. The reasons for the increase in criminality should be seriously analyzed in international law as well as in national law. On the whole, the reasons and the features and principles of its prevention indicated in the legal literature are almost the same in both legal systems.

After the Second World War, which was the heaviest war in the history of mankind, for the first time, people who committed war crimes were brought to justice and tried before the international tribunals established for this purpose (Nuremberg, Tokyo). Later, such trials were continued with the international tribunals of the former Yugoslavia and Rwanda, and now the International Criminal Court has been established as a permanent international judicial institution. The international legal bases of the aforementioned were the international documents adopted at the Hague conferences of 1899 and 1907, and later the formation of international customary norms along with other international treaty norms in this direction. According to the provision reflected in the Preamble of the Second

Hague Convention of 1899, which entered into history as F.Martens clauses, the protection of combatants and civilians is provided by the principle of humanism, the requirements of public consciousness and the basic principles of international law arising from international custom.

One of the reasons showing the relevance of the research topic is related to the definition of the category of subjects who are held responsible for war crimes. First of all, the problem of the responsibility of states appeared from the moment of the emergence of international law. The main essence of the principle of individual responsibility for the commission of war crimes under international criminal law is that only an individual can be held responsible. The issue of bringing to justice those who committed war crimes raises practical as well as scientific-theoretical problems. These problems existed in the activities of the international tribunals of Nuremberg, Former Yugoslavia, and Rwanda (impossibility of bringing the perpetrators of international crimes to justice promptly, court proceedings taking a long time, etc. [9]), and its current continuation in the practice of the International Criminal Court (Rome Statute of International Criminal Court has not been ratified by big countries such as the USA, Russia, China, India, etc.) has a significant negative impact on the effectiveness of the fight against international crime and the protection of human rights.

It is rightly noted in the legal literature that the protection of the rights of individuals is not related to citizenship[10]. In this respect, international criminal law, international humanitarian law, and international human rights law share a common base. In addition, the fight against war crimes is closely related to the principle of protection of war victims. This principle combines currents issues such as respect to human rights during the conflict by the parties to an armed conflict, prohibiting actions aimed at violating the rights of

[9] Давид Э. Принципы права вооруженных конфликтов. Перевод с французского. МККК. Москва, 2011, с. 911-914.

[10] Ahmedov F.T. The Right of Actio Popularis before International Courts and Tribunals. Leiden -Boston, 2018, p.51.

war victims, including the civilian population, as well as the responsibility of states for committed violations, compensation for the damage caused, etc. Despite certain documents that regulate issues related to the compensation of damages caused to victims of armed conflict, they are mostly soft law norms (for example, The Principles of Home and Property Restitution for Refugees and Internally Displaced Persons (Pinheiro Principles) adopted by the Economic and Social Council, one of the important bodies of the UN, in 2005, etc.).

Thus, the current lack of a universal international convention on compensation for victims of armed conflict allows the guilty states to remain unpunished and the relevant cases to be repeated. International crimes committed by Armenia against the Republic of Azerbaijan can be mentioned as the most realistic example of this idea. The First Karabakh War, which took place in 1992-1994, caused heavy losses to our state, especially tragedies such as the occupation of twenty percent of our lands, nearly one million people leaving their homes and becoming refugees and internally displaced persons, and the Khojaly genocide. After the Patriotic War (or the Second Karabakh War) that took place on September 27-November 10, 2020, and the anti-terrorist operations of 2023, the Republic of Azerbaijan restored the historical justice and completely restored the freedom and territorial integrity of its lands occupied by Armenia for more than 30 years. However, throughout the conflict, the Armenian armed forces committed all international crimes, including war crimes against the civilian population and civilian objects.

For this reason, by using international experience, the perpetrators of the war crimes committed against the Republic of Azerbaijan as a result of the aggression of Armenia, which began in 1988 and lasted until 2023, should be brought to international responsibility in the mentioned directions, and the creation of scientific-theoretical bases for the compensation of material and moral damage can be considered one of the most urgent problems for our national legal science in modern times. Here, it is necessary to mention one issue in particular, that the situation is completely the

same both in the territories liberated by the Republic of Azerbaijan and handed over by Armenia, that is, in other words, the territories of the Republic of Azerbaijan, which have been occupied for more than 30 years, completely destroyed, including the cultural heritage. and looted, rendered uninhabitable, massively mined[11]. It will take decades to restore those areas to their previous state, including normal living conditions. The mentioned fully justifies the international legal responsibility of Armenia.

In addition, the tendency to improve the legislation of the Republic of Azerbaijan based on international legal norms has always been the leading direction. Despite the existence of constitutional provisions on the supremacy of international legal norms over national legal norms in the Constitution of the Republic of Azerbaijan, the issue of the degree of compatibility of national criminal law with international legal norms in the field of regulating responsibility for the commission of war crimes remains relevant. In the mentioned directions, important studies were also conducted in foreign and local legal literature. These studies can be classified in several directions.

First of all, it is necessary to mention the research conducted in the sphere of criminal law (F.Y.Samandarov[12], I.M.Rahimov[13], Sh.T.Samadova[14], A.V.Naumov[15], etc.), where issues related to war crimes were also analyzed.

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[11] Azərbaycan məcburi köçkünlərinin pozulmuş hüquqlarına dair Kompleks Beynəlxalq Hesabat. Bakı, Bakı Universiteti Nəşriyyatı, 2021, s.6-7.

[12] Səməndərov F.Y. Cinayət hüququ. Ümumi hissə. Dərslik. Bakı, Hüquq Yayın Evi, 2015, 720 s.; Səməndərov F.Y. Kriminologiya. Dərslik. Bakı, Bakı Universiteti Nəşriyyatı, 2018, 428 s.

[13] Rəhimov İ.M. Cinayət və cəzanın fəlsəfəsi. Bakı, Şərq-Qərb Nəşriyyat evi, 2014, 320 s.

[14] Səmədova Ş.T. Cinayətlərin kateqoriyalarının cinayət məsuliyyətinin diferensiasiyasında və sanksiyaların qurulmasında rolu və əhəmiyyəti. Hüquq üzrə elmlər doktoru elmi dərəcəsi almaq üçün təqdim edilmiş dissertasiyanın avtoreferatı. Bakı, 2015, 56 s.; Səmədova Ş.T. Transmilli cinayət hüququnun nəzəri və praktiki problemləri. Bakı, Mütərcim, 2023, 304 s.

[15] Наумов А.В. Российское уголовное право. Общая часть. Курс лекций. Москва, Издательство, БЕК, 1996, 560 с.

Then, it is necessary to mention the specific research (O.F. Afandiyev[16], N.A.Safarov[17], A.V.Allahverdiyev[18], Y.Aslan[19], S.A.Lobanov[20], etc.) conducted on this or that direction of responsibility for war crimes.

In addition, since war crimes are a type of international crimes, the research conducted in this direction (A.I.Aliyev[21], N.H.Aliyev[22], R.K.Mammadov[23], J.Bashak[24], D.Tezcan[25], B.San[26], A.Yasin[27], A.Q.Kibalnik[28], C.Bassiouni[29], A.Cassese[30], W.Schabas[31],

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[16] Эфендиев О.Ф. Вооруженные конфликты и военные преступления на Центральном Кавказе: международно-правовой аспект. Баку, Издательский Дом «Кавказ», 2006, 364 с.; Эфендиев О.Ф. Международная противоправность военных преступлений (на примере конфликтов на Южном Кавказе). Автореферат диссертации на соискание ученой степени доктора юридических наук. Баку, 2009, 45 с.

[17] Сафаров Н.А. Проблемы обеспечения совместимости Римского Статута Международного Уголовного Суда и национальных правовых систем. Москва, Юридическая литература, 2002, 196 с.; Сафаров Н.А. Экстрадиция в международном уголовном праве: проблемы теории и практики. Москва, Вольтерс Клувер, 2005, 416 с.

[18] Allahverdiyev Ə.V. Beynəlxalq hüquqda insanlıq əleyhinə cinayətlər. Dərs vəsaiti. Bakı, Elm və Təhsil, 2017, 376 s.

[19] Aslan Y. Teoride ve Uygulamada Savaş Suçları. Ankara, Bilge Yayınları, 2006, 384 s.

[20] Лобанов С.А. Международная уголовная ответственность за военные преступления. Диссертация на соискание ученой степени доктора юридических наук. Москва, 2018, 495 с.

[21] Əliyev Ə.İ. Azərbaycan beynəlxalq cinayətlər hədəfində: hüquqi təhlil. Bakı, Nurlar, 2018, 176 s.; Əliyev Ə.İ. İnsan hüquqları. Dərslik. Bakı, Nurlar, 2019, 352 s.

[22] Алиев Н.Г. Международное право и Нагорно-Карабахский конфликт. Москва, Вече, 2013, 176 с.

[23] Məmmədov R.K. Beynəlxalq cinayət hüququ və Azərbaycan Respublikasının cinayət qanunvericiliyi. Bakı, NAT Co MMC, 2012, 312 s.

[24] Başak C. Uluslararası Ceza Mahkemeleri ve Uluslararası Suçlar. Ankara, Turhan Kitabevi, 2003, 300 s.

[25] Tezcan D., Erdem M.R., Önok M. Uluslararası Ceza Hukuku. Ankara, Seçkin Hukuk, 2021, 680 s.

[26] San B. Uluslararası adaleti sağlamada Uluslararası Ceza Mahkemesinin rolü ve işlevselliği. Yalova, 2022, 289 s.

[27] Yasin A. Uluslararası Hukukda ve Türk Hukukunda savaş suçları. Ankara, 2003, 309 s.

C.David[32], etc.) it should be noted that the issues reflected here were analyzed in detail in the study.

Since the topic is dedicated to an actual sphere of international law, scientists conducting research in the sphere of international law (L.H.Huseynov[33], T.I.Huseynov[34], R.F.Mammadov[35], E.A.Aliyev[36], V.G.Mammadov[37], R.M.Garayev[38], F.T.Ahmedov[39], G.H.Karimov[40], Z.H.Aliyev[41], V.A.Ibayev[42],

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[28] Кибальник А.Г. Современное международное уголовное право. Москва, Волтерс Клувер, 2010, 304 с.

[29] Bassiouni C. Introduction to International Criminal Law. Leiden, Martinus Nijhoff Publishers, 2013, 1122 p.

[30] Cassese A. International Criminal Law. Oxford, Oxford University Press, 2003, 472 p.

[31] Schabas W. An Introduction to the International Criminal Court. Cambridge, Cambridge University Press, 2017, 598 p.

[32] David C. War Crimes, Genocide and Justice: A Global History. New YorkPalgrave Macmillan, 2014, 501 p.

[33] Hüseynov L.H. Beynəlxalq hüquq. Bakı, ABU, 2008, 240 səh.

[34] Hüseynov T.İ. Azərbaycan Respublikasının ekoloji təhlükəsizliyi: beynəlxalq hüquqi və dövlətdaxili aspektlər. Hüquq üzrə elmlər doktoru elmi dərəcəsi almaq üçün təqdim edilmiş dissertasiyanın avtoreferatı. Bakı, 2018, 41 s.

[35] Məmmədov R.F., Məmmədov X.R. Müasir beynəlxalq hüquq nöqteyi-nəzərindən Azərbaycanın işğal olunmuş ərazilərində Ermənistanın qanunsuz və hüquqa zidd fəaliyyəti. Bakı, "MM-S", 2017, 260 s.

[36] Əliyev E.Ə. Avropa cinayət hüququ. Bakı, Kooperasiya nəşriyyatı, 2015, 64 s.

[37] Məmmədov V.Q. Tibbi hüquq və bioetikanın Azərbaycan Respublikasında formalaşması və müasir inkişaf tendensiyaları. Hüquq üzrə elmlər doktoru elmi dərəcəsi almaq üçün təqdim edilmiş dissertasiyanın avtoreferatı. Bakı, 2022, 56 s.

[38] Qarayev R.M. Ermənistan-Azərbaycan münasibətlərinin nizamlanmasında dövlətlərin ərazi bütövlüyü və xalqların öz müqəddəratını təyinetmə prinsiplərinin qarşılıqlı əlaqəsi. Hüquq üzrə elmlər doktoru elmi dərəcəsi almaq üçün təqdim edilmiş dissertasiyanın avtoreferatı. Bakı, 2023, 60 s.

[39] Ahmedov F.T. The Right of Actio Popularis before International Courts and Tribunals. Leiden -Boston, 2018, p.51.

[40] Каримов Г.Г. Институт доказательств в международном гражданском и арбитражном процессе. Учебное пособие. Баку, Нурлар, 2021, 144 с.

[41] Əliyev Z.H. Avropa İnsan Hüquqları Məhkəməsi. Dərs vəsaiti. Bakı, AZSEA Nəşriyyatı, 2012, 232 s.

[42] İbayev V.İ. Beynəlxalq humanitar hüquq. Bakı, 2001, 496 s.

A.Gunduz[43], R.M.Valeyev[44], E.David[45], I.I.Lukashuk[46], O.O.Merejko[47], Malcolm N.Shaw[48] and others) were studied in detail.

Taking into account the above, the relevance of the research for the Republic of Azerbaijan can be determined in several directions: first of all, the problem has been studied quite little on the scale of our country; further, there is a great need to sufficiently improve the legislation of the Republic of Azerbaijan in this field; international crimes committed by Armenia against the Republic of Azerbaijan and its people, including war crimes, and determination of responsibility issues are very important; finally, the analysis (research) of problems related to war crimes in the doctrine of international law and the practice of individual states has not only not lost its relevance, but has developed further.

Unlike other areas of law, the process of implementation of international legal norms related to criminal law in our national legislation is carried out in a slightly different direction. If international legal documents in other areas are directly applied after ratification by the Republic of Azerbaijan, the condition for the application of international legal norms in criminal law is to include those norms in national criminal legislation. The legal basis of this rule is the provision of the Criminal Code of the Republic of Azerbaijan that "laws defining criminal liability and punishing the person who committed a crime can be applied only after being

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[43] Gündüz A. Milletlerarası Hukuk. 11. Baskı, İstanbul, Savaş Kitabevi yayımı, 2021, 686 s.

[44] Валеев Р.М. Контроль в современном международном праве. Монография 2-е изд., перераб. и доп. Казань, Центр инновационных технологий, 2003, 321 с.

[45] Давид Э. Принципы права вооруженных конфликтов. Курс лекций. Москва, МККК, 2011, 1144 с.

[46] Лукашук И.И. Право международной ответственности. Москва, Волтерс Клувер, 2004, 432 с.

[47] Мережко А.А. Проблема Нагорного Карабаха и международное право. Киев, Издательский дом Дмитрия Бураго, 2014, 208 с.

[48] Malcolm N. Shaw QC. International Law. Eighth edition. Cambridge University Press 2017, 1033 p.

included in this Code" (Article 1.3). Thus, it becomes an objective necessity to conduct advanced scientific and theoretical research to avoid future shortcomings during the implementation of the international legal norms on war crimes into the criminal legislation of the Republic of Azerbaijan, different approaches and collisions during the application of the law by courts and other bodies, thus the relevance of the relevant problem once again shows that there is an absolute necessity to implement certain additions and changes in the Criminal Code of the Republic of Azerbaijan.

Theoretical and normative-legal bases of research. In the research work, while studying the theoretical and practical problems of prosecution for war crimes, the works of the classics such as Nizami Ganjavi, Hugo Grotsy, Jean Picte, Friedrich Martens, and others have been addressed. As the theoretical basis of the study, fundamental works of Azerbaijani and foreign researchers in the relevant field were widely used. In addition, Avesta, Quran, Bible, and other religious books were also addressed.

The normative-legal basis of the study is the international documents that combine "hard" and "soft" legal norms, international customary norms, international court practice, decisions of ad hoc international tribunals, and the criminal legislation of the Republic of Azerbaijan, including the legislation of foreign countries.

The object and subject of the research. The object of the study includes the theoretical and practical problems of international legal responsibility for war crimes in the modern era. As the subject of the research, the existing regulations on international legal responsibility for war crimes in the modern era in the international and national-legal sphere, as well as a comprehensive analysis of the shortcomings that have arisen at this time and their solutions, are presented.

The purpose of the study is to further develop the legal foundations of the concept of war crimes in international and national criminal law, to solve the theoretical and practical problems of bringing responsibility for the commission of war crimes, and to

develop ways to improve the system of war crimes in the criminal law of the Republic of Azerbaijan.

In order to achieve the stated goals, **the following tasks** were defined in the study:

- To do a detailed and comparative study of the historical chronology, including legal doctrine, to define the concept of war crimes in international law;
- To determine the place of war crimes in the system of international crimes, to reveal the similar and different features compared to crimes against humanity, genocide, crimes of aggression;
- To identify the criminal legal characteristics of war crimes, to study their structural and specific features;
- To determine the theoretical and practical problems of international legal responsibility for war crimes;
- To mutually analyze the issue of holding states and individuals responsible for the commission of war crimes;
- To determine the international legal basis for compensation for material and moral damage caused as a result of war crimes;
- Determining the legal status of victims of armed conflict;
- Comparatively analyze the forms of compensation for damages caused to individuals as a result of war crimes;
- To examine the issue of the place of international criminal law norms in the legal system of the Republic of Azerbaijan in the context of the relationship between international and domestic law;
- To reveal the contradictions and loopholes in the legislation in the process of implementing the international legal norms on war crimes into the criminal legislation of the Republic of Azerbaijan;
- To justify the international legal responsibility for the war crimes committed by Armenia and to determine the directions of responsibility;
- To analyze the influence of norms and principles of international criminal law on the formation of war crimes in national legislation;

- To analyze the constituent elements of war crimes in accordance with the criminal legislation of the Republic of Azerbaijan and international legal acts;

- To study the existing international and national court experience in the direction of the implementation of international criminal law norms into the national criminal legislation, as well as to study the position of local experts in the sphere of criminal law regarding the relevant problem, summarize them and come up with several proposals;

- To propose ways to improve the norms of war crimes in the criminal legislation of the Republic of Azerbaijan, to propose and justify the need to make appropriate additions and changes in the national criminal legislation.

Research methods. In accordance with the general scientific approaches to conducting theoretical research, the methodological basis of the research work is made up of the basic provisions of the dialectic, which allows reflection on the interaction of theory and practice, determines the form and content of the subject of the research, and determines the quality change and development processes of the studied socio-legal events and processes. In the research process, first of all, analysis and synthesis methods were widely used. The following special methods were also used in the research: theoretical and comparative-legal - during the identification and comparative analysis of relevant concepts; document research - during the study of materials of criminal cases and investigation of international and national activities; historical-legal – during the study of historical processes and other materials in the mentioned direction; sociological studies - when applying statistical figures; and so on.

The following main new scientific provisions are introduced to the defense:

1. Having its subject of regulation, specific principles, relevant historical and comprehensive sources, and combining new trends, international criminal law is an independent and constantly developing field of international general law. This important area

consists of a set of international legal norms that define the components of international crimes, including war crimes, and impose the obligation to hold states accountable for the commission of such crimes, as well as regulate other relations in this sphere. New trends determine the formation of important sub-fields within that field (responsibility for international crimes, compensation for damages, and protection of the rights of victims of international crimes, etc.). The areas of international law with which international criminal law is most closely related are international humanitarian law, international human rights law, and responsibility in international law. Effective regulation in the relevant sphere can be achieved in close interaction with those areas. International criminal law has stimulated the development of international criminal procedural law and has had a significant impact on national criminal law and the national criminal process. In addition, some crimes (for example, ecocide) should be recognized as international crimes, the main directions for combating international crimes should be regulated by international criminal law, and the main elements and institutions of international responsibility should be formed and developed in this area.

2. The process of formation and development of war crimes continues even now after a certain historical period has passed. The history of war crimes is as old as the history of wars. Cruelty, torture, mercilessness, and violence were at a high level in the wars that took place in all periods, which made the issues of struggle in those directions relevant to relevant discussions. In ancient times, the widespread war between states had a negative effect on the political views that existed at that time. In the Middle Ages, although important norms in this direction were not codified in the practice of states, starting from this period, ideas and initial precedents such as bringing responsibility and punishment for war crimes began to form and develop. In the works of Nizami Ganjavi, from the categorical condemnation of war and the promotion of peace, the societies were required to fight in this sphere with the amendments of F. Martens at the end of the 19th century. Starting from the middle of the 19th

century, the adoption of the first international documents in this field began with the ideas and documents adopted in different countries. From the end of the 19th century to the beginning of the 20th century, this process was accelerated with the adoption of the Hague Conventions and reached a higher development point with the adoption of the Geneva Conventions dated 1949. Thus, the basic rules covering issues such as the concept of war crimes, the main elements, responsibility, etc. have been formed over the centuries and have incorporated the legal experience of many national legal systems. With the analysis of historical processes, the formation of international humanitarian law norms, including the importance of religious norms in the fight against war crimes, should be especially noted. For example, war crimes are also directly prohibited in the Quran, which incorporates several norms of international humanitarian law.

3. After the Second World War, many international legal acts were adopted to define the concept and content of war crimes. In this regard, the Geneva Conventions of 1949 and Additional Protocols I and II of 1977, including Additional Protocol III of 2005, should be emphasized. The main basis of those documents were the international documents adopted at the Hague Conferences of 1899 and 1907, and international customary norms formed in this direction. All these documents have regulated the theoretical problems of war crimes and prosecution for those crimes. However, important steps have been taken to regulate war crimes from a practical point of view. In this area, the activity of international criminal tribunals (Nuremberg, Former Yugoslavia, Rwanda) and mainly the International Criminal Court should be specially mentioned. Thus, both international legal acts, as well as the activity of international tribunals and courts, played an important role in revealing the nature of war crimes, defining and developing its theoretical and practical problems. All these suggest that the concept of war crimes was formed not only as a result of theoretical work (various concepts, theories, and views) but also practical work

arising from the application of the international normative-legal framework and legal norms.

4. The Rome Statute of the International Criminal Court, while defining war crimes, took into account the provisions of international legal acts before it, including the international tribunals for Nuremberg, Former Yugoslavia, and Rwanda. When defining war crimes in this document, serious violations of the norms of the 1949 Geneva Conventions (including their additional protocols) and other international acts and other laws and customary norms of war were guided as the main criteria. We believe that the difference between war crimes and other crimes is, first of all, that the illegal act is committed in the context of an armed conflict and is closely related to it. Therefore, war crimes are closely related to international humanitarian law, their development will lead to the development of the concept of war crimes. In recent times, the concept of a broad approach to the concept of war crimes, not only with international agreements and international judicial practice but also with the legislation of individual states, once again confirms what has been mentioned.

5. War crimes are included in the classification group of acts that threaten the peace and security of humanity as a whole, that is international crimes. At this time, it should be specially noted that the rules of international and non-international armed conflicts protected by the generally recognized principles of international law and norms of international humanitarian law are the objects of war crimes. In addition, it is necessary to conduct a joint classification and analysis of war crimes with other international crimes (aggression, genocide, crimes against humanity) that threaten the peace and security of humanity as a whole, as well as to determine their mutual relations. The practical activity of international tribunals, the International Criminal Court, special (hybrid) courts, including the European Court of Human Rights, and other regional international judicial bodies also justify what we have mentioned. The occurrence of war crimes begins after the commission of other international crimes or is committed together with other international crimes or leads to the

commission of other international crimes. At the same time, the probability of international crimes occurring here is also fully acceptable.

6. As in other areas of international law, the institution of responsibility occupies an important place in international humanitarian law, international human rights law, and international criminal law. International responsibility is based on international law and international customary norms. Since international legal norms do not provide for the criminal-legal responsibility of the states, the responsibility of the state is not of a criminal-legal nature, but an international legal nature. The criminal-legal side of the state's responsibility is realized precisely by the responsibility of the state's officials and is part of its international legal responsibility. To achieve effective regulation in the field of international responsibility, during the adoption of the Draft articles on the Responsibility of States for Internationally Wrongful Acts, despite the positive nature of the provisions contained therein, the formation of relevant international mechanisms should be determined, which this can be considered an important step not only in the fight against international crimes, including war crimes but also in the prevention of armed conflicts.

7. Taking into account the special place of international custom in the system of sources of international law with Article 38 of the Statute of the UN International Court of Justice, including the main features of international custom (consistent, continuous, general, same kind and long-term), and later, the formation of customary norms in other areas of international law (for example, by practice, several illegal acts in the sphere of human rights are already defined as violations of international customary law, including genocide, apartheid, slavery, torture, systematic or gross violations of several human rights), it should be noted that the general approach to war crimes and international customary norms have an important role in solving responsibility issues, as well as in expanding its types. As a result of considering these features and international court precedents, war crimes should be approached from a wider context.

8. The international criminal tribunals played an important role in the normative legal determination of war crimes, the prosecution of those who committed war crimes, in short, the formation of these types of crimes in the modern sense. For the first time, the Nuremberg Tribunal defined the term of war crimes in the modern sense and strengthened its international legal basis. The statute of the Nuremberg Tribunal, its judgment and decisions also reflected the recognition of the principles of individual criminal responsibility in international law. The activities of the international criminal tribunals for the former Yugoslavia and Rwanda have been generally positively assessed and have set important precedents in the fight against international crimes, including war crimes. Here, the provisions related to the responsibility of international organizations, states, and individuals have been significantly improved. Thus, the activity of international tribunals and the decisions made showed the special importance of regulation in this area. Therefore, the establishment and operation of the International Criminal Court should not prevent the establishment of ad hoc tribunals in the future. The activity of hybrid courts in this field, the individual approach to the issue, and the fact that some states still do not participate in the International Criminal Court are among the factors that justify our opinion. The absence of these cases can lead to an even greater increase in the facts of evasion of international responsibility. The use of the practice of forming such tribunals under the mandate of the UN or the International Criminal Court in the future should be specially noted. Also, it should be taken into account that not all war crimes have been brought under the jurisdiction of the International Criminal Court, besides, international judicial practice is currently demonstrating a broader approach to war crimes.

9. In the course of international armed conflicts, the issue of compensation for damages caused to individuals is quite urgent. In addition to the main subjects of international law (states and international intergovernmental organizations), the range of subjects of such relations includes non-traditional subjects, that is, victimized natural persons. The establishment of post-war compensation

commissions, the precise determination of their legal status, and their powers are of great importance in the compensation mechanism. A detailed analysis of international legal documents and international legal doctrine gives full reason to note the use of forms of restitution, compensation, and satisfaction, as well as guarantees of non-recurrence in determining the forms of compensation for the damage caused to the victims of armed conflict. In the determination and implementation of these forms, mutual coordination and completion necessitate increasing the effectiveness of some international documents adopted in that sphere or adopting them in the form of new international agreements.

10. The international responsibility of the states towards natural persons is recognized, that is, the natural person can make full demands for the compensation of the damage caused to him against the law-breaking state. However, certain difficulties related to the realization of this right remain a serious problem both at the international and national levels: special universal international conventions that allow individuals to consider their claims for compensation for damages caused by wars in international and national judicial bodies have not yet been adopted; international institutional mechanisms operating permanently in this direction have not been formed (although such institutions can act as effective organizational mechanisms for compensation of damage caused to individuals); international judicial practice in this direction is weak; states are sufficiently evading international responsibility measures; and so on. At present, the fact that some international judicial institutions (for example, the European Court of Human Rights, etc.) are sufficiently burdened, as well as their coverage of limited member-states, makes the creation of the mentioned international institution urgent, where different rules of appeal to other international courts for compensation of damages (e.g. direct application facility, etc.) should be implemented. In the implementation of the decision implementation process, it is necessary to determine the granting of appropriate powers to those institutions. The mentioned does not conflict with the provisions of

the principle of sovereign equality of states, on the contrary, it will lead to the full realization of the institution of international responsibility by seriously supporting the realization of the principle of honest fulfillment of international obligations.

11. National criminal legislation is the main means of domestic implementation of international law on war crimes. As a whole, international agreements and generally recognized principles and norms in the sphere of international criminal law require states to make necessary additions and changes in their national criminal legislation to comply with the instructions of those norms and principles. Norms of international criminal law determine that national normative-legal acts implementing international agreements should not only recognize certain acts as crimes but also include provisions that give the courts authority (or jurisdiction) over relevant acts. Thus, national courts find it difficult to consider cases without clearly defined legislative norms on specific issues. This, in the practice of the Republic of Azerbaijan, stipulates the inclusion of norms that determine the possibilities of direct application of international legal norms in criminal and criminal-procedural legislation.

12. Articles 10, 12, 148, and 151 of the Constitution of the Republic of Azerbaijan are the basis of the implementation of international legal norms into the legal system of the Republic of Azerbaijan. Thus, if Article 148.II considers international agreements of the Republic of Azerbaijan as an integral part of its legislative system, Article 151 gives priority to international agreements. Further, the provisions of Article 12 of the Constitution of the Republic of Azerbaijan regarding human rights should be specially mentioned, and the experience of referring directly to international agreements should be highly appreciated. In addition, it is necessary to clarify the content of Article 10 of the Constitution of the Republic of Azerbaijan. It would be more appropriate to use the phrase "generally recognized principles and norms of international law" in that article. Thus, international crimes, including war crimes, can be committed by violating the generally recognized principles and

norms of international law, in addition to international law and customary norms, and there are numerous international practices in this field. In other words, as in other areas, it will determine the role of universally recognized principles of international law in combating all international crimes, including war crimes, and the full legal basis for their practical application.

13. A comparative analysis of Article 8 of the Rome Statute of the International Criminal Court, which establishes war crimes, with Chapter XVII of the Criminal Code of the Republic of Azerbaijan gives grounds for putting forward such a provision that almost all types of war crimes are included in the Criminal Code of the Republic of Azerbaijan in a general sense. However, some war crimes established in the Rome Statute are not separated as an independent component in the Criminal Code of the Republic of Azerbaijan. This can cause certain problems and confusion in the description of those actions. However, taking into account the importance of combating war crimes in the sphere of international cooperation, it is appropriate to issue them as an independent component, as well as to make several necessary additions and changes in the criminal legislation. Thus, the improvement of the criminal legislation of the Republic of Azerbaijan will create conditions not only for the development of the criminal law system of the Republic of Azerbaijan but also for the further increase of the reputation of the Republic of Azerbaijan in the international arena, and the effective realization of the international obligations undertaken by the Republic of Azerbaijan in the international fight against crime based on the signed international treaties and agreements, and finally, it will have a positive effect on other field legislations.

14. The direct reference to international legal norms in the Criminal Code of the Republic of Azerbaijan should be further specified and improved. In other words, a somewhat simpler way of applying international legal norms in the Criminal Code of the Republic of Azerbaijan should be defined. In addition, as in the Criminal-Procedural and Civil-Procedural Codes, it would be

necessary to comment on the precedent law of the European Court of Human Rights in the Criminal Code of the Republic of Azerbaijan.

15. By joining the Rome Statute of the International Criminal Court of the Republic of Azerbaijan, membership of the International Criminal Court is always necessary as a state guided by the principles and norms of international law. Joining the Statute of the International Criminal Court does not mean limiting the criminal legislation of the Republic of Azerbaijan, on the contrary, it means providing great opportunities in the fight against international crimes, developing criminal law enforcement, including the practice of using international court precedents. As a whole, the membership of the Republic of Azerbaijan in the International Criminal Court will provide significant guarantees for our state in the fight against international crimes, it will also have a positive effect on its international position in the fight against crime and may lead to the further development of national criminal legislation.

16. Concerning Armenia, the establishment of a separate international criminal tribunal for the international crimes it has committed should be brought to the full attention of the international community. Armenia is an indisputable violator of international law according to all the norms of international law in both the First Karabakh War and the Second Karabakh War, which fully justifies the need to bring it to international responsibility as a subject of international law. At the same time, Armenia committed the Khojaly genocide, one of the worst tragedies of the 20th century. Unfortunately, although all these crimes have been sufficiently proven, the Armenian side has not yet received its deserved punishment. Historical facts prove that the Khojaly genocide was not accidental, but a continuation of the genocidal policy committed against Azerbaijanis over a long time. In addition, almost all types of war crimes were committed by Armenia against the Republic of Azerbaijan and the people of Azerbaijan. Thus, there is no theoretical or practical problem in the direction of creating a separate international tribunal related to the international crimes committed by the Armenian state, on the contrary, there is enough international

practice in this direction. At the same time, the creation of this international criminal tribunal would have greatly contributed to the creation of international law regarding the responsibility of states.

17. The responsibility of the Armenian state for international crimes committed against the Republic of Azerbaijan and the people of Azerbaijan, including war crimes, should be determined in two directions: the responsibility of the Armenian state and the responsibility of individuals who committed these crimes. Both directions of responsibility are closely related to each other and complement each other, fully complying with relevant international law and customary norms, including international jurisprudence. The international criminal tribunal, which will be established under the mandate of the UN or the International Criminal Court, should have the authority to decide the responsibility of Armenia for the damage caused to the Republic of Azerbaijan and the people of Azerbaijan, as well as the choice of the form and methods of compensation for the damage, in addition to the responsibility of natural persons.

18. When determining the issues of responsibility for all international crimes, including war crimes, committed by the Armenian state, issues of responsibility for all the international crimes committed during the time of the Soviet Union, especially the last deportation of Azerbaijanis living in Armenia - from the end of the 80s of the 20th century to the beginning of the 90s of the 20th century, when Armenia declared its independence - genocide, war crimes and crimes against humanity must also be taken into account. After declaring its independence in the early 90s of the 20th century, Armenia strengthened and expanded these crimes. This should be determined by characterizing those crimes as continuing crimes. In Western Azerbaijan, including Yerevan which is the ancient city of Azerbaijan and now the capital of Armenia, illegal actions against cultural heritage, which were defined as a war crime during the Soviet Union, are still being carried out in a gross and systematic form at the state level.

19. The realization of the initial basis for determining responsibility for international crimes committed by the Armenian

state was the involvement of the persons accused of committing various international crimes in the territories of the Republic of Azerbaijan by the law enforcement agencies of the Republic of Azerbaijan from the end of 2023. The process should be continued based on the principle of universal jurisdiction, which is an important principle of international criminal law, by determining the legal proceedings against those persons, and later, both in the First Karabakh War and the Second Karabakh War, holding the persons, who are currently in Armenia and has been there for a long time working in the important positions, responsible due to the crimes committed as a result of anti-terrorist operations. Supporting this process is one of Armenia's important international obligations. One of the main tasks of the Commission established by ensuring the principle of individual responsibility and universal jurisdiction, which can also be implemented by establishing a bilateral institution consisting of Armenia and the Republic of Azerbaijan for compensation of damages by determining the international legal responsibility of Armenia as a state (this practice has existed in the world, for example, on the compensation of damages between two states Eritrea-Ethiopia Demand Commission, etc.) should be to prosecute persons who have committed various international crimes for a long time in Armenia and other foreign countries and hand them over to the Republic of Azerbaijan for an objective trial, to determine and compensate for the damage caused to the Republic of Azerbaijan, and finally to regulate bilateral state relations and determine the directions of future cooperation on normalization. The mentioned provision does not contradict the 15th and 16th scientific provisions defined earlier and, on the contrary, develops it further. In addition, the court decisions taken on the establishment of legal proceedings against the persons involved in the investigation should be respected by the international community and recognized as a precedent based on the principle of universal jurisdiction. This directly follows from the experience of existing hybrid courts.

20. The payment of material damage caused by Armenia to the Republic of Azerbaijan is part of its responsibility for war crimes

and other international crimes. At the same time, other crimes of an international nature were committed in the territories of the Republic of Azerbaijan during the long period of occupation, and this is a part of Armenia's international legal responsibility. The aforementioned should be continued by taking into account the damages and lost benefits arising from the "honorable and safe residence" of IDPs in determining the responsibility of Armenia. The non-opening of the Zangezur corridor, which connects the western zone of Azerbaijan with Nakhchivan, by Armenia is considered to be a violation of international treaty norms as well as international customary norms (here, the historical factor, the necessity of the state to maintain contact with its territory and the creation of conditions for this, the presence of extensive international experience in this field, etc.) is the next part of his international legal responsibility.

The scientific novelty of the research should be related to the fact that in modern times no comprehensive scientific research has been conducted in the mutual analysis of international and domestic legal norms (legislation of the Republic of Azerbaijan) in the direction of the theoretical and practical problems of bringing responsibility for war crimes. Here, the first scientific research of a complex nature was carried out at the dissertation level, in which the conceptual understanding and development elements of war crimes at the international and domestic levels were developed, the theoretical and legal problems in modern international law regarding the prosecution of those who committed war crimes, as well as solutions to the problems arising in the activities of international judicial bodies applying international legal norms were discussed, and the possibilities of applying to international judicial bodies for the compensation of the damages suffered by the victims of war crimes were analyzed in detail. Although there are scientific studies devoted to separate directions on this subject in the legal literature of Azerbaijan, they are not in a unified direction, but only scientific articles, monographs, textbooks, etc.

All foreign and local researches on the present study were summarized, they were compared and analyzed from a modern point

of view in separate directions. Then, the concept of war crimes is justified from the point of view of international criminal law being an independent field of international law, the close relations of international criminal law with international human rights law, international humanitarian law, and responsibility in international law are analyzed. The author proposed to eliminate the existing deficiencies in the criminal legislation of the Republic of Azerbaijan on war crimes and to implement the necessary additions and changes in the Criminal Code of the Republic of Azerbaijan based on the norms of international criminal law. The full justification of the international legal responsibility for the war crimes committed by Armenia and the determination of the directions of responsibility were carried out by referring to international practice.

Another aspect of the scientific innovation is that the research was conducted based on a comparative analysis of the wide range of international contract practice, international customary norms, founding acts and decisions of international tribunals and judicial bodies, national criminal legislations of different states, and the diversity of opinions in the legal literature.

The theoretical and practical significance of the research. With a new approach to the concept of war crimes in the research work, highlighting several modern theoretical and practical problems, such as bringing responsibility for war crimes, more attention to these and other relevant issues in international criminal law has been achieved and substantial conclusions have been put forward. The main provisions and results of the research work will also be an important contribution to the improvement of national criminal legislation, especially in the field of criminal law, taking into account the provisions of international legal norms.

The author suggests the formation of new approaches and concepts in the relevant sphere, showing the current problems of the process of bringing to responsibility and ways to eliminate them, the realization of the possibility of the victims of armed conflict to apply to international judicial bodies for compensation for the damage caused to them, the further improvement of national legislation in

this field, more reference to international legal norms, etc. In addition, the dissertation research is quite relevant when justifying the international legal responsibility for the war crimes committed by Armenia and determining the direction of responsibility.

Later, the research work can be widely used in the educational process of criminal law, criminal procedural law, international law, human rights, international humanitarian law, international criminal law, etc., in future scientific research, as well as in the practice of reviewing cases in international and national courts and providing legal assistance.

Application of research results. The research work was carried out at the Department of International Public Law of the Law Faculty of Baku State University. The main provisions of the research were published in Azerbaijani, English, and Russian languages in prestigious scientific journals and international scientific conference materials of different countries (Republic of Azerbaijan, Russia, Ukraine, Kazakhstan, etc.).

The structure of the research. The research consists of an Introduction, five chapters, a conclusion, and a bibliography.

MAIN CONTENT OF THE RESEARCH

In the **Introduction** of the dissertation the relevance of the topic, the degree of its development are substantiated, goals and objectives, research methods, defense provisions are defined, novelty, theoretical and practical significance of the research, approbation and application of the research work, name of the dissertation organization, separate structure of the dissertation are provided.

The first chapter is "Formation and main features of the concept of war crimes in international law" and consists of 5 paragraphs.

The first paragraph analyzes the historical aspects of the formation of the concept of "war crimes".

Most experts in international criminal law believe that war crimes are as old as history itself. However, the concept of applying special punitive measures for violating the norms of war and the legal issues in this direction do not have ancient historical roots. The main goal was not to follow humanitarian rules and the rules of war but to end the war with victory. Despite all this, as a result of historical events, the initial principles and elements of international humanitarian law were formed. Thus, during the war in Ancient Egypt, the idea and culture of following several rules was strengthened (for example, freeing captives, treating the sick, burying the dead, prohibiting the destruction of the guest even if he was an enemy, etc.) [49].

In his works, the great Azerbaijani poet and thinker Nizami Ganjavi explained the restoration of peace as the basis for the formation of relations, considered it important not to occupy other territories, to eliminate war and violence, and attached special importance to living in peaceful conditions and human rights. Starting from the 15th century, ideas such as prosecution and punishment for war crimes began to take shape. As the first such precedent, the trial of Peter von Hagenbach, the governor of the city of Breisach in the Duchy of Baden, held in 1474, played an important role. Since then, in the literature of international law, this trial is often cited as an example of international ad hoc courts or international investigative processes and the permanent International Criminal Court.

The Peace of Westphalia of 1648 dealt with responsibility in international law, the implementation of international agreements, human rights, humanitarian law, etc. brought quite a few innovations in direction. The famous Dutch lawyer Hugo Grotsy in his work "On the Law of War and Peace" mentioned peace as one of the basic rights of peoples along with the ideas of the justification of the law of war. Swiss lawyer Emmer de Vattel and French philosopher Jean-

[49] Development and principles of international humanitarian law. International Committee of the Red Cross. Moscow, ICRC, 2000, p. 13 (in Russian).

Jacques Rousseau also reflected progressive ideas in this field. The term war crimes was first used in a letter sent by Franz Lieber to US Secretary of War Edwin Stanton in 1865. A little later, this term is also found in the classic treatise of Joan Caspar Blunchli in the 1870s and Lassa Oppenheim in 1906. The main provisions of Joan Caspar Blunchli's book "Modern Military Law" formed the basis of the Hague Conferences of 1899 and 1907. Later, these directions were developed by L. Oppenheim at the beginning of the 20th century.

The 1864 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Wartime, adopted during this period, and the 1899 and 1907 Hague Conventions as norms on the prohibited methods and means of conducting military operations were of great importance. Several documents adopted in the 20s of the 20th century should be specially mentioned at this time. For example, the Brian-Kellogg Pact of 1928, which formally prohibited the use of war as an instrument of national policy, the Geneva Protocol of 1925 for the Prohibition of the Use of Asphyxiating, Poisonous, and Other Similar Gases and Bacteriological Agents in War, 1929 Geneva Convention on the Treatment of Prisoners of War, etc. War crimes and the issues of combating them reached their most important legal bases with the adoption of the Geneva Conventions of 1949. Other important international documents adopted later, established international tribunals and the International Criminal Court continued practical legal and practical activities.

In the second paragraph, the concept of "war crimes" was analyzed from an international legal point of view.

Considering war crimes as a specific category, international humanitarian law and international criminal law are inextricably linked. A war crime is, in essence, a violation of international humanitarian law norms aimed at protecting the interests of the participants in an armed conflict and the civilian population, where the principles of international humanitarian law are of particular importance, and this is directly related to its two important directions (Hague law and Geneva law).

All crimes defined as war crimes in international criminal law violate the rules and laws of international and non-international armed conflicts defined in the basic principles of international law and international humanitarian law. At this time, international customary norms also play an important role. The essence of the amendments, which were first reflected in the preamble of the II Hague Convention on the Laws and Customs of War on Land dated 1899 and proposed by F. Martens, is that until the most advanced international norms of the laws of war are adopted, the civilian population and belligerents among civilized nations they are protected under the protection and influence of the principles of international law arising from established customs, as well as the laws of humanity and the requirements of public consciousness.

The analysis of international legal norms allows to fully distinguish the following types of war crimes: serious violations of the Geneva Conventions of 1949 in international armed conflicts; Violation of other norms and rules for conducting international armed conflicts (including international custom); serious violations of the Geneva Conventions of 1949 in non-international armed conflicts; Violation of other norms and rules for conducting non-international armed conflicts (including international customs). In the end, it should be specially noted that, along with the above, at the same time, violations of the rules that can be covered by the basic, universally recognized principles of international law and related to this sphere should be directly included in the category of war crimes. This justifies the approach to the concept of war crimes from a broader context and does not allow the perpetrators of these crimes to be exempted from international responsibility.

In the third paragraph, the issues of determining war crimes in international legal norms are analyzed.

In this direction, first of all, the Geneva Convention of 1864 on the Amelioration of the Condition of the Wounded and Sick in Time of War, the Saint Petersburg Declaration of 1868 on the Regulation of the Methods and Means of Conducting War Actions, the 1874 Brussels Declaration can be considered important. Then, the

13 Hague Conventions of 1907, which enriched the 1899 Conventions with new norms, should also be mentioned.

In addition, in the resolution of the first session of the UN General Assembly on December 11, 1946, the Nuremberg and Tokyo international tribunals' statutes played an important role in the codification of crimes against peace and humanity. Later, the activity of the tribunals for the former Yugoslavia and Rwanda became particularly important in this direction. Each of the four Geneva Conventions of 1949, adopted after World War II, defines its list of serious violations of the rules and laws of hostilities, which are now unambiguously considered war crimes in international law.

In the Charter of the Rome Statute of the International Criminal Court, which acts as the main mechanism in the formation and development of the international legal framework of war crimes in modern international law, especially in Article 8, the definition of war crimes, their types, the limits of the applied law, the general principles of the implementation of international and national jurisdiction, as well as international the principles of criminal law have been established.

At the same time, it would be very important to mention international customary norms here. This increases the responsibility of the states. This can also be justified by the fact that states sometimes deliberately do not participate in relevant international conventions. At the same time, it should be taken into account that the principle of respect for human rights and fundamental freedoms is one of the basic, universally recognized principles of international law. Therefore, non-participation in relevant international conventions cannot exempt them from responsibility. At this time, it is completely reasonable and acceptable to consider the violation of international humanitarian law norms as a violation of human rights in general. At the same time, committing certain international crimes by states not participating in international agreements cannot distract individuals and states from international responsibility, on the contrary, it indicates that these states are more dangerous for international security. A serious point here is that customary norms

not only eliminate the current gap in international treaty norms in this field, but at the same time, they have a significant positive effect on new international norm-making.

In the fourth paragraph, the issues of the place of war crimes in the system of international crimes are examined comparatively.

In the study, war crimes are analyzed in close interaction with aggression, genocide, and crimes against humanity, common and distinctive features are determined.

War crimes are the origin group of crimes against the peace and security of all mankind (or crimes under common international law). To categorize an act as an international crime according to international normative documents, the main factor is that it affects global security as a whole and creates a threat to international peace. In our view, international legality and the rule of law are the common objects of all crimes under international criminal law.

Analyzes of the place of war crimes in the system of international crimes are summarized and it is concluded that war crimes occupy an independent place in the system of international crimes against peace and security of humanity. Unlike other international crimes, war crimes are committed only during an armed conflict, that is, the existence of an international or non-international armed conflict is a prerequisite for a war crime, although it is not a necessary condition for other international crimes. This, in addition to the general approach to issues related to war crimes, requires consideration of special cases. In addition, the wide range of different types of war crimes distinguishes them from other crimes and makes it necessary to classify them. Committing war crimes together with other international crimes makes it necessary to take a general and special approach to the problem, and finally to take measures of international legal responsibility together.

The fifth paragraph analyzes the specific characteristics and criminal-legal nature of war crimes in modern times.

Giving the criminal-legal characteristics of war crimes requires the analysis of its 4 constituent elements: the object of the

crime, the objective aspect of the crime, the subject of the crime, and the subjective aspect of the crime.

Public relations aimed at ensuring peace and security for all mankind are the main object of war crimes. Public relations aimed at observing the rules of international and non-international armed conflicts are considered a secondary object of war crimes. Citizens' lives, health, property, medical objects, etc. perform as additional objects of war crimes. Almost the same approach is applied in the legislation of all states.

The objective side of a war crime is characterized by its following signs: action or inaction, time and place, situation, method, tools, and means of committing the crime. However, it should be noted that the list of acts belonging to the category of war crimes is usually determined by international law. The methods of committing war crimes are wide, and various methods and means are used.

The subjective side of war crime is characterized by the form of guilt. The subject of the crime realizes that the likely consequences of the act are foreseeable. In practice, the criminal composition does not exist if there is no subject sign defined by the criminal law. A person can be considered guilty of the commission of a war crime or the organization of its commission (financing, incitement, etc.) only if these acts are directly or indirectly related to the intention and the person understands the illegality of his actions or consciously goes to commit this act, but may be mistaken about its illegality or may comply with the order. The institution of negligence in the commission of war crimes is not provided by the norms of criminal law, and due to the nature of these crimes, it is practically impossible to commit them negligently.

The composition of war crimes is formal in nature, meaning that consequences do not need to occur to hold a person accountable. On the whole, the analysis of the main characteristic features of war crimes in this direction has its full content character in the interaction of important international conventions, including international judicial practice, and at the same time, the concept of war crimes is further expanded. There are already many such international court

decisions, and their consideration in the process of law enforcement should be evaluated positively from the point of view of efficiency in the international fight against war crimes.

The second chapter is entitled "Definition and main directions of international legal responsibility for war crimes" and consists of 3 paragraphs.

The first paragraph analyzes the problem of determining responsibility for war crimes and applying international legal norms.

Responsibility for war crimes defines two ways of application of international criminal law norms: indirect (in accordance with international criminal law, a national criminal law norm is applied, or a national norm refers to an international legal instrument); direct (a national law enforcer or an international body directly applies the norm of international criminal law itself).

The indirect application of international legal norms on war crimes through national legislation brings the national criminal law systems of different states closer together objectively and is considered more effective in fighting crime. What has been mentioned is fully consistent with the obligations of states in the fight against war crimes, while eliminating collisions between national legislations, it also increases the possibilities of mutual influence of international and national legal norms, ultimately leading to the achievement of an effective result. What is mentioned about international and national criminal law, which is one of the areas that require quite serious cooperation, is particularly important. Currently, the increase in international crimes, the fact that this problem directly affects international security and human rights, as well as the creation of the International Criminal Court, which is an important international criminal justice body, requires an approach to the problem from the point of view of the primacy of international law.

Articles 10, 12, 148-2, 151 of the Constitution of the Republic of Azerbaijan not only determine the application of the provisions of international agreements but also fully justify the primacy of those norms. It should be taken into account that according to the

requirements of Article 147 of the Constitution of the Republic of Azerbaijan, the Constitution of the Republic of Azerbaijan has the highest legal force in the territory of the Republic of Azerbaijan. All normative-legal acts, including normative-legal acts on the criminal legislation of the Republic of Azerbaijan, cannot be superior to the Constitution at this time. Taking into account the above, the direct application of all international agreements to which the Republic of Azerbaijan is a party is fully justified, and this should also apply to criminal legislation. Thus, the direct application of international legal norms in criminal legislation is derived from both international agreements and the requirements of the Constitution of the Republic of Azerbaijan.

The second paragraph analyzes the issues of responsibility of states for the commission of war crimes.

The involvement of states in international legal responsibility is conditioned by its practical importance, usually with the aim of not leaving the state, which is the main subject of international crimes, with impunity. A state can commit a crime under international law, but it cannot bear responsibility under international criminal law, can only bear responsibility under international law. There is no normative basis for the criminal responsibility of states, that is, this issue has not been established in any international legal document. Article 2 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts states that an illegal act is directly attributable to the state. In addition, according to the Draft Articles, the responsible state is obliged to provide full compensation for damage caused by an internationally wrongful act. Here, obligations related to the responsibility of states can be about another state and states. In addition, Article 1 of the Draft Articles states that any act of a state that violates international law leads to the international responsibility of that state. Article 4 of the Draft Articles states that the behavior of any body of a state, regardless of its position in the state system, including legislative, executive, judicial, or any other function, according to international law, is considered an action of this state. Further, in Article 31 of the Draft Articles, it is stated that

the guilty state must fully compensate for the damage (both material and moral damage) caused by an act contrary to international law[50].

As a whole, the role of states in this field consists of participation in accepted international conventions, establishment of close international cooperation, formation of domestic mechanisms for effective implementation of international agreement provisions, etc. Thus, the responsibility of states for committing war crimes is unambiguous, which is fully reflected in important international documents and has extensive international jurisprudence. Responsibility determines responsibility for material and moral damage. The form of restitution, compensation, and satisfaction serves to develop the institution of state responsibility.

In this direction, the adoption of the Draft Articles on Responsibility of States for Internationally Wrongful Acts will lead to the elimination of important problems related to international responsibility. The basis of the international legal responsibility of states in this sphere derives from international human rights law, international humanitarian law, and international criminal law, which are the main areas of international law, and public international law norms, which include the main principles of international law as a whole, including international customary norms in each direction.

The third paragraph examines the issues of responsibility of natural persons for the commission of war crimes.

The main essence of the principle of individual responsibility for the commission of war crimes under international criminal law is that only an individual can be held responsible. It is clear that the international criminal-legal responsibility of the individual is fully recognized, but here the precise determination of his status is extremely important and necessary in determining the issues of responsibility. It should be noted that if we look at the statistics of the commission of war crimes, the main and direct executors of those

[50] Draft articles on Responsibility of States for Internationally Wrongful Acts - https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf - 15.11.2023

crimes are usually officials. So, since war crimes are related to cases of war and armed conflict, in many cases, military officials or military personnel involved in the army act as participants in these relations. In some cases, the commission of war crimes is related to the execution of the given order. One of the facts to be considered here is that, no matter how many cases of abuse of such situations, the psychological state of the person participating in the fights at that time, tension, and accuracy levels of judgment are important. Because it is an undeniable fact that during the war, the participants were punished when they disobeyed the order. Therefore, taking into account the mentioned situation of high psychological tension, sometimes military personnel execute orders without a word, even if they are illegal, and result in the commission of war crimes. In such a case, it becomes difficult to prove a person's guilt. In some cases, this fact can even be taken into account as a mitigating circumstance.

What has been mentioned has led to the formation and further development of specific principles of international criminal responsibility or international criminal law, which are also the basis of the international legal responsibility of an individual. The principles of international criminal law do not contradict the main principles of international law and are formed on their basis, develop based on important international agreements and international customary norms, including international judicial practice.

The third chapter is entitled "Practical problems of international legal responsibility for war crimes" and consists of 2 paragraphs.

The first paragraph combines 3 sub-paragraphs and analyzes responsibility for war crimes in the activities of international criminal tribunals.

The Charter of the Nuremberg International Tribunal contains important provisions on the composition of international crimes such as crimes against peace, crimes against humanity, and war crimes. The provisions of the Nuremberg Tribunal Statute have been an important contribution to the development of subsequent international legal instruments on war crimes prosecutions,

specifically the 1949 Geneva Conventions, the 1977 Additional Protocols, the Statutes of the International Tribunals for the Former Yugoslavia and Rwanda, and the 1998 played an important role in the formation of the Rome Statute of the International Criminal Court. Making significant contributions to international law, including a number of its main areas (international criminal law, international human rights law, international humanitarian law, responsibility in international law, etc.) by creating important institutions, was one of the most important features of the Nuremberg Tribunal. International criminal law, including international criminal-procedural law, which is currently being formed as a field of international law, took its initial beginning from the Nuremberg Tribunal.

The main objective of the work of the Tribunal for the former Yugoslavia was to ensure social reconstruction, thereby achieving long-term and sustainable peace and stability in the region. The Tribunal for the former Yugoslavia was able to incorporate the positive aspects of the international tribunals that preceded it into its activities, but the main negative features of the Tribunal's activities should be noted as the fact that it takes a long time to search for and bring criminals to justice. From the point of view of determining responsibility for war crimes and other international crimes, as well as the improvement of the international criminal process, and finally, the formation of international court precedents, the importance of the Tribunal for the Former Yugoslavia is great, and in this direction, important innovations have been brought to the creation of international law. Finally, the Tribunal was able to fully justify the necessity of establishing a permanent international judicial institution in this direction.

The establishment of the Rwandan Tribunal and the results of its activities have led to radical changes, it has been able to draw the attention of the international community to the need for the establishment of a permanent International Criminal Court and laid its foundation. In addition, changes in this field allow the prosecution of criminals who have committed serious crimes in modern internal

armed conflicts, and at the same time, in the future, in accordance with the principle of universal jurisdiction, the national courts of many states will try those who committed such crimes, regardless of where they are. In addition, like the Tribunal for the Former Yugoslavia, the Rwandan Tribunal has carried out important activities from the point of view of determining responsibility for war crimes and other international crimes, as well as the improvement of the international criminal process, and finally the formation of international judicial precedents.

As a whole, all the tribunals laid the normative-legal basis for the establishment of future ad hoc tribunals and the wider application of international court precedents.

The second paragraph analyzes the issues of the International Criminal Court's jurisdiction over war crimes.

Established by the Rome Statute of the International Criminal Court, which was adopted on July 17, 1998, and entered into force on July 1, 2002, the International Criminal Court, unlike ad hoc international tribunals, has taken significant steps in the formation of norms and institutions related to responsibility, including international criminal law and international criminal procedural law.

More than 20 years have passed since the operation of the International Criminal Court, and even though the number of persons prosecuted by the Court during this period is small, its activity can be generally evaluated positively. We believe that the states should not spare their financial and technical resources in this sphere, but on the contrary, they should punish such criminals who pose a threat to humanity on time, so that such cases do not happen again in the future. In addition, the role of the International Criminal Court in the fight against crimes of an international nature should be clearly defined, and the jurisdiction of the International Criminal Court should be expanded to include responsibility for the crimes of ecocide and serious terrorism.

Failure to benefit from the activities of the International Criminal Court will lead to an increase in criminality in those countries along with insufficient development of the national

criminal legislation of the states. Statistical figures also show that sometimes the desire of the states themselves to benefit from international crimes still remains. Thus, in some states, war is still a tool of national policy, international crimes (illegal trafficking of narcotics and psychotropic substances, slavery, human trafficking, money laundering, etc.) are used as a source of finance, or open conditions are created for it, which are constantly reflected in the reports of important international organizations (UN, UN specialized agencies, etc.).

Later, by analyzing the activities of special (hybrid) courts in the dissertation, their decisions in this field can be considered an important step from the point of view of further development of the issues of responsibility for war crimes. At the same time, it would be appropriate to mention the formation, improvement, and enrichment of international court precedents in special (hybrid) courts, including extensive reference to other international court precedents, which is particularly important in the fight against international crimes.

The fourth chapter is entitled "International legal aspects of compensation for war crimes" and consists of 3 paragraphs.

The first paragraph analyzes the foundations of international legal responsibility for damage caused as a result of war crimes.

When analyzing the foundations of international legal responsibility in the study, legal and factual foundations are distinguished. Legal grounds mean international legal norms, the violation of which leads to international legal responsibility. The factual basis is a direct violation of international law.

The thesis concludes that to bring states to material responsibility during armed conflicts, specifically, responsibility for compensation for the damage caused to individuals during conflicts, it is necessary to have the following grounds: the use of force (the presence of legal or illegal grounds is not important) and the existence of an offensive act; violation of international humanitarian law norms; violation of or non-compliance with human rights.

At the same time, the participation of states in relevant international documents is not mandatory at this time. Thus, the norms defined by some documents have been accepted as customary norms (for example, the Universal Declaration of Human Rights dated 1948). The main principles of international law, which are the basis of the international legal order, including an important criterion of international legalism, are universal, general, and jus cogens in nature, and constitute the direct legal basis for the creation of other legal norms, and finally, are applied to all international relations with the unequivocal acceptance of their recognition by states. The basic principles of international law do not need to be agreed upon by states, as they are the basic rules that states must abide by. The mentioned characteristics are also characteristic of the principle of respect for basic human rights and freedoms, which acts as one of these principles, also occupies an important place in the regulation of international relations and in a broad sense includes the protection of human rights during both peaceful and armed conflicts.

In the second paragraph, the issues of the legal status of natural persons who are victims of war crimes are analyzed. Determining the circle of the victims, whether they belong to one state or several states, the responsibility for the events committed during which period, and the forms of compensation for the damage are relevant issues here.

On the whole, summarizing what has been mentioned, it is concluded that when determining the circle of persons, not only conflicts of an international nature, but also conflicts of a non-international nature should be included, and violations of not only international humanitarian law norms, but also violations of international human rights law norms should also be taken as a basis. It is clear that international customary norms are also included here.

In addition, the damages should include material or moral damage, material losses or a significant violation of fundamental rights, as well as having an international legal basis and reflecting the disregard of the time limit for the appeal. Finally, the concept of a broad approach to the concept of "victim" should be applied, and the

regulation of rights should be carried out with general or special international mechanisms created in this direction. The decision to create international mechanisms in this field can be considered more appropriate to be implemented by the UN as a relevant international body.

The third paragraph analyzes the forms of compensation for damages caused to individuals as a result of war crimes.

With a detailed analysis of international legal documents and legal doctrine, compensation for damage caused by states in international armed conflicts requires the full interrelation and consideration of restitution, compensation and satisfaction. International practice confirms this once again. In the future, the adoption of a number of international documents (for example, the Draft Articles on Responsibility of States for Internationally Wrongful Acts) will create a full opportunity for effective and coordinated practical implementation in this area. Another important issue that is noticeable here is the selection of legal recovery mechanisms that correspond to the committed act and the damage caused. In general, the protection of the principle of proportionality is of particular importance for the just settlement of the issue of damages caused by war crimes.

One of the important issues in this direction is the analysis of the features of applying to international institutions, including international judicial bodies, on the demand for compensation for damages caused as a result of war crimes. It should be noted that, although the damage is present, the restoration of violated rights is not easy. For this, applying with various requirements and raising the issue in the right instance are particularly important legal problems. The main point that needs to be emphasized here should be related to the efficiency of the created legal mechanisms and the level of accessibility to individuals. New existing legal mechanisms can also be modified to allow these individuals to easily file claims for compensation for war crimes.

The modern development trend of international law recognizes the right of natural persons who are victims of international armed conflicts to apply directly to international judicial bodies for compensation for the damage caused to them. However, the lack of a single, comprehensive international legal act in this direction complicates the situation and creates problems in the application of substantive and procedural legal norms. In this respect, the activity of the European Court of Human Rights among international judicial bodies can be positively evaluated. It was the European Court of Human Rights that considered the cases of victims of both international and non-international armed conflicts and formed important precedents in this direction. Good experiences in this direction have already been formed in the practice of other regions (America, Africa), where the effect of considering the decisions of the European Court of Human Rights is felt.

The fifth chapter is entitled "Issues of responsibility for war crimes in international legal norms and the criminal legislation of the Republic of Azerbaijan" and consists of 3 paragraphs.

The first paragraph analyzes the theoretical and practical aspects of the implementation of international legal norms into the criminal legislation of the Republic of Azerbaijan.

At this time, Articles 10, 12, 71, 147, 148, and 151 of the Constitution of the Republic of Azerbaijan should be specially mentioned. Then, it is necessary to express an attitude to the general principles of law. In this regard, Article 4 of the Criminal Code of the Republic of Azerbaijan states that this Code is based on the principles of the rule of law, equality before the law, responsibility for guilt, justice, and humanism.

During the analysis of issues related to the application of more specific cases, Article 11.1 of the Criminal Code of the Republic of Azerbaijan states that a person who commits a crime on the territory of the Republic of Azerbaijan is brought to criminal responsibility based on this Code. In addition, it is noted that a crime that started, continued, or ended in the territory of the Republic of

Azerbaijan is considered a crime committed in the territory of the Republic of Azerbaijan. In this regard, Articles 11.2, 11.3 and 11.4 state the possibilities of solving liability issues only on the basis of the Criminal Code. Article 11.5 makes an exception to the rule of including issues related to criminal liability in the Criminal Code.

Article 13.4 of the Criminal Code of the Republic of Azerbaijan is the norm that shows a direct preference for international law. Thus, it is noted that international agreements are applied when other provisions on the extradition of persons who have committed crimes are determined in the international agreements to which the Republic of Azerbaijan is a party. Article 75 of the Criminal Code of the Republic of Azerbaijan, while regulating issues of release from criminal responsibility related to the expiration of the term, states in Article 75.5 that the provisions of this article are not applicable to persons who have committed crimes against peace and humanity, terrorism, terrorist financing, and war crimes provided for in the relevant articles of the Special part of this Code. This should be considered an important norm directly derived from the international agreement.

Based on the analyzes carried out in the legal literature, it is concluded that it is necessary to make appropriate changes in the Criminal Code of the Republic of Azerbaijan in relation to court precedents. At this time, Articles 455 and 459 of the Criminal-Procedural Code of the Republic of Azerbaijan, and then Articles 431-1, 431-2, and 431-3 of the Civil-Procedural Code should be specially mentioned.

Further, although the Criminal Code of the Republic of Azerbaijan makes certain distinctions in the issues of responsibility for international crimes both in its General Part and Special Part, this is rather incomplete and cannot be whole and effective for law enforcement. Thus, it is necessary to make appropriate additions and changes to the Criminal Code of the Republic of Azerbaijan, fully reflecting the primacy of international legal norms. The mentioned should be carried out in parallel in the General and Special parts of the Criminal Code of the Republic of Azerbaijan, taking into account

the general and special problems. So, the changes made in each direction should mutually complement each other. Those changes should be based on international agreements, international customary norms and international court precedents.

In the second paragraph, the issues of establishing and improving international legal norms on war crimes in the Criminal Code of the Republic of Azerbaijan are analyzed.

The establishment of international legal norms in the criminal legislation of the Republic of Azerbaijan requires detailed analyzes in the special sphere in addition to general issues. Taking this into account, article 114 of the Criminal Code of the Republic of Azerbaijan, which establishes the crime of mercenary, article 115 a violation of the laws and customs of war, and article 116 a violation of international humanitarian law during an armed conflict, were analyzed in detail.

In connection with the analysis of Article 116 of the Criminal Code of the Republic of Azerbaijan, it is noted that this article is quite complex and can create relevant problems in two directions. First of all, the actions defined in this article are reflected in quite a number of international documents, which requires a comprehensive and more concrete approach to the issue. Further, the constituent elements cover quite a variety of relationships, where specific characteristics must also be considered.

War crimes are also closely related to ecocide. It is true that, although ecocide is not yet included in the system of international crimes, there are quite well-founded opinions in this direction, and even drafts of international documents have been prepared in this regard. We believe that a new direction and a more detailed approach to the regulation of these issues during the war are required.

Then, as war crimes, from the Criminal Code of the Republic of Azerbaijan - Article 117 (failing to act or giving criminal orders during an armed conflict), Article 118 (military robbery), and Article 119 (abuse of protected signs) are analyzed.

The Republic of Azerbaijan ratified only the Geneva Conventions dated 1949 from the international documents that define

war crimes. However, the war crimes found in those documents are almost reflected in the Criminal Code of the Republic of Azerbaijan. However, at this time, it is necessary to define these types of crimes in a somewhat broader and separate form of articles, in other words, in independent compositions as a type of war crimes. In the end, it should be considered necessary to make some important and important changes in the Criminal Code of the Republic of Azerbaijan even after the legislative activity has been continued and the Republic of Azerbaijan has become a member of the International Criminal Court. The experience of international criminal tribunals, the International Criminal Court and the European Court of Human Rights on holding individuals responsible for the commission of war crimes, as well as the international legal norms on war crimes during the implementation of additions and changes to the national criminal legislation, the final goal of which is the implementation of international legal norms on war crimes must also be taken into account.

Article 61 of Part 1, Clause 11 of the Criminal Code of the Republic of Azerbaijan entitled "Circumstances Aggravating the Punishment" should be considered as "committing the crime under conditions of an emergency, natural or other public disaster, as well as during mass riots and armed conflicts" . Later, part 2 of Article 20 of the Criminal Code of the Republic of Azerbaijan, which stipulates 14 as the age limit for bringing criminal responsibility, should include international crimes, including war crimes.

Thus, it can be considered that the steps taken in the direction of improvement will first of all lead to the full and comprehensive resolution of responsibility issues with the inclusion of all types of war crimes in the Criminal Code of the Republic of Azerbaijan in law enforcement practice. In addition, the legal basis for the participation of the Republic of Azerbaijan in a number of international documents, which fulfills its international obligations by participating in international agreements, will be formed. Later, the issue of accession of the International Criminal Court of the Republic of Azerbaijan to the Rome Statute should also be

considered. It is necessary and important to use the wide possibilities of this international judicial institution, taking into account the fact that the presence of provisions on the participation of victims in the court process and the achievement of compensation for damages in the activities of the International Criminal Court is considered as an innovation in international criminal law.

In the third paragraph, issues of international legal responsibility for war crimes committed by Armenia against the Republic of Azerbaijan are analyzed.

The international crimes committed by Armenia against the Republic of Azerbaijan for a long time resulted not only in territorial occupation but also in massive and gross violations of human rights and freedoms. It should be noted that until the Second Karabakh War (Homeland War) conducted in September-November 2020, and finally the anti-terrorist operations conducted in September 2023, more than 30 years, twenty percent of the territory of the Republic of Azerbaijan recognized by international law was stored under the occupation of Armenia.

In the dissertation, the aggression, genocide, and crimes against humanity committed by Armenia are reviewed in general and a number of issues are investigated. Then, the war crimes committed by Armenia are analyzed.

Among the war crimes, it should be noted intentional attacks that will lead to large-scale and long-term, including serious damage to the environment. Recently, in the information released by the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan, specific facts regarding this have been mentioned.

One of the war crimes committed by Armenia is taking hostages in violation of international law. Issues related to this are mentioned with specific names and facts on the official page of the State Commission on Prisoners and Missing Citizens of the Republic of Azerbaijan. At the same time, hundreds of facts are known, accompanied by gross violation of numerous human rights of those prisoners and hostages, as well as insulting their corpses and burying them alive. After the territories of Azerbaijan were completely

cleared of Armenian criminal groups, mass graves were discovered in the villages of Saricali of Aghdam district, Dashalti of Shusha district, Edilli of Khojavend district, Farrukh of Khojaly district, Yukhari Seyidahmedli of Fuzuli district, as well as in Kalbajard, Lachin and other settlements. In the current period, the discovery of another mass grave - a mass grave believed to belong to the residents killed during the Khojaly genocide in the Askeran settlement of the Khojaly region, once again proves that Armenia has committed all international crimes, including war crimes, against the Republic of Azerbaijan.

One of the committed war crimes is the seizure, destruction, or deliberate damage to religious, educational, artistic, and scientific institutions, as well as historical monuments, artistic and scientific works, in short, cultural property. The crimes committed by Armenia against the cultural heritage of Azerbaijan have been going on for a long time and are being carried out on a massive and state level in places that were the territories of Azerbaijan throughout this history and are now considered the territory of Armenia.

Among the war crimes committed by Armenia, the use of poisonous weapons, including weapons designed to cause suffering, as well as the destruction of cities, towns, villages, and other residential areas without any reason, occupy an important place.

Intentional killing, torture, and inhumane treatment have taken an important place among war crimes. The materials of the State Commission on Prisoners and Missing and Hostaged Citizens of the Republic of Azerbaijan prove that thousands of citizens of the Republic of Azerbaijan, including children, women, and the elderly, were victims of intolerable torture in the hands of Armenian prisoners and hostages.

According to the 1989 International Convention on Combating the Recruitment, Use, Financing, and Training of Mercenaries, the financing of mercenaries and their involvement in military operations are also war crimes. Even though our country has joined that international convention for a long time, Armenia ratified this convention only at the end of October 2020. With that, Armenia

refused to participate in that Convention for a sufficient period, not fulfilling its international obligations in this sphere, and as a result, it directly used mercenaries to commit various international crimes against the Republic of Azerbaijan. However, according to the generally recognized principles and norms of international law, even if Armenia does not participate in that convention, it can never avoid responsibility for this crime from the point of view of violating customary norms of international humanitarian law.

One of the committed war crimes is the transfer of a part of its civilian population to the territories occupied by Armenia for a long time. These facts have been repeatedly confirmed by the State Commission on Prisoners and Missing Citizens of the Republic of Azerbaijan and various international organizations.

One of the war crimes committed by Armenia against the Republic of Azerbaijan is the illegal, unnecessary and large-scale destruction and appropriation of property in the occupied territories, which are not related to military necessity. This includes the destruction or illegal appropriation of state, public and private property. At this time, the 2015 decision of the European Court of Human Rights entitled "Chiragov and others v. Armenia" should be specially mentioned.

In addition to the implementation of international responsibility measures related to the international crimes committed by Armenia, compensation for the damage should also be determined. Thus, the non-implementation of international responsibility measures against Armenia by the international community for international crimes, including war crimes, will lead to the commission of further international crimes by Armenia. Taking this into account, the above-mentioned makes it necessary for the Republic of Azerbaijan to constantly take preventive measures by using the right of self-defense reflected in Article 51 of the UN Charter and fully established in the modern international legal doctrine.

The results of the research are reflected in the **Conclusion** part of the dissertation.

The following scientific works of the applicant were published in connection with the dissertation research:

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