

## **PROTECTION OF CHILDREN'S RIGHT OF THE CONSTITUTIONAL DEBT OF EACH STATE**

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### **ABSTRACT**

*In the article, the author notes that The ongoing reform process in Azerbaijan, the social security system, primarily for children. From the quality of received child care and education, our future depends. At the same time, the article analyzes the issues of international relations after the eve of Azerbaijan's independence, preparation and implementation of human rights laws in accordance with the requirements of the UN conventions.*

**Keywords:** Child, Rights, The Republic of Azerbaijan, The International Convention

### **INTRODUCTION**

The messenger of Allah (peace and blessings be upon him!) advised: "Be like children, play with them and be friends with your children." "Treat children mercifully and help them generously, share with them sincerely, because they are a gift from Allah for you," he said ("Mafsua atraf Il-hadith") [10]. Islam has been paying attention to childhood issues for more than fourteen hundred years. By its noble principles, providing constant care for children, without limiting the guarantees of the rights of the child after its birth, Islam guarantees them even before the child is born [18].

A true Muslim who is guided by the Qur'an and Sunnah knows that a child is the grace of Allah and the responsibility for which he will be asked. The messenger of Allah the Prophet Muhammad said: "Each of you is a shepherd and each of you is responsible for your flock: the ruler is the shepherd, and the man is the shepherd for his family, and the woman is the shepherd who looks after her husband's house and his children. So, each of you is a pastor and each of you is responsible for your flock" [13].

In Islam, parents have obligations to their children even before their children are born. A father should choose a good mother for his future child, a good, beautiful name, and give a good upbringing [18].

The role of children and adolescents in social life is so great that in political socialization, which means the very process of development, they are given a very special significance. Children are reflectors of ideas, political positions, and behaviors typical of this community [1; 536 p.].

However, the formation of a child's personality begins with the stages of physical and mental immaturity. During these periods, they need special protection and care, including appropriate legal protection, both before and after birth. At the international level, this was stated in Geneva on November 26, 1924, in the Declaration on the rights of the child adopted by the Fifth Assembly of the League of Nations [3].

It was developed on behalf of men and women from all over the world to protect children and improve their well-being, by an Englishwoman, Eglantine Jebb. The Declaration consisted of five basic principles aimed, inter alia, against child labour and slavery, the sale of children and the prostitution of minors, namely:

1. the Child must be provided with the means necessary for his normal development, both physical and spiritual.
2. a Hungry child must be fed; a sick child must be helped; an erring child must be corrected; and an orphan and homeless child must be given shelter and support in times of need.
3. The child should receive help in a difficult time of the test in the first place.
4. The child should grow up in an atmosphere of love, and to be protected from all forms of exploitation.
5. the Child should be brought up in the consciousness that his best qualities should serve for the benefit of other people [3].

The fifth Assembly of the League of Nations called on its members to be guided by the provisions of the Geneva Declaration. However, it should be recognized that, despite its name, this Declaration has not proclaimed the rights of the child or declared the obligations of governments to create certain conditions for children. Moreover, as we can see, its principles do not contain the word "right" at all, they only say what should be done for children. However, the Geneva Declaration for the first time pointed out the need for special protection of children and child care, and became a starting point in the fight for the rights of the child.

In 1945, in accordance with the Charter of The United Nations (UN), the UN General Assembly was established. On January 10, 1946, it held its first working session in London [14].

In the same year, on December 11, it decided to create the UN children's Fund or UNICEF (English: UNICEF, United Nations International Children's Emergency Fund) - an international emergency Fund for children. The purpose of the Foundation was to help children who were injured during the Second world war. However, the term of the Fund was limited, so later, in 1953, the UN expanded the scope of the organization's activities and extended its term of office indefinitely [14].

In 1965 The UN children's Fund received the Nobel peace prize. In 1989, the year of the child program was held under the auspices of UNICEF. The main goals of the Fund until 2010 were to reduce the mortality rate of children under 5 years by 1/3; to reduce the maternal mortality rate by 50 %; to help 80 % of children get primary education.

More than 180 goodwill ambassadors help UNICEF achieve these and other goals [15].

It should be noted that in 1948 the UN General Assembly adopted the universal Declaration of human rights, which is widely recognized as one of the binding international legal acts and has great moral significance. It has established a common human rights standard for all countries. According to it, governments were obliged to ensure that all people - rich and poor, strong and weak, men and women, regardless of race and religion, were equal [15].

In addition, the UN has adopted many international human rights treaties that legally oblige countries to guarantee their citizens social, economic and political rights. The most important of these treaties are the two international covenants on economic, social and cultural rights and on civil and political rights. These treaties, together with the optional protocols, formed the international bill of human rights.

More than 80 human rights treaties and declarations, including those on the rights of women, children, persons with disabilities, minorities, indigenous peoples and other vulnerable groups, have been developed in stages with the assistance of the UN. Together, these agreements have created a " culture of human rights " around the world, which has proven to be a powerful tool to combat violations.

The universal Declaration of human rights read: "Everyone has the right: to life, liberty and security; to freedom of opinion; to freedom from slavery; to a fair trial; to equality before the Law; to freedom of movement; to citizenship; to marriage and family formation; to work; and to equal remuneration for work of equal value.

The provisions of the universal Declaration of human rights and the provisions of International covenants have recognized that children are subject to special protection.

Taking into account all the arguments about the duty of humanity to give the best to the child, back in 1959 (November 20), the UN General Assembly adopted Resolution 1386 (XIV) [4], proclaiming the Declaration of the rights of the child, which was aimed at ensuring children a happy childhood and respect for rights and freedoms for their benefit and for the benefit of society. The Declaration called on parents, men and women, individuals, voluntary organizations, local authorities and national governments to recognize and respect the rights and other measures adopted by it and gradually adopted by other legislative bodies, in accordance with its ten basic principles:

1. Children may Not be discriminated against or discriminated against on the basis of race, color, sex, language, religion, political or other beliefs, national or social origin, property status of their families, birth or other circumstances.
2. The Child must grow up in conditions of freedom and dignity that are conducive to his physical, mental, moral and spiritual development.

When preparing new laws relating to children in the first place should be the interests of the child.

3. The child has the right to a name and nationality.
4. The Child and his mother have the right to state social protection and medical care, to protection and special care, including the prenatal and postnatal period of the mother.
5. Children who are physically, mentally or socially Handicapped are subject to special care, special treatment and special education.
6. To the identity of the child is developed most fully and harmoniously, it needs to be surrounded by love and understanding.

A young child should not be separated from the mother (except in cases where there are special circumstances).

Children without families and children from poor families should be under the care of society and public authorities.

7. The Child has the right to free, compulsory education (at least at the initial stage) and the right to further education in accordance with their abilities and conscience.

8. First aid and protection in special, extreme circumstances should be provided to children.

9. You cannot treat the child carelessly, and cruelly, exploit it. It should not be an object of trade, in any form<sup>10</sup>. The child's upbringing should be conducted in a spirit of mutual understanding, tolerance and tolerance [5].

To mark the 20th anniversary of the Declaration of the rights of the child, the UN declared 1979 the International year of the child [17]. To commemorate this, a number of legal initiatives were put forward, including a proposal made in 1978. Poland on consideration of the draft Convention on the rights of the child in the UN human rights Commission. The author of the original project was a Polish international law Professor Adam Lopatka. Work on the text of the draft Convention took ten years and was completed in 1989, exactly thirty years after the adoption of the Declaration on the rights of the child. The Convention was adopted by resolution 44/25 of the UN General Assembly on November 20, 1989 and entered into force on September 2, 1990, after ratification by twenty States of the world [19].

This made it possible to implement the procedures necessary for the establishment of the Committee on the rights of the child and the election of ten independent experts to it. The Committee was to consider reports from States parties to the Convention on measures taken to implement its provisions.

On the basis of its examination of these reports, the Committee makes observations, suggestions and recommendations addressed to States parties to the Convention every five years. Failure to implement the recommendations and observations of the Committee may result in a reference to a state that does not comply with the provisions of the Convention in a UN General Assembly resolution. Every two years, the Committee submits a report on its work to the UN General Assembly, which contains recommendations made to States after consideration of their reports on the implementation of the Convention on the rights of the child.

If a state did not adequately implement the recommendations made during the Committee's consideration of the report, the General Assembly might adopt a resolution that would make it difficult for that state to rely on moral and material assistance from other States parties to the Convention and international organizations, which would affect the situation of children in that country. To avoid a possible deterioration of the situation of needy children in their countries, governments of participating countries of the Convention very seriously to comply with all provisions of the Convention and the Committee's recommendations.

The continuation of the international movement for children's rights was the world summit, which was held in New York from 29 to 30 September 1990 with the participation of many heads of state and government, Ministers, permanent representatives to the UN and representatives of the world community. The New York meeting showed that the international community is determined to improve the lot of children, and has every opportunity to do so. In addition, the meeting adopted the "world Declaration for the survival, protection and development of children" and the "Plan of action for its implementation", which were signed by 163 heads of state and government on the same day. This action was designed to ensure the ratification of the Convention by all countries (however, in that period - from 1920 to 1991, Azerbaijan, along with other Soviet republics, was part of the Soviet Union, the fate of peoples and their subjects, including the younger generation, was determined by the Central Executive Committee of the USSR). In 1993 at the Vienna conference on human rights, it was decided to ensure that by 1995, the Convention has become universal for all States. Thus, the problem of protecting children's rights has become a global one. Currently, UNICEF runs its programs in 157 countries around the world.

Azerbaijan, having regained its independence, joined international organizations created for progressive humanity and aimed at its protection.

For promoting the high idea of ensuring human rights and fundamental freedoms, the President of Azerbaijan, Heydar Aliyev, sent a letter of gratitude to Kofi Annan, then

Secretary – General of the United Nations, on July 5, 1999. In the letter, Heydar Aliyev noted that the Republic of Azerbaijan, along with all progressive humanity, actively participates in activities aimed at implementing the provisions of the world Declaration and that Azerbaijan has already acceded to 125 international conventions, including the "Convention on the elimination of all forms of discrimination against women" and the "Convention on the rights of children".

As an achievement of the humanistic principle in relation to human beings, it should be noted that in the Republic of Azerbaijan, for the first time in the East, the Law on the abolition of the death penalty was adopted on February 10, 1998. On December 11, 1998, our country acceded to the second optional Protocol of the International Covenant on civil and political rights, aimed at eliminating the death penalty.

In order to ensure and protect fundamental human and civil rights and freedoms, the relevant laws, decrees and orders of the President have been adopted in the Republic of Azerbaijan.

Azerbaijan is constantly developing cooperation in the field of human rights protection with reputable international organizations, including the Office of the United Nations high Commissioner for human rights.

During the period of independent development of Azerbaijan in the field of human rights protection, various textbooks and manuals were published for secondary and higher educational institutions, and, most importantly, many of them in the Azerbaijani language. It is not a secret that there was practically no special literature in the Azerbaijani language during the Soviet period [18].

Since 1995, the UN General Assembly, in close cooperation with the Azerbaijani government, has been implementing Programs in various areas in the Republic: health, education, protection of children's rights, and others.

The ongoing process of reforming the social security system in Azerbaijan primarily concerns children. Our future depends on the quality of their upbringing and education. The poet's words are remarkable and wise:

"Truly, our children are among us –  
these are our hearts that walk the earth:  
if the wind blows on one of them,  
then my eyes will not sleep" [18].

The fact that the problem of caring for the younger generation is a state-level problem for Azerbaijan is reflected in its first Constitution [21], adopted on November 12, 1995 by a national referendum.

In the second Chapter " Family and state "(article 17, paragraph II) of the Constitution of the Republic of Azerbaijan, it is noted that "the care of children and their upbringing is the duty of parents, and the state exercises control over the performance of this duty".

January 14, 1998 By decree of the President of the Republic of Azerbaijan, the State Committee on Women's issues was established, which took over the solution of women's problems, such as domestic violence, discrimination against women and others.

On May 19, 1998, Azerbaijan issued the Law (No. 499-1G) "on the rights of the child" [7], signed by the President of the Republic of Azerbaijan, Heydar Aliyev. The law consists of five chapters in accordance with the law " on the rights of the child " adopted by the UN.

The Law clearly defines the rights and freedoms of children in the Republic of Azerbaijan, as well as the basic principles of state policy on children, the tasks of state bodies and other legal entities and individuals in the field of child protection in accordance with the Constitution of the Republic of Azerbaijan, the Convention on the rights of the child and other norms of international law.

Article 3 Of the law" on the rights of the child " States that the state policy on children in Azerbaijan is aimed at ensuring the growth and development of every child in appropriate material and living conditions, ensuring that education is based on progressive requirements and that the child becomes a worthy citizen.

The state policy of Azerbaijan is carried out in accordance with targeted children's social programs developed taking into account national and local conditions. Other legal entities and individuals can also participate in the implementation of these programs, along with government agencies.

The protection of children's rights in Azerbaijan (article 4) is carried out by the relevant Executive authorities, courts and Prosecutor's offices, municipalities, as well as public associations and trade unions.

State bodies and all individuals and legal entities in Azerbaijan should give priority to the interests of children in their activities and create conditions for ensuring their rights. Normative legal acts of the Republic of Azerbaijan and decisions of the relevant authorities should not contradict the interests of the child, and their implementation - harm the life, development and upbringing of children. Any transaction, restricting the rights and interests of the child is invalid (article 5).

The final provisions of the Law state that those responsible for violating it are liable in accordance with the legislation of the Republic of Azerbaijan (article 44). In case of contradiction between international agreements to which the Republic of Azerbaijan has acceded and this Law, international agreements shall be applied (article 45).

The legislative framework of a democratic, secular Azerbaijan includes other laws, decrees, regulations and regulations that protect the interests of the child in General and in individual articles.

Thus, in the Law of the Republic of Azerbaijan "on public health protection" [8], article 17 is aimed at maintaining the health of women during pregnancy, childbirth and the postpartum period. The article States that the expectant mother has the right to free specialized medical care in institutions of the state health system.

Article 18 of this Law, the rights of minors: on free medical monitoring and treatment in children and adolescent hospitals of the public health system in the order established by an relevant body of Executive authorities; to study, work in conditions that meet sanitary and hygiene requirements; free of medical advice in determining professional suitability; for reduced price meals, and receive medical and social assistance at the expense of budget funds in the order established by an relevant body of Executive power. At the request of parents or legal representatives, minors with physical and mental disabilities may be held in social protection institutions.

The law of the Republic of Azerbaijan " on infant and young child nutrition "[20] establishes priority directions for promoting and protecting infant and young child nutrition with mother's milk, organizational and legal bases for controlling the production, import, advertising and sale of artificial food, and regulates relations arising in this area.

In the first Chapter, paragraph 1 of the Regulations of the local Executive authority States that the chief Executive has the following powers:

- conducting General management of the work of public education, culture, health, social security, sports and physical education bodies that are subordinate to districts, cities and districts of the city;

creating the necessary conditions for the upbringing of children and young people; taking the necessary measures to develop the abilities of young people and specialization;

assistance to children's, youth and scientific-educational organizations, in schools and educational institutions outside of schools.

- To plan the development of a network of public education institutions in the relevant territory, to ensure the organization of compulsory General education in the district, city, district of the city; creation of a General education Fund at the expense of own or borrowed funds.

Article 34 - "Powers of the chief Executive of the district, city and district of the city in the field of social protection of the population", paragraph 2 States:

In accordance with the procedure established by law, the head of the local Executive power has the authority to ensure social protection of disabled people (of course, including disabled children).

Paragraph 5 States that in order to improve the living conditions of mothers and children and large families, the head of the local Executive power may assign them benefits, allowances at the expense of their own and voluntarily attracted funds; give them preference, provide for the upbringing of orphaned children and their placement in orphanages, boarding schools, and families.

Paragraph 9 of this Provision establishes the powers of the head of the local Executive power in the field of employment at the expense of budgetary, extra-budgetary and voluntarily attracted funds. It has the right to organize paid public works on the basis of contracts at enterprises, institutions and organizations under its control for persons registered for unemployment, as well as for students and students.

It should be noted that in 2006 (February 6) the Decree of the President of the Republic of Azerbaijan on the establishment of the State Committee on Family, Women and Children Issues was issued [22]. This was due to the need to address the problems of the family and children in conjunction with women's problems and the need to create a single public administration body. The new Committee is now the Central Executive body that implements state policy and regulation in dealing with family, women and children's issues. The Committee is headed by the Chairman, doctor of political science Hijran Huseynova. Under her leadership, the Committee participates in the formation of state policy in the relevant area and ensures its implementation; ensures the development of the relevant area; carries out activities in other areas defined by legislation [22].

In the field of children's issues, the Committee reviews the relevant legal acts, identifies their shortcomings and gaps in order to alleviate the problems of children, develops proposals for amendments to laws, which are then submitted to the Milli Majlis (Parliament) republic of azerbaijan.

Priority directions of the state children's policy in Azerbaijan are:

1. Implementation of the de-institutionalization process. In this regard, the State Committee on Family, Women and Children has developed an action plan. "The state Program on the

transfer of children from state children's institutions of the Republic of Azerbaijan to families (de-institutionalization) and alternative care" was approved by decree No. 1386 of 29 March 2006 of the President of the Republic of Azerbaijan, Mr. Ilham Aliyev.

2. Reform of juvenile justice, implemented with the support of the Baku office of UNICEF.
3. Adapting refugee children to society and improving their well-being. In Azerbaijan, as a result of the Armenian aggression, more than one million people became refugees and internally displaced persons, Most of them women and children.
4. Improving the development conditions of children in need of special care, especially children with disabilities [22].

The state Committee on Family, Women and Children issues closely interacts and cooperates with international and non-governmental organizations in all areas.

The sphere of activity of strategic importance in Azerbaijan is education. It has a secular and continuous character, reflects the interests of the citizen, society and the state, and develops in accordance with national, spiritual and universal values, through integration into the world educational system.

On June 19, 2009, a new Law "on education" was signed by Ilham Aliyev [9]. The fourth article of this Law sets out its main goals:

воспитание education of a person who is aware of his responsibility to the Azerbaijani state, who respects the national traditions of the people and democratic principles, human rights and freedoms, who is loyal to the ideals of patriotism and Azerbaijanism, an independent and creative citizen and individual;

Training of specialists who protect and develop national spiritual and universal values, who have a broad Outlook, who are able to appreciate initiatives and innovations, who acquire theoretical and didactic knowledge, who are modern-thinking and competitive specialists;

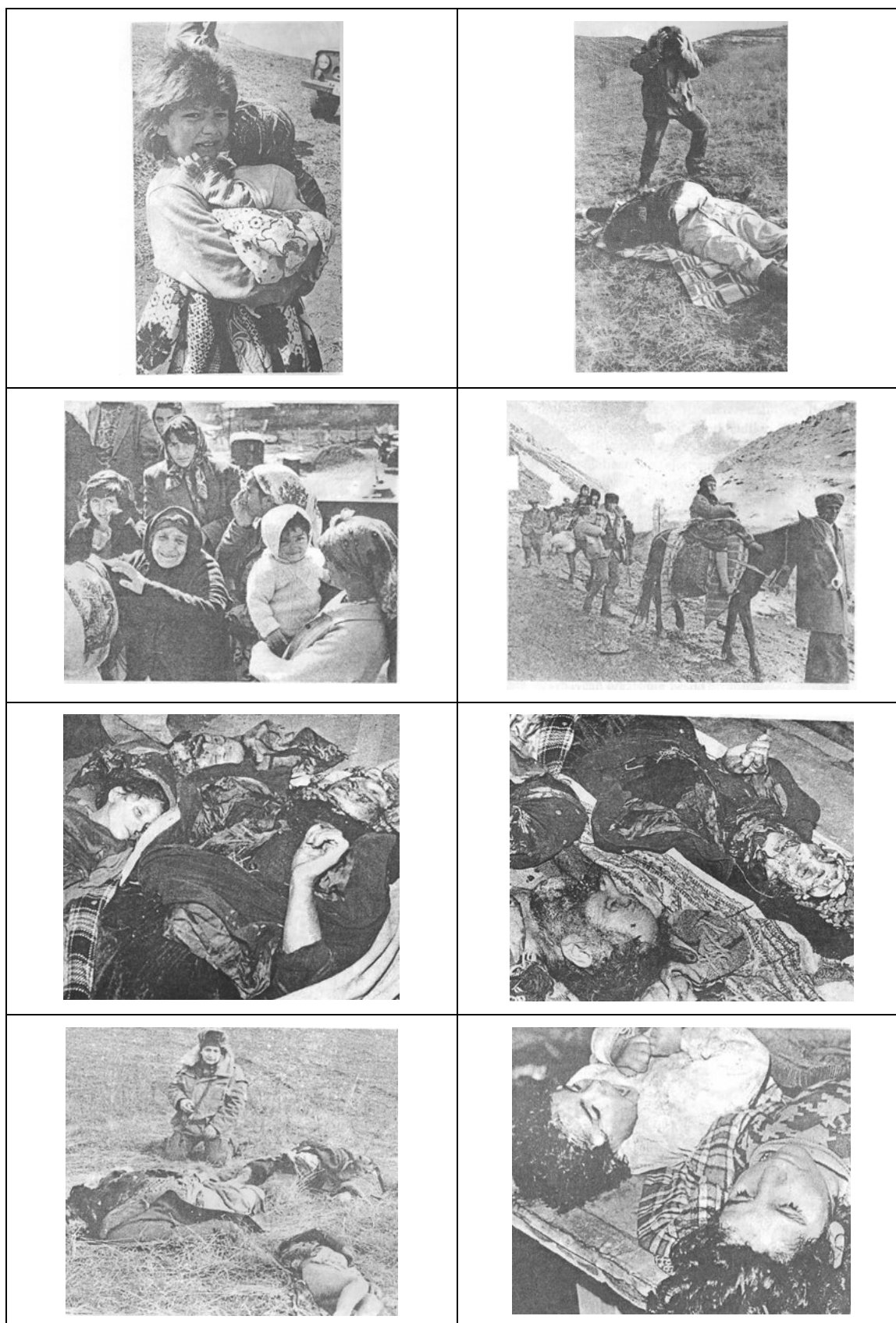
Ensuring the assimilation of systematic knowledge, skills and continuous professional development, preparing students for public life and effective work.

Article 5 presents the rights to education guaranteed to citizens of the Republic of Azerbaijan.

The given legislative framework of the Republic of Azerbaijan in relation to human rights and, consequently, the child is only an incomplete list of all the effective work of state bodies in this direction. The absolute value of these rights presupposes their perception in a complex way, taking into account democratic rights and freedoms, international Conventions, religion, national values and mentality. However, Armenia's terrorist acts against the Azerbaijani people, ignoring the UN resolutions and conventions, violating the norms of international law is, of course, a bloody crime that does not serve the protection of human and Child Rights. To prove this, it is sufficient to turn to our new history. Let's pay attention to a few pictures dedicated to this problem.







The Armenian terror against civilians and innocent children continues today. On July 12, 2020, the state border of Azerbaijan was violated in the direction of Tovuz district and was attacked by the Armenian Armed forces. As a result, civilians and Azerbaijani soldiers were killed. Probably, despite the occupation of 20 percent of Azerbaijani lands by Armenians, Armenia wants to occupy other territories as well. I believe that one of the main factors in these processes is the non-implementation of four UN resolutions in connection with the unconditional liberation of 20 percent of the territories of Azerbaijan occupied by Armenia. We believe that the implementation of these UN resolutions will play an important role in the positive solution of this problem faced by the Azerbaijani people, who are in the situation of refugees and internally displaced persons and are constantly subjected to aggression by Armenia.

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