REPUBLIC OF AZERBAIJAN

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ABSTRACT

of the dissertation for the degree of Doctor of Law

INTERNATIONAL LEGAL SUBJECTIVITY OF AZERBAIJAN PEOPLE'S REPUBLIC: THE PROBLEM OF LEGAL SUCCESSION AND CONTINUITY

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GENERAL CHARACTERISTICS OF THE DISSERTATION

Relevance of the topic and degree of development. One of the most important issues determining the survival of a nation is to create political power and ensure its indestructibility (continuity). The more difficult and complicated it is to establish political power, the more problematic it is to keep it alive and pass it on to future generations after the state-building phase is complete. As a rule, the signature of peoples who have successfully implemented the process of state creation is not disputed among the countries of the world. Azerbaijan People's Republic can be mentioned as an example of this. The Azerbaijan Democratic Republic, which established the people's power (republic) for the first time in the East as a form of state, creates a new culture of statehood and also conditions geopolitical recognition.

With the establishment of the Azerbaijani Democratic Republic on May 28, 1918, Azerbaijan's statehood, which was lost at the beginning of the 19th century, was restored after more than a hundred years of colonial slavery. However, this time in 1920, the Azerbaijan Democratic Republic, which was attacked by communist Russia, was forced to continue its form of government in exile. The period of occupation that lasted until 1991 resulted in the fall of the USSR and in the person of the Republic of Azerbaijan, the People's Republic of Azerbaijan restored its international legal subjectivity.

In the research work, the question of what is the importance of studying the international legal subject of the Azerbaijan People's Republic in the direction of succession or continuity is answered. During the evaluation of the international legal entity of the Azerbaijan Democratic Republic, its legal nature is evaluated on the basis of its declared ideology, territory and population (people). Along with the attributes adopted by this state, it is the bearer of similar social, geographical and political identity with the previous Azerbaijani states, their population and territory, also, determining the question of which political-legal capacity to continue its sovereignty or leave a

legacy after the occupation of its territory is a very important issue from the point of view of maintaining statehood. Especially, it is one of the issues that need to be resolved are the relationship between the aggression of any state and its continuity in the practice of states, and the determination of the role of international law and politics. In contrast to the legal succession, the continuity of the state serves to somehow prevent its "to be ambitious" for its reoccupation. It also establishes the concept of "state people". On the other hand, successional re-creation poses a political problem such as recognition and thus there is a need to solve a number of serious international economic, social and other problems that are important for the recognized state, including the government (for example, the Taliban government in Afghanistan in modern times). The internal stability and security of the state also depends on the solution of these problems.

The establishment of the Azerbaijan People's Republic in the post-tsarist space coincides with the establishment of other states, including Finland, Poland, Latvia, Lithuania, Estonia, Georgia and others. Subsequently, with the aggression of these states, the problem of whether or not to continue their international legal subjectivity and recognition during the restoration of independence created the need for an unambiguous legal response. Some authors they also put forward the conclusion that it is impossible to evaluate the issue within the framework of "positive international law"[1] or "legal system"[2].One can agree with the position of those authors if, of course, there is no codification act related to continuity (such as recognition), but it is not

[1] Dörr Oliver. Die Incorporation als Tatbestand der Staatensukzession. Berlin: Duncker & Humblot, 1995. P. 48-49; Zimmermann A. Staatennachfolge in völkerrechtliche Vertrage. Zugleich ein Beitrag zu den Moglichkeiten und Grenzen völkerrechtlicher Kodifikation. Berlin: Springer, 2000. p.50-51

[2] Dörr Oliver. Die Incorporation als Tatbestand der Staatensukzession. Berlin: Duncker & Humblot, 1995. P. 48-49; Zimmermann A. Staatennachfolge in völkerrechtliche Vertrage. Zugleich ein Beitrag zu den Moglichkeiten und Grenzen völkerrechtlicher Kodifikation. Berlin: Springer, 2000. p.50-51

excluded that there are such norms in other acts of international law and customary law practice. On the other hand, the "conclusion that it is impossible to assess within the framework of the legal system of the time" Russian aggression against independent states in the early 20s of the 20th century is also controversial. The first grounds for the prohibition of illegal annexation were established in the Statute of the League of Nations (Article 10), and the first codification norms of international humanitarian law on the rules of war were established in the Hague Conventions of 1907.

The main issue raised in the research work is the question of assessing the identity of the international legal subjectivity of the Azerbaijan People's Republic with the international legal subjectivity of the Republic of Azerbaijan. As with the recognition of the states, the acceptance of the continuity of the subject of international law also depends on the will of the recognizing states. During the restoration of independence, the different features of these two problems, knowingly or unknowingly, in some acts, the international legal subjectivity of the Azerbaijan People's Republic is not mentioned, its continuity, but its "legal succession", "inheritance". This situation was characteristic of both international agreements (including re-recognition) and domestic acts of the Republic of Azerbaijan. Although many attributes of both states (for example, state symbols, social, national-ethnic characteristics of the people, declared policy, form of administration and administrative territorial structure, geographical area affiliation, etc.) are completely identical. That's why, the determination of the quality of establishment or restoration of the international legal subject of the Republic of Azerbaijan is also important in terms of the foreign policy course. Taking into account that the birth and death of states is one of the problems of political science, the "share" of law and politics should be determined in the study of the international legal subject of the Republic of Azerbaijan. Determining the content of legal norms will not be effective without analyzing the political norms that shape the behavior of states. International "legal norms have interaction with moral and political norms", without them, legal norms cannot be

implemented. In this sense, during the restoration of state independence, attention should be paid to the role of both law and politics in the solution of these two problems. The solution of the expressed problems is as important for international law and international politics as it is for the international law doctrine and foreign policy course of Azerbaijan.

Azerbaijan in international law literature, it is possible to see the research of some issues of the international legal subjectivity of the Republic of Azerbaijan in the works of L.H. Huseynov, R.F. Mammadov, R.K. Mammadov, A.I. Sadigov, N. Safarov, T.I. Huseynov and other authors. However, in the literature of international law of Azerbaijan, there is no study that specifically mentions the subjectivity, succession and continuity of the international law of the Azerbaijan People's Republic and its separate aspects. Mainly in the context of political and historical sciences, it is possible to find a small number of studies only on the succession issues of the Azerbaijan Democratic Republic. We also consider it wrong to study the issue in this direction. The solution of the issues raised by the subject of the research topic is very important from the point of view of ensuring the continuity of the Azerbaijani statehood. Only within the framework of this research, the issues of the sustainability of the Azerbaijan People's Republic were tried to be resolved.

The works of Akehursi M., Beato A.M., Bedjaoui M., Benvenisti E., Brownlee J., Burgental T., Chernychenko S.V., Chernyavsky A.G., Degan V.D., Doswald-Beck L., Eide A., Fenvick Ch., Franck T.M., Heilbronner Kay, Heiko Kruger, Henkerts J.M., Greenwood C., Hannum H.,Henkin L., Hofman R., Hurst H., Jellinek G., Kasseze A., Kelsen H., Kiris A., Croufford J., Kolosov Y.M., Kunz J.L., Lauterpacht X., Lauri Myalkso, Lukashuk I.I., Malcolm Sh., Marcelo G.K., Marek K., Martens G., Meissner B.,Murdoch J., Mullerson RA., Nabulsi K., Oppenheim L., Picciotti R., Rifaat A., Shaw MN., Shindler D., Simma B.,Toman J., Tomushat C., Timchenko L.D., Vitas R.A., Verdross A., Yoshifumi Tanaka,

Ziemele I., Zimmermann A., and other authors were used as the theoretical basis of the research.

The object of the research is the legal succession arising from the international legal subjectivity of the Azerbaijan Democratic Republic, or public relations on determining the continuity (continuity/duration) of the state, the identity (similarity) of the international legal entity of the Azerbaijan People's Republic and the international legal entity of the Republic of Azerbaijan.

The subject of the research is the subject of international law of the Azerbaijan People's Republic, whether to continue the subject of international law and identity due to its exposure to aggression, after that, the continuation of the statehood of the Azerbaijan People in the form of legal succession or state continuity, and the identification of the identity of the international legal subjectivity of the Azerbaijan People's Republic and the international legal subjectivity of the Republic of Azerbaijan.

The purpose of the study is to assess the existing international legal norms in this field, to show the subjective and objective nuances of the *continuity* of the Azerbaijan state, while expecting impartiality when talking about the international legal subjectivity of the Azerbaijan People's Republic and the continuity of statehood. At the same time, the *identity* of the international legal subjectivity of the Republic of Azerbaijan with the international legal subjectivity of the Azerbaijani Democratic Republic and the legal and political importance of this identity for statehood are shown. In order to realize the goal of the research work, a number of *tasks* to be solved have been defined:

–the study of the doctrinal view of the state's characteristics;

–the continuity of the sovereignty of the population (the people);

–the sovereignty of the state and the subject of international law in case of illegal annexation;

–study of the characteristics of the state in international law for the determination of territorial sovereignty in the continuity of the state;

–the understanding of the legal succession of the state, the study of the foundations and forms of the legal succession of the state, the types and object of the international legal succession;

–the concept of continuity of states during illegal annexation in international relations;

–continuity and the identity of the subject of international law, study of the problem of continuity without continuity;

–political-historical aspect of the material territorial condition of the Azerbaijan Democratic Republic;

–disclosure of the ADR's position on the territorial-border issue at the Batumi conference;

–territorial claims of Armenia against Azerbaijan and determination of ethnic-religious (population) structure of those territories;

–to show the importance of Azerbaijan-Georgia international legal settlement model of territorial disputes;

–determining the political and legal significance of the recognition of the South Caucasus states by the international (Paris/Versailles) legal system;

–analysis of the bilateral international agreements of the Azerbaijan People's Republic and;

–international law of the period of occupation: an analysis of the Hague Regulations of 1907 and the Charter of the League of Nations;

–assessment of the international attitude towards the annexation of Russia;

–the emergence of the continuity of the Azerbaijan People's Republic with the violation of international law and;

–the continuation of the power of the Azerbaijan People's Republic in exile and the assessment of the activities of diplomatic missions;

–the legal status of ASSR from the point of view of international law;

–national uprisings against the recognition of the Soviet government;

–investigation of national freedom and crimes against humanity;

–Investigating crimes of genocide (related to deportation, changing surnames and alphabets) to promote the ideology of the AKP (state continuity);

–demonstrating the illegality of the distribution of the territories of the Azerbaijan People's Republic (Zangazur, Mehri, etc.) between Russia and Armenia;

–turning Nagorno-Karabakh into an object of political manipulation by Russia and giving a legal assessment to the next stage of occupation of Azerbaijani territories by the military forces of the USSR (Russia) in 1988;

–studying the constitutional foundations of the restoration of the international legal entity of the Republic of Azerbaijan as a result of the continuity of the ADR;

–assessment of the legal succession and continuity problem during the restoration of diplomatic relations;

–study of the negative effects of the time factor in the restoration of diplomatic relations;

–analysis of the characteristics of acceptance of international obligations on human rights of the Republic of Azerbaijan and the Declaration of Independence of the Azerbaijan Democratic Republic;

–comparison of the territory and symbols of the Republic of Azerbaijan in the image of the Azerbaijani Democratic Republic (uti possidetis);

–In relation to the debts of the USSR, the study of the renunciation of succession by tabula rasa and the determination of the international legal responsibility of Russia for the damage caused to the people of Azerbaijan were defined as the tasks of the dissertation work.

Research methods are generally accepted general theoretical and special scientific methods in legal science. Historical, comparative, concrete-sociological, systematic, formal-logical and other scientific methods were widely used in the research work.

Main clauses defended. The scientific innovation and usefulness coefficient of the dissertation is submitted for defense with the following ***new scientific provisions:***

Although the characteristics of the state in international law are based on the Montevideo (1933) Convention, the category of population-people living in the relevant territory is of decisive importance among the characteristics defined in that concept. The will of the people determines the nature of the political power along with politicizing the territorial unit. Both international law (International Covenant on Economic, Social and Cultural Rights (1966) art. 1; International Covenant on Civil and Political Rights (1966) art. 1) and domestic legislation (Articles 1 and 2 of the Constitution of the Republic of Azerbaijan) establish the will of the people as an absolute and preliminary condition for the existence of the state. During the establishment and transfer of state power, especially its international legal subjectivity, the basis for such a result is provided by the *jus cogens* customary law norm. If the state apparatus acts as the form of political power, the will of the people functions as its content. Even if the state identity is lost in the case of foreign aggression, the subject of international law remains in the nation, which is also referred to in the previously expressed international legal acts.

1. Legal succession does not arise in the event of a change of governments, regimes, nor does it depend on whether this change is unconstitutional or not. From the point of view of international law, the change of the main elements of the state - the population and the power - does not create any consequences for the legal succession. Only, the change of the other main element - the territory - creates the problem of legal succession. The moment of creation of legal succession and the object of legal succession are of great importance for legal succession. The concept of "the moment of the establishment

of legal succession" means the date when the successor state replaces the previous state in terms of carrying rights and obligations. The object of legal succession is the territory to which the state responsible for international relations changes accordingly. Succession of international law involves the creation of a new subject of international law as a *temporary* replacement of the rights and duties of the predecessor state with the rights and duties of the newly formed state due to international relations in a certain area.

2. Continuity in statehood means permanence, stability and security. Permanence, stability and security also include the international rights and obligations of the predecessor state that was attacked, as opposed to legal succession. During the restoration of statehood, according to the concept of continuity, the scope of the international legal entity of the former state is transferred to the new international legal subjectivity without changing.

3. The concept of continuity includes the continuity of the state and the continuity of the subjectivity of international law. The continuity of the state can be in the form of continuity of the subject of international law based on identity (similarity) and continuity without identity. Although the international community does not accept the Republic of Azerbaijan in the form of identical continuity of the Azerbaijani Democratic Republic, the constitutional law (Constitutional Act on State Independence) establishes the policy of identity.

4. Although the generally recognized normative regulation and practice on the continuity and identity of the state's international legal entity have not been formed, the legal policy of self-recognition and attachment to political institutions are of great importance during the restoration of state independence. Acceptance of the attributes of the previous independent state, whose subjectivity under international law was cut off (its personality was "silenced"), means the acceptance of its legitimacy by the will of the people (population), and is also an indicator of the attitude of the restored state to itself, and this is the main sign of continuity. A right arises from status as an indicator of

self-relation. The position of the population (people) declared in the Declaration of Independence of August 30, 1991 (Constitutional Act on State Independence) and at the constitutional level, referring to the continuity and identity of the international legal subjectivity of the restored state (The state's ability to rule from the constitutive signs of the 1933 Montevideo Convention and its attributes and symbols) of the previous one is regulated by the constitutional (state) law, but it is also of international legal importance.

5. For the delimitation and demarcation of the borders of the South Caucasus republics, the Azerbaijani side was right in referring to the ethnographic principles of Armenia, *the ethnographic and geographical principles* of Azerbaijan, and the Georgian side to the *principle of historicity*. Against the reference to the principle of historicity put forward by the Georgian side, the Azerbaijani side was right and argued, even if the latter principle was referred to, it should be accepted that the entire South Caucasus belongs to the Azerbaijan People's Republic in terms of the historical settlement of the population in the territory in the Motevideo Convention of the state.

6. With the occupation of Baku on April 27, 1920, the period of emigration (exile) of the government of the Azerbaijan People's Republic began. The identical continuity in the form of government of the Azerbaijan People's Republic comes from both its long-term emigration (exile) period and the activity of diplomatic missions that coincided with the first periods of the occupation. The emigration government of the Azerbaijan People's Republic had a fully legitimate representation, unlike the Baltic states.

7. The existence of the government-in-exile is only one component of the state whose territory is occupied. Illegal annexation does not mean the loss of the subject of international law of the state subjected to occupation. Only in case of disintegration of the population and disintegration of the society, the loss of state identity occurs. Regardless of the existence or effectiveness of the government-in-exile, the long-term struggle of the Azerbaijani people for self-determination (with mass uprisings) during the Soviet era

creates an objective basis for the continuity of the Azerbaijan Democratic Republic.

8. International practice based on the experience of individual states also shows that, despite the passage of several centuries, illegal annexation does not create a legal basis. The people of Azerbaijan, subjected to aggression and constant genocide crimes, did not accept the Soviet regime for 70 years with their regular and numerous struggles, and the USSR could not obtain a legal title in relation to Azerbaijan. Numerous protests by the authorities of the Azerbaijan People's Republic against the occupation of Soviet Russia, the activities of the government in exile, and people's uprisings are proof that the Soviet puppet governments in Azerbaijan are not legitimate.

9. Determining the modern boundaries of international law (Appendix of the 1907 Hague Convention on the Law and Customs of War on Land, art. 42 - according to the principle of "the sovereignty of the occupied territory does not pass to the occupying power", the principle of "Illegal action does not create rights") by the principle of *uti possidetis juris* is valid not in relation to the Republic of Azerbaijan, but in relation to the Azerbaijan SSR. The rule of law and justice must be ensured by accepting the existing borders until Russia's military aggression against the Azerbaijan Democratic Republic.

10. When the Republic of Azerbaijan restored its state independence, it was based on the succession of the Azerbaijani Democratic Republic (Constitutional Act on State Independence (art. 2)), which provides for the continuity. Before the illegal annexation of the RSFSR, the borders of the Azerbaijani Democratic Republic were recognized by the international community, agreements were signed with the Ottoman state, Georgia and other countries. Even though Russia occupied the territory of Azerbaijan, the international legal subjectivity of the Azerbaijan People's Republic did not disappear, the émigré government operated from the military aggression until the restoration of independence in 1991, and the Musavat party, which formed this government, directly participated in the formation of state institutions and the establishment of the government in Azerbaijan.

11. Accepting the main state symbols of the Republic of Azerbaijan under legal protection - the State flag of the Republic of Azerbaijan, the State coat of arms of the Republic of Azerbaijan and the National Anthem of the Republic of Azerbaijan as state symbols of the Azerbaijan Democratic Republicis the domestic legal instruments that show the identity of the international legal entity of the Republic of Azerbaijan and the Azerbaijan People's Republic. Accordingly, the "succession" expressed in the Constitutional Act on State Independence (Article 2) gives reason to read as "continuity". The death of a person, which is characteristic of the civil law concept of "succession" (cancellation of the subject of international law for the state), is denied by the expressed domestic legal means and shows the restoration of the Azerbaijan People's Republic in the image of the Republic of Azerbaijan.

12. Article 1 of the Law of the Republic of Azerbaijan on the Independence Day of the Republic of Azerbaijan dated October 15, 2021 defines "May 28" as "independence day" with reference to May 28, 1918, and "October 18" (with reference to October 18, 1991) as "restoration of independence" in Article 2. This instruction of the law establishes the modern Republic of Azerbaijan (Contrary to Article 2 of the Constitutional Act of October 18, 1991 on State Independence of the Republic of Azerbaijan) in a more specific context, meaning that it is not the successor of the ADR, but its successor.

13. For the Republic of Azerbaijan, the state symbols of the Azerbaijan People's Republic determine its legal status as proof of the identity of the subject of international law.

14. As a result, the long-term occupation of the Azerbaijan Republic or the Azerbaijan People's Republic by Russia and the USSR does not mean the cessation of the existence of this state, and whether the illegal annexation of the Azerbaijan People's Republic by Russia or the USSR is recognized by the international "union" does not constitute a basis for illegal annexation.

15. The Republic of Azerbaijan is the successor of the Azerbaijan People's Republic, that is, the concept of continuity for the modern

state: 1) Filing a claim on the reparation and satisfaction obligation of the Russian Federation before the Republic of Azerbaijan for numerous crimes against international law - deportation, war and genocide crimes committed on the territory of the Azerbaijan state; 2) solving the individual criminal liability of officials in the context of ongoing crimes; 3) ensuring responsibility for illegal expropriation and confiscation of property; 4) and have legal significance in the direction of the return of illegally annexed territories.

The scientific novelty of the study is that- for the first time in the international legal literature of Azerbaijan, the international legal entity of the Azerbaijan Democratic Republic, including law and ability to act, the characteristics of the state personality, the period of exile of the government after being subjected to aggression and its diplomatic relations, the assessment of the quality of the continuation of statehood against the background of the people's struggle for freedom and the international crimes committed against the people in that area, also, the ideological, sociological, geographic-territorial and historical content of the continuation of the international legal entity of the Azerbaijani Democratic Republic in the Republic of Azerbaijan are examined in the prism of international law. During the restoration of state independence, international treaty norms signed and joined by the Republic of Azerbaijan, as well as internal legal acts, are evaluated in terms of concepts of succession and continuity. In particular, despite the unconditional acceptance of the ideological, sociological, geographic-territorial, historical symbols and signs of the Azerbaijan People's Republic, the reference to the concept of inheritance in many acts of the Republic of Azerbaijan is criticized. It is believed that such a position can be explained by the fact that either succession was accepted in the broadest sense of the word (as continuity), or the normative-legal regulation in the practice of international law, as well as the doctrine of international law of Azerbaijan, was not formed.

The theoretical and practical significance of the research. The dissertation can be useful in the preparation of textbooks on the protection of the national interests of states, including the principle of

sovereign equality of the legal entity of states, ensuring international peace and security, as well as in the teaching of special courses. The research work can also act as a theoretical basis for new scientific research.

Materials, conclusions and provisions of the research work can be used in the field of realization of the international legal entity of the Republic of Azerbaijan by state authorities, in ensuring the territorial integrity of the state in modern times, solving the border problems of the Republic of Armenia-Azerbaijan, in the prevention of all kinds of territorial claims of Armenia against the Republic of Azerbaijan, and for the recognition of the actual content of the principle of "sovereign equality of states" between the Republic of Azerbaijan and the Russian Federation, and for the development of a policy on compliance with *jus cogens* norms aimed at ensuring international peace and security in the implementation of relations with the Russian Federation.

Approval and application of research. Important scientific results of the research work were published in prestigious scientific journals and international conference materials published in AR and abroad.

The name of the institution where the dissertation work was performed. The thesis work was carried out at the UNESCO Department of Human Rights and Information Law of the Faculty of Law of Baku State University, widely discussed and recommended for defense.

The total volume of the dissertation is 444,704 signs (excluding the list of references), including the "Introduction" part 28,226, chapter I 47,618, chapter II 34,216, chapter III 24,636, chapter IV 129,083, chapter V 64,575, chapter VI 73,386, chapter VII 31,642 " "Result" contains 7,845 characters.

THE MAIN CONTENT OF THE DISSERTATION

In the introductory part of the dissertation, the relevance of the topic is justified, the degree of development, object and subject of the research, goals and objectives, scientific innovation, the theoretical and

practical importance of the new scientific propositions submitted to the defense are explained, the approval of the results of the research and the structure of the research are given.

The first chapter of the dissertation work is called **"Characteristics of the state that form the international legal subject"** and consists of two paragraphs. In this chapter, the characteristics of the state are analyzed from the point of view of the doctrine of international law.

In the first paragraph, the doctrinal view of the state's characteristics is analyzed. It is noted that the state acts as an individual of the collective that formed it. The identity of the state is similar to its subjectivity under international law, although it does not exactly coincide. The identity of the state born from the power has not only an international, external aspect, but also an internal content. The state derives its identity from the society that established it. The state is created by a socially differentiated society, defends it, governs it at one level or another and acts on its behalf. Since the state is a subordinate entity, during military aggression, it is transformed into the will of the population that established it as an apparatus of power. One of the absolute signs of the state is its territory and population, which act as a material condition of its existence. The presence of territory and population is sufficient for its continued international legal subjectivity. In case of illegal annexation, the state retains its international legal capacity, but loses its operational capacity. However, due to the special character of the state as an organization of people, the territory and population become a component of the state. The population and the territory retain their international legal subjectivity as a component of the state. Although the state mechanism is destroyed, the mechanisms of the society that gave birth to this state continue to operate. It is from this point of view that the power experience of the population living in a certain area, distinguished by its cultural specificity, does not determine the death of the state, but the international legal subjectivity of the people that formed that population. The 1933 Montevideo Convention on the Rights and

Responsibilities of States developed the concept of the state being a social entity and existing independently of international law.

The second paragraph, called “Characteristics of the state in international law”, combines three sub-paragraphs. In the first sub-paragraph, the continuity of the sovereignty of the population (people) is investigated (permanently). It is noted that the national anthem, coat of arms, flag, citizenship, population, system of higher state authorities, territory, etc. are usually distinguished as signs of statehood. In Article 1 of the 1933 Montevideo Convention on the Rights and Duties of States, a four-element concept for the state's international legal subjectivity was expressed: a) permanent population, b) territory, c) government, and d) the legal capacity to connect with other states in international relations.

For a state to leave the political scene, to die, its population may be exterminated, for example, by the crime of genocide, or its territory may be subjected to natural-geological changes, such as flooding, volcanic processes, and it may not be possible to continue living. In the first case, that is, with the destruction of the population, another element - power - is also lost. Therefore, the state's population sign is more decisive for the state's sustainability in terms of being a carrier of political will. If state sovereignty is a form, then its content is made up of people's sovereignty. The social (population/people) content of the state takes precedence over its formal-legal content and determines its continuity. Concretely, the continuity of the ADRcan be seen from the formal and legal content of the Republic of Azerbaijan and its acts of self-promotion. Article 1 of the Law of the Republic of Azerbaijan on the Independence Day of the Republic of Azerbaijan dated October 15, 2021 defines May 28 (referring to May 28 in 1918) as "independence day" and Article 2 defines October 18 (referring to October 18 in 1991) as “restoration of independence” day. The law establishes this instruction in the sense that the modern Republic of Azerbaijan (contrary to Article 2 of the Constitutional Act on State Independence) is not the successor of the ADR, but its successor. The same direction was expressed in the Declaration of August 30, 1991

of the Supreme Soviet on restoring the state independence of the Republic of Azerbaijan. In other words, although the ADR, which was established at the beginning of the 20th century, lost its form (identity), it did not lose its international legal subjectivity. During the period of illegal annexation, the sovereignty of the state remained with the people of Azerbaijan (in its scientific centers), including the government-in-exile, which gained the right to speak on its behalf. With the restoration of state independence, the Republic of Azerbaijan re-secured the international legal subjectivity of the ADRthrough its population.

In the second sub-paragraph, state sovereignty and international law subjectivity in case of illegal annexation are analyzed. It is noted that in the preamble of the 1969 Vienna Convention on the Law of Contracts, the UN Charter (Article 1.2) mentions the right of the people. The people formed from social groups as the source of state power determines the social content of state identity. As a legal symbol of the state's identity, its sovereignty is under pressure. Consequently, the people are the source of state power and its independence, as well as the bearer. Although the sovereignty of the state operates within the framework of international law, it derives its powers not from international law, but from the people. It is for this reason that after the end of the period of illegal occupation (including the influence of the national-liberation struggle), the relevant population is able to ensure the restoration of state identity on the existing territory (which includes the previous form of government). International legal subjectivity is not lost by violation of state power in case of illegal occupation.

International law (e.g. Geneva Convention for the Protection of Civilian Population of 1949, Regulations on the Laws and Customs of War on Land of the IV Hague Convention on the Rules of War on Land of 1907 (Appendix) Article 43 (respect for public life and rules), articles 46 and 50 (protection of private and property rights of the civilian population) includes the well-known principle that "sovereignty does not transfer to the occupying state during

occupation" (art. 42). The concept of restoration of state power based on continuity (permanently) is based on this norm as well. In other words, the illegal annexation does not mean the loss of international legal subjectivity of the state subjected to occupation. Only in case of disintegration of the population and disintegration of the society, the loss of state identity occurs. In such a case, the restoration of the state's international legal subjectivity is not possible, and the problem of legal succession is brought up.

The third sub-paragraph deals with the sovereignty of the territory in the state's continuity. It is noted that states have supreme, complete and exclusive power in their territory as an integral feature of sovereignty. Having supreme, complete and exclusive power is expressed in territorial supremacy - supreme power *(imperium)* and sovereign possession *(dominium).* Territorial supremacy of the state includes the supremacy of power in relation to all physical and legal entities and the fact that the supreme power includes and is exercised through the legislative, executive and judicial bodies.

From the point of view of international law, it is not the size of the territory, its geographical location, but the protection of the state's territory for the free exercise of its sovereignty. Since the beginning of the last century, the "principle of territorial integrity" *(principle of territorial integrity*), "not to use force or not to threaten force" and other principles have been aimed at the protection of the state territory, prohibiting all kinds of illegal annexation (annexation) - occupying the territory of another state by force. The territory of the state cannot be the object of the aggressive goal of another state. Although the state that has been attacked temporarily loses its actual territorial power, independence, or rather, its identity in the social sense, it retains them from a legal point of view. As we have already stated, the people in that area continue his identity. The fact that a state's territory cannot be the object of another state's aggressive goal was first established in Article 10 of the Statute of the League of Nations, and later in the Charter of the UN (Article 2.4). Article 10 of the Statute of the League

of Nations should be considered as the most progressive *jus cogens* norm of the time (1920).

The first chapter of the dissertation work is called **"Legal Subjectivity of States"** and consists of two paragraphs.

In the first paragraph, the concept, theoretical and practical aspects of the legal succession of the state are analyzed. It is noted that even after the First World War, with the fall of several great empires, for example, the establishment of Georgia, the Azerbaijan People's Republic and Armenia in the Caucasus in 1918, and the occupation of these states by Soviet Russia in 1920, caused serious changes in international relations. Due to the fact that the problem of legal succession depends on international and domestic factors, and the practice is uncertain and contradictory, this problem also manifested itself during the fall of the USSR. Thus, with the December 8, 1991 Belovezhsky Agreement on the termination of the USSR as a subjectivity of international law, and then with the adoption of the December 21, 1991 Alma-Ata Declaration, the issue of succession or continuity of the newly emerging states has become an object of discussion. Only the states that have regained their independence state that they will fulfill the international treaty obligations of the USSR under the conditions of their domestic legislation (Constitutional Act on state independence of the Republic of Azerbaijan (art. 4)). It is interesting that a number of previous acts adopted before the fall of the USSR directly refer to the institution of succession. Although the position of third countries is important in international relations, the legal policy of the state that regains its independence also has a decisive role. The Baltic states did not behave like successors, but they firmly declared the concept of continuity. In the position of third countries, in relation to Russia, it was mainly expressed with the concept of continuity, but for other post-Soviet countries, they preferred the institution of succession. According to the Decision adopted by the Council of Heads of State of the CIS on December 21, 1991, adopted in accordance with the Alma-Ata Declaration, at the initiative of the RSFSR (kurs-author.) accepted the proposal that "the

CIS member states should have permanent representation of Russia in the Security Council of the UN Security Council and the successor of the USSR in other international organizations" (paragraph 1).

In the second paragraph, the practice of states' legal succession (tabula rasa, uti possidetis juris, continuity) is analyzed. It is noted that international practice is based on the principle of uti possidetis juris (Latin - what, how and to what extent you own) for the legal succession of states in relation to the border regime. This principle is applied not only to the border regime, but also in relation to public debts. The practice of applying the principle of uti possidetis juris to borders in the order of legal inheritance has not been unambiguous. In the case of uti possidetis juris, border conflicts were not excluded. With the collapse of the USSR, Armenia's territorial claims against Azerbaijan regarding Nagorno-Karabakh, Russia's aggression regarding Crimea, South Ossetia and other territories, etc. acts can be recorded. Although, the uti possidetis juris rule was established in the agreements created after the collapse of the USSR (for example, in the Agreement on the establishment of the CIS of December 8, 1991, "confirming the obligation of the inviolability of existing borders within the framework of the union"). International agreements on human rights of states are one of the areas that appear with exception conditions during the international-legal regulation of the legal succession of states. According to the 1978 Convention on the Succession of States in relation to treaties (art. 34.2), the newly created state enters international relations with the principle of "clean sheet" *(tabula rasa)*. However, there are special exceptions to this principle in certain cases. In particular, the continuity of international agreements on human rights surpasses "tabula rasa". The disintegration, unification, re-emergence of states should not undermine the continuity of human rights treaties, their concept of universality and the beginning of natural law. That is, social or human "succession" *(human "succession")* forms the rule of international common law with the continuity of the population. This rule is also

valid for the case of restoration of the subjectivity of international law of states subjected to external aggression.

The third chapter of the dissertation, called **"The condition of state continuity in international relations"**, includes two paragraphs.

In the first paragraph, the concept of continuity of states is explored. It is noted that the temporary loss of the identity of the state during the aggression continues to preserve the sovereignty, territory, population, socio-economic and cultural values of that population manifested in the form of the people as elements of international legal subjectivity. During the occupation, the maintenance of the state's international legal subjectivity depends on the temporary nature of the occupation regime. Complicating the acceptance of continuity is the question of the presence of annexation after occupation *(occupatio).* However, in many cases, annexation did not prevent the acceptance of such continuity. In the presence of continuity, the restoration of the ability to act, which is a special element for the subject of international law, is important. As a result of the identity of state, subjectivity under international law and sovereignty, the capacity to act is temporarily lost during annexation. Therefore, even in the case of annexation, the sovereignty of the people (population) should be the basis for the state that will come out of the "coma". The continuity of the people ensures the identity of the state's subject under international law. Even if the annexation is legal, the continuity of the people does not disappear. The will for moral continuity should also be observed with the acts of struggle of that people (multiple uprisings of the people after the illegal annexation of the territory of the AKP by Russia in 1920). Thus, the decisive sign for the continuity of international legal subjectivity of states is the moral-political unity of the population (the people), its "guardianship", which includes its struggle, ensures the identity of the state subjected to illegal annexation, the indestructibility of statehood. The third positions declared at this time should not be considered decisive for the constituent element. Among the defining elements of the Montevideo Convention, the moral-political unity of the

population (people) should be considered as a primary sign for the continuity and identity of the subjectivity of international law. The territory and authority of the state is also reflected in the international legal subjectivity of the population (people).

In the second paragraph, the issues of continuity or identity of the subject of international law are analyzed. It is noted that the annexation caused by the use of force or the threat of force should be considered as a basis for identity in the subsequent restoration process. "Adaptation" of the people to the annexation regime after a certain period of time does not eliminate the illegality of the process from the point of view of international law. Therefore, the population of the illegally annexed territory ensures its continuity by re-establishing its state. Here the process of inner self-identification between the former and the restored is crucial. The identity of the state is usually decided at the constitutional level, and the constitutional basis of the identity of the state should also determine its international legal form. Although the Constitutional Act of October 18, 1991 on State Independence refers to the succession of the ADR(art. 2), the conclusion from the general content of the Act is that the modern Republic of Azerbaijan is the successor of the ADR, that is, at least the concept of identity without continuity comes into focus. The respective state's constitutional declaration on the identity of the subject of international law should cover all political abuses, other states should treat the constitutional declaration on the identity of the subject of international law in the context of the principle of "sovereign equality of states". That is, the constitutional declaration defines the continuity and correspondingly identical state. In the case of illegal annexation, it is not excluded that there will be a change in the state apparatus due to the break of continuity in the long term. However, since the bearer of power is the people, the creation of a state similar to the previous one (identical) depends on the declaration of will. If we try to determine the criteria in the issue of *non-lapse of the period related to continuity*, then: 1) the existence of the "government in exile" and its struggle; 2) negative attitude of the

international community and individual states to the illegal annexation; and 3) the permanent political and military position of the people of the illegally annexed territory should be taken into account. The fourth chapter of the dissertation is called **"The Montevideo Convention signs of the Azerbaijani Democratic Republic (territory, population)" and consists of nine paragraphs.**

The toponym of Azerbaijan and the states of Azerbaijan are analyzed **in the first paragraph.** It is noted that in terms of the elements expressed in Article 1 of the Montevideo Convention on the Rights and Duties of States of 1933, what does the Azerbaijan People's Republic mean? To answer this question, first of all, it is necessary to refer to the concept of "Azerbaijan" and its geographical and historical content. Determining the status of ADRis impossible without referring to its geographical-historical content, predecessor states that acted as successors for its territory and population. In order to determine the factors affecting the formation of the international legal entity of both the ADRand the Republic of Azerbaijan, it is necessary to resort to the historical-geographical and sociological-ethnic criteria as a scientific research method.

The territories starting from Darbend in the north, Hamadan and Zanjan in the south, from Iberia in the west to the Caspian Sea in the east have been known by the name "Azerbaijan" since ancient times. The famous historian Abu Jafar Muhammad al-Tabari (839-923), who lived in the 9th-10th centuries, noted that "the city of Hamedan, including Ahar and Zanjan, is considered the beginning of the borders of Azerbaijan, and the end of it is the Caspian Darband".[3] In the sources of the Arab Caliphate, it is clearly stated that before the attack of the Arabs, the territory of Azerbaijan stretched from Hamadan, Azhar and Zanjan in the south to Darband in the north.[4] Məhəmməd

[3] S. Aliyarli S. Our history with unsolved topics. Baku: Translator, 2012, p. 115 (560 p.); Chamanzaminli Y.V. Historical, geographical and economic Azerbaijan. Baku: Baku University publishing house, 1993, p. 13 (56 p.).

Muhammad Hasan Valiyev (Baharli) wrote in 1921: "The country located between 61 3/4 and 68 1/5 east and 41 5/6 and 36 1/2 north longitudes, or between the Caspian Sea and the western shores of Lake Urmia, and between the Samur River and Bagraudag, has been known by the name of Azerbaijan since ancient times". The word "Azerbaijan" means "Odlar yurdu" ("Land of Fires", "Fire burning country").[5] The first state institutions on the territory of Azerbaijan were established in the 3rd millennium BC. However, the territorial political structure that exists today is the result of the regional changes that occurred at the beginning of the 19th century, the situation that occurred after Russia invaded the territories of Azerbaijan and created the Armenian state.

In the second paragraph, the establishment of the "Armenian Province" in Azerbaijan with the Treaty of Turkmenchay of 1828 and mass migrations are investigated. It is noted that according to the Treaty of Turkmenchay of 1828 (art. 15), the resettlement of Armenians living in Iran to the territory of South Caucasus began. Especially, with the cancellation of the Nakhchivan and Iravan khanates annexed to Russia on the basis of the Turkmenchay Treaty by the "Decree of the Russian Emperor dated March 21, 1828" and the creation of the "Armenian Province" administrative territorial unit in the territory of these khanates, the territorial base of modern Armenia was obtained for Armenians. As a result of the transfer process carried out from February 26 to June 11, 1828, according to official figures from Iran, 8,249 Armenian families (over 40,000 in total) were relocated to North Azerbaijan and settled in the territory of the newly created *"Armenian province"* (the territory of the Iravan and Nakhchivan khanates) and the Karabakh khanate. At the same time, according to Article 13 of the Edirne Peace Treaty signed on September 14, 1829 as the conclusion of the Russo-Ottoman War of

[5] Vəliyev Valiyev (Baharli) M.H. Azerbaijan, p. 3-4; Shukurov K. History of Azerbaijan. In three parts. Part I. Scientific and practical problems. Baku: Baku University publishing house, 2004, p. 20.

1828-1829, the Armenian population was given a general amnesty and the right to move to Russia along with their movable property for 18 months. Unofficial migrants are not included in this figure. By placing the Armenians who were transferred from Iran and the Ottoman states in the regions of Iravan, Nakhchivan and Karabakh, the ethnic (population) characteristics of the Azerbaijani states formed over hundreds of years in these regions were artificially and forcibly changed and in 1917, when new states were formed in the Caucasus with the collapse of the Russian Empire, the "Armenian province" - Armenia began to act as the "owner" of those regions under the guardianship of the victorious states.

In the third paragraph, the establishment of the Azerbaijan People's Republic and its undisputed territory are analyzed. It is noted that in the Declaration of Independence, it was stated that the territories covered by the Azerbaijan People's Republic consisted of South-Eastern Transcaucasia. When the Azerbaijani Democratic Republic was established, due to a number of reasons, it could not cover all the lands of historical Northern Azerbaijan, whose area was more than 130,000 km2, occupied by Russia at the beginning of the 19th century. Thus, a large part of the Iravan governorate, a part of the Tbilisi governorate, as well as the territory of the Darband khanate remained outside the jurisdiction of the Republic.

According to the official information of the Azerbaijan government published in the "Address-calendar" of 1920, the territory of the Azerbaijan People's Republic was 113895.97 km^2. 97297.67 km^2 of this territory was the undisputed territory of the Azerbaijan Democratic Republic, and 16598.30 km^2 was the disputed territory. The disputed territories of the Azerbaijan People's Republic included a part of the Iravan and Tbilisi governorates. Before the occupation of April 1920, the total territory of the Azerbaijan People's Republic was 113.9 km^2, including the undisputed territory of 97.3 km^2 and the disputed territory of 16.6 km^2. This result provides the basis for the fact that the terms of the future peace treaty between the Republic of Azerbaijan and Armenia should be unconditionally recognized for the

97.3 km^2 undisputed territory of the Azerbaijan Democratic Republic. The 97.3 km^2 undisputed territory of the Azerbaijan People's Republic was also accepted as a result of the recognition of that state by the Versailles legal system. Article 10 of the Statute of the League of Nations, which entered into force on January 10, 1920, entered under the protection of international law. The concept of the "generally accepted" territory of Armenia, which was changed by the Russian occupation of 1920 and created by the collapse of the USSR in 1991, is not valid from the point of view of international law.

In the fourth paragraph, the territorial issue at the Batumi conference and the territorial "compromise" of the ADRare analyzed. It is noted that the Batumi peace conference between the Ottoman state and the Republic of the South Caucasus was opened on May 11, 1918. It is true that the National Council of Azerbaijan "officialized" the decision made within the framework of the Batumi conference regarding the concession of Yerevan to the Armenians and the establishment of an Armenian state in the Yerevan region. However, there are a few points that we should pay attention to. First of all, in the Armenian-Azerbaijani negotiations held in Batumi regarding the concession of Yerevan to the Armenians and the establishment of the Armenian state in the Yerevan region, there was no formalization of any agreement on this issue between the parties. With reference to the Georgian representatives, it is noted that there was just a gentleman's agreement. A gentleman's agreement cannot be concluded in the solution of an issue such as the exchange of territory. Secondly, the session of the National Council of Azerbaijan on May 29, 1918, which unilaterally approved and formalized the "agreement" reached in Batum regarding the Yerevan issue, did not have the authority to make a decision on this issue. Thus, only 20 of the 44 members of the National Council participated in the meeting of the National Council of Azerbaijan on May 29, 1918, and out of these 20, 16 people voted in favor of the proposal to compromise Yerevan, 1 person voted

against it, and 3 people abstained.[6] The issue of territorial concession could be resolved by a majority of at least 2/3 of the members of the National Council. Since not even 50 percent of its members participated in the May 29 meeting of the National Council, its decision does not carry legal legitimacy. Thus, although the borders between the Ottoman state and the South Caucasus republics were determined by the agreements adopted at the Batumi conference, the borders between the South Caucasus republics themselves were not specifically defined. More importantly, the "agreement" adopted at the Batumi conference on the establishment of Armenia was most likely brought to the agenda by the request of the main participants of the Paris Peace Conference. However, it did not have legitimacy because it did not go through the legal procedure in the Parliament of Azerbaijan.

In the fifth paragraph, the territories claimed by Armenia against Azerbaijan and their ethnic-religious (population) structure are investigated. It is noted that, in general, the Azerbaijani side was right in referring to the *ethnographic principles* of Armenia, *the ethnographic and geographical principles of* Azerbaijan, and the Georgian side to the principle of historicity for the delimitation and demarcation of the borders between the South Caucasus republics. The Azerbaijan People's Republic was a government established with the population of its predecessor states, including khanates. Legal succession does not arise in the case of a change of governments or regimes. Only, the change of the other main element - the territory - creates the problem of legal succession. With the establishment of the Azerbaijan Democratic Republic, a new state was created, which is responsible for international relations on the territory of Azerbaijan, which is the object of legal succession. Succession in international law includes the creation of a new international legal subject as a

[6] Protocol No. 3 of the meeting of the Muslim National Council (Tiflis: May 29, 1918) //State Archive of the Republic of Azerbaijan, Fund No. 970, list No. 1, case No. 1, sheet - 51.

replacement of the rights and duties of the predecessor states (...Turk-Muslim Safavids, Qajarians and others) in a certain area due to international relations with the rights and duties of the newly formed (Azerbaijan People's Republic) state in an intermittent manner (after the occupation of Russia).

The sixth paragraph analyzes the issues of the 1919 (Tbilisi) agreement of the Azerbaijani-Armenian heads of government and Armenia's violation of its international obligations. It is noted that the Azerbaijan-Armenia agreement signed in Tiflis on November 23, 1919 dealt a serious blow to the national, military and political interests of Azerbaijan. It increased the expected threat to the Turkish-Muslim population of Karabakh and Zangezur. So, immediately after the signing of the November 23 agreement in Tbilisi, the government of Azerbaijan withdrew its troops from Zangazur, believing that the Armenian side would comply with the obligations assumed by the agreement. Armenia, which abused this, not only did not withdraw its troops from Zangezur after the signing of the agreement, but also increased its military potential in that region and deployed troops to the territories vacated by Azerbaijan, changing the balance of forces in the accident in its favor.

Armenia's attempt to seize the territories of Azerbaijan, to which it claims territory, by force was connected with the fact that: 1. the ethnic composition of these areas was not in favor of the Armenians. Even after Russia transferred Armenians to the region, the share of Azerbaijanis in the ethnic composition of those territories was over 62 percent, while the share of Armenians was only 36 percent. The ethnographic principle referred to to justify the territorial claims revealed the fact that these territories belong to Azerbaijan; All the lands claimed by Armenia against Azerbaijan were the historical lands of Azerbaijan, and these territories clearly had no affiliation or relevance to Armenians. The historical principle also confirmed that these territories belong to Azerbaijan and that these lands have no connection with Armenians; 3. Although Armenians lived in the territories of Azerbaijan claimed by Armenia, they did not live in a

compact state, but were scattered in the form of islands among the Turkish-Muslim population, and it was geographically practically impossible to separate these enclaves and unite them with Armenia.

The seventh paragraph analyzes the Azerbaijan-Georgia model of international legal settlement of territorial disputes. It is noted that with the "Azerbaijan-Georgia military-defense agreement" signed on June 16, 1919, Azerbaijan-Georgia relations have risen to the level of a strategic alliance. The Azerbaijan-Georgia agreement also played an important role in the creation of normal neighborly relations between the Azerbaijan People's Republic and the Republic of Georgia, as well as in the resolution of disputed issues between the parties, including the territory-border issue, through negotiations without giving rise to armed clashes. Negotiations between the two republics towards the settlement of territorial and border issues are continued and an agreement is reached, if it is not possible to reach an agreement between the parties, the transfer of this matter to the international arbitration commission of the Paris Peace Conference and the general agreement reached that the decisions of the arbitration commission will be unconditionally implemented prevented the territorial-border disputes between the Azerbaijan People's Republic and the Republic of Georgia from leading to armed clashes. As a result of the mutual trust and confidence formed between the Republics of Azerbaijan and Georgia and the pragmatic approach to the issue, the conditional and temporary borders between the two countries remained stable until the fall of the Azerbaijan People's Republic in April 1920. The agreement reached between the republics of Azerbaijan and Georgia was the most optimal international solution model for the settlement of territorial and border disputes between the two countries. However, the change in the international situation and the threat from the north to the independence of the Caucasus republics did not allow to resolve and bring to an end the territorial-border disputes between the republics of Azerbaijan and Georgia.

In the eighth paragraph, the political and legal significance of the recognition of the South Caucasus states by the international

(Paris/Versailles) legal system is investigated. It is noted that in the middle of April 1920, the Parliament of Azerbaijan adopted a decision on the opening of diplomatic missions of Azerbaijan in Great Britain, France, Italy, the United States and other countries. At the same time, the government of the Republic of Azerbaijan expanded its diplomatic relations with neighboring countries such as Turkey, Iran, Georgia and Armenia. Thus, the Republic of Azerbaijan, as a member of the world community, has expanded its activities in the direction of wide diplomatic recognition in the international world and the establishment of comprehensive relations with the countries of the world. However, despite all this, on April 26, 1920, the XI Army of Soviet Russia crossed the border of Azerbaijan without any official invitation and occupied the entire territory of the Republic of Azerbaijan, recognized as an independent country by the world community. Thus, the ADR, which was announced on May 28, 1918, collapsed 23 months later - on April 27, 1920, as a result of Russian military aggression. Azerbaijan fell under the occupation of Russia and this occupation will continue until 1991. The continuation of the occupation for such a long time could not slow down the struggle for sovereignty of the Azerbaijani people. After the military aggression, military protests against the Russian occupation have not occurred in any other nation that joined the former Russian territory as much as in Azerbaijan. Numerous uprisings and the Soviet policy of Russification and secularization could not eliminate the ideology of the Azerbaijan Republic. In 1991, the international legal entity of ADRwas formed in the image of the Republic of Azerbaijan with all its attributes.

In the ninth paragraph, forms and directions of the international legal cooperation of the Azerbaijan People's Republic with other states are analyzed. It is noted that the Azerbaijan People's Republic signed its first international agreement with the Ottoman state in Batumi on June 4, 1918. The Batumi agreements of June 4, 1918, signed between the Ottoman state and the Azerbaijan Democratic Republic, the Ottoman-Azerbaijani agreements signed in Ganja on July 14, 1918, the tripartite agreement signed between

Azerbaijan, Georgia and the Ottoman Empire on the Baku-Batumi oil pipeline dated June 4, 1918, the quadrilateral agreement signed between the Ottoman state, Azerbaijan, Georgia and Armenia on the distribution of South Caucasus railway vehicles, "Azerbaijan-Georgia Military-Defense Agreement" dated June 16, 1919, consisting of 12 articles, signed between the Azerbaijan People's Republic and the Republic of Georgia, in late January 1920, the economic agreement between the American "Middle East Aid Committee" and the government of the Azerbaijan Democratic Republic, in early 1920, the contract and agreements signed in Batum between the government of the Azerbaijan People's Republic and Italy and others encouraged the recognition of the independence of the ADRat the Paris Peace Conference. Since the beginning of 1920, a number of countries of the world, including the Entente countries, have signed a number of bilateral international agreements and agreements with the ADR. Undoubtedly, the Ottoman state played an indispensable role in the initial recognition of the ADR, and later both de-jure and de-facto recognitions were also important in its recognition at the Versailles Conference. The fact of recognition of ADRalso showed itself against the illegal annexation of Soviet Russia. Although the occupying state did not want to, it was forced to create Soviet (Russian) Azerbaijan through a formal regime change. With the government forced to go into exile, the ADR's power function at the Montevideo Convention was temporarily lost. However, the continuity of the AKP's identity began to manifest itself in the sovereignty of the population, with the numerous and long-term rebellions that were launched.

The fifth chapter of the dissertation entitled **"Russia's military aggression and illegal annexation against the Azerbaijan People's Republic"** includes four paragraphs.

The first paragraph analyzes the international law of the occupation period: the Hague Regulations of 1907 and the Charter of the League of Nations. It is noted that Soviet Russia adopted a number of acts regarding the illegality of aggression from the first years of its establishment. The declaration of the rights of Russian peoples of

November 2 (15) 1917 and the Peace Decree of October 26 (November 8) of the leader of Soviet Russia V.Lenin not only condemns aggression and annexation, wars of aggression are considered crimes against humanity. The Peace Decree later adopted the London Convention on the Definition of Aggression with Turkey, Iran, and Afghanistan, including Poland and the Baltic States, with the participation of the USSR.

The illegality of wars of aggression had already been recognized by the Hague Conventions. The rules established by the Fourth Hague Convention of 1907, together with most other conventions, are the expression of the international customary norm as a source of international law, being recognized as a legal norm as a comprehensive practice. The Statutes of the Nuremberg (1945) and Tokyo (1945) tribunals were based on the Hague Regulations. With the occupation of 1920, Soviet Russia not only changed the administrative territorial structure of the ADR, but also appropriated part of the territories historically belonging to the Azerbaijani people, and gave the rest to Armenia and Georgia on the occasion of the establishment of Soviet power. The IV Hague Convention of 1907 (art. 55) states that ... management should be carried out in such a way that ... the basic values of the types of property are protected. As we stated earlier, the political, social, economic, and legal system of the invaded state (nation) cannot be changed in accordance with the well-known principle that "sovereignty does not pass to the occupying state during the occupation" (art. 42). In particular, there can be no talk of territory-border changes. Facts such as the recognition of the Fourth Hague Convention of 1907 by the USSR, the successor of Soviet Russia, the customary law nature of the norms of that convention, and the fact that the violation continues today gives a full legal basis to the claim of the AKP, whose territory was divided as a result of aggression, against Armenia and the Russian Federation for the return of the territories of the Republic of Azerbaijan as its legal successor from the ethnic, historical and geographical point of view.

In the second paragraph, Russia's military aggression and illegal annexation are analyzed from the aspect of international relations. It is noted that the position of the international community in relation to the Soviet occupation regime was formed on the basis of political usefulness. Politics took precedence over law. The position of the international community in relation to the ADRhas become more illegal. Since the Armenian factor was important in the downfall of the ADR, the Soviet invasion was reacted to with silence, with the exception of a few states. France and Italy, Great Britain and the United States greeted the occupation of Azerbaijan by Russia with silence. During this period, since the Ottoman Empire, which always defended Azerbaijan, was overthrown, and Turkey was facing the threat of disintegration and losing its sovereignty, it could not prevent the fall of the Azerbaijan Democratic Republic. Iran also welcomed the next fall of statehood in Northern Azerbaijan. Armenia welcomed the occupation of Azerbaijan by Russia with joy and played an important role in the implementation of this occupation. Among the neighboring republics, only Georgia assessed the occupation and overthrow of the Azerbaijan People's Republic by Russia as the beginning of the occupation of the entire South Caucasus and expressed concern. Unfortunately, the Baltic states, which were in the same political and legal situation as the Azerbaijan Democratic Republic, did not issue a note of protest.

It was the result of the policy of not respecting international law that World War II came about as a result of aggression, genocide, war and crimes against humanity led to the destruction of more than 70 million people, and today we are witnessing the political priorities of a separate state (in Russia's aggression against Ukraine) taking precedence over the law.

The third paragraph examines the government of the Azerbaijan People's Republic in exile and diplomatic missions. It is noted that after the occupation of Azerbaijan by Russia on April 27, 1920, the Azerbaijani delegation to the Paris Peace Conference led by the Speaker of the Parliament of the Azerbaijan Democratic Republic,

A. Topchubashov, after the death of A. Topchubashov in 1934, the activities of the Paris group of the Azerbaijani political emigration government were transferred to the Azerbaijan National Center in Istanbul, headed by M. A. Rasulzade. After the death of M.A. Rasuzlad on March 6, 1955, the Musavat party continued its activities and participated in the re-establishment of the government as one of the main founding parties in the restoration of independence. The "national interests" of the Western countries were distinguished not only in relation to the emigration government of the Azerbaijan Democratic Republic, but also in relation to the emigration governments of the occupied states in the 40s of the XX century. The non-recognition of the immigrant governments of the occupied countries by third countries does not mean the "loss" of their international legal subjectivity. The existence of the government-in-exile or the foreign missions of the occupied countries should be evaluated as an element of continuity of that state (as a symbol). No matter how weak the activity of the government in exile or the foreign missions of the occupied countries is, their existence acts as an indicator of the will of the population not to accept the occupation, and excludes the meaning of capitulation and annexation. The existence of the government-in-exile is only one component of the state whose territory is occupied. Regardless of the existence or effectiveness of the government-in-exile, the long-term struggle of the Azerbaijani people for their self-determination during the Soviet period creates an objective basis for the continuity of the Azerbaijan Democratic Republic.

The fourth paragraph analyzes the legal status of the ASSR from the point of view of international law (time limit). It is noted that according to the Constitution of the USSR of 1977 (allied sovereign Soviet socialist republics establish the USSR, art. 76) and the Constitution of the Azerbaijan SSR (art. 68), formally, like other allied republics, the ASSR also had the characteristics of an international legal subjectivity. Although the subjectivity of international law, which has a formal character, and the sovereign power expressed in

Article 74 of the Constitution of the USSR, was established in Article 80 of the Constitution of the USSR, the main problem was in Article 81 of the Constitution of the USSR. According to that article, the sovereign rights of the allied republics are protected by the USSR, and in fact sovereignty is excluded. It is not accidental, despite the desire of the USSR, the proposal to grant independent international legal subjectivity to the republics included in it was rejected by the international community at the insistence of the "block", which included the AKP exile government. The supreme power of Article 81 of the Constitution of the USSR has also shown itself in practice. The Commissariat of Foreign Affairs of the USSR, which was abolished in 1922, was restored only in 1944, but its powers were not established in the Constitution of the USSR, and its activity was based on the general rules established by the USSR with foreign countries. As stated in Article 28 of its Constitution, ASSR is guided in its foreign policy activities by the goals, tasks and principles of foreign policy *determined by the Constitution of the USSR* (course-author). Thus, the constitution of the USSR and the constitution of the Azerbaijan SSR prepared in accordance with it were the "legal" form of justification for military aggression. In the Soviet regime, the people of Azerbaijan could not determine their own destiny through free elections. The Azerbaijani people, who were subjected to aggression and constant genocide crimes, did not accept the Soviet regime for 70 years with their regular and numerous struggles, and the USSR was also unable to obtain a legal title in relation to Azerbaijan. Numerous protests by ADRofficials against the occupation of Soviet Russia, the activities of the government in exile, and popular uprisings are evidence that the Soviet puppet governments in Azerbaijan are not legitimate.

The sixth chapter of the dissertation, called **“The national liberation struggle against the military aggression of Russia and the lawless Soviet annexation as the continuity of the power of the Azerbaijani people”**, consists of four paragraphs.

The first paragraph examines national liberation uprisings against Russian military aggression and Soviet rule. It is noted that as

long as the people's ideas of political independence are alive, there is no time limit for the acceptance of the occupation regime (J. Brownlee). It is stated in the preamble of the Constitutional Act on State Independence that ...on April 27-28, 1920, the RSFSR grossly violated the norms of international law, sent parts of its armed forces into Azerbaijan without declaring war, occupied the territory of the sovereign Republic of Azerbaijan, violently overthrew the legally elected authorities..., despite all this, the people of Azerbaijan continued to fight for state independence

The first major national uprisings against the Soviet rule started on May 25-31, 1920. Uprisings against the Soviet rule took place in Ganja, along with Shusha, in Barda, Aghdam, Tartar, Jabrayil, Zangazur and Nakhchivan, Zagatala, Davachi and Gusar districts of Guba district, Shamkir, Gazakh, Nukha, Mughan and other regions. As a result of the anti-Soviet movements in Azerbaijan, the situation became very acute, despite the presence of the 72,000-strong XI Army in Azerbaijan, Russia's decision to send 7 more divisions there showed the extent of the uprisings and resistance movements that covered the entire country against the Soviet government. Although all the anti-Soviet uprisings that took place in Azerbaijan were drowned in blood, these uprisings continued in the following years. During the 1924 years following the April invasion of 1920, a total of 54 armed uprisings against the Soviet occupation regime took place in Azerbaijan. In the following years, smuggling, sabotage and other forms of the resistance movement against the Soviet occupation regime were also tested. These uprisings, which have covered the entire territory of the AKP, are proof that the people of Azerbaijan are not reconciled to the occupation of the country by Russia and are fighting for the restoration of their independence.

In the second paragraph, the changing of the national-moral values, alphabet, deportation and other genocidal crimes are analyzed in order to increase the continuity and ideology of the ADR. It is noted that if the occupation regime is long-term, the continuity of the state may be called into question with the passage of time. However, if the

illegal annexation is accompanied by crimes of mass nature, including crimes against humanity and genocide, then the application of the statute of limitations is not possible. From April 1920 to August 1921, 48,000 people in Azerbaijan, supporters of the Musavat party, became victims of "red Bolshevik terror". Only during the mass repressions carried out in 1937-1938, about 40 thousand Azerbaijanis were brought to criminal responsibility in Azerbaijan, more than 30 thousand of them were sentenced to be shot, imprisoned for a long time and exiled. According to the Hague Convention of 1907, the population of the occupied territory has inalienable rights (art. 42-47). This right was further developed in the Geneva Conventions of 1949. Article 49 of the Fourth Geneva Convention for the Protection of Civilian Population in Time of Military Conflict of 1949 prohibits individual or mass expulsion of dependents from the occupied territory...to any territory... regardless of the reason. In 1948-1953, more than 100 thousand Azerbaijanis were deported from Armenia to Azerbaijan. This process was continued in the following years. According to Article 49 of the 4th Geneva Convention for the Protection of Civilian Population in the Time of Military Conflict of 1949, the occupying power cannot transfer a part of its civilian population to the territory it occupies. Armenians resettled from abroad began to be placed in the places vacated by Azerbaijanis. These are war crimes in violation of the Geneva Conventions of 1949. Crimes against the people of Azerbaijan continued in the following years. In 1988-1991, the last deportation of Azerbaijanis from their historical ethnic lands in the Armenian SSR was carried out. The Hague Convention of 1907, the Geneva Conventions of 1949, and the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 have been systematically violated against the population of Azerbaijan. Due to the international crimes committed against the people of Azerbaijan, the imperialist Russian-Soviet state must be brought to justice.

In the third paragraph, the issue of the transfer of the occupied territories of the Azerbaijan People's Republic to Armenia by Russia

is investigated. It is noted that after Azerbaijan was occupied by Russia and Sovietized, its territories are used as a "donor". Although the decision of the Central Committee of the AK(b)P dated November 30, 1920 and N. Narimanov's statement dated December 1 announced the transfer of the territory of Zangazur and Nakhchivan districts to Soviet Armenia, thanks to Turkey's resistance and determination to Russia, the Moscow government's plan to give Nakhchivan to Armenia is being prevented from coming true. The settlement of the Nakhchivan issue in such a fair way should be considered as an irreplaceable service of Turkish diplomacy to the people of Azerbaijan, as always. The Kars Conference (September 26-October 13, 1921) held between Turkey, Azerbaijan, Georgia and Armenia with the mediation of Russia confirmed the provisions of the Moscow Conference regarding Nakhchivan. However, in the following years, the physical separation of Nakhchivan and Azerbaijan was carried out. By the decree of the Supreme Soviet of the Azerbaijan SSR dated May 7, 1969, the transfer of Nüvedi, Eynazir and Tugut villages to Armenia was approved and their name was removed from Zangilan district. Thus, the villages of Nüvedi, Ernazir and Tugut were transferred to the administrative department of Mehri district, which was created as part of the Armenian SSR. Direct communication between the main part of Azerbaijan and Nakhchivan, and in a broader sense between the Turkic World as a whole, was cut off.

One of the most offensive facts presented by Russia against Azerbaijan was that while Georgia was represented by Georgians and Armenia by Armenians in these negotiations, Azerbaijan was either represented by Russia or the Azerbaijani delegation consisted of Georgians and Armenians. Therefore, after the April 1920 invasion, the territories of Azerbaijan given to these republics by the treaties and agreements signed between Russia and Armenia, as well as between Russia and Georgia and by the decisions of the Caucasus Bureau of the RK(b)P Central Committee, are an illegal annexation from international legal point of view.

In the fourth paragraph, the next stage of occupation of Azerbaijani territories by the military forces of the USSR and its successor, the Russian Federation, is analyzed. It is noted that in November 1988, the three-color flag of the Azerbaijan People's Republic was raised at the rally held in Azadlig Square on November 19, against the request of the Armenians to join Nagorno-Karabakh to Armenia. After the war crime of January 20, 1990, the popular movement deepened, and this movement led to the adoption of the Declaration of August 30, 1991 and the Constitutional Act of October 18, which resulted in the *restoration* of Azerbaijan's independence. Shortly after the Khojaly genocide, Lachin, Kalbajar, Aghdam, Fizuli, Zangilan, and other regions, the Armenian armed forces, which received full support from Russia, occupied 20 percent of the territory of Azerbaijan. Although UN Security Council resolutions 822, 853, 874 and 884 were adopted at the request of Azerbaijan, Armenia did not fulfill the requirements of the resolutions.

In response to Armenia's next attempt at military aggression, the Azerbaijani Army launched a counter-offensive operation on September 27, 2020 and as a result of the Patriotic War, which lasted for 44 days until November 10, 2020, destroyed the Armenian army and liberated the occupied territories of Azerbaijan. The "Iron Fist" operation carried out by the victorious Azerbaijani Army under the leadership of the Supreme Commander, President of the Republic of Azerbaijan Ilham Aliyev, was written in golden letters in the history of the Azerbaijani people, and resulted in the surrender of Armenia, which turned occupation into a state policy. On November 10, 2020, with the "Tripartite Statement of the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation", Aghdam, Kalbajar and Lachin regions were liberated without martyrdom. On November 10, 2020, with the statement of the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation (paragraph 9), the creation of the Zangazur Corridor became a historical necessity. It should be ensured that the

Armenian state, which has planted hundreds of thousands of mines and explosives on the lands of Azerbaijan, is brought to international legal responsibility. Criminal cases related to individual criminal responsibility for numerous war crimes, acts of mass slaughter and genocide committed against Azerbaijan during the conflict by individual officials who acted on behalf of the Armenian state have been initiated. Due to the great socio-economic damage inflicted on Azerbaijan, measures should be continued in the direction of the reparation obligation of Armenia. According to both the Hague Convention Rules of 1907 and the subsequent international law (Geneva law), the Russian side is as responsible as Armenia for the numerous war crimes and acts of genocide committed against Azerbaijan.

The seventh chapter of the dissertation work is called **"The internal legislation of the Republic of Azerbaijan, which justifies the continuity of the Azerbaijan People's Republic"** and consists of three paragraphs.

In the first paragraph, the constitutional foundations of the restoration of the international legal subjectivity of the Republic of Azerbaijan as a result of the continuity of the ADR are analyzed. It is noted that although direct succession is referred to in the Constitutional Act on State Independence of the Republic of Azerbaijan, the concept of identity without continuity comes to the attention of the general content of the Act. In particular, Articles 1 and 3 of the Act provide a solid foundation for identity. In the preamble of the act, it is stated that the state independence of the Republic of Azerbaijan is recognized in the UN Charter,... and hoping for recognition by the UN... it announces that the state independence of the Republic of Azerbaijan has been restored.

Here, it should not be about "recognition of the independence of the Republic of Azerbaijan", but about the recognition of the restoration of independence. According to the last sentence of the preamble, the Ministry of Foreign Affairs of the Republic of Azerbaijan should refer not to the "establishment" of diplomatic

relations with other states, but to the “re-establishment”. At the same time, this result should be taken into account in the name of the Constitutional Act, the name of the Act should be read as “Constitutional Act on the Restoration of State Independence of the Republic of Azerbaijan”. "The Republic of Azerbaijan is the successor of the Republic of Azerbaijan, which existed from May 28, 1918 to April 28, 1920,” expressed in the act (Article 2) should be understood as “the Republic of Azerbaijan is the successor of the Azerbaijan Democratic Republic, which existed from May 28, 1918 to April 28, 1920.” Since the preamble of the constitutions is as important as the preamble of the international treaties, we believe that this content can be given in the Preamble of the Constitution of the Republic of Azerbaijan in a new editorial change such as ... based on the principles reflected in the Act “On the State Independence of the Republic of Azerbaijan” and the fact that the Republic of Azerbaijan is a *successor of the ADR*. The concept of continuity and identity is of legal importance in 1) filing a claim on the reparation and satisfaction obligation of the Russian Federation before the Republic of Azerbaijan for numerous crimes against international law - deportation, war and genocide crimes committed on the territory of the Azerbaijan state; 2) settlement of individual criminal liability of officials for ongoing crimes; 3) ensuring responsibility for illegal expropriation and confiscation of property; 4) in the direction of the return of illegally annexed territories

The second paragraph analyzes the state symbols of the Azerbaijan People’s Republic and the Republic of Azerbaijan: issues of identity that provide a basis for continuity. It is noted that the right arises from the status, which is an indicator of the attitude towards oneself. The Declaration of Independence of the population (people) dated August 30, 1991 and the Constitutional Act dated October 18 refer to the continuity and identity of the former international legal subject of its restored state. The main state symbols are the State flag of the Republic of Azerbaijan, the State coat of arms and the State anthem (Article 23.I of the Constitution of the Republic of

Azerbaijan). The State flag and other attributes of the Republic of Azerbaijan with all its signs are the institution of the ADR. Accepting the main state symbols of the Republic of Azerbaijan under legal protection - the State Flag of the Republic of Azerbaijan, the State Coat of Arms of the Republic of Azerbaijan and the National Anthem of the Republic of Azerbaijan as state symbols of the Azerbaijani Democratic Republic are internal legal means that show the identity of the international legal entity of the Azerbaijani Democratic Republic and the Republic of Azerbaijan. Accordingly, the "succession" expressed in the Constitutional Act on State Independence (Article 2) gives grounds to be read as “continuity”. For the Republic of Azerbaijan, the state symbols of the ADR determine its legal status as evidence of the identity of the international legal subjectivity. Illegal activity does not create rights (H. Kelzen). The long-term occupation of the Azerbaijan Republic or the ADR by Russia and the USSR does not mean the cessation of the existence of this state, and whether or not the illegal annexation of the Azerbaijan People’s Republic by Russia and the USSR is recognized by the international “community” does not constitute a basis for illegal annexation.

The territory of the Republic of Azerbaijan (uti possidetis juris in the case of the Democratic Republic) is determined in the **third paragraph.** It is noted that the Constitutional Act on State Independence, in the example of the modern Republic of Azerbaijan, aims not only to restore the independence of the ADR, but also to justify the continuity of the state by showing the reasons for the loss of statehood in 1920 and the fact that it was subjected to foreign military aggression. In this sense, the principle of uti possidetis juris should be accepted for the ASSR, which was divided without any legal basis during the period of illegal annexation. According to international law (Appendix of the Hague Convention of 1907, art. 42 - according to the principle of “the sovereignty of the occupied territory does not pass to the occupying state”), the determination of borders by the principle of uti possidetis juris is valid not in relation to

the Republic of Azerbaijan, but in relation to the ASSR. The territory of 86.6 thousand km2, which is currently under the actual sovereignty of the Republic of Azerbaijan, is the result of military occupation. According to the official information of the Azerbaijan government published in the "Address-calendar" of 1920, 97,297.67 km^2 of the 113,895.97 km^2 territory of the ADR was its undisputed territory. Only the area of 16598.30 km^2 was disputed. The territory-border (peace) agreement to be concluded between the Republic of Azerbaijan and Armenia states that the 97.3 km^2 undisputed territory of the Republic of Azerbaijan should be recognized unconditionally for the Republic of Azerbaijan as well. The 97.3 km^2 undisputed territory of the Azerbaijan People's Republic was also declared at the Versailles conference, before the illegal annexation of the RSFSR, the borders of the AKP was recognized by the agreements signed with the bordering Ottoman state, Georgia, Iran, and the Republic of Highlanders, was guaranteed by the Hague Convention of 1907, the Statute of the League of Nations, which came into force on January 10, 1920 (Article 10). The concept of the "generally accepted" territory of Armenia, which was changed by the Russian occupation of 1920 and created by the collapse of the USSR in 1991, is not valid from the point of view of international law. Territorial border recognition for Armenia by the Republic of Azerbaijan can be possible only as a result of the popular vote of the Azerbaijani people.

In the conclusion of the dissertation, the results obtained as a conclusion of the research are defined in 9 points:

1. Although APR, established at the beginning of the 20th century, has lost its form (identity), it has not lost its subjectivity under international law. During the period of illegal annexation, the sovereignty of the state remained with the people of Azerbaijan (in its scientific centers), including the government-in-exile, which gained the right to speak on its behalf. With the restoration of state independence, the Republic of Azerbaijan restored the international legal subjectivity of APR through its population (nation).

2. The law of the period of occupation creates fundamental norms for the modern international security law and maintains strict guarantees for the return of the illegally annexed territories of the Republic of Azerbaijan. In particular, facts such as the recognition of the IV Hague Convention of 1907 by the USSR, the successor of Soviet Russia, the customary law nature of the norms of that convention, and the fact that the violation continues today, the ethnic, historical and ethnic history of APR, whose territory was divided as a result of aggression, is now its legal successor. Based on geographical criteria, it gives a full legal basis to its claim against Armenia and the Russian Federation for the return of the territories of the Republic of Azerbaijan.

3. The Hague Convention of 1907, the Geneva Conventions of 1949, and the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 have been systematically violated against the people of Azerbaijan. These are the norms that the leaders of Nazi Germany were tried for violating at the Nuremberg military tribunal at the end of World War II. Within the framework of the international law responsibility of Nazi Germany, its reparation obligation was ensured for the damage caused, and the "dismantling" of the state's territory and power was carried out. According to the Hague Convention of 1907 and the Geneva Convention of 1949, the obligation of reparation has been determined for the state that caused damage. We believe that the imperialist Russian-Soviet government should be judged for the international crimes it committed against the people of Azerbaijan.

4. In the Constitutional Act of October 18, 1991 on the State Independence of the Republic of Azerbaijan, the identity of the Republic of Azerbaijan is terminologically uncertain, as in the case of the Baltic states. Although direct succession is referred to in the Constitutional Act on State Independence of the Republic of Azerbaijan (the Republic of Azerbaijan is the successor of the Republic of Azerbaijan, which existed from May 28, 1918 to April 28, 1920) the conclusion from the general content of the Act is that, the

modern Republic of Azerbaijan is the successor of Azerbaijan People's Republic, that is, at least the concept of identity without continuity comes to mind. In particular, stated in Article 1 of the Constitutional Act, "On April 27-28, 1920, the invasion of Azerbaijan by the XI Army of the RSFSR, the occupation of the territory of the republic, the overthrow of Azerbaijan People's Republic, which is the subject of international law, and the occupation of independent Azerbaijan by Russia (course- author.) should be considered" as well as the article 3 on considering "the part of the agreement on the organization of the USSR dated December 30, 1922 concerning Azerbaijan was signed..." creates a full basis for identity.

5. The preamble of the Constitutional Act of October 18, 1991 on State Independence of the Republic of Azerbaijan directly refers to the Declaration of Independence adopted by the Azerbaijan National Council on May 28, 1918, which was the basis for the declaration of Azerbaijan People's Republic. The Supreme Soviet of the Republic of Azerbaijan ensured the restoration of state foundations... based on the inheritance (should be read continuity, but not ingeritance-author) of the democratic principles and traditions of the Republic of Azerbaijan in the Declaration of Independence adopted by the National Council of Azerbaijan on May 28, 1918.

6. One of the uncertainties is again in the preamble of the Constitutional Act of October 18, 1991 on the State Independence of the Republic of Azerbaijan. It is noted that hoping for the recognition of the state independence of the Republic of Azerbaijan by the states that are members of the international community and the United Nations in accordance with the principles established in the Charter of the United Nations, other international legal pacts and conventions... by declaring that the state independence of the Republic of Azerbaijan has been restored. Nevertheless, it is not about the recognition of the state independence of the Republic, but about the recognition of the restoration of independence. According to the last sentence of the preamble, the Ministry of Foreign Affairs of the Republic of Azerbaijan should refer not to the "establishment" of diplomatic

relations with other states, but to the "re-establishment". At the same time, this result should be taken into account in the name of the Constitutional Act of October 18, 1991 on the State Independence of the Republic of Azerbaijan, the name of the Constitutional Act should be read as "Constitutional Act of October 18, 1991 on the Restoration of the State Independence of the Republic of Azerbaijan".

7. The lack of direct reference to the institution of continuity in the legislation of the Republic of Azerbaijan can be linked to the problem of staff shortages under international law. As it is known, personnel training in the specialty "international relations and international law" in the Republic of Azerbaijan was started only after the restoration of state independence, in 1991. During the USSR period, Azerbaijanis were either not admitted to the "international relations and international law" specialty training, or were admitted with special exceptions. The opinion expressed in the Constitutional Act of October 18, 1991 (art. 2) on State Independence of the Republic of Azerbaijan - "The Republic of Azerbaijan is the successor of the Republic of Azerbaijan, which existed from May 28, 1918 to April 28, 1920" should be understood as the successor of Azerbaijan People's Republic, which existed from May 28, 1918 to April 28, 1920. Since the preamble of the constitutions is as important as the preamble of the international agreements, we believe that this content should be included in the Preamble of the Constitution of the Republic of Azerbaijan based on the principles reflected in the Constitutional Act "On the State Independence of the Republic of Azerbaijan" and the fact that the Republic of Azerbaijan is the successor of Azerbaijan People's Republic..." can be given in editorial change.

8. The Agreement on the establishment of the CIS of December 8, 1991, which seems to be the basis for agreement at the level of the United Nations Organization ("recognition and respect of the inviolability of the existing borders and territorial integrity of each other within the framework of the union of the high parties to the agreement" (art. 5) obligation cannot be accepted as a basis for recognizing the territorial change created in the period after the

military aggression because it contradicts the Constitutional Act of October 18, 1991 on the State Independence of the Republic of Azerbaijan (art. 2).

9. When the Republic of Azerbaijan restores its state independence, it is based on the succession of Azerbaijan People's Republic (Constitutional Act of October 18, 1991 on the State Independence of the Republic of Azerbaijan (art. 2)) that includes territorial boundaries. The territory of 86.6 thousand km2, which is currently under the actual sovereignty of the Republic of Azerbaijan, is the result of military aggression. According to the official information of the Azerbaijan government published in the "Address-calendar" of 1920, 97297.67 km2 of the 113895.97 km2 territory of Azerbaijan People's Republic was its undisputed territory. Only the area of 16598.30 km2 was disputed. The territory-border (peace period) agreement between the Republic of Azerbaijan and Armenia stipulates that the 97.3 km2 undisputed territory of Azerbaijan People's Republic should be recognized unconditionally for the Republic of Azerbaijan as well. The 97.3 km2 undisputed territory of Azerbaijan People's Republic was also declared at the Versailles conference of that state, before the illegal annexation of the RSFSR, the borders of Azerbaijan People's Republic were recognized by agreements signed with the bordering Ottoman state, Georgia, Iran, and the Mountainous Republic, except for the "project state" Armenia. It came under the protection of the Statute of the League of Nations (Article 10), which came into legal force on January 10, 1920, and the 1907 Hague Convention on the Law and Customs of War on Land. The concept of "generally accepted" territory of Armenia, which was changed by the Russian occupation of 1920 and created by the collapse of the USSR in 1991, is not valid from the point of view of international law. Territorial border recognition for Armenia by the Republic of Azerbaijan can be possible only as a result of the popular vote of the Azerbaijani people. By accepting the existing borders (restitutio integrum) before Russia's military aggression against

Azerbaijan People's Republic, the international legal order should be ensured.

The main provisions of the dissertation are reflected in the following scientific works of the applicant:

1. Dövlətlərin varisliyi anlayışı, nəzəriyyələri və hüquqi əsasları // - Bakı: Azərbaycan hüquq jurnal, - 2021. №3, -s. 134-145
2. Dövlətin hüquq varisliyi: nəzəri və praktiki aspektlər // - Bakı: Dövlət idarəçiliyi: nəzəriyyə və təcrübə jurnalı, -2021 . №4 (76) - s. 229-238
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4. Dövlətlərin hüquq varisliyi üzrə praktika (tabula rasa, uti possidetis juris, kontinuitet) // - Bakı: Dövlət idarəçiliyi: nəzəriyyə və təcrübə jurnalı, - 2021. №4 (76), - s. 255-265
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21. Analysis of Russia's Military Aggression against the Azerbaijan People's Republic from the International Legal Perspective // Ukraine: AJEE Access to justice in Eastern Europe Journal,- 2023. №2(19)- p. 1-16

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