

# THE NEED FOR ADDITIONS TO THE “CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIMES OF GENOCIDE” DATED DECEMBER 9, 1948, TAKING INTO ACCOUNT THE FACTS OF THE ARMENIAN GENOCIDE

LILIT HOVHANNISYAN

National Academy of Sciences of the Republic of Armenia  
International Scientific Educational Center  
Institute of History  
Department of History of the Armenian Question and  
Genocide of Armenians, Senior Researcher  
PhD in Historical Sciences, Associate Professor  
[lilit.hovhannisyan@isec.am](mailto:lilit.hovhannisyan@isec.am)

DOI: 10.54503/2579-2903-2023.2-81

## Abstract

The Armenian Genocide is one of the heaviest crimes against humanity. It is also the wound of the Armenian people that won't heal. Along with remembering the pain suffered, the Armenian Genocide obliges Armenian people to fight for the sake of Armenian national security and the restoration of national just rights – compensation for the territorial, material, moral and psychological damages of the Genocide.

When the Turkish authorities were planning and implementing the plan to exterminate the Armenian people, the concept of “genocide” did not exist yet. The only section of international law whose norms were corresponding to the actions taken against the Armenians during the Armenian Genocide was the law of war and peace, with the relevant Hague conventions adopted in 1899 and 1907.

After World War II, on December 9, 1948, the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide. In it, genocide means any of the following five acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group. All these acts characterizing the genocide fully correspond to the methods used for the physical extermination of Armenians during the Armenian Genocide in 1915-1916. Nevertheless, the existence of the Convention had no (and continues to not have) practical significance in preventing the crimes of genocide that occurred in the 20th century and are happening now, as well as in bringing the politicians and states respectively to a criminal and political responsibility because the document has significant flaws.

In this work, the shortcomings of the Convention are examined on the example of the Armenian Genocide, which justify the need to revise the document. In particular, the question of determining the political responsibility of the state for the genocide, regardless of the statute of limitations, the right of the victims of the genocide to receive compensation,

including and first of all the right to return to the homeland, the need to provide punishment for forcibly deporting the population from their homeland and carrying out national-cultural genocide, has been examined.

The incompleteness of the provisions of the Genocide Convention affects the process of international recognition and condemnation of the fact of the Armenian Genocide, because it allows states to bypass the well-known principles and norms of international law, formally justifying this approach with the shortcomings of the document in question.

**Keywords and phrases:** Armenian Genocide, United Nations, international law, Genocide Convention, deportation, crime against humanity and civilization, Armenian question, Armenian claims under international law.

**1948 թ. ԴԵԿՏԵՄԲԵՐԻ 9-Ի «ՑԵՂԱՍՊԱՆՈՒԹՅԱՆ  
ՀԱՆՑԱԳՈՐԾՈՒԹՅՈՒՆԸ ԿԱՆԽԵԼՈՒ ԵՎ ԴՐԱ ՀԱՄԱՐ ՊԱՏԺԻ ՄԱՍԻՆ  
ԿՈՆՎԵՆՑԻԱՆ» ԼՐԱՑՆԵԼՈՒ ԱՆՀՐԱԺԵՇՏՈՒԹՅՈՒՆԸ ՀԱՅՈՑ  
ՑԵՂԱՍՊԱՆՈՒԹՅԱՆ ՓԱՍՏԱԿԱՆ ՀԵՆՔԻ ՎՐԱ**

**ԼԻԼԻԹ ՀՈՎՀԱՆՆԻՍՅԱՆ**

ՀՀ Գիտությունների ազգային ակադեմիայի  
գիտակրթական միջազգային կենտրոն,

ՀՀ ԳԱԱ պատմության ինստիտուտի

Հայկական հարցի և Հայոց ցեղասպանության պատմության

բաժնի ավագ գիտաշխատող,

պատմական գիտությունների թեկնածու, դոցենտ

[lilit.hovhannisyan@isec.am](mailto:lilit.hovhannisyan@isec.am)

**Համառոտագիր**

Հայերի ցեղասպանությունը մարդկության դեմ ուղղված ամենածանր հանցագործություններից է: Այն նաև հայ ժողովրդի չսպիացող վերքն է, որը պարտավորեցնում է կրած ցավը հիշելու հետ մեկտեղ՝ պայքարել հանուն մեր ազգային արդար իրավունքների վերականգնման՝ հայ ժողովրդի կրած տարածքային, նյութական, բարոյական, հոգեբանական վնասների հատուցման, հանուն մեր ազգային անվտանգության ապահովման:

Երբ թուրքական իշխանությունները ծրագրում էին հայ ժողովրդի բնաջնջման ծրագիրը և գործադրում այն, «ցեղասպանություն» հասկացությունը դեռևս գոյություն չուներ: Միջազգային իրավունքի միակ բաժինը, որի նորմերը համապատասխանում էին Հայոց ցեղասպանության ընթացքում հայերի նկատմամբ կատարված գործողություններին, պատերազմի և խաղաղության իրավունքն էր՝ դրան վերաբերող Հաագայի 1899 և 1907 թվականներին ընդունված կոնվենցիաներով:

Երկրորդ համաշխարհային պատերազմից հետո՝ 1948 թ. դեկտեմբերի 9-ին Միավորված ազգերի կազմակերպության Գլխավոր ասամբլեան ընդունեց «Յեղասպանության հանցագործությունը կանխելու և դրա համար պատժի մասին» կոնվենցիան: Դրանում ցեղասպանությունը բնութագրող հինգ գործողությունները՝ այս կամ այն ազգային, էթնիկական, ռասայական կրոնական խումբը լրիվ կամ մասնակի ոչնչացնելու նպատակով նրա անդամների սպանությունը, խմբի անդամներին լուրջ մարմնական վնասվածք կամ մտավոր խանգարում պատճառելը, խմբի համար այնպիսի կենսապայմանների կանխամտածված ստեղծումը, որոնց նպատակն է այդ խմբի լրիվ կամ մասնակի ֆիզիկական բնաջնջումը, այդպիսի խմբում ծնելիության կանխմանն ուղղված միջոցառումները, երեխաների հարկադրական փոխանցումը մարդկանց մի խմբից մեկ ուրիշին, լիովին համապատասխանում են 1915-1916 թթ. Հայոց ցեղասպանության ընթացքում հայերի ֆիզիկական բնաջնջման նպատակով գործադրված մեթոդներին: Այդուհանդերձ, Կոնվենցիայի առկայությունը գործնական նշանակություն չի ունեցել և չունի XX դարում տեղի ունեցած ու ներկայումս տեղի ունեցող ցեղասպանության հանցագործությունները կանխելու կամ դրանց համար պատասխանատու պետական-քաղաքական գործիչներին և պետություններին համապատասխանաբար քրեական ու քաղաքական պատասխանատվության ենթարկելու գործում, քանի որ նրանում առկա են էական թերություններ:

Սույն աշխատանքում Հայոց ցեղասպանության օրինակով քննության են առնված Կոնվենցիայի թերությունները, որոնք հիմնավորում են փաստաթուղթը վերանայելու անհրաժեշտությունը: Մասնավորապես, քննության է առնված ցեղասպանության համար, անկախ վաղեմության ժամկետից, պետության քաղաքական պատասխանատվություն սահմանելու, ցեղասպանության հետևանքով տուժածի հատուցում ստանալու իրավունքը՝ ներառյալ և նախևառաջ Հայրենիք վերադառնալու իրավունքը, իր հայրենիքից բնակչությանը բռնի տեղահանելու և ազգային-մշակութային ցեղասպանություն իրականացնելու համար պատիժ նախատեսելու անհրաժեշտության հարցը:

Յեղասպանության մասին կոնվենցիայի դրույթների թերի լինելն ազդում է Հայոց ցեղասպանության փաստի միջազգային ճանաչման ու դատապարտման գործընթացի վրա, քանի որ հնարավորություն է տալիս պետություններին շրջանցելու միջազգային իրավունքի հանրաճանաչ սկզբունքներն ու նորմերը՝ այդ մոտեցումը ձևականորեն արդարացնելով խնդրո առարկա փաստաթղթի թերություններով:

**Բանալի բառեր և բառակապակցություններ.** Հայոց ցեղասպանություն, Միավորված ազգերի կազմակերպություն, միջազգային իրավունք, Յեղասպանության մասին կոնվենցիա, տեղահանություն, հանցագործություն ընդդեմ մարդկության և քաղաքակրթության, Հայկական հարց, Հայոց պահանջատիրություն:

## **НЕОБХОДИМОСТЬ ДОПОЛНЕНИЙ К “КОНВЕНЦИИ О ПРЕДУПРЕЖДЕНИИ ПРЕСТУПЛЕНИЯ ГЕНОЦИДА И НАКАЗАНИИ ЗА НЕГО” ОТ 9 ДЕКАБРЯ 1948 ГОДА С УЧЕТОМ ФАКТОВ ГЕНОЦИДА АРМЯН**

**ЛИЛИТ ОГАНИСЯН**

Национальная академия наук Республики Армения  
Международный научно-образовательный центр  
Институт истории  
старший научный сотрудник  
отдела истории Армянского вопроса и Геноцида армян  
кандидат исторических наук, доцент  
[lilit.hovhannisyan@iscc.am](mailto:lilit.hovhannisyan@iscc.am)

### **Аннотация**

Геноцид армян является одним из самых тяжких преступлений против человечества. Он является также незаживающей раной армянского народа, которая обязывает его, не забывая о перенесенной боли, ради обеспечения национальной безопасности бороться за восстановление армянских национальных справедливых прав - возмещение территориального, материального, морального и психологического ущерба, нанесенного армянскому народу в результате геноцида.

Когда турецкие власти планировали и осуществляли уничтожение армянского народа, понятия «геноцид» еще не существовало. Единственным разделом международного права, нормы которого соответствовали действиям, предпринятым против армян во время Геноцида, было право войны и мира с соответствующими Гаагскими конвенциями, принятыми в 1899 и 1907 годах.

После Второй мировой войны, 9 декабря 1948 г. Генеральная Ассамблея Организации Объединенных Наций приняла Конвенцию о предупреждении преступления геноцида и наказании за него. В нем геноцид означает любое из следующих пяти действий, совершенных с намерением уничтожить, полностью или частично, национальную, этническую, расовую или религиозную группу, как таковую: (а) убийство членов группы; (б) причинение серьезного телесного или психического вреда членам группы; (в) умышленное создание для группы условий жизни, рассчитанных на полное или частичное ее физическое уничтожение; (г) введение мер, направленных на предотвращение рождаемости внутри группы; (д) принудительный перевод детей из группы в другую группу. Эти действия, характеризующие геноцид, полностью соответствуют методам физического

уничтожения армян во время Геноцида 1915-1916 годов. Тем не менее, существование Конвенции не имело и не имеет никакого практического значения в предотвращении преступлений геноцида, имевших место в XX веке и совершающихся сейчас, а также в привлечении соответственно политиков и государств к уголовной и политической ответственности, поскольку документ имеет существенные недостатки.

В данной работе на примере Геноцида армян рассматриваются недостатки Конвенции, которые обосновывают необходимость пересмотра документа. В частности, рассмотрены вопросы об определении политической ответственности государства за геноцид вне зависимости от срока давности, права жертв геноцида на получение компенсации, в том числе и в первую очередь право на возвращение на Родину, также рассмотрена необходимость предусмотрения наказания за насильственное изгнание населения с родины и осуществление национально-культурного геноцида.

Неполнота положений Конвенции о Геноциде влияет на процесс международного признания и осуждения факта Геноцида армян, так как позволяет государствам обходить общеизвестные принципы и нормы международного права, формально оправдывая такой подход недостатками рассматриваемого документа.

**Ключевые слова и словосочетания:** Геноцид армян, Организация Объединенных Наций, международное право, Конвенция о Геноциде, депортация, преступление против человечества и цивилизации, Армянский вопрос, Армянские требования по международному праву.

## **Introduction**

The long and onerous path of humanity has been full not only of creative work, but, unfortunately, of breaking the laws and customs of war: outright cruelty to captives, enslavement of the population of the occupied territories, genocide, colonial exploitation, apartheid, torture of innocent citizens, looting of state or private property, persecution due to political, military or religious motives, terrorist acts of destruction of the environment and nowadays, also with the facts of international terrorism [1, p. 137]. From the point of view of international law, those actions are crimes against humanity that endanger international peace and the peaceful coexistence of peoples [2, p. 247-253].

From the point of view of international responsibility law and in international practice these are defined as state crimes. However, genocide differs significantly from other methods of extermination man by man not only in its nature but also in the way it is carried out. First of all, genocide is a particular and cruel manifestation of nationalism, then it is a way for the forces pursuing a great state policy to solve a certain problem or problems. Therefore, genocide presupposes a specific plan of action, that is, a clear definition of the methods of annihilation, the timeframe, the area of implementation, the responsibilities of the perpetrators and their overseers, the comprehensive implementation of the plan, its ideological justification, and so on.

The Armenian Genocide is one of the gravest crimes against humanity, which began in the late 19<sup>th</sup> century in the Ottoman Empire at the level of state policy to exterminate the Armenian people as a national and religious group, to depopulate Armenia, then continued until the 1920s of the 20<sup>th</sup> century reaching its peak in 1915-1916.

### **Methodological basis**

Archival and international legal documents, historical and juridical fundamental works on the topic are the theoretical basis of this study.

The research was carried out using historical-genetic, retrospective, historical-comparative, historical-systematic and terminological methods.

### **Results and Discussion of the findings**

The concept of genocide did not yet exist when the destruction of the Armenian people was planned and implemented. The Armenian Genocide was described as the massacre of Armenians, the physical destruction or annihilation of Armenians, severe measures against Armenians, or Armenian horrors. At that time, instruments establishing international legal principles and norms relating to the protection of human rights, the self-determination of nations and genocide had not yet been elaborated. The only section of international law whose norms were consistent with the actions taken against Armenians during the Armenian Genocide was the right to war and peace under the Hague Conventions of 1899 and 1907. According to the latter, the implementation of military operations against the unprotected objects of the civilian population was forbidden, the use of means of mass destruction was also prohibited. As for the choice of means of fighting the enemy, according to the conventions, the warring countries had to provide certain conditions, exclude murders and violence, even during inevitable and permitted deportation. However, in the case of the Armenian Genocide, when the physical destruction of the Armenian element was the goal of the Turkish authorities, the provision of even basic conditions was impossible. It is also no coincidence that in the first document officially condemning the Armenian Genocide, in a joint statement of 24 May, 1915, the governments of Great Britain, France and Russia described the deportation and massacres of Armenians taking place “with the obvious and often even with the direct support of the Ottoman authorities” as “a crime against humanity and civilization.” The statement was notable for the fact that the Allies publicly and collectively placed personal responsibility on all members of the Turkish government for the crime committed, as well as on local government officials who participated in the massacres [3, sh. 149a, 4, sh. 30, 5, doc. from 02.06.1915, R. 14086, Ab. 17667, 6, p. 981]. However, the question of the resulting punishment was not discussed and the Entente governments did not take any steps in this direction. The world's indifference and silence towards the Armenian tragedy had no less tragic consequences. They freed the hands of the criminals of fascist Germany.

The prerequisites for presenting the issue of the Armenian Genocide from an international legal point of view were created after the Second World War. During the Nuremberg Trials of fascist war criminals (October 20, 1945 - October 1, 1946) the

revelation of the genocide of Jews, Slavs, Gypsies and other ethnic groups by German invaders in Europe made the adoption of the Genocide Convention inevitable and accelerated its development. On December 9, 1948, exactly 33 and a half years after the start of the Armenian Genocide, which is the first genocide of the 20th century, UN General Assembly unanimously adopted the Convention on Prevention and Punishment of the Crime of Genocide, which entered into force in January 12, 1951.

The Jewish jurist Rafael Lemkin, who was the advisor of the US prosecutor during the Nuremberg trials, played a significant role in the development and adoption of the Convention, and he introduced the concept of “genocide” in relation to Hitler's crime of annihilating the Jews in Germany [7]. It should be noted that Lemkin, as genocide, meant, first of all, the extermination of Armenians in their homeland, in Western Armenia, which was part of the Ottoman Empire, and in the Armenian-inhabited regions of the Turkish state during World War I, and then only the Holocaust both in Nazi Germany on the eve of World War II and in European countries occupied by the Nazis during war.

The convention in question is a fundamental international legal document defining genocide, aimed at preventing possible genocide and setting punishment for already committed genocide. Later accepted documents defining certain international legal standards revealing the phenomenon of genocide, in particular the 4 Geneva Conventions (1949-1950) and their protocols (1977-1979), the Universal Declaration of Human Rights (December 10, 1948), the International Covenant on Economic, Social and Cultural Rights (December 19, 1966), the International Covenant on Civil and Political Rights (December 19, 1966), The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (November 26, 1968), December 12, 2001 UN General Assembly 56/589 Resolution and Articles on Responsibility of States for Internationally Wrongful Acts do not diminish the importance of the Genocide Convention at all [8, 9]. It is no coincidence that the number of 41 countries of the world that have signed the Convention on the Prevention and Punishment of the Crime of Genocide has not only not decreased over the past decades, but has actually increased. As of July 18, 2007, 140 countries, including Turkey (July 31, 1950), Armenia (June 23, 1993) and Azerbaijan (August 16, 1996), are parties to the Convention [10, p. 277]. And as of 2016, 146 States have now acceded to the Convention [11, p. 70].

The Convention on the Prevention and Punishment of the Crime of Genocide consists of 19 articles [7]. The most important thing in this document, perhaps, is Article 2. It defines the most serious crime against humanity - genocide, which means the following five actions with the intention of destroying this or that national, ethnic, racial or religious group as such, in whole or in part:

- Killing members of the group;
- Causing serious bodily or mental harm to members of the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Imposing measures intended to prevent births within the group,

- Forcibly transferring children of the group to another group.

Each of these acts is considered genocide, regardless of the existence of the other acts.

Thus, the convention defines genocide based on the essence and goals of the crime and not on the scale of the actions or the number of victims. This convention fully applies to the Armenian Genocide, as the above five acts are a direct and legally clear description of the crimes committed against the Armenians by the Turkish authorities. In this sense, the Armenian Genocide can be recognized as the most complete genocide in the history of mankind.

The documents written by the Turkish rulers themselves, as well as German and Austro-Hungarian diplomatic documents undeniably prove that the physical extermination of the Armenians was the purpose of their deportation carried out by the Young Turks and the anti-human measures complementary to it [12, 5, 13]. Back in 1916, on the occasion of the inhumane actions against the Armenians, Johannes Lepsius, a theologian and the president of the German-Armenian Society, noticed: “The deportations of one and a half million inhabitants scattered in all parts of the empire can in no way be justified on military grounds. The only explanation that does not allow us to see an unnatural act in this government measure is that it was a domestic policy program that aimed to annihilate the Armenian ethnic element in a premeditated and coldly calculated way.” And in the same year Henry Morgenthau, who was the ambassador of US - a country pursuing a neutral policy towards the war, in Constantinople, wrote: “The real purpose of the deportation was looting and destruction. In fact, it was a new method of extermination: when the Turkish authorities gave the order for these deportations, in fact, they were issuing a death sentence for an entire nation.”

As it is known, as a result of the genocide, about 1.5 million Armenians were massacred in Western Armenia and the Armenian-inhabited areas of Turkey, deported and exterminated in the deserts of Mesopotamia due to hunger, epidemics, physical and mental suffering, which was two-thirds of Western Armenians and one-third of the total number of Armenians. According to the orders of the Turkish authorities, about 60,000 Armenian men aged 18-45 - the most vibrant and hardworking part of the Armenian people, serving in the Turkish army, also the Armenian intelligentsia - the enlightening, organizing and leading force of the people, were killed with special brutality. During the World War I, the unarmed and defenceless Armenian population at home, far from the war fronts, suffered as many losses as Great Britain, Italy and the USA together on the European and Asian war fronts [14, p. 182]. But that was not the end of the atrocities. About 200,000 Armenians, mostly children, were forcibly Islamized [15, p. 360-361]. The genocide was followed by a massive wave of deportations. Unfortunately, it should be noted that in 1915-1916, approximately one million Armenians were scattered throughout the world [16, p. 776]. Along with all this, the spiritual and material values created by the Armenians in Western Armenia were destroyed and looted [4, sh. 49, 17, p. 291-292]. The Armenian people lost most of their homeland.

The aftermath of the Armenian Genocide has not yet been overcome. In this sense, it continues nowadays. And since the Genocide Convention aims to prevent and punish the



total or partial annihilation of a national group, therefore, the continuation of the Armenian Genocide, which began at the end of the 19th century, means that we are dealing with a continuous violation of the Convention. It should also be noted that according to the fundamental legal principle, if the offense and its consequences are ongoing, then the time when the offense began is not legally significant for the application of the relevant law. In other words, the prohibition of retroactive effect of the law is not applicable in this case [1, p. 145]. From this point of view, the Genocide Convention complements Article 1 of the November 26, 1968 UN General Assembly Convention “On the Non-Application of the Statute of Limitations to War Crimes and Crimes Against Humanity,” according to which the statute of limitations cannot be applied in connection with the crimes specified in the Nuremberg Tribunal Statute and the Genocide Convention, as well as deportation due to an armed attack, regardless of the time of their execution [1, p. 145].

If the adoption of the Genocide Convention was necessary in the 1940s, the threat of genocide is still present today. Therefore, the task of protecting humanity from new manifestations of the crime of genocide is urgent. From this point of view, the convention with its current content does not provide full legal and political conditions to achieve the international recognition and condemnation of the committed or ongoing genocide, the punishment of those guilty of the genocide, compensation for the territorial, material and moral damages caused by the genocide. The problem refers, in particular, to the Armenian Genocide. In order for the convention to serve its goals practically, it is necessary to revise it in order to improve the content of the document, to enrich it with new provisions.

From the point of view of satisfying the Armenian Cause, Armenian claims under international law, this problem is urgent, because:

1. According to the convention, it is not the state that is considered guilty of genocide, but the individual statesmen who organized and carried out the genocide. The mentioned document is limited to the provision on the possibility of state responsibility for genocide, which is fixed in Article 9. In fact, the issues of the responsibility of a state as a subject of genocide, content of state responsibility, unfortunately, have not yet been elaborated in detail, although the principle of political responsibility of the state for the annihilation of an entire nation and the norms deriving from it were formed in international law before the adoption of the Genocide Convention. And this is the case when the Convention is nothing more than a codification of international legal norms that already existed before its adoption. On the basis of these norms the Nuremberg trials were held and the corresponding verdicts against the fascist leaders were made. Therefore, the above wording is one of the fundamental flaws of the Convention, which can be used by a state that has committed an international crime to escape responsibility.

2. Genocide is state policy and is carried out by state means (army, police, gendarmerie, fanatic mob). Individuals - high-ranking statesmen and their subordinate officials - implement state policy as authorized persons and on behalf of the state. Prominent international jurists such as Helen Fine, Irving Louis Horowitz and Robert Melson have noted this and criticized the shortcoming of the Convention [18, p. 314]. They consider that the State should be recognized as a criminal for genocide, regardless of the age of the crime,

and therefore, the change of the regime. The Turkish state is responsible for the Armenian Genocide as the organizer and perpetrator of the crime. As long as the issue of responsibility for the Armenian Genocide is not finally resolved, it is difficult to talk about the effectiveness of the norms of international law prohibiting the genocide.

3. International law is also extremely incomplete because the document condemning and punishing the genocide does not mention the right of the victim to receive compensation. According to international law, as a result of the genocide, most Armenians have lost their homes, became apatrids, who have the right to compensation, particularly in terms of reclaiming the occupied hearth and looted property or returning to their homeland. But the Diaspora and the entire Armenian people can't be claimants as long as the international law in this matter is incomplete and needs to be supplemented. The Convention on the Prevention and Punishment of the Crime of Genocide needs by the demand of justice to be supplemented with the provision on territorial, material, moral and psychological reparation of the deportees, but first of all with the provision of recognizing of their right to return to their homeland with no statute of limitations.

4. It is also necessary to establish punishment for such actions as the forced displacement of the population from its homeland with the aim of annihilating it, and the carrying out of ethno-cultural genocide. In 1915-1916, deportation was the main method of physical extermination of Armenians and eviction of Armenians from Armenia, which was used by the Young Turk authorities consistently and with all cruelty. In addition, the genocide of a national, ethnic, racial or religious group presupposes the destruction of the culture of that group, as culture is the unique passport of each society, the evidence of its identity and certain rights to the homeland. Therefore, the destruction of national culture not only accompanies the physical annihilation of the national group, but, being more inclusive, continues even after that, as in the case of the Armenian Genocide, when the destruction of Armenians in Western Armenia and in the territories occupied from Eastern Armenia, the destruction of Armenian culture continues in an open but most carefully disguised way. It pursues a certain goal - to put an end to all evidence of the existence of the exterminated group to substantiate the rights of the occupier to the occupied territory. Today, this issue is compounded by the cultural genocide committed by the Azerbaijani authorities in the occupied territories of the Artsakh Republic in 2020 with the indifference and tolerance of the international community and organizations, when the Armenian historical and cultural monuments are consistently destroyed, the place names are Azerbaijaniized, their Armenian origin and history are falsified and distorted.

The incompleteness of the provisions of the Genocide Convention affects the process of international recognition and condemnation of the fact of the Armenian Genocide, because it allows states to bypass the well-known principles and norms of international law, formally justifying this approach with the shortcomings of the document subject matter. For that reason, perhaps, until now, no state has recognized the fact of the Armenian Genocide along with the recognition of its Armenian victims' claims under international law. Moreover, it should be taken into account that the efforts to codify the international legal norms defining the political responsibility of a state for genocide, both in general and in relation to the

specific action, within the framework of the UN, to generalize the existing experience and to eliminate the existing shortcomings may face the unfriendliness or open resistance of some states. This is due to the peculiarity of international law, which is formed and improved by the joint efforts of the states of the world. The political interests and contradictions of influential states have a significant impact on this process. [19, p. 127-131]. It should also be noted that, taking advantage of the shortcomings in international law in the issues of genocide prevention and condemnation, yet in the middle of the last century, official Ankara put into circulation the view that, allegedly, in Turkey, not a genocide of Armenians took place, but an intercommunal struggle between Christian Armenians and Muslims. Moreover, the human losses of Armenians were justified by the war situation. It was even mentioned that as a result of that struggle, more Muslims died than Armenians.

In addition, as a result of the above-mentioned deficiencies in international law, the Armenian Genocide is still ongoing, and the genocidal state, Turkey, the successor of the Ottoman Empire, has not yet accepted its guilt and has not been subjected to political responsibility. At the same time, not only have the consequences of crime not been eliminated, but their destructive effects continue. During the past 100 years, generation of survivors of the Armenian Genocide have come and gone with the desire of returning to their homeland, and genocide victims and their descendants are tired of waiting for historical justice to be restored. The longer the time goes, the weaker the memory of the past becomes, the greater the risk of the Armenian Genocide becoming one of the forgotten genocides in the world.

It should also be taken into account that the Armenians survived the genocide over the past century, were scattered all over the world, also their descendants not only settled down, but were already fundamentally strengthened in different countries. It will be difficult for many of them to return to their homeland, especially since the Armenian society, both in Armenia and abroad, unfortunately does not show such zeal in this matter as the Jews once showed and continue to show. Moreover, the rapid and increasing emigration from Armenia abroad in recent decades is already a serious threat to Armenian statehood and national security, and therefore to Armenian just claims under international law.

The problem is further complicated by the fact that the Kemalist regime of Turkey, and also the current authorities, have used and use the time skillfully to the detriment of the Armenian national-state interests. First, Turkey insured itself against the reopening of the Armenian question signing in 1920-1923 the treaties of Alexandropol, Moscow, Kars, London and Lausanne. In addition, the Turkish authorities are constantly improving the state ideological and political arsenal of denial of the Armenian Genocide, the distorting the Armenian history. They have also consistently changed the demographic picture of Western Armenia, as a result of which its depopulated territory is currently dominated by the Kurdish population fighting to have its own independent state [20].

## Conclusion

The Armenian Genocide was the first genocide of the 20th century, but, unfortunately, it was not the last in the history of mankind. The subsequent Jewish Holocaust, the genocide of Bosnian Muslims in Srebrenica, the genocide of Tutsis in Rwanda, as well as the atrocities in Cambodia and Darfur even more emphasized the reality of the imperfection of international law on the prevention of the crime of genocide, and therefore the urgency of reviewing it.

The Convention on the Prevention and Punishment of the Crime of Genocide has been adopted by the UN, so it has the power to amend and supplement it. And since the options of adopting a new convention or making partial changes to the existing document are not real, the only possible way is to adopt an additional protocol.

## References

1. Քոչարյան Վ., Միջազգային իրավունք, Երևան, ԵՊՀ հրատ., 2002, 504 էջ:
2. Лукашук И. Право международной ответственности. М.: Волтерс Клувер, 2004, XXII, 404, [1] с.
3. Հայաստանի ազգային արխիվ (ՀԱԱ), ֆ. 200, ց. 1, գ. 355-/-մ:
4. ՀԱԱ, ֆ. 450, ց. 2, գ. 88:
5. Армянский вопрос и геноцид армян в Турции (1913-1919). Материалы политического архива министерства иностранных дел кайзеровской Германии. Сборник под ред. В. Микаеляна. Ереван: Гитутюн, 1995, 643 с.
6. Papers Relating to the Foreign Relations of the United States. 1915 Supplement. The World War, ed. J. V. Fuller. Washington: United States Government Printing office, 1928, 1080 p.
7. Convention on the Prevention and Punishment of the Crime of Genocide.
8. <https://www.un.org/en/genocideprevention/documents/atrocity-crimes.pdf>, 11.05.2023.
9. Права человека. Сборник международных документов. М.: издательство московского университета, 1986, 231 с.
10. Всеобщая декларация прав человека.
11. [https://www.un.org/ru/documents/decl\\_conv/declarations/declhr.shtml](https://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml), 11.05.2023.
12. Treaty Series: Treaties and international agreements registered or filed and recorded with the Secretariat of the United Nations. Volume 78. United Nations, New York, 2007, 288 p.
13. Robertson G. Armenia and the G-word: The Law and the Politics: See in “The Armenian Genocide Legacy”. Edited by A. Demirdjian. London: Palgrave Macmillan, 2016, p. 69-83.
14. Ավստրո-Հունգարիայի դիվանագետների հաղորդագրությունները հայոց ցեղասպանության մասին (1915-1918 թթ.), փաստաթղթերի ժողովածու,

- կազմող և առաջաբանի հեղինակ Ա. Օհանջանյան, Երևան: Նահապետ, 2004, 130 էջ:
15. The Armenian Genocide in Official Turkish Records: Collected essays by Vahakn N. Dadrian. “Journal of Political and Military Sociology”, Volume 22, № 1, Summer, 1994, 202 p.
  16. Тарле Е. Европа в эпоху империализма. 1871-1919 гг. Изд. 2-е. Москва-Ленинград: Госиздательство, 1928, 511 с.
  17. Մինոնյան Հ., Թուրք ազգային բուրժուազիայի գաղափարաբանությունը և քաղաքականությունը, Երևան: Հայաստան, 1986, 563 էջ:
  18. Брук С. Население мира. Этнографический справочник. Издание 2-е. Москва: Наука. 1986, 828 с.
  19. The Treatment of Armenians in the Ottoman Empire, 1915-1916. Documents presented to Viscount Grey of Fallodon, Secretary of State for Roreign Affairs by Viscount Bryce. With a Preface by Viscount Bryce, Laid Before the Parliament as an Official Paper and Now Published by Permission. London: Printed under the authority of His Majesty’s stationery office by Sir Joseph Causton and sons, limited, 1916, 728 p.
  20. Le crime de silence. Le génocide des arméniens. Préface de Pierre Vidal-Naquet Champs Flammarion. Paris, 1984, 380 p.
  21. Геноцид армян: ответственность Турции и обязательства мирового сообщества. Документы и комментарий. Т. 2, ч. 2. Составитель, ответственный редактор, автор предисловия и комментария Ю. Барсегов. Москва: Гардарики, 2005, 608 с.
  22. Բայրուրյան Վ., Քրդական հարցը Թուրքիայում և անկախ Քրդստանի ստեղծման ծրագրերը միջազգային դիվանագիտության լույսի ներքո, «Պատմա-բանասիրական հանդես», ՀՀ ԳԱԱ, 2008, № 1, էջ 34-58:

*The article has been submitted for publication: 18.07.2023*  
*Հոդվածը ներկայացվել է տպագրության. 18.07.2023*  
*Статья представлена к публикации: 18.07.2023*

*The article is sent for review: 24.07.2023*  
*Հոդվածն ուղարկվել է գրախոսության. 24.07.2023*  
*Статья отправлена на рецензию: 24.07.2023*

*The article is accepted for publication: 31.07.2023*  
*Հոդվածն ընդունվել է տպագրության. 31.07.2023*  
*Статья принята к печати: 31.07.2023*