



# DİPLOMATIYA ALƏMİ

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# CONTENTS

## DOCUMENTS

**United Nations General Assembly adopted a resolution on the situation in the occupied territories of Azerbaijan**

## ARTICLES

*Kamala Imranly*

**Armenia-Azerbaijan conflict: origins and consequences**

*Farid Shafiyev*

**Armenia-Azerbaijan conflict: roots. Massacres of 1905-1906**

*Tofiq F. Musayev*

**From territorial claims to belligerent occupation: legal appraisal**

*Dan Smith*

**Peaceful settlement for Nagorny Karabakh: necessary and possible**

*Thomas de Waal*

**Northern Ireland and Nagorny Karabakh – some reflections**

*Rovshan Sadigbayli*

**Inter-group contacts in the context of the conflict between Armenia and Azerbaijan: a conflict resolution or post-conflict reconciliation tool**

*Martin Malek*

**The European Union and the “frozen conflicts” in the South Caucasus**

*Tabib Huseynov*

**South Caucasus: new paradigms for peace and development in the 21<sup>st</sup> century**

*Kamila Mammadova*

**Armenian Diaspora: myth and reality**

## AZERBAIJANI CHAIRMANSHIP IN GUAM

**International Conference “Basic principles for the settlement of the conflicts on the territories of the GUAN States”, Baky, 15-16 April 2008**



General Assembly Adopts Resolution on Azerbaijan, UN Photo/Jenny Rockett

## United Nations General Assembly adopted a resolution on the situation in the occupied territories of Azerbaijan

On 14 March 2008, the United Nations General Assembly adopted at its 62nd session resolution A/RES/62/243 on the situation in the occupied territories of Azerbaijan. Seriously concerned that the armed conflict in and around the Nagorny Karabakh<sup>1</sup> region of the Republic of Azerbaijan continued to endanger international peace and security, the General Assembly reaffirmed its continued strong support for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders, demanding the immediate, complete and unconditional withdrawal of all Armenian forces from all occupied territories of the Republic

of Azerbaijan. At the same time, the Assembly reaffirmed the inalienable right of the population expelled from the occupied territories to return to their homes. It has been also recognized the necessity of providing normal, secure, and equal conditions of life for Armenian and Azerbaijani communities in the Nagorny Karabakh region of the Republic of Azerbaijan, which would allow to build up an effective democratic system of self-governance in this region within the Republic of Azerbaijan. The General Assembly also reaffirmed that no State shall recognize as lawful the situation resulting from the occupation of the territories of the Republic of Azerbaijan, nor render aid or assistance in maintaining this situation.

<sup>1</sup> The term "Nagorny Karabakh" is a Russian translation of the original name in Azerbaijani language – Dağlıq Qarabağ (pronounced Daghygh Garabagh), which literally means mountainous Garabagh. Therefore, the terms "Garabagh", "Nagorny Karabakh" or "Karabakh" will be used throughout the texts hereinafter, as appropriate.

United Nations

A/RES/62/243



## General Assembly

Distr.: General  
25 April 2008

Sixty-second session  
Agenda item 20

### Resolution adopted by the General Assembly

[without reference to a Main Committee (A/62/L.42)]

#### 62/243. The situation in the occupied territories of Azerbaijan

*The General Assembly,*

*Guided by the purposes, principles and provisions of the Charter of the United Nations,*

*Recalling Security Council resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 July 1993, 874 (1993) of 14 October 1993 and 884 (1993) of 12 November 1993, as well as General Assembly resolutions 48/114 of 20 December 1993, entitled "Emergency international assistance to refugees and displaced persons in Azerbaijan", and 60/285 of 7 September 2006, entitled "The situation in the occupied territories of Azerbaijan",*

*Recalling also the report of the fact-finding mission of the Minsk Group of the Organization for Security and Cooperation in Europe to the occupied territories of Azerbaijan surrounding Nagorno-Karabakh and the letter on the fact-finding mission from the Co-Chairmen of the Minsk Group addressed to the Permanent Council of the Organization for Security and Cooperation in Europe,<sup>1</sup>*

*Taking note of the report of the environmental assessment mission led by the Organization for Security and Cooperation in Europe to the fire-affected territories in and around the Nagorno-Karabakh region,<sup>2</sup>*

*Reaffirming the commitments of the parties to the conflict to abide scrupulously by the rules of international humanitarian law,*

*Seriously concerned that the armed conflict in and around the Nagorno-Karabakh region of the Republic of Azerbaijan continues to endanger international peace and security, and mindful of its adverse implications for the humanitarian situation and development of the countries of the South Caucasus,*

1. *Reaffirms continued respect and support for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders;*

<sup>1</sup> See A/59/747-S/2005/187.

<sup>2</sup> A/61/696, annex.

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A/RES/62/243

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2. *Demands* the immediate, complete and unconditional withdrawal of all Armenian forces from all the occupied territories of the Republic of Azerbaijan;

3. *Reaffirms* the inalienable right of the population expelled from the occupied territories of the Republic of Azerbaijan to return to their homes, and stresses the necessity of creating appropriate conditions for this return, including the comprehensive rehabilitation of the conflict-affected territories;

4. *Recognizes* the necessity of providing normal, secure and equal conditions of life for Armenian and Azerbaijani communities in the Nagorno-Karabakh region of the Republic of Azerbaijan, which will allow an effective democratic system of self-governance to be built up in this region within the Republic of Azerbaijan;

5. *Reaffirms* that no State shall recognize as lawful the situation resulting from the occupation of the territories of the Republic of Azerbaijan, nor render aid or assistance in maintaining this situation;

6. *Expresses its support* to the international mediation efforts, in particular those of the Co-Chairmen of the Minsk Group of the Organization for Security and Cooperation in Europe, aimed at peaceful settlement of the conflict in accordance with the norms and principles of international law, and recognizes the necessity of intensifying these efforts with a view to achieving a lasting and durable peace in compliance with the provisions stipulated above;

7. *Calls upon* Member States and international and regional organizations and arrangements to effectively contribute, within their competence, to the process of settlement of the conflict;

8. *Requests* the Secretary-General to submit to the General Assembly at its sixty-third session a comprehensive report on the implementation of the present resolution;

9. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "The situation in the occupied territories of Azerbaijan".

*86th plenary meeting  
14 March 2008*

# Armenia-Azerbaijan conflict: origins and consequences

*Kamala Imranly\**

It is already 16 years that the war between Armenia and Azerbaijan has been continuing with all its negative consequences, although the active military phase was over with the declaration of a cease-fire in 1994. Despite the enormous efforts to find a just solution to the problem, it has not been resolved yet. But what the just solution is, and what this solution has to be based on, one can naturally ask. And here another question immediately arises: how and why this conflict emerged.

As every problem, Armenia-Azerbaijan conflict also has its roots and in order to have a better understanding of its essence, it is necessary to shed a light on its core, for what we have to go back to the early 19th century, as the very origins of the conflict lay there.

Early 19th century, signing the treaties of Gulustan in 1813 and Turkmanchay in 1828, which gave birth to the processes with a significant impact on the future of the region, can be considered a beginning of a new chapter in the history of the Southern Caucasus and Azerbaijan as its part. These treaties changed the whole picture of the region, as in accordance with them the Azerbaijani territories were occupied by Russia, and suspended the centuries-old independent Azerbaijani statehood for about 100 years. However, it was just one of the bitter results of these treaties.

Another one was a considerable demographic change by resettling a great number of Armenians from Iran and Turkey in the Azerbaijani territories. Every Russian-Turkish war and Armenian disturbance in Turkey brought a great number of Armenians to the Caucasus. N.Shavrov, who was directly involved in colonial policy of the Russian Tsar's administration, wrote in "A new challenge to the Russian issue in Transcaucasia: Upcoming sale of Mughan to foreigners" published in 1911 in Saint-Petersburg:

From 1828 to 1830 we resettled more than 40,000 Iranian and 84,000 Turkish Armenians to Transcaucasia and placed them in the best State lands in the provinces of Yelizavetpol and Iravan, where the number of Armenians was insignificant, and in the province of Tiflis, - in the Borchaly, Akhalsikh and Akhalkalak uyezds... The mountainous part of Yelizavetpol province and banks of the Goyja (modern Sevan - ed.) Lake were settled by these Armenians. It is necessary to keep in mind that apart from 124,000 Armenians, which were resettled officially, a great number of Armenians settled there unofficially, so the total number of settlers considerably exceeds 200,000 [...].

The successful end of the Turkish war of 1877-1878 brought about an influx of new settlers from Asia Minor: about 50,000 Armenians and 40,000 Greeks settled in the Kars province, and the empty province got sufficiently great number of foreign population. Moreover, General Tergukasov brought 35,000 Turkish Armenians to the Surmali uezd, all of whom remained in the area.

After this, a continuous flow of Armenians from Asia Minor started, as these were resettled both as individuals and as families. During the course of Armenian disturbances in 1893-1894, the Armenians moved on an even larger scale. At the time of arrival of prince G.S.Golitsin, the newly

\* MA in Oriental Studies (Baky State University).

appointed commander-in chief, in 1897, the number of resettled Armenians was not 10,000 as in 1894, but about 90,000 [...] of 1,300,000 Armenians now living in Transcaucasia, more than 1,000,000 don't belong to the number of indigenous inhabitants and were resettled here by us.<sup>1</sup>

The First World War also contributed to the increase in the number of Armenian settlers. According to the "История армянского народа" (History of the Armenian people) published in Armenia in 1980, about 350,000 Armenians settled in the Caucasus from 1914 to 1916.<sup>2</sup> As a result, according to "Кавказский календарь" (Caucasian Calendar), the number of Armenians in Iravan province, which served as a basis for the establishment of the Armenian State in 1918, in 1916 reached 669,871<sup>3</sup> from 25,131 in 1828 (an increase by 26.6 times). As for the number of Azerbaijanis in Iravan province in 1916, it was 374,482<sup>4</sup> from 81,749 in 1828 (an increase by 4.6 times) and this was without any resettlement from abroad and due to the staged expulsion of Azerbaijanis from their native lands in order to resettle Armenians.

Another bitter result of Russia's plans to occupy Turkey was the fate of the Caucasian Albanians adhering to Christianity. It should be mentioned that Azerbaijanis formed from a mixture of different peoples, which, alongside Turks, included the Albanians, one of the autochthonous peoples of the Caucasus. Most of the Albanians adopted Islam, while a small part, who adhered to Christianity, was mostly Armenianized with the exception of those living in the Gabala and Oghuz districts of Azerbaijan. The present-day Armenian population of Nagorny Karabakh region of Azerbaijan, with the exception of those resettled later, consists of the Armenianized Albanians.

Thus, in exchange for their service to Russia in implementation of its occupational policy, a long-standing dream of the Armenian religious authorities was realized: The independent Albanian Catholicosate was liquidated and all its parishes were subordinated to the Echmiadzin Catholicosate. From this day on, the policy of assimilation of Albanians by Armenians strengthened, and in the Armenian history, which was rewritten under the guidance of the Echmiadzin patriarch, the territories historically populated by Caucasian Albanians were presented as Armenian ones and the Albanians as Armenians, although such an interpretation is a gross distortion of the truth. The elementary fact that the Albanian language belongs to the Caucasian family of languages and has 52 letters in its alphabet, while the Armenian language is a separate branch of the Indo-European family of languages and its alphabet contains 36 letters, is undeniable evidence of serious and deep differences in the representation of the identity, including the ethnic origin of Albanians and Armenians.

Opening churches and schools in the areas settled by the Albanians, Echmiadzin through its emissaries introduced the doctrine of their Armenian origins. The struggle against any element impeding this crafty policy was merciless. And the richness with important facts denying the Armenian myths of the library of the Ganjasar Catholicosate, carrier of the centuries-old history of Albanians, center of the independent Albanian Catholicosate by the early 19th century, with what the fate of Christian Albanians was closely connected, was the reason for its transfer to Echmiadzin and liquidation.

The "cloisters, which were visited very frequently and were prosperous until 1828... after the liquidation of the Albanian Catholicosate started falling into decay, were deprived of their monastic groups, and remaining neglected, mostly began to fall into ruin."<sup>5</sup> These words written

<sup>1</sup> Н.Н.Шавров, Новая угроза русскому делу в Закавказье: предстоящая распродажа Мугани инородцам (СПб: Типография Редакции периодических изданий Министерства Финансов, 1911), с. 59-60.

<sup>2</sup> See История армянского народа (Ереван: Издательство Ереванского Университета, 1980), с. 268.

<sup>3</sup> See Кавказский календарь на 1917 год (Тифлис: Типография Канцелярии Наместника Е.И.В. на Кавказе, 1916), с. 219.

<sup>4</sup> See *ibid.*, pp. 220-221.

<sup>5</sup> Епископ Макар Бархударянц, Арцах - НАИИАНА инв N1622, 2010, с. 5-6.

at the end of the 19th century belong to bishop Makar Barkhudariants.

Under the organized policy of Armenianization of everything belonging to Albanians, the above-mentioned methods were applied to Albanian monuments as well: new elements, alien to Albanian architecture, were included in the Albanian monuments, inscriptions in Armenian were placed onto them, Albanian crosses were replaced by Armenian ones and many other methods useful to change their Albanian identity were applied.

Despite such an organized policy of assimilation, the Armenians could not absorb all Christian Albanians. Most of them even accepted the adoption of Islam in order to protect themselves against the process of Armenianization, which could be proven by the statistical data of the period between the middle and late 19th century, gathered and published by Russian Imperial authorities. And this was during Russian rule, when the Muslims were in a distinctly more disadvantaged position than Christians. However, most preferred to be Muslim, constituting the majority of the indigenous population and being in traditionally good neighbourly relations with them, in order to avoid assimilation by ethnically foreign people who had appeared only recently within the area of Christian Albanians due to the Russian colonial policy. Despite all the oppression by the Armenian side, the Albanians-Udins in the Gabala and Oghuz districts of Azerbaijan, Christian descendants of Albanians who managed to avoid Armenianization, preserved their language and traditions.

Thus, here are three factors which served as seeds of the conflict: occupation of Azerbaijani territories by Russia under the treaties of Gulustan of 1813 and Turkmanchay of 1828, resettlement of Armenians to the occupied territories and liquidation of the independent Albanian Catholicosate, the subsequent annexation of its dioceses to the Armenian Echmiadzin Catholicosate and Armenianization of the Caucasian Albanians adhering to Christianity.

Two of these factors played a key role in the establishment of the first Armenian State in the Caucasus. Against the background of the situation in the Caucasus in 1918 and taking into account the possession by the Armenians of the territory, where unlike previous years, they constituted a substantial mass, a favorable ground emerged for the establishment of the Republic of Armenia on 28 May 1918. According to Armenian scholars, on the basis of the Treaty of Batoum signed by Turkey with Azerbaijan, Georgia and Armenia on 4 June 1918, the territory of the first Armenian State in the Caucasus - with the capital, which was conceded by Azerbaijan on 29 May 1918<sup>6</sup> - formed a minimum of 8,000,<sup>7</sup> 9,000<sup>8</sup> and a maximum of 10,000 sq.km.<sup>9</sup>

The Azerbaijani people achieved its independence, which lasted for almost 2 years, with the Democratic Republic of Azerbaijan in 1918. Various factors, including the aggression waged by Dashnak-ruled Armenia against Azerbaijan in Garabagh, Zangazur and Nakhchyvan at that time, combined to bring about a weakening of the Republic and led to its occupation by Soviet Russia in 1920. Dashnak Armenia, the independence of which, due to the increasing threat by Bolsheviks, was *de-facto* recognized by the League of Nations on 19 January 1920,<sup>10</sup> i.e. 7 days after the *de-facto* recognition of Azerbaijan and Georgia by the League of Nations, i.e. on 12 January,<sup>11</sup> was for a short period replaced by "Soviet" Armenia in the winter of 1920-1921. As

<sup>6</sup> See State Archive of Political Parties and Social Movements of the Republic of Azerbaijan, f. 970, in. 1, f. 1, p. 51.

<sup>7</sup> See Г.Галоян. Борьба за Советскую власть в Армении (Москва: Государственное издательство политической литературы, 1957), с. 92.

<sup>8</sup> See Ц.П.Агаян. Великий Октябрь и борьба трудящихся Армении за победу Советской власти (Ереван: Издательство Академии Наук Армянской ССР, 1962), с.174; Е.К.Саркисян. Экспансионистская политика Османской империи в Закавказье накануне и в годы первой мировой войны (Ереван: Издательство Академии Наук Армянской ССР, 1962), с. 365.

<sup>9</sup> See История армянского народа, с. 283.

<sup>10</sup> See Papers relating to the foreign relations of the United States, Paris Peace Conference, 1919. Volume IX (Washington, D. C.: U.S. Government Printing Office, 1946), pp. 899 & 901.

<sup>11</sup> See *ibid.*, p. 904.

“sovietization” failed to fulfill the aspirations of the ultra-nationalists, a coup d’état was staged in February 1921. However, with the liquidation of the Dashnak rebellions in Zangazur, on 15 July 1921, “Soviet” rule was again established in Armenia. With the aim of more effective pacification of Dashnaks, the Bolsheviks chose the method of indulging Armenian nationalists. Thus, on 5 July 1921, under pressure from Stalin, the mountainous part of Garabagh was given the status of an autonomous province within Azerbaijan.

Due to “sovietization,” the territory of Armenia increased from 8,000-10,000 sq.km to 29,800 sq.km, mostly at the expense of Azerbaijani lands. As for its population, it also didn’t leave behind and the number and percentage of Armenians in Armenia also considerably increased due to the immigration of a great number of Armenians from abroad and forceful expulsion of Azerbaijanis from their native lands. Thus, according to Armenian sources, more than 42,000 Armenians immigrated to Armenia between 1921 and 1936.<sup>12</sup>

The next step in the resettlement was the special decree by Stalin in November 1945 on the immigration of foreign Armenians, according to which Armenia received more than 50,000 in 1946, 35,400 in 1947, and about 10,000 settlers in 1948.<sup>13</sup> Taking advantage of the flow of a great number of Armenians and complaining of the lack of territory for their settlement in Armenia, its leadership achieved the adoption by the Committee of Ministers of the USSR on 23 December 1947 of Decree No. 4083 signed by Stalin “On the resettlement of collective farmers and other Azerbaijani population from the Armenia SSR to the Kur-Araz plain of the Azerbaijani SSR.” Thus, 100,000 Azerbaijanis were deported from their native lands in Armenia so that “buildings and apartment houses left by Azerbaijani population with regard to their resettlement to the Kur-Araz plain to be used for settling foreign Armenians, who have arrived in the Armenia SSR.”

By mid-1961, 200,000 Armenians immigrated to Armenia.<sup>14</sup> Between 1962 and 1973, the republic received more than 26,100 settlers.<sup>15</sup>

Not being satisfied by gaining about 20,000 sq.km, carrying out ethnic cleansing, resettling Armenians from abroad and obtaining autonomy status for the mountainous part of Garabagh within Azerbaijan, Armenia didn’t retract its demands of the inclusion of Garabagh - under the pretext of claims on the mountainous part - and Nakhchyvan in Armenia. This led to expulsion of the remaining 200,000 Azerbaijanis in 1988 (apart from Nuvadi village in the Mehri district, the population of which was expelled on 8 August 1991, i.e. within one day!) from Armenia.

Notwithstanding all the hardships, the consistent movement for independence by the Azerbaijani people culminated in the restoration of the international legal personality of Azerbaijan, after an interval of more than 70 years, in 1991. The independence coincided with the undeclared war of Armenia against Azerbaijan, the active military phase of which began in 1991. Starting with a period of open territorial claims in 1988, it resulted in the occupation of a great portion of Azerbaijani territory: a considerable part of Garabagh (the districts of Shusha, Kalbajar, Lachyn, Gubadly, Zangilan, Jabrayil, Fuzuli, Khojavand, Khojaly, Aghdam and Tartar), as well as 7 villages in the district of Gazakh and the village of Karki in the district of Sadarak and made approximately one out of every eight people in the country an internally displaced person or refugee.

The war against Azerbaijan has been accompanied by a severe blow on its socio-economic sphere and its natural and cultural resources. As a result of the Armenian aggression, Azerbai-

<sup>12</sup> See История армянского народа, с. 336.

<sup>13</sup> See *ibid.*, p. 366.

<sup>14</sup> See Документы внешней политики СССР. Государственное издательство политической литературы (Москва, 1962), т. 6, прим. 33, с. 611.

<sup>15</sup> See История армянского народа, с. 418.

jani-populated settlements, social and medical buildings, factories and plants, irrigation systems, bridges, roads, water and gas pipelines used by the Azerbaijanis have been destroyed or burnt down. Armenian invaders mostly destroy forests and greens in the areas, which were under special protection of the Republic of Azerbaijan, for example, the Bashitchay State Reserve in the occupied Zangilan district. This reserve is the second natural plane (chinar) reserve in the world, and the first in Europe. Some of the Eastern plane trees in the reserve are 1200-1500 years old. At present almost all valuable tree species are illegally exported by Armenia for sale. The richest deposits of mineral resources were also left in the occupied areas. These deposits are being largely and illegally exploited by Armenia.

The war also had catastrophic consequences for Azerbaijan's cultural heritage both in its occupied territories and in Armenia. The ongoing policy of deliberate destruction of this legacy following the occupation has been and continues to be an irreparable blow to Azerbaijani culture. As clearly demonstrated in the deliberate change of the cultural look of Shusha and other towns and settlements of Garabagh by destroying the monuments and changing architectural features, and making "archeological" excavations, this Armenian policy pursues far-reaching targets of removing any sign heralding their Azerbaijani origins.

Analysis of the 14 years since the declaration of a cease-fire in 1994 shows that the military phase of the war between Armenia and Azerbaijan, which lasted for almost 3 years, didn't destroy Azerbaijani monuments to the extent to which this was subsequently done by the Armenian authorities. Acts of barbarism are accompanied by different methods of defacing the Azerbaijani cultural image of the occupied territories. Amongst them are large-scale construction works therein, such as, for example, the building of an Armenian church in Lachyn town, the extension of the flight line of the Khojaly airport by destroying the children's music school, library, social club and infrastructure facilities. Another widespread phenomenon consists of changing the architectural aspects of different monuments like the Saatly mosque and Khanlyg Mukhtar caravanserai in Shusha town, as well as replacing the Azerbaijani-Muslim elements of the monuments with alien ones, such as the Armenian cross and writings, which have been engraved on the Arabic character of the 19th century Mamayi spring in Shusha town. Azerbaijani mosques have been turned into stable for different animals, including pigs.

As for the fate of the Azerbaijani historical and cultural heritage in Armenia, those which could survive until the beginning of the conflict were also liquidated afterwards, such as the Damirbulag and Goy mosques of Yerevan. Thus, the former was razed to the ground, while the latter has been "restored" and presented as a Persian mosque. The mosques and other Azerbaijani monuments in other places of Armenia have also shared the same fate as the above-mentioned two, together with ancient or modern Azerbaijani cemeteries and toponyms of Azerbaijani origin, which have been erased from present-day Armenia.



Mamayi spring, Shusha town (before occupation)



Mamayi spring, Shusha town (after occupation)



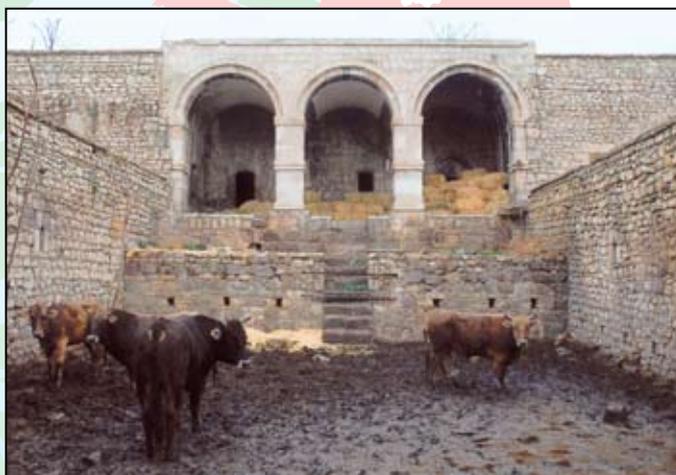
Mosque, Aghdam town (before occupation)



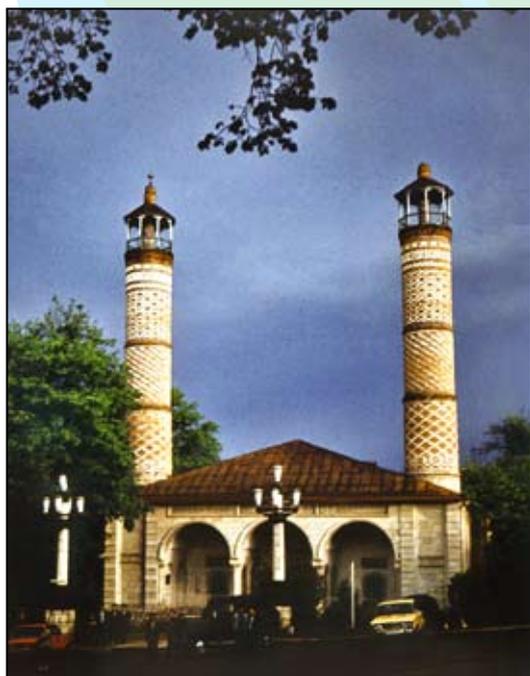
Mosque, Aghdam town (after occupation)



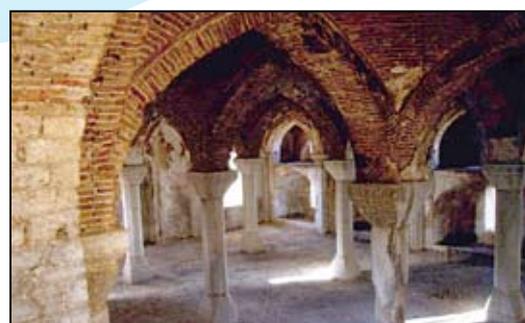
Garghabazar caravanserai, Fuzuli district (before occupation)



Garghabazar caravanserai, Fuzuli district (after occupation)



Yukhary Govharagha mosque, Shusha town (before occupation)



Yukhary Govharagha mosque, Shusha town (after occupation)

# ARTICLES

# Armenian-Azerbaijani conflict: roots. Massacres of 1905-1906

Farid Shafiyev\*

## Introduction

This is an attempt to research the roots of the protracted conflict between Armenia and Azerbaijan and the way scholars from both countries looked on the events of 1905-1906, which are described by many as “the Armenian-Tatar massacres.”<sup>1</sup> These were the first bloody clashes between two ethnic communities, which had co-existed peacefully side-by-side for centuries. What was the reason for the animosity and did how the massacres 1905-1906 affect the current situation?

It is no easy task to restore a picture of the events because both ethnic communities lived under the Russian Empire where the media was not an impartial observer. Many scholars and experts believe that the Russian authorities were either interested in, or actively encouraged, the ethnic clashes in the Caucasus. At the very least, the Russian authorities did not act to stop the bloodshed or restore order.

In this article I analyze the historical context of the events which led to the massacres, the socio-economic causes which fed the conflict as well as the overall course of events. Despite the fact that the current conflict - which began in 1988 between the two countries - was caused by a territorial dispute, namely the Armenian claim to Nagorny Karabakh region of Azerbaijan, historical and ethnic myths, partially associated with the events of 1905-1906 played an important and tragic role in propelling the conflict.

## Political and Social Background Preceding the Massacres

In her research on the Russian conquest of the Caucasus, Firouzeh Mostashari rightfully pointed out that many conflicts and problems within the former Soviet republics were caused by the colonial legacy of the Russian Empire and its peripheries.<sup>2</sup> The Soviet rearrangement further complicated territorial-ethnic problems.

After the Russian-Persian wars of 1804-1813 and 1826-1828, the modern day territories of Azerbaijan and Armenia were transferred to the Russian Empire. Those territories had belonged to several small Turkic khanates – Kuba, Ganja, Sheki, Erivan, Karabakh, Nakhichevan, Baky and Talysh, most of which had some kind of vassal relationship to the Persian throne ruled by the house of Gadjar, which was of Turkic origin. In accordance with the Treaty of Turkmanchay of 1928, Azerbaijan was divided in two parts. The northern part - modern day independent Azerbaijan - fell under Russian political, economic and cultural influence. There are different opinions about the scope and quality of these influences – on one hand, Azerbaijan became modernized and to some extent westernized, on the other hand, Azerbaijani land was employed for the interests of Russian geopolitical strategy, which resulted in the loss of territories, wars and conflicts.

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<sup>1</sup> In the Russian Empire Azerbaijani Turks were called Azerbaijani Tatars or simply Tatars.

<sup>2</sup> Firouzeh Mostashari, *On the Religious Frontier. Tsarist Russia and Islam in the Caucasus* (New York: I.B.Tauris, 2006), p. 3.

After the conquest of the South Caucasus, Russian authorities planned on setting up a Muslim province, which would incorporate local rules and customs. However, Russia later abandoned this plan and opted to create several "classical" Russian provinces – guberniya. In 1830, Russia's chief commander and envoy (*namestnik*) in the South Caucasus, General Paskevich, together with senators Kutaisov and Mechnikov, elaborated a project which diminished the local influence to a minimum and envisaged the full incorporation of the Russian administration, settlement of Christian population, the establishment of nobility based on Russian colonizers and local *beks*. His successor Baron Rozen planned modifications to the project to enable more space for Muslim authorities and *sharia* but his idea was rejected. Eventually, the Paskevich model was implemented. Russian authorities maintained that the rapid transformation of "savage tribes" into civilized people might be implemented through colonization by educated people, and therefore their policy had no room for local rule.<sup>3</sup> This policy was in conformity with other colonization processes of Western powers – Britons called it "the white man's burden," French – "la mission civilisatrice."

One of the key aims of the Russian administration was to create a resettlement policy in the South Caucasus. The issue of resettlement of the Armenian population has been covered extensively in many academic articles and primary sources. Nikolay Shavrov wrote of the settlement of forty thousand Armenians from Persia and eighty four thousand from the Ottoman State in the Caucasus in the first two years of Russian rule – 1828 to 1830; more Armenians were transferred from the Ottoman Empire in the end of the nineteenth century.<sup>4</sup> Renowned Russian poet and diplomat Alexander Griboyedov noted that the Armenians were basically settled on Muslim lands, which caused the discontent of local landowners and *beks*.<sup>5</sup> As well, the Russian administration settled Germans, Russians, including sextants (so called old-believers), in the South Caucasus.<sup>6</sup> Russian authorities regarded the massive settlement policy as a tool to strengthen their position in Muslim-populated territories. The reliance on Armenians was a strategy designed by Peter the Great who saw them as element for his advancement against the Persian and Ottoman States. Luigi Villari, a contemporary observer of the massacres of 1905-1906, noted:

The wily Romanoffs saw in the Armenian people a most useful instrument for the advancement of his Middle and Near Eastern policy, a race widely scattered over the dominions of Turkey and Persia who might be employed against those powers at the opportune moment. Armenians were granted many exemptions and privileges and admitted into the ranks of the Russian army and public service, while Armenian commercial colonies were established in all the chief towns of the Empire. Peter's successors followed a similar policy and the immigration of Armenians continued and increased.<sup>7</sup>

This century-long migration policy resulted in a change of the ethnic composition of the regions comprising most of modern Armenia and Nagorny Karabakh region of Azerbaijan from predominantly Muslim to majority-Armenian areas.<sup>8</sup>

Tadeush Swietochowski noted that Armenians enjoyed a Russian protective shield that enabled them to advance at a fast pace and to capture important economic positions in the

<sup>3</sup> Mostashari, p. 30.

<sup>4</sup> Nikolay Shavrov, *Novaya ugroza russkomu delu v Zakavkazye. Predstoyashaya rasprodaja Mugani inorodtsam* (Sankt-Peterburg, 1911), pp. 63-64.

<sup>5</sup> Alexander Griboyedov, "Zapiska o pereseleniyi armyan iz Persiyi v nashi oblasti", in A.Griboyedov, *Polnoye sobraniye sochineniy*. Volume III (Petrograd, 1917), pp. 267-270 (e-version at <[http://feb-web.ru/feb/griboed/texts/piks3/3\\_4\\_v3.htm](http://feb-web.ru/feb/griboed/texts/piks3/3_4_v3.htm)>).

<sup>6</sup> For more information about settlement policy see Firouzeh Mostashari.

<sup>7</sup> Luigi Villari, *Fire and Sword in the Caucasus* (London: T.F.Unwin, 1906), p. 145 (e-version at <<http://www.armenian-house.org/villari/caucasus/fire-and-sword.html>>).

<sup>8</sup> Stuart Kaufman, *Modern Hatreds: The Symbolic Politics of Ethnic War* (Ithaca: Cornell University Press, 2001), p. 50.

region.<sup>9</sup> Twenty-nine per cent of enterprises in the Baky guberniya belonged to Armenians, while the Azerbaijanis had control over eighteen percent.<sup>10</sup> Many industries, such as fishery, tobacco and winemaking passed into the hands of Armenians who had driven the Azerbaijanis out of competition. Armenians held skilled jobs while the Azerbaijanis were employed in low-paid labour. The Armenians were present in large numbers within the State apparatus while Muslims were almost non-existent in the civil and military administration. The oil boom that began in the Absheron peninsula around Baky in the mid-nineteenth century attracted a large number of workers – Armenians, Russians and Azerbaijanis, including from Persia. Many Armenian oil tycoons emerged in Baky – Mantashev, Gukasov and others. Audrey Alstadt also acknowledged that the Armenians were a wealthy minority who enjoyed special relationship with the Russians. Imperial laws benefited the Armenians more than the Azerbaijani Turks. On the other hand, she noted that the Azerbaijani Turks, being largest indigenous group in Baky, with their network of extended families throughout northern and southern Azerbaijan, commanded wealth. However, growing competition created a basis for conflict, particularly in agricultural areas.<sup>11</sup>

Grigoriy Golitsyn, the new Russian envoy in the South Caucasus, tried to even the Armenian-Azerbaijani balance and increased the total number of Muslims employed within administrative structures. He also ordered the confiscation of the property and lands of the Armenian Church and closed Armenian schools in 1903. The Armenians tried to assassinate him but failed. During this period certain anti-Armenian sentiments emerged among the Russian ruling elite in the South Caucasus. This was manifested in an anti-Armenian publication of a Russian publicist Vasil'y Velichko, who argued that instead of favoritism toward the Armenians, the Russian authorities should try to develop and enlighten the Muslim community which would bring the latter closer to Russians.<sup>12</sup> However, the period of the Russian bias against Armenians was short-lived. In 1905, Count Vorontsov-Dashkov, a newly appointed Russian envoy, well-known for his pro-Armenian and anti-Turkish stance, returned the confiscated property of the Armenian Church.<sup>13</sup>

Against this background of growing ethnic tension, the overall political and social situation in Russia was worsening. In 1905-1907 a first armed revolution erupted in the Empire while the Caucasus was caught up in inter-communal violence. Baky, as a large industrial oil city, was replete with revolutionary ideas, particularly among lower-wage workers. Renowned Russian writer Maksim Gorkiy described the city's oil industry as "a brilliantly drawn picture of a gloomy hell."<sup>14</sup> In December 1904 Baky oil workers, including both Armenians and Azerbaijanis staged a huge strike, which appalled the Russian administration.

### The Causes of the Massacres

This ongoing Russian colonial policy served to intensify discontent of among the Azerbaijani population. The perception of Russian favoritism toward the Armenians exacerbated ethnic relations in the South Caucasus. A British diplomatic source noted:

<sup>9</sup> Tadeusz Swietochowski, *Russian Azerbaijan, 1905–1920. The Shaping of a National Identity in a Muslim Community* (Cambridge: Cambridge University Press, 1985), p. 39.

<sup>10</sup> D.V.Seyidzade, *Iz istoriyi azerbayjanskoy burjuaziyi v nachale 20-go veka* (Baky: Elm, 1978), p. 25.

<sup>11</sup> Audrey Alstadt, *The Azerbaijani Turks. Power and Identity under Russian Rule* (Stanford: Hoover Institution Press, 1993), p. 40.

<sup>12</sup> V.L.Velichko, *Kavkaz. Russkoye delo I mejduplemenniye voprosi. Publitsisticheskiy sochineniya. Volume I* (Sankt-Peterburg, 1904).

<sup>13</sup> Swietochowski, p. 43.

<sup>14</sup> Cited from «Трубопроводный транспорт России (1860-1917 гг.)», see at <<http://www.transneft.ru/About/History/Default.asp?LANG=RU>>.

Unfortunately the Russian authorities, instead of trying to improve the relations of the two races by impartial administration, have endeavoured to save themselves trouble by acting on the ancient principle of *divide et impera* so dear to oriental governments. For some time they favoured the Armenians at the expense of the Tatars. All small offices were given to the former, who thus gained further ascendancy over the Tatars, whom they exasperated more and more by their corruption and extractions. The Russian authorities later changed their policy, thinking perhaps that the Armenians were becoming too predominant, or possibly because they became alarmed at the growing activity of the Armenian revolutionary societies,<sup>15</sup> whose propaganda has undoubtedly been encouraged by the progress of events in other parts of the empire.<sup>16</sup>

An overwhelming majority of sources and scholars blame the Russian authorities for the worsening situation, pointing out their apathy and ineptitude in dealing with interethnic violence. Some sources claim that the Russian administration even facilitated and instigated the massacres. Luigi Villari reported:

In the meanwhile a number of murders of Armenians, attributed to Tartars, had been committed on Shemakhinka street,<sup>17</sup> and on the other hand, several mutilated corpses of Tartars, supposedly murdered by Armenians, were discovered under the snow which had just melted away. There is a strong presumption that the police was at the bottom of these affairs, which it had instigated with a view to promoting Tartar-Armenian hatred, but I cannot say whether the suspicion is well founded. The authorities were perpetually telling the Tartars that the Armenians were meditating a massacre of Muslims and that they should be on the *qui vive*.<sup>18</sup>

The same British diplomatic source reported that the authorities armed Tatars against Armenians.<sup>19</sup> The instigation by the Russian authorities is viewed as a major factor in the outbreak of the massacres.

Sources also opine that another major cause of the massacres was the activity of the Armenian Revolutionary Federation (Dashnaksutun). This party was founded in Tiflis (modern day Tbilisi) in 1890 with the aim of creating an independent Armenia, a goal for which they envisaged both political and armed struggle, including terror.<sup>20</sup> Its role in the massacres was notable. Even pro-Armenian envoy Vorontsov-Dashkov acknowledged that the Dashnaks bore a major portion of responsibility for the massacres. He wrote that the Dashnak squads had attacked Muslims and exterminated the entire population of settlements.<sup>21</sup> Another contemporary observer, James Henry, who wrote *Baky: an Eventful Story*, cited a journalist of *The Times*:

I found, somewhat to my surprise, that at Shusha, as well as in other towns, the Tartars were unanimous in ascribing the collisions which had taken place to the activity of the Armenian committees and I was assured also by many witnesses who might claim to be considered impartial, Russians and Georgians, that the charge was true. It is noticeable also that at Baky the general opinion of

<sup>15</sup> "Armenian Revolutionary Societies (Committees)" was a term used for Armenian nationalist party "Dashnaksutun" – Armenian Revolutionary Federation.

<sup>16</sup> Dominic Lieven, Kenneth Bourne, Cameron Watt (ed.), *British Documents on Foreign Affairs: Reports and Papers From the Foreign Office Confidential Print. Volume 3, Russia 1905–1906*, pp. 185-186.

<sup>17</sup> Street in Baky city.

<sup>18</sup> Villari, p. 193.

<sup>19</sup> Dominic Lieven, Kenneth Bourne, Cameron Watt, p. 186.

<sup>20</sup> Gerard Libaridian, "Revolution and Liberation in the 1982 and 1907 Programs of the Dashnaksutun", in Ronald Suny (ed.), *Transcaucasia, Nationalism, and Social Change: Essays in the History of Armenia, Azerbaijan, and Georgia* (Ann Arbor: MI, 2nd ed., 1996), pp. 166-167.

<sup>21</sup> "Vsepodaneysshaya zapiska po upravleniyu kavkazskim krayem generala-adyutanta grafa Vorontsova-Dashkova" (Sankt-Peterburg: Gosudarstvennaya Tipografiya, 1907), p. 12.

non-Armenians, whether Russians or foreigners, inclines to hold the Armenians responsible for the outbreak and for the continuance of the hostilities.<sup>22</sup>

Other contemporary source noted:

For the Armenian population it is no secret that the Dahsnaktsutun played a significant role in the Armenian-Tatars massacres. Frequently they [the Dashnaks] resorted to provocations to prove their necessity [as defenders of Armenians] such tactical assault of 'fidayees' [Armenian fighters] on neighbouring Tatar populations which, certainly, responded in due manner. The Dashnak's tactics were explained by a plan to create territories with a homogenous Armenian population in order to establish a future Armenian autonomy.<sup>23</sup>

There were other opinions expressed concerning the reasons behind the massacres. A popular view, particularly among Armenians, blamed Pan-Islamist ideas, which were propelled by agents from the Persian and Ottoman States.<sup>24</sup> A majority of the Azerbaijani population, particularly in rural areas, was religious and, therefore, could serve as fertile ground for activities encouraged by foreign emissaries. However, a contemporary Russian bureaucrat Vladimir Mayevski questioned this:

If one assumes that there is a strong basis for the pan-Islamist idea in the Caucasus, it is then difficult to comprehend why these ideas manifested themselves among the Tatars in the form of hostility exclusively against the Armenians, leaving aside all other peoples of the Caucasus. Surely, in this case a Russian element, against which Pan-Islamist ideas should work, must have become a major target. However, the reality was the opposite. Why did the Tatars only attack the Armenians and not attack Georgians, Kurds-yezids [Christian Kurds], and Greeks? Discussing such questions is not in the interests of the Armenians.<sup>25</sup>

Other scholars also assert the prevalence of religious tolerance among the Azerbaijanis. Tom Reiss stressed that Baky, where the massacres started, was the only place where, for example, Jews could feel safe.<sup>26</sup> "During the Soviet times Jews suffered from many problems, however, Baky was the least anti-Semitic city of the Russian Empire, and, for sure, of the USSR."<sup>27</sup>

Luigi Villari referred to a conversation he had with one of local beks about the theory of Pan-Islamism as a cause for the massacres. The bek said, "there is more chance of a union between Tartars and Armenians than between Sunnis and Shiahs. He concluded by stating that the government was largely to blame. This is the one point on which Tartars and Armenians agree."<sup>28</sup>

The Western and Russian media of that time described the interethnic violence as a clash between "civilized Armenians and wild Tatars."<sup>29</sup> Luigi Villari maintains that the clash was "also part of that wider feud between modern ideas and Asiatic barbarism."<sup>30</sup> Modern Russian scholar Pavel Shehtman, known for his anti-Azerbaijan research on the massacres *Flame of Old Fires* forwarded

<sup>22</sup> James D. Henry, *Baky: an Eventful History* (With many illustrations and a map) (London: Archibald Constable & Co. Ltd 16, James Street, Haymarket, November, 1905), pp. 150-151.

<sup>23</sup> Karibi, *Krasnaya kniga* (Tiflis, 1920), p. 49-50.

<sup>24</sup> A.V. Amfiteatrov, *Armenskiy vopros* (Sankt-Peterburg, 1906), p. 53.

<sup>25</sup> V. Mayevskiy, *Armano-tatarskaya smuta na Kavkaze, kak odin iz fazisov armenskoogo voprosa* (Tiflis, 1915), cited from <<http://www.karabakh-doc.azerall.info/ru/istoch/is010.htm>>.

<sup>26</sup> Tom Reiss, *The Orientalist* (Random House, 2005), p. 9.

<sup>27</sup> "Lev Nussimbaum – Assad Bey – Kurban Said. Istoriya zagadki", interview with Tom Reiss. *Washington Profile*, see at <<http://www.washprofile.org/?q=ru/node/5393>>.

<sup>28</sup> Villari, p. 283.

this as his central argument.<sup>31</sup> Such myths were well developed and established in the Western and Russian media and many perceived the massacres as a fight between civilized Christian Armenians and barbaric Muslim Tatars. These stereotypes continue nowadays and play a negative role in depicting the current conflict between Azerbaijan and Armenia.

This view of the conflict as a fight between progress and barbarism barely merits discussion. Firstly, much evidence shows that the Azerbaijanis developed ideas of modernity and autonomy in that period.<sup>32</sup> Audrey Alstadt noted that both ethnic groups experienced a cultural renaissance, which carried political implications and both established organizations to pursue national goals, though the Armenians operated on a larger scale. But the difference was the following: the Azerbaijanis wanted to reach their goals at the Russians' expense, the Armenians at the Azerbaijanis.<sup>33</sup> Secondly, revolutionary ideas threatened the Russian authorities, not the Azerbaijanis who themselves were under colonial rule. Thirdly, accusations of Azerbaijani barbarism were disproved by many contemporary sources who described the Azerbaijani Turks as peaceful, hard-working and law-abiding. In his report of 1860, the Governor of Baky wrote:

In the city "everyone is characterized by obeisance, loyalty and incredible diligence. They never loiter, they work the entire year in their husbandry or for a wage and they carry heavy cargo. There is no robbery among Muslims; crimes are rare but they are inclined to religious fanaticism under the influence of neighbouring States".<sup>34</sup>

In another report dated of 1869 Baky Governor Kulyebakin wrote:

Tatars perceive the authority to be a force of suppression, cruel and merciless; but at the same time they respect it. If the authority is just they abide it in their deep conscience. Cases of disobedience are rare. In general, they are kind, humble and satisfied with small benefits. They could give false evidence against Christians for the benefit of their coreligionists but this is regarded as excusable crime. A few people resort to robbery due to laziness but those are exceptional cases".<sup>35</sup>

In the beginning of the Twentieth century the crime rate, particularly in Baky had increased but this was related to the kidnapping of oil tycoons and their children. These stories were attractive to the media, and newspapers paid much attention to those crimes, which created relevant opinion about the situation in Baky. Many stories were told about "gochu" – informal leaders of street gangs, some of them cooperated with the police. (At the same time, the crime rate among Armenians, especially migrants from the Ottoman Empire was also high).<sup>36</sup> Overall, Tom Reiss described Muslims in Baky as incredibly modern.<sup>37</sup>

Nevertheless, Azerbaijani writer and columnist Mammad Seid Ordubadi mentioned Azerbaijani illiteracy and ignorance as being among the four causes of the massacres. He wrote:

<sup>29</sup> «Le Matin», 20.09.1905, «Le Temps», 15.09.1905.

<sup>30</sup> Villari, p. 191.

<sup>31</sup> Pavel Shekhtman, Plamyā davnix pojarov. "Pro Armenia" (Moscow, 1992-1993), (e-version at <<http://www.armenianhouse.org/shekhtman/docs-ru/reason.html>>).

<sup>32</sup> See the abovementioned works of Audrey Alstadt and Tadeush Swietochowski. Also see I.S.Bagirova, Politicheskiiy partiyyi I organizatsiyyi Azerbayjana v nachale XX veka (1900-1917) (Baky: Elm, 1997), (e-version <<http://www.karabakh-doc.azerall.info/ru/azerpeople/ap040-1.php>>).

<sup>33</sup> Altstadt, p. 43.

<sup>34</sup> Cited from T.F.Gumbatova, Baky i nemtsi. Chapter "Kak Baky stal stolitsey: 1859-1869 – 10 burnikh let istoriyyi", "Echo", Baky, 14.03.2007.

<sup>35</sup> *Ibid.*

<sup>36</sup> Velichko, p. 137.

<sup>37</sup> "Lev Nussimbaum – Assad Bey – Kurban Said. Istoriya zagadki", interview with Tom Reiss. Washington Profile, see at <<http://www.washprofile.org/?q=ru/node/5393>>.

Illiterate and ignorant about political affairs, Muslims did not consider the opinion of bureaucrats with regard to the Caucasus whereas the Armenians exploited this factor. The reason of the continuation of the Armenian-Muslim clashes was illiteracy and backwardness of our compatriots, and the lack of arms as well.<sup>38</sup>

He mentioned another cause of the massacres – “an Armenian dream of autonomy.” I touched upon this issue briefly when discussing the activity of the Dashnaks. Ordubadi wrote:

After their party was banned in Turkey, the Armenians turned their sights to the Caucasus, dreaming of restoration of Armenia, destroyed in ancient times by Iranian bijans. [T]hen, following the precepts of Arsruni, they provoked the Baky events with the goal to pressure Muslims, expel them from their native lands and create their own [Armenian] State.<sup>39</sup>

This opinion of the Azerbaijani writer might be biased. However, another non-Azerbaijani source says:

Before the emergence of Armenian revolutionary activists, particularly the Dashnaks, Transcaucasia lived in peace and safety. No one remembers anything similar to what we witnessed in the Armenian-Tatar massacres. [A]s the Dashnaks came with their propaganda of the creation of homogenous Armenian territory for the Armenian autonomy in the future, hatred and animosity penetrated the lives of Transcaucasian villages.<sup>40</sup>

According to the Azerbaijani newspaper “Hayat”, the Armenian aspiration of autonomy was directed against the Azerbaijanis because the latter was the largest ethnic group in the Caucasus. If they could be defeated, no other ethnic group in the region would be able to stand up against the Armenians. Secondly, war with the Muslims could be easily portrayed as long-term animosity. Thirdly, because of the religious factor, the Armenians would be able to play on existing biases to claim that they have been attacked and to use an alleged threat as an excuse to stockpile weapons,<sup>41</sup> which indeed was done. This opinion, expressed in the Azerbaijani newspaper, might be biased. However, we know that the Dashnak party program stipulated the establishment of independent Armenia in eastern Anatolia and the western Caucasus.<sup>42</sup>

The British diplomatic source quoted earlier offered another explanation for the violence. “The religious antagonism between the two races has for long been carefully fanned by revolutionary agents, with the object of creating difficulties for the authorities and of producing a state of anarchy all over Russia, by which they hope to overthrow the present government”.<sup>43</sup> In this case responsibility perhaps rests on the Dashnaks and Russian revolutionary activists. At the same time, Russian government officials might have suggested this explanation to the British diplomat. One modern writer, the journalist Van Der Leeuw, also noted that the Bolsheviks were involved in cultivating ethnic conflict in order to take advantage of it at the appropriate moment but he wrongfully points to a Bolshevik of Armenian origin Anastas

<sup>38</sup> Mammad Said Ordubadi, Ganli Iller (seneler). 1905-1906-ci illerde Gafgazda bash veren ermeni-musulman davasinin tarihi (Baky, 1991 (reprint of 1911 edition)), p. 9. (There is also Russian e-version of this book, which, however, contains some errors: <[http://www.azeribook.com/history/ordubadi/krovaviye\\_godi.htm](http://www.azeribook.com/history/ordubadi/krovaviye_godi.htm)>).

<sup>39</sup> *Ibid.*, p. 10.

<sup>40</sup> Karibi, pp. 49-50.

<sup>41</sup> Cited form Altstadt, p. 42.

<sup>42</sup> Gerard Libaridian. See also Louise Nalbandian, Armenian Revolutionary Movement (Berkeley: University of California Press, 1963).

<sup>43</sup> Dominic Lieven, Kenneth Bourne, Cameron Watt, p. 68.

Mikoyan as the mastermind<sup>44</sup> – Mikoyan was 10 years old at that time. Taking into account that the Bolsheviks and the Dashnaks cooperated closely (a cooperation that was later evident in the massacres of the Azerbaijanis in March 1918), the Bolsheviks might have been somehow involved in the interethnic clashes, if not as instigator, at least as supporters of the Dashnakist revolutionaries. Meanwhile, many observers believe that the interethnic violence diluted the revolutionary unity in the South Caucasus. The Social-Democrats made many efforts to stop the violence – they succeeded in reconciling the two communities in Tbilisi in the fall 1905.

Western and Russian sources also opined that the Azerbaijanis supported the massacres because of their economic weaknesses as compared to the Armenians.<sup>45</sup> Audrey Altstadt rejects this opinion and maintains that the Azerbaijani Turks, particularly the upper classes had significant commercial and civic interests, especially in Baky, interests that included oil enterprises. She believes that “the root of the conflict must be sought in historical differences manipulated over decades by tsarist colonial policies meant to incite jealousy and perhaps, violence, as a means of control.”<sup>46</sup>

Finally, in Armenian historiography and some Russian and Western sources, there is the belief in an idea of ancient hatred between the Armenian and Turkic races. Despite vast literature in contemporary Armenian history it is hard to identify any significant massacres or even clashes between the Armenians and the Turks before the 1890s. There were some classical mediaeval wars in which the Armenians sometimes took part as vassals of various Turkic or Iranian kingdoms. There is strong evidence that the two peoples co-existed quite peacefully before first clashes erupted in the Ottoman Empire in the 1890s. The renowned Russian writer Maxim Gorky wrote in 1905:

[B]eing in the Caucasus I saw everywhere how the Georgians, Tatars and Armenians worked together in a friendly manner, how they joked with each other, sang and smiled. Now it is hard to believe that these peoples massacre each other following a dark and evil power instigating them.<sup>47</sup>

Stuart Kaufman stressed in his internationally award winning book *Modern Hatreds: The Symbolic Politics of Ethnic War* that the real cause of conflicts was “symbolic politics”. He argued that existing perceptions about neighboring ethnic groups provoked violence and once violence breaks out, those perceptions justified themselves. Yet it can be ethnic hatred that is falsely perceived to be a prolongation of historical animosities. If ones reads Armenian history it sounds as though Turks have been slaughtering Armenians for hundreds of years. That myth has been used to justify Armenian hostilities in Turkic-speaking Azerbaijan.<sup>48</sup>

## Events of 1905-1906

The reconstruction of an objective picture surrounding the massacres 1905-1906 is not easy task because Russian and Western media expressed sympathy to the Armenians. Tadeush Swietochowski noted that, “the events were reported in the world press generally with a tone of partiality towards the Armenians”.<sup>49</sup> Audrey Altstadt stressed that the media displayed an anti-Turkish and anti-Muslim tone. Observers nearly always blamed Muslims for the violence. The

<sup>44</sup> Charles van der Leeuw, *Azerbaijan: A Quest for Identity* (Caucasus World) (Palgrave Macmillan, 2000), p. 247.

<sup>45</sup> Shehtman, *ibid.*

<sup>46</sup> Altstadt, p. 43.

<sup>47</sup> Maxim Gorkiy, *Sobraniye sochineniy v 30-ti tomakh*. Volume 23 (Moscow, 1953), pp. 337-340.

<sup>48</sup> Kaufman, pp. 52-56.

<sup>49</sup> Swietochowski, pp. 41-42.

right-liberal newspaper *Slovo* blamed nationalism; the left-liberal *Russkaya Vedomost* blamed Pan-Islamism.<sup>50</sup> Conservative *Sankt-Peterburgskiy Vedomosti* accused only the Tatars.<sup>51</sup> Armenian newspapers joined that choir. But they sometimes had to acknowledge that the Armenians shared some responsibility for the massacres. An American-Armenian publication wrote:

The view of the Armenians as harmless sheep uncomplainingly stretching their necks to the slaughter is not borne out by the facts. [I]t is also untrue that the Armenians have always been the chief sufferers. Although in Baky and Nakhichevan this was the case, at Erivan and Etchmiadzin they remained the victors. At Shusha and Baky in September they suffered heavy material losses, but otherwise they fully held their own and paid the Tatars in their own coin.<sup>52</sup>

Pavel Shekhtman used those aforementioned reports from Russian publications to create an argument which takes an anti-Azerbaijani tone. He frequently quoted the newspaper *Tiflisskiy Listok* about which a contemporary journalist, Ossetian writer Arsen Kotsoyev said: "The more I work for this newspaper more I am convinced that *Tiflisskiy Listok* is a pure shop, which trades and cheats".<sup>53</sup> Luigi Villari's book is also clearly biased towards Armenians.<sup>54</sup>

I quote and mention many sources (most of them are available on internet) about the massacres of 1905-1906 both Armenian, pro-Armenian and Azerbaijani sources. A reader can make his own judgment; I offer the following reconstruction of the events.

After the December 1904 strike which appalled the Russian authorities, rumors about an upcoming slaughter of Tatars by Armenians and vice-versa circulated in Baky. Luigi Villari reported that Baky Governor Prince Nakashidze, a Georgian noble, openly encouraged the Tatars and treated the Armenians with marked coldness.<sup>55</sup> One of the leaders of the Azerbaijani political class Ismayil Ziyatkhonov witnessed in Russian State Duma (parliament) in 1907:

We, the Muslims, were told by the administration: you have been economically enslaved by the Armenians. They are arming themselves and plan to create a State. [T]he Armenians were told that the idea of Pan-Islamism had put down deep roots in all strata of the Muslim community and one day the Muslims would massacre them. [W]e had been living as good neighbors and liked each other. [i]n the past there had been no armed clashes.<sup>56</sup>

According to some sources, a small incident served as the pretext of the outbreak of the massacres. On January 12 two soldiers of Armenian origin killed 18-year old detainee, Bula-Aga Reza Oglu, when he attempt to escape from a guard. The deceased Azerbaijani was previously imprisoned on the charge of assaulting Armenians. Luigi Villari wrote that the person was the shopkeeper Gashum Beg. He also suggested that that - according to a Tartar version - the soldier whispered to Gashum Beg that if he tried to escape he would be allowed to get away and the moment he did so fired on him. The Armenians say that the offer of escape was not

<sup>50</sup> Altstadt, p. 41.

<sup>51</sup> Moreover, an Azerbaijani publicist Rahim Bek Melikov blamed "Sankt-Peterburgskiy Vedomosti" for insinuation and abetting. He wrote in «Kaspiy» (№ 14, 18 January 1906): "It is a futile attempt to prove to these newspapers that the ongoing hostility between the Armenians and the Muslims is not caused by pan-Islamism but by other factors. Because these conservative and pro-government newspapers want to increase the ethnic hatred in the Caucasus while all forces of the society try to stop violence".

<sup>52</sup> Cited from Swietochowski, p. 42.

<sup>53</sup> Sava Dangulov, Slovo ob Arsene Kotsoyeve. "Sovremennik" (Moscow, 1971), <<http://biblio.darial-online.ru/text/Kotsoev/dangulov.shtml>>.

<sup>54</sup> Charles van der Leeuw, p. 246.

<sup>55</sup> Villari, p. 193.

<sup>56</sup> Gosudarstvennaya Duma Rossiya. Vtoroy Soziv (Sankt-Petersbutg, 1907), p. 1229.

suggested.<sup>57</sup> The murder of the young Azerbaijani negatively affected the Azerbaijani community. Rumors spread that the Armenian escort intentionally killed the Azerbaijani. Villari further asserted that the Armenian killer was a member of the Armenian revolutionary committee the Dashnak, but the Armenians once again denied this.<sup>58</sup>

The Armenian and Tatar educated stratum, feeling the rising tension, gathered at the premises of the Azerbaijani newspaper *Kaspiy* and elected a committee, comprising five people, in the aim of preventing further such troubles.

Soon, on February 6 (by Russian Orthodox calendar and February 19 by European calendar) a relative of the deceased Babayev hunted down an Armenian escort soldier near the Armenian Church and opened fire to kill him but failed and was shot to death by other Armenians who reportedly were members of the Dashnak party.<sup>59</sup> This day and event became a starting point for the Armenian-Tatar massacres.

According to Villari, immediately after this murder of Babayev, Prince Nakashidze, "summoned some Armenian journalists to his Chancery, and delivered them a long discourse on the dangers of an Armenian-Tartar *pogrom*. He declared that if the Tartars did rise against the Armenians he would be powerless to defend them, as he had not enough troops, and the police were unreliable, many of them being Tartars. In fact one of the said Armenians reported that parts of this speech corresponded almost word for word with the report that the Governor made following the massacre, which suggests that he had foreseen the whole affair."<sup>60</sup> The British diplomatic source reported that the city was placarded with leaflets purportedly signed by the local chief of police but those leaflets turned to be forgeries, inciting the Muslims to a massacre of Armenians on March 4.<sup>61</sup> The same source reported that the authorities supplied the Muslims with arms.<sup>62</sup> Tadeush Swietochowski stated, however, that:

Widespread speculation had it that Nakashidze intended to weaken the antigovernment forces by exploiting the enmity between the Muslims and the rebellious Armenians. In actuality, the measure of the responsibility born by the tsarist authorities for the events that followed has never been fully determined. No incontrovertible proof of official connivance has been discovered, and there was at any rate enough accumulated hostility between the two peoples to set off an explosion without it. It is known, however, that Nakashidze, after a visit to St. Petersburg in January 1905, authorized the issue of large numbers of arms permits to the Muslims.<sup>63</sup>

The massacres began soon after the Babayev death. Russian newspapers reported that a Tatar crowd attacked the Armenian quarter of the city. However, it is also known that the Armenians were well prepared for the attack and soon launched counter offensive. The massacres continued for three days. Many Armenian and Azerbaijani-owned stores were destroyed and pillaged. "The majority of looters from the Muslim sides were Iranian workers, from the Armenian side the Dashnaks, arrived from Turkey, and other volunteers joined them."<sup>64</sup> The three-day massacre left about 300 to 400 dead. Luigi Villari informed that 218 Armenians and 126 Azerbaijanis were killed.<sup>65</sup> In Baky, police reports stated that some Armenians found shelter in Azerbaijani houses.<sup>66</sup>

<sup>57</sup> Villari, p. 193.

<sup>58</sup> *Ibid.*, p. 194.

<sup>59</sup> Swietochowski, p. 41.

<sup>60</sup> Villari, p. 194.

<sup>61</sup> Dominic Lieven, Kenneth Bourne, Cameron Watt, p. 67.

<sup>62</sup> *Ibid.*, pp. 91-92.

<sup>63</sup> Swietochowski, p. 41.

<sup>64</sup> Ordubadi, p. 14.

<sup>65</sup> Villari, p. 195.

Both Azerbaijani and Armenian sources blamed the police and the authorities for inaction. Luigi Villari wrote that Nakashidze encouraged and supported the Tatars. However, on February 9 he himself led the peaceful procession that included the Muslim Sheikh Ul-Islam and the Armenian bishop, calling the two communities to peace and reconciliation. Nevertheless, the Dashnaks passed a death sentence on the governor and on May 11 the Dashnak Dro Kanayan threw a bomb on a Nakashidze's carriage, killing him.

After the three days of riots in Baky the situation stabilized despite some isolated incidents and murders. Luigi Villari noted:

Both Armenians and Tartars armed themselves but the former did so on a larger scale, for their having previously experienced government hostility led them to feel that they had only themselves to rely on. The revolutionary committee displayed great zeal in collecting money both from Armenians and foreign firms who paid the blackmail and it was used to smuggle arms and explosives into town from Moscow. The Tartars, thinking themselves secure in the Government's favour, were less active.<sup>67</sup>

In Baky the Azerbaijanis had the strategic advantage, as surrounding settlements were populated by Azerbaijanis but in other regions and cities – Erivan, Shusha, Ganje (then Elizavetpol) the Armenians were better positioned and armed.

In May, Nakhichevan became the battleground. Luigi Villari reported, based on accounts of the Armenian clergy, that the Tatars, instigated by local nobility and news from Baky, launched an offensive against the lightly armed Armenians.<sup>68</sup> Ordubadi wrote that before the outbreak on May 11 several Azerbaijanis were murdered on May 5, 7 and 9. On the night of May 11 Armenian gangs shelled the city of Nakhichevan.<sup>69</sup> Russian vice-governor Taranovskiy arrived in the city from Erivan to restore order but his efforts failed. The Russian administration displayed no will to deal with the problem. Armenians, led by the Dashnak leader Duman, sent a message to the chief of Russian forces, warning him not to intervene and threatening Nakashidze if things turned otherwise. At the end of May, violence erupted in Erivan and spread to surrounding areas. There the Armenians were much stronger and celebrated victory.

In May 1905, Vorontsov-Dashkov was appointed Royal envoy in the Caucasus. Russian troops received orders to fire at the Azerbaijanis. The new envoy applied other measures against them. He considered the Armenians loyal to the Russian throne and maintained that since Peter the Great's Russian policy was based on benevolence toward the Armenians. They in turn rewarded Russia with their active aid.<sup>70</sup> From that time the Armenians felt confident to attack the Azerbaijanis.

In response to superior organization of the Dashnaktsutun, various Muslim groups that had been fighting in a hit-or-miss fashion began to coordinate their actions. Yet it took the menacing reality of the Russian-Armenian entente to move the Azerbaijanis to create a clandestine political association, specifically to counteract this danger. Known as the Difai (Defence) was founded in Ganja, in the fall 1905 on the initiative of some local notables. [F]rom Baky they were joined by Ahmad Agayev.<sup>71</sup>

The latter was considered by Russian sources as a main proponent of pan-Islamism. However,

<sup>66</sup> Gosudarstvenniy Istoricheskiy Arkhiv Azerbayjanskoy Respubliki, F. 375, O. 1, D. 17, pp. 136-137, 143-145.

<sup>67</sup> Villari, p. 196

<sup>68</sup> *Ibid.*, Chapter "Nakhitchevan And The May Massacres", pp. 265-291.

<sup>69</sup> Ordubadi, pp. 18-20.

<sup>70</sup> Swietochowski, pp. 42-43.

<sup>71</sup> *Ibid.*

he tried to persuade the Muslims that they lived peacefully with the Armenians for centuries. In general, the Difai blamed Russia for the bloodshed but also warned the Armenians that violence on their part would be answered in kind.<sup>72</sup>

In June violence broke out in Jebrail. Ordubadi reported that the Dashnaks invited Azerbaijani local leaders at a meeting and in a categorical manner called for joint struggle against the Russian rule. "We, Armenians, long ago started fighting for our national rights and self-rule. Our enemy, the Russian Empire resembles a big elephant. We, you and other non-Russian peoples suffered for many centuries and were helpless against this brutal government. We all skulk in the corner because of the fear, live in poverty and hunger." Another Dashnak member concluded: "If you will not help us in this matter, sufferings will fall upon your motherland, which will be burnt out and destroyed. Your homes will become your graves."<sup>73</sup> This passionate passage from Ordubadi might be biased. However, we can find the confirmation of similar conversations between the Armenians and Azerbaijanis on other places from a pro-Armenian source. Luigi Villari reported his conversation with a local bek in Nakhichevan, Raghim-khan who told the following story:

When the Russian Government confiscated the lands of the Armenian Church and closed its schools, the Armenian revolutionary committees became very active and tried to enlist our support on behalf of their movement. But we Tartars are peaceful people, loyal to our Tsar, and refused to listen to them. Whereupon the Armenians proceeded to threaten us, saying that if we did not help them we should be killed. They distributed menacing proclamations and pictures of *Djon-fidais* (Armenian revolutionists who have sworn to die for their country), armed to the teeth and told the Tartars that they had large stores of bombs and rifles. As the Tartars still persisted in their refusal the Armenians fell on them and assassinated a great number.<sup>74</sup>

Further Raghim-khan reported that the Armenians were better armed and "obtained them from Armenian ex-soldiers, or even from the Cossacks and from the Arsenal, for Government officials are always open to bribes." "They [Armenians] never attack an armed Tatar unless they are in overwhelming numbers and even then they prefer to hide behind a bush or a rock",<sup>75</sup> Ragim-khan concluded his story, which was accepted by Villari with a great sense of skepticism, while he did not question the version of events in Nakhichevan as narrated by Armenian archimandrites.

It is not clear why the Armenians, having heard the refusal from the Azerbaijanis, decided to attack their possible future allies, as the refusal did not imply future enmity. Ordubadi noted that the Armenians were trying to achieve an independent State that would have no place for Azerbaijanis and Georgians. He doubted that the attempt to separate from the Russian Empire would be possible under any circumstance. "No matter how it [the Russian Empire] is weak, it has enough power to strike back. It is clear that in this case other Caucasian peoples will suffer. And needless to say, this strike will affect us Muslims. The Russian government will not be involved directly in the fight against the Armenians – it will use another Caucasian people against them".<sup>76</sup> This is what eventually happened.

The Azerbaijanis, at least the leaders of the nobility, refused to join the fight against Russian domination perhaps, because, as Audrey Altstadt pointed out, they wanted to reach their goals at the Russians' expense; the Armenians – at the Azerbaijanis.<sup>77</sup> The Azerbaijani leaders also might have been suspicious of the Armenians' sincerity and strategy. After May 1905 the

<sup>72</sup> Swietochowski, p. 44.

<sup>73</sup> Ordubadi, pp. 38-39.

<sup>74</sup> Villari, p. 281.

<sup>75</sup> *Ibid.*

<sup>76</sup> Ordubadi, p. 54.

<sup>77</sup> Altstadt, p. 43.

Armenians allied with the Russian administration. The aforementioned Raghim-han blamed the Russian government for the enmity between the two peoples.

Perhaps initially the Azerbaijanis were not inclined to fight for their national rights. However, starting from this period the national liberation movement began to form. One of its leaders, Naki Keykurun blamed the Russians for the massacres as well. He believed that the Russian government supported and armed the Armenians.<sup>78</sup>

Despite the enmity, violence and clashes, the Armenian and Azerbaijani educated stratum tried to stop the massacres. In July 1905, peace committees were established to facilitate reconciliation. Tadeush Swietochowski noted that the Azerbaijanis "extended their open hand to the Armenians above the heads of the angry mobs [which] were more that just a manifestation of the intelligentsia's enlightened humanitarianism, and even more than simply alertness to the scheming of Russian officialdom".<sup>79</sup> Unfortunately, these peace committees did not succeed in breaking the vicious circle of violence.

In August 1905 violence and fires again hit Baky. Ordubadi reported that after the February events the Armenians decided to take revenge:

If we had pondered something bad against the Armenians we would have never left the city, trusting it to the hands of porters and cabmen. And the Armenians would have never dared to act, if the Muslims had stayed in the city. The Armenians portrayed the actions on August 20 as an act of heroism. They wanted revenge for the February defeat.<sup>80</sup>

The British diplomatic source confirmed this opinion: "The Armenians had not forgiven the Tatars for the February massacres, and, considering themselves sufficiently well prepared to deal the Tatars a blow, may in all probability have arranged to attack them".<sup>81</sup>

The second turn of violence in Baky started with a bell ringing at an Armenian Church and soon the Armenians attacked the Azerbaijanis. The latter, outnumbered and defeated in the city, burnt Armenian-owned oil fields in the outskirts of Baky in revenge. Vorontsov-Dashkov, having arrived in the city, took immediate and sharp measures to suppress the violence. Troops bombed any house from which fire was opened. By September 14 order was restored. Ordubadi reported that many Azerbaijanis and Armenians, led by their respective nobility and clergy, walked along streets and celebrated a peace accord.<sup>82</sup>

In summer 1905, the armed activities took an unprecedented dimension in Karabakh and Zangezur, particularly in Shusha. The events started with the murder of an Azerbaijani lamp-lighter on August 6. On August 16 Cossaks killed several Armenians but Azerbaijanis were blamed for this. The violence started immediately. On the next day the Azerbaijanis were successful in ousting the Armenians from the city. Two Armenian attempts to storm Shusha failed. On August 21 an armistice was concluded.

In November the two ethnic groups clashed in Ganja (then Elizavetpol). Armenian publicist Alibegov reported that on the night of November 18 two Azerbaijani corps were sent to an Armenian quarter. On the next morning an Azerbaijani opened fire on Armenians. It signaled the assault on the Armenian quarter. The Armenians quickly organized a defense. Alibegov blamed the city authorities for inaction.<sup>83</sup> He believed that a Russian governor Takaishvili abet-

<sup>78</sup> Naki Keykurun, *The Memoirs of the National Liberation Movement in Azerbaijan*. Published by Tomris Azeri, 1998, see at <<http://www.azerbaijan.com/azeri/tomrisbook1.htm>>.

<sup>79</sup> Swietochowski, p. 45.

<sup>80</sup> Ordubadi, p. 64.

<sup>81</sup> Dominic Lieven, Kenneth Bourne, Cameron Watt, p. 189.

<sup>82</sup> Ordubadi, p. 69.

<sup>83</sup> I.Alibegov. *Elisovetpolskiyi krovaviyi dni pred sudom obshestva* (Tiflis, 1906), pp. 1-6, see at <<http://www.genocide.ru/lib/alibegov/elizavetpole.html>>.

ted the massacres.<sup>84</sup> Ordubadi reported the murder of Azerbaijanis by certain Armenians and named them.<sup>85</sup>

Takaishvili was replaced by Fleischer but violence continued despite numerous attempts to reach peace. Order was restored with the arrival of general Malama. Villari reported that while troops tried to restore order, police worked to undo those efforts.<sup>86</sup>

On November 20 interethnic violence erupted in Tbilisi (then Tiflis) – capital of the Russian administration in the South Caucasus. The event was preceded by the murders of Azerbaijanis and Armenians. In Tbilisi the Armenians significantly outnumbered the Azerbaijanis. The latter asked for help from surrounding Azerbaijani settlements in the Borchali region. After reaching a military balance, the two parties agreed to sign a peace accord brokered by the Social-Democrats on December 1.

In February 1906, a peace conference was called in Tbilisi to put an end to the interethnic violence. The conference delegates from both communities pointed to the inaction of the Russian administration as a major problem. Azerbaijani delegates also blamed the Dashnaksutun party for massacring and propelling violence. Armenian delegates blamed Pan-Islamism. Vladimir Mayevsky, describing the conference, agreed that, "We need to acknowledge the guilt of 'Dashnaksutun'."<sup>87</sup> The Armenians repelled this accusation, saying that the party just helped to organize self-defense of Armenian population.

Despite growing hopes that the enmity would end, in the summer 1906 new clashes erupted in Shusha. It was here that Russian Co-Governor Goloshapov had helped the Armenians significantly in the summer 1905 by backing their cause. After summer 1905 Goloshapov was dismissed as Governor of Elizavetpol guberniya, which included Karabakh with Shusha. Governor Alftan replaced him. But in summer 1906 Russian authorities decided to appoint two governors for this guberniya – Alftan was retained and Goloshapov was brought back. With Goloshapov's help, the Armenians laid siege to Shusha, but the Azerbaijanis succeeded in defending the city.

After failure in Shusha, Armenians launched offensive operations in Zangezour and Nakhichevan. According to Ordubadi, they tried to create a mono-ethnic Armenian zone from Erivan to Karabakh.<sup>88</sup> This operation was not successful either. This was the last big clash between the ethnic communities within the Russian Empire, which collapsed later, in 1917. Isolated incidents continued until winter 1906.

The massacres of 1905-1906 claimed thousands of lives and destroyed hundreds of settlements. According to an Armenian source, 158 Azerbaijani and 128 Armenian villages were destroyed and pillaged.<sup>89</sup> The same source acknowledged that more Azerbaijanis were killed than Armenians and their total of victims might be greater because Muslims concealed the number of killed as a result of the Muslim custom to bury the dead on the same day. Moreover, the Azerbaijanis - unlike the Armenians - did not cooperate closely with the authorities after May 1905 and probably did not report their losses. Another Armenian source says that from 3,000 to 10,000 people died during the interethnic clashes.<sup>90</sup> Obviously, the Azerbaijanis suffered greater losses.

Ordubadi notes:

<sup>84</sup> Alibekov, pp. 7-8.

<sup>85</sup> Ordubadi, p. 90.

<sup>86</sup> Villari, p. 332.

<sup>87</sup> V.Mayevskiy, *ibid.*

<sup>88</sup> Ordubadi, p. 126.

<sup>89</sup> Quoted from Swietochowski, p. 39 - E.Aknouni, *Political persecutions: Armenian Prisoners of the Caucasus* (New York, 1911), p. 30.

<sup>90</sup> Richard Hovannisian, *Armenia on the Road to Independence, 1918*. Reprint (Berkeley and Los Angeles: University of California Press, 1967), p. 264.

Had the Armenians conducted their preparations in a clandestine manner, the total of Azerbaijanis killed would have been even greater. In the meantime, the Muslims in Baky did not take the confrontation seriously and defended many Armenians. We have a number of letters about that. [W]e hope that in the future the two peoples will not feel anything except love and trust. [I] would like to say that both peoples should not think of revenge because they have to live on this land together, free from troubles, trying to honour their laws and dignity.<sup>91</sup>

## Conclusion

Unfortunately, the tragedy of 1905-1906 was repeated on an even larger scale. In the aftermath of the collapse of the Russian Empire in March 1918 the Dashnaks, together with the Bolsheviks massacred close to 12,000 Azerbaijanis in Baky. In 1988 the current conflict started and resulted in grave consequences causing much loss and suffering. The events of 1905-1906 are imprinted in the memory of the two peoples.

Before 1905 the two groups lived together peacefully. The Turkish-Armenian clashes in the Ottoman Empire in the 1890s affected the Azerbaijanis; this effect was even greater after the event of 1915. The Armenians led by the nationalist Dashnaktsutun considered the Azerbaijani Turks as their enemy too. While the Russian authorities bore their own portion of responsibility for their colonial policy, the Armenian nationalist groups, particularly the Dashnaks, are responsible for the outbreak and continuation of the hostilities. Armenian revolutionary aspirations were channeled to narrow chauvinistic ideas aimed against the Turkic population of the South Caucasus and creation of an independent State on the territories where the Azerbaijani Turks lived.<sup>92</sup>

Azerbaijani violence was frequently spontaneous and initiated among the grassroots. Some local leaders of the nobility and perhaps emissaries from the Persian State are also responsible for clashes. The same patterns of violence can be observed during the ongoing conflict. The pogroms in Sumgait in February 1988 and in Baky in January 1990 differ radically from the Azerbaijani exodus from Armenia in the fall of 1989 and the massacre in Khojaly in February 1992. While violence on the part of the Azerbaijanis stemmed from the grassroots and conducted either by groups of criminals or refugees fleeing from Armenia, on the Armenian side it were conducted by the leaders of the country, parties or the elites who meticulously planned and organized the acts of violence against the Azerbaijanis.

As for the massacres of 1905-1906, violence usually started in response to the murders of Azerbaijanis. Some scholars believe that these murders were organized provocation by the Russian authorities. It seems, however, the Russian administration did not act as executer of these events but rather facilitated to the massacres by its inaction and later manipulated the two ethnic groups. At the very least, the colonial policy of the Russian Empire created conditions for animosity between the Armenians and the Azerbaijanis.

During the Soviet era the policy of favoritism and discrimination continued. For example, the Soviets allowed Armenians and Georgians to retain their ancient alphabets but introduced the Latin script for the Azerbaijanis to change traditional *aski alifba* based on the Arabic script. Later when Turkey adopted the Latin script, the Soviets introduced the Cyrillic script. The Bolsheviks considered the Azerbaijani Turks proximity to their Anatolian brethrens as a threat to the Soviet rule. The resettlement policy was also continued by the Soviet Union. In 1948-1953

<sup>91</sup> Ordubadi, p. 17.

<sup>92</sup> Speaking about these territories and its population, I put aside a moot concept of 'historical lands' and their belonging to certain ethnic groups 500, 1000 or 2000 years ago.

- as a result of a decision of Soviet Cabinet of Ministries dated December 23, 1947 - thousands of Azerbaijanis were resettled from Armenia to Azerbaijan, and some even ended up in Kazakhstan. These are just few examples of the Soviet policy of discrimination and favoritism.

Many other parallels can be found between the events of 1905-1906 and the modern conflict. After the 1905-1906 massacres the two ethnic communities - particularly their nobility, clergy and educated classes - cooperated and interacted. However during the current conflict, hatred prevails, and the rhetoric of territorial claims and ethnic incompatibility, as described by the former Armenian president Robert Kocharian, overwhelms the vocabulary of politicians and academics.



# ARTICLES

# FROM TERRITORIAL CLAIMS TO BELLIGERENT OCCUPATION: LEGAL APPRAISAL

*Tofiq F. Musayev\**

## Essential facts

At the end of 1987, the Armenian Soviet Socialist Republic (SSR) openly laid claim to the territory of the Nagorny Karabakh Autonomous Oblast (NKAO) of the Azerbaijan SSR. That marked the beginning of the systematic expulsion of Azerbaijanis from the Armenia SSR and the NKAO.

On 20 February 1988, at a meeting of the Soviet of People's Deputies of the NKAO, Armenian representatives adopted a decision to petition the Supreme Soviets of the Azerbaijan SSR and the Armenia SSR for the transfer of the NKAO from the Azerbaijan SSR to the Armenia SSR.<sup>1</sup> This decision set in motion determined actions by the Armenian authorities aimed at the unilateral secession of the NKAO from the Azerbaijan SSR.

The first victims were two Azerbaijanis, killed by Armenians on 24 February 1988 near the town of Askaran in Nagorny Karabakh. On 28 February 1988, interethnic clashes broke out in Sumgait.

At a meeting of the Soviet of People's Deputies of the NKAO, held on 12 June 1988 without the participation of any Azerbaijani deputies, an unlawful decision was adopted on the withdrawal of the NKAO from the Azerbaijan SSR.<sup>2</sup>

The Armenia SSR was also actively involved in efforts to legalize the separation of the NKAO from the Azerbaijan SSR. The highest organ of State authority of the Armenia SSR — the Supreme Soviet — adopted a number of decisions that violated the Constitution, the most notorious of which was the resolution "On the Reunification of the Armenia SSR and Nagorny Karabakh" of 1 December 1989. This document made provision for the adoption of all the necessary measures for the amalgamation of the political, economic and cultural structures of the Armenia SSR and Nagorny Karabakh into a single State political system.<sup>3</sup>

The proclamation on 2 September 1991 of the "Republic of Nagorny Karabakh" and the declaration of this entity as an "independent State", based on the outcome of a "referendum" held on 10 December 1991, marked the next step in efforts to legitimize the separation of Nagorny Karabakh from Azerbaijan.

The collapse of the USSR finally freed the hands of the Armenian nationalists. At the end of 1991 and the beginning of 1992 the conflict reached the military phase. Taking advantage of the political instability as a result of the dissolution of the Soviet Union and internal squabbles in Azerbaijan, Armenia began combat operations on the territory of Azerbaijan. Over the period of 1992-1993 a considerable area of Azerbaijan was occupied by Armenia, including Nagorny

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<sup>1</sup> For text, see Vaan Arutunyan, *Events in Nagorny Karabakh: Chronicle*, part 1, February 1988-January 1989 (Yerevan: Academy of Sciences of the Armenia SSR, 1990), p. 38.

<sup>2</sup> Decision of the Eighth Meeting of the Twentieth Convocation of the Soviet of People's Deputies of the Nagorny Karabakh Autonomous Oblast Proclaiming the Withdrawal of the NKAO from the Azerbaijan SSR, 12 July 1988. For text, see Vaan Arutunyan, pp. 113-115.

<sup>3</sup> For text, see newspaper "Kommunist" (in Armenian), 2 December 1989.

Karabakh and seven adjacent districts. The resulting war unleashed against Azerbaijan led to the deaths and wounding of thousands of people; hundreds of thousands became refugees and were forcibly displaced and several thousand disappeared without trace.

Contrary to numerous statements of the official Yerevan that Armenia is not directly involved into the conflict with Azerbaijan, there are indisputable proofs, which testify against such allegations and argue for the direct military aggression of the Republic of Armenia against a neighbouring sovereign State.

### Attempts to justify the claims

In order to justify the territorial claims of Armenia towards Azerbaijan, the officials of the former are guided by the position according to which Nagorny Karabakh had never been within the jurisdiction of independent Azerbaijan. This understanding is based on the following key arguments:

*Firstly*, in the period when independent Azerbaijan became part of the Soviet Union Karabakh had not been within its jurisdiction, the evidence of which is the decision of the League of Nations that refused to recognize Azerbaijan because of its territorial claims to the Armenian populated Eastern Caucasus, including in particular Nagorny Karabakh, as well as the lack of efficient State control over its supposed territory and inability to ground the legitimacy of the frontiers of this territory.

*Secondly*, the legal cause for secession of Nagorny Karabakh from Azerbaijan in the process of disintegration of the USSR in 1991 and the establishment of the "Republic of Nagorny Karabakh". Thereby the special emphasis is placed on the provisions of the Law of the USSR "On the Procedures for Resolving Questions Related to the Secession of Union Republics from the USSR" of 3 April 1990, according to which in case of realization by the Union Republic of the secession procedure provided for in this Law autonomous entities would acquire a right to decide independently the question of staying in the USSR or in the seceding Republic, as well as to raise the question of their own State-legal status.

*Thirdly*, Azerbaijan has no ground to assert its frontiers from the Soviet period insofar as it refused to regard itself as a successor State to the USSR.<sup>4</sup>

Thus, the analysis below, though passes over in silence a number of important legal issues arising from the conflict, focuses primarily on the above-mentioned arguments of Armenia, as well as addresses the current situation in the occupied territories of Azerbaijan and resulting responsibility under international law.

### Consideration of the application made by Azerbaijan and Armenia for admission to the League of Nations

Following the entry of the British forces into Baky in 1918, general V.Thomson, who represented the Allied Powers, recognized Nagorny Karabakh, together with the neighboring Zangezur *uyezd*, under the administration of Azerbaijan. He confirmed the appointment by the Government of Azerbaijan of Khosrov Sultanov as a Governor of the Karabakh General-Governorship, of which these two regions were part. By the provisional agreement concluded on 26 August

<sup>4</sup> For more information about the position of Armenia, see this country's initial reports under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, UN Documents E/1990/5/Add.36 and CCPR/C/92/Add.2; "Legal aspects for the right to self-determination in the case of Nagorny Karabakh", UN Document E/CN.4/2005/G/23; Speech by Serzh Sarkisian at the parliamentary hearings on the problem of Nagorny Karabakh, 29-30 March 2005, IA REGNUM: <<http://www.regnum.ru/news/437271.html>>.

1919 with the government of Azerbaijan, the Armenians of Nagorny Karabakh recognized officially the former's authority.<sup>5</sup>

In 1918-1920, the Republic of Azerbaijan had diplomatic relations with a number of States. Agreements on the principles of mutual relations were signed with some of them; sixteen States established their missions in Baky. As a result, on 12 January 1920, at the Paris Peace Conference the Supreme Council of the Allied Powers de-facto recognized the independence of the Republic of Azerbaijan.

The head of the Azerbaijani Delegation at the Conference by a letter of 1 November 1920 requested the Secretary-General of the League of Nations to submit to the Assembly of the League an application for the admission of the Republic of Azerbaijan into full membership of the Organization.

The Secretary-General of the League of Nations pointed out in his Memorandum of 24 November 1920 that the mandate of the Azerbaijani Delegation attending at the Paris Peace Conference derived from the Government which had been in power at Baky until April 1920. Thus, the attention in the Memorandum is distinctly paid to the fact that at the time of submission by the Azerbaijani Delegation of the application (1 November 1920) and the publication date of the Memorandum (24 November 1920) the Government of the Republic of Azerbaijan, which issued the credentials to the Delegation, was not actually in power since April 1920. It was further noted in the Memorandum that this Government did not exercise the authority over the whole territory of the country.<sup>6</sup>

In this context, the most important part of the mentioned Memorandum of the Secretary-General relates to the "Juristic observations", which reminds of the conditions governing the admission of new Members to the Organization contained in article 1 of the Covenant of the League of Nations, including the requirement to be a fully self-governing State.<sup>7</sup>

The relevant documents of the League of Nations completely disprove the statements of the Armenian side claiming that the League of Nations did not admit Azerbaijan because of its alleged territorial claims to the so-called Armenian-populated territories and the refusal to recognize the control of Azerbaijan over Nagorny Karabakh. It is obvious actually that the State, considerable part of the territory of which was occupied by the time of consideration of its application in the League of Nations, and yet the Government that submitted this application was overthrown, could not be regarded as fully self-governing in terms of article 1 of the Covenant of the League of Nations. It is clear from the text of the said resolution that under "the present circumstances" the Fifth Committee, which made no reference to Nagorny Karabakh at all, understood only that "Azerbaijan does not seem to possess a stable government with jurisdiction over a clearly defined territory."<sup>8</sup> Thus, these were just those reasons, derived from the requirements set forth in article 1 of the Covenant of the League of Nations, which had prevented Azerbaijan from being admitted into full membership of the Organization.

At the same time, the League of Nations did not consider Armenia itself as a State and proceeded from the fact that this entity had no clear and recognized borders, neither status nor

<sup>5</sup> Provisional agreement between the Armenians of Nagorny Karabakh and the Government of Azerbaijan, 26 August 1919 года. For text, see "To the History of Formation of the Nagorny Karabakh Autonomous *Oblast* of the Azerbaijan SSR. 1918-1925: Documents and Materials" (Baky: Azerneshr, 1989), pp. 23-25. See also Tadeusz Swietochowski, *Russia and Azerbaijan: A Borderland in Transition* (New-York: Columbia University Press, 1995), pp. 75-76.

<sup>6</sup> League of Nations. Memorandum by the Secretary General on the Application for the Admission of the Republic of Azerbaijan to the League of Nations. Assembly Document 20/48/108, p. 2. See also *The Covenant of the League of Nations* (1919), in Malcolm D. Evans (ed.), *Blackstone's International Law Documents* (Oxford: Oxford University Press, 6th ed., 2003), pp. 1-7, at p. 1, article 1.

<sup>7</sup> League of Nations. Assembly Document 20/48/108, p. 4.

<sup>8</sup> League of Nations. Fifth Committee. Admission of New Members. Resolution on the request for admission made by Azerbaijan. Assembly Document 127.

constitution, and its Government was unstable. As a result, the admission of Armenia to the League of Nations was voted down on 16 December 1920.<sup>9</sup>

### Nagorny Karabakh within the Azerbaijan SSR

Along with the above-mentioned facts on the recognition by the Allied Powers of the authority of Azerbaijan over Nagorny Karabakh, a proposition that Karabakh was not under the jurisdiction of independent Azerbaijan when it became part of the Soviet Union is refuted also by the decision of the Caucasian Bureau of the Central Committee of the Russian Communist Party (Bolsheviks), which, owing to the territorial claims of Armenia, did take up the problem several times and, at the meeting held on 5 July 1921, decided to retain Nagorny Karabakh within the Azerbaijan SSR. The following quotation demonstrates that the Bureau decided to leave Nagorny Karabakh within the Azerbaijan SSR, not to transfer it, as the Armenian side insists:

Taking into account the necessity of national peace between the Muslims and the Armenians, the economic relations between upper and lower Karabakh and the permanent relations of upper Karabakh with Azerbaijan, Nagorny Karabakh shall be retained within the Azerbaijan SSR and broad autonomy shall be given to Nagorny Karabakh with Shusha city as an administrative centre.<sup>10</sup>

In this regard, the attention should be drawn to the contradictory position of the Government of the Republic of Armenia as to the status of the Caucasian Bureau. Thus, in the initial report of Armenia under the International Covenant on Civil and Political Rights the Caucasian Bureau is referred to as "an unconstitutional and unauthorized party organ", which "had no right to participate on the national State-building activities of another State", while its decision of 5 July is considered as "an act of gross intervention in the internal affairs of another sovereign Soviet Republic."<sup>11</sup> On the contrary, in another official document, the Caucasian Bureau is viewed by Armenia as a legitimate body with the authorization to decide on territorial issues affecting Armenia and Azerbaijan at that time. Thus, Armenia is confident that "[d]e jure, only the [...] decision [of the Caucasian Bureau] of July 4, 1921 [to] 'include Nagorny Karabakh in the Armenia SSR, and to conduct plebiscite in Nagorny Karabakh only' was the last legal document on the status of Nagorny Karabakh to be legally adopted without procedural violations."<sup>12</sup>

The decision of 5th July 1921 was the final and binding ruling which would be repeatedly affirmed by the Soviet leadership and recognized by Armenia over the years.

On 7 July 1923, the Central Executive Committee of the Azerbaijan SSR issued the Decree "On the Formation of the Nagorny Karabakh Autonomous *Oblast*".<sup>13</sup> The administrative borders of the NKAO were defined in a way to ensure that the Armenian population constituted a majority. At the same time, about 575,000 Azerbaijanis living in communities in Armenia were refused the same

<sup>9</sup> League of Nations. Annex 30 B. Future status of Armenia. Memorandum agreed to by the Council of the League of Nations, meeting in Paris on 11 April 1920. League of Nations Document 20/41/9, p. 27; See also Admission of new Members to the League of Nations. Armenia. Assembly Document 209, pp. 2-3; Assembly Document 251.

<sup>10</sup> Extract from the Protocol of the plenary session of the Caucasian Bureau of the Central Committee of the Russian Communist Party (Bolsheviks) of 5 July 1921. For text, see "To the History of Formation of the Nagorny Karabakh Autonomous *Oblast* of the Azerbaijan SSR. 1918-1925: Documents and Materials", p. 92.

<sup>11</sup> See the UN Document E/1990/5/Add.36, para.2.

<sup>12</sup> See Annex to the note verbale dated 21 March 2005 from the Permanent Mission of Armenia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights, entitled "Legal aspects for the right to self-determination in the case of Nagorny Karabakh". UN Document E/CN.4/2005/G/23, p. 4.

<sup>13</sup> For text, see "To the History of Formation of the Nagorny Karabakh Autonomous Oblast of the Azerbaijan SSR. 1918-1925: Documents and Materials", pp. 152-153.

status by both the USSR central Government, and the Armenia SSR. According to the population census of 12 January 1989, the population of the NKAO was 189,085 persons; of whom 145,450 were Armenians (76.9 %); 40,688 were Azerbaijanis (21.5 %); 1922 were Russians (1,0 %).<sup>14</sup>

The allegations of discrimination against the Armenian population of Nagorny Karabakh do not stand up to scrutiny. In reality, the NKAO possessed all the essential elements of self-government.

The status of Nagorny Karabakh as an autonomous *oblast* within the Azerbaijan SSR was stipulated in the USSR Constitutions of 1936 and 1977.<sup>15</sup> In accordance with the Constitutions of the USSR and the Azerbaijan SSR, the legal status of the NKAO was governed by the Law "On the Nagorny Karabakh Autonomous *Oblast*", which was adopted by the Supreme Soviet of the Azerbaijan SSR on 16 June 1981.<sup>16</sup> Under the Constitution of the USSR, the NKAO was represented by five deputies in the Council of Nationalities of the Supreme Soviet of the USSR. It was represented by 12 deputies in the Supreme Soviet of the Azerbaijan SSR.

The Soviet of People's Deputies of the NKAO — the government authority in the *oblast* — had a wide range of powers. It decided all local issues based on the interests of citizens living in the *oblast* and with reference to its national and other specific features. Armenian was used in the work of all government, administrative and judicial bodies and the Prosecutor's Office, as well as in education, reflecting the language requirements of the Armenian population of the *oblast*. Local TV and radio broadcasts and the publication of newspapers and magazines in the Armenian language were all guaranteed in the NKAO.

As a national territorial unit, the NKAO enjoyed administrative autonomy, and, accordingly, had a number of rights, which, in practice, ensured that its population's specific needs were met. In fact, statistics illustrate that the NKAO was developing more rapidly than Azerbaijan as a whole. The existence and development of the NKAO within Azerbaijan confirms that the form of autonomy that had evolved fully reflected the specific economic, social, cultural and national characteristics of the population and the way of life in the autonomous *oblast*.

### Disintegration of the USSR

All the decisions taken with a view to separating Nagorny Karabakh from Azerbaijan ran counter to the USSR Constitution, which stipulated that the territory of a Union Republic could not be altered without its consent, while the borders between Union Republics could be altered by mutual agreement of the Republics concerned, subject to approval by the USSR.<sup>17</sup>

In connection with the adoption in the late 1980-s of the illegal decisions aimed at the secession of the NKAO from the Azerbaijan SSR and annexation of the *oblast* to the Armenia SSR, the Supreme Soviet of the USSR and its Presidium considered on several occasions the crisis in Nagorny Karabakh. All decisions of the superior State body of the former USSR unequivocally recognized the inadmissibility of changing borders or the constitutionally established national-territorial division of the Azerbaijan SSR and the Armenia SSR.<sup>18</sup>

<sup>14</sup> National composition of the population of the USSR. According to the findings of the All-Union population census of 1989. (Moscow: Finance and Statistics, 1991), p. 120.

<sup>15</sup> USSR Constitution (Moscow, 1936), p. 14, article 24; USSR Constitution (Moscow, 1977), pp. 13-14, article 87.

<sup>16</sup> Law of the Azerbaijan SSR "On the Nagorny Karabakh Autonomous *Oblast*", 16 June 1981 (Baky: Azerneshr, 1987), p. 3, article 3.

<sup>17</sup> USSR Constitution (Moscow, 1977), p. 13, article 78.

<sup>18</sup> Resolution of the Presidium of the Supreme Soviet of the USSR "On Measures Concerned with the Appeals of the Union Republics Regarding the Events in Nagorny Karabakh, in the Azerbaijan SSR and the Armenia SSR", 23 March 1988. Bulletin of the Supreme Soviet of the USSR, 1988, No. 13, pp. 27-28; Resolution of the Supreme Soviet of the USSR "On the Decisions of the Supreme Soviets of the Armenia SSR and the Azerbaijan SSR on the Question of Nagorny Karabakh", 18 July 1988. Bulletin of the Supreme Soviet of the USSR, 1988, No. 29, pp. 20-21; Resolution of the Presidium of the Supreme Soviet of the USSR "On Inconsistency with the Constitution of the USSR of the Acts on Nagorny Karabakh adopted by the Supreme Soviet of the Armenia SSR on 1 December 1989 and 9 January 1990". Bulletin of the Supreme Soviet of the USSR, 1990, No. 3, p. 38.

The next attempt of the Armenian side to legalize the secession of Nagorny Karabakh was made on 2 September 1991. Unlike all previous decisions, the proclamation that day of the "Republic of Nagorny Karabakh" was argued by the Law of the USSR "On the Procedures for Resolving Questions Related to the Secession of Union Republics from the USSR" of 3 April 1990.<sup>19</sup>

It should be made clear in this regard that under article 72 of the USSR Constitution only Union Republics had the right freely to secede from the USSR.<sup>20</sup> However, as subsequent events illustrated, this right had remained a dead letter. As Antonio Cassese correctly pointed out, the Law of 3 April 1990 made the whole process of possible secession from the Soviet Union so cumbersome and complicated, that one may wonder whether it ultimately constituted a true application of self-determination or was rather intended to pose a set of insurmountable hurdles to the implementation of that principle.<sup>21</sup>

It is necessary first to note that the purpose of this Law was to regulate mutual relations within the framework of the USSR by establishing a specific procedure to be followed by Union Republics in the event of their secession from the USSR. A decision by a Union Republic to secede had to be based on the will of the people of the Republic freely expressed through a referendum, subject to authorization by the Supreme Soviet of the Union Republic.

At the same time, according to this Law, in a Union Republic containing autonomous entities, the referendum had to be held separately in each entity in order to decide independently the question of staying in the USSR or in the seceding Union Republic, as well as to raise the question of its own State-legal status. Moreover, the Law provided that in a Union Republic, whose territory included areas with concentration of national groups that made up the majority of the population in a given locality, the results of the voting in those localities had to be considered separately during the determination of the referendum results.

It is not difficult to see how an attempt by a Union Republic to secede from the USSR would have ended, assuming it had complied with the procedure stipulated in the Law of 3 April 1990.

It is important to emphasize that the secession of a Union Republic from the USSR could be regarded valid only after the fulfillment of complicated and multi-staged procedures and, finally, the adoption of the relevant decision by the Congress of the USSR People's Deputies.

In reality, the Law made it practically impossible for Republics successfully to negotiate the entire secession process and thus clearly failed to meet international standards on self-determination.<sup>22</sup> It is therefore curiously to hear this Act being invoked by uncompromising advocates of the unrestricted application of the right of peoples to self-determination, since that is precisely what the Law limited.

According to Rein Mullerson, "the tactics used with the adoption of the said Law were not only powerless to prevent the dissolution of the USSR, but also aggravated the situation when the majority had begun to perceive their minorities (sometimes rightly, sometimes wrongly) as a fifth column of the Kremlin."<sup>23</sup>

For the reasons mentioned above, it is natural that the Law of 3 April 1990 was never applied. During the existence of the Soviet Union, none of the Union Republics had used the procedure for secession stipulated in it. Instead, it was rapidly superseded by the dramatic events

<sup>19</sup> For text, see Bulletin of the Supreme Soviet of the USSR, 1990, No. 15, pp. 303-308.

<sup>20</sup> USSR Constitution (Moscow, 1977), p. 12, article 78.

<sup>21</sup> Antonio Cassese, *Self-determination of peoples. A legal reappraisal* (Cambridge: Cambridge University Press, 1995), pp. 264-265.

<sup>22</sup> *Ibid.*, p. 265.

<sup>23</sup> Rein Mullerson, *International Law, Rights and Politics: Developments in Eastern Europe and the CIS* (London & New York: Routledge, 1994), p. 75.

in the USSR and forfeited not only its urgency but also legal effect until the Soviet Union ceased to exist as international legal person.

It is sufficient to recollect that the extraordinary Congress of the USSR People's Deputies, held at the beginning of September 1991, had practically put an end to all formerly existed statehood in the Soviet Union.<sup>24</sup> The final resolution of the Congress, declaring the transition period to form the new system of State relations, enacted to speed up preparation and signing of a Treaty on the Union of Sovereign States. At the same time, according to the said resolution of the Congress, this Union would have been based on the principles of independence and territorial integrity of its constituent States.<sup>25</sup>

Besides, the resolution of the Congress supported the Republics in their aspiration towards international recognition and admission to the United Nations membership. Moreover, the Congress expressed respect to the declarations on sovereignty or independence adopted by the Union Republics and made it clear that those of them which preferred to remain outside the new Union would be required to hold negotiations with the USSR for solving the matters arising in connection with the Republic's secession.<sup>26</sup>

In other words, whereas in 1990 the Soviet leadership insisted to conform to the rules laid down in the Law of 3 April 1990, the resolutions of the Congress and subsequent decisions of the State Council of the USSR set conditions for achieving the same goals in the course of negotiations with each of the Republics.

The process of independence by Union Republics occurred outside the realm of law and was precipitated by the political crisis at the centre of the Soviet Union and the correlative increase in the strength of centrifugal forces.<sup>27</sup>

Thus, any actions intended to secure the unilateral secession of Nagorny Karabakh were accompanied by the apparent violation of the USSR Constitution, and, therefore, caused no legal consequences whatsoever.

The NKAO remained in existence until 26 November 1991, when, pursuant to an Act adopted by the Supreme Council of the Republic of Azerbaijan, the autonomous *oblast* was revoked as a territorial entity of the country.<sup>28</sup> Until the full restoration of State independence of the Republic of Azerbaijan and its recognition by the international community, Nagorny Karabakh continued to form part of Azerbaijan.

### Legitimization of borders

Shortly after the Soviet Union ceased to exist, its former constituent Republics were accorded *de jure* recognition by the international community. At the moment the Republic of Azerbaijan gained independence, the former administrative borders of the Azerbaijan SSR, which also encompassed the NKAO, were deemed henceforth to be international borders and to be protected under international law (*uti possidetis juris*). This understanding finds support in the relevant practice.

Thus, the Agreement Establishing the Commonwealth of Independent States of 8 Decem-

<sup>24</sup> "First meeting of the State Council: sovereign policy and economic cooperation". Newspaper "Izvestiya", 9 September 1991.

<sup>25</sup> Resolution of the Congress of the USSR People's Deputies "On Measures Deriving from the Joint Statement of the President of the USSR and Leaders of the Union Republics and Decisions of the Extraordinary Session of the Supreme Soviet of the USSR", 5 September 1991. Newspaper "Izvestiya", 7 September 1991.

<sup>26</sup> *Ibid.*

<sup>27</sup> Antonio Cassese, p. 266.

<sup>28</sup> Law of the Republic of Azerbaijan "On Revocation of the Nagorny Karabakh Autonomous *Oblast* of the Republic of Azerbaijan", 26 November 1991. Bulletin of the Supreme Council of the Republic of Azerbaijan, 1991, No. 24, pp. 77 & 78.

ber 1991 provided that "[t]he High Contracting Parties acknowledge and respect each other's territorial sovereignty and the inviolability of existing borders within the Commonwealth."<sup>29</sup> The same approach was reiterated in the Alma Ata Declaration of 21 December 1991 signed by the eleven former Union Republics, including Armenia and Azerbaijan.<sup>30</sup>

These decisions, as well as "The Guidelines on Recognition of New States in Eastern Europe and the Soviet Union" of 16 December 1991, in which the European Community and its Member States required *inter alia* "respect for the inviolability of all frontiers which can only be changed by peaceful means and by common agreement",<sup>31</sup> had reinforced in fact that the principle of *uti possidetis juris* is a "general principle, which is logically connected with the phenomenon of the obtaining of independence, wherever it occurs."<sup>32</sup> On the basis of this principle the former administrative borders between Union Republics had been recognized as their international boundaries protected by international law, particularly by the principle of territorial integrity.

This approach received additional support in the relevant resolutions of the United Nations Security Council relating to the conflict between Armenia and Azerbaijan.<sup>33</sup>

As Thomas Franck pointed out with reference to the emerging practice, *uti possidetis juris* appeared to be applicable equally to entities such as Croatia and Azerbaijan, and, more important, to be adapting to protect their pre-existing boundaries not only against external claims for revision but also against internal claims.<sup>34</sup>

According to David Atkinson, rapporteur on the Karabakh conflict for the Parliamentary Assembly of the Council of Europe (PACE), "the borders of Azerbaijan were internationally recognized at the time of the country being recognized as an independent State in 1991," the territory of which "included the Nagorny Karabakh region."<sup>35</sup>

As to the Armenian side's argument that by proclaiming the restoration of the State independence of 1918-1920 and thus becoming the successor of the then Azerbaijan Democratic Republic the modern Republic of Azerbaijan allegedly forfeited a right to pretend to the borders of the Soviet period, the attention should be drawn to article 11 of the Vienna Convention on Succession of States in Respect of Treaties, according to which "[a] succession of States does not as such affect: (a) a boundary established by a treaty [...]"<sup>36</sup>

Although this provision directly applies to external boundaries of the former USSR established by the relevant international treaties, to which it was a party, it actually underlines the principle, according to which "[o]nce agreed, the boundary stands."<sup>37</sup> In other words, this conceptual international legal approach provides that an actual boundary continues to exist notwithstanding the succession, so that the change of sovereignty is powerless to undermine such boundaries which achieve permanence.<sup>38</sup>

<sup>29</sup> For text, see 31 International Law Materials 1992, pp. 143-146, at p. 144, article 5.

<sup>30</sup> For text, see *ibid.*, pp. 148-149, at p. 148.

<sup>31</sup> For text, see *ibid.*, pp. 1486-1487, at p. 1487.

<sup>32</sup> *Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali)*, ICJ Judgment of 22 December 1986, ICJ Reports 1986, pp. 554-651, at p. 565, para. 20.

<sup>33</sup> United Nations Security Council resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 June 1993, 874 (1993) of 14 October 1993 and 884 (1993) of 11 November 1993.

<sup>34</sup> Thomas M. Franck, "Postmodern Tribalism and the Right to Secession", in C. Brölmann, R. Lefeber, M. Zieck (eds.), *Peoples and Minorities in International Law* (Dordrecht/Boston/London, Martinus Nijhoff Publishers, 1993), pp. 3-27, at p. 20.

<sup>35</sup> Report of the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe. Document 10364, 29 November 2004. Explanatory Memorandum by the Rapporteur, part III, para. 5.

<sup>36</sup> Vienna Convention on Succession of States in Respect of Treaties, 22 August 1978. For text, see Malcolm D. Evans (ed.), pp. 185-199, at p. 188.

<sup>37</sup> *Case Concerning the Territorial Dispute (Libya/Chad)*, ICJ Judgment, 3 February 1994, ICJ Reports 1994, pp. 6-41, at p. 37, paras. 72-73

<sup>38</sup> Malcolm N. Shaw, "The Heritage of States: The Principle of *Uti Possidetis Juris* Today", 77 *The British Yearbook of International Law* 1996 (Oxford: Clarendon Press, 1977), pp. 75-154, at p. 90.

## Prohibition under international law of the forcible seizure of a territory

The Charter of the United Nations proclaims as one of the purposes of the United Nations the maintenance of international peace and security and, to that end, the taking of effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and the bringing about by peaceful means, and in conformity with the principles of justice and international law, of adjustment or settlement of international disputes or situations which might lead to a breach of the peace.<sup>39</sup>

Pursuant to article 2, paragraph 4, of the Charter, States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Charter of the United Nations.<sup>40</sup>

The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of 24 October 1970 stipulates that a "war of aggression constitutes a crime against the peace, for which there is responsibility under international law." In addition, under the Declaration, "[e]very State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States."<sup>41</sup>

Attention is also drawn to the Declaration's conclusion that the "territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter" and, accordingly, that "[n]o territorial acquisition resulting from the threat or use of force shall be recognized as legal."<sup>42</sup> This position is also upheld in the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations of 18 November 1987, which stipulates that "[n]either acquisition of territory resulting from the threat or use of force nor any occupation of territory resulting from the threat or use of force in contravention of international law will be recognized as legal acquisition or occupation."<sup>43</sup>

As the International Court of Justice established in its judgment in the *Military and Paramilitary Activities in and against Nicaragua* case, principles relating to the use of force that have been incorporated in the Charter of the United Nations reflect customary international law. The same holds true for the Court's determination of the illegality of territorial acquisition resulting from the threat or use of force.<sup>44</sup> This rule prohibiting the use of force is a conspicuous example of a peremptory norm of international law (*jus cogens*), as defined in article 53 of the Vienna Convention on the Law of Treaties.<sup>45</sup>

<sup>39</sup> Charter of the United Nations, 26 June 1945 (New York: United Nations Department of Public Information, 2001), article 1, para. 1.

<sup>40</sup> *Ibid.*

<sup>41</sup> Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970. United Nations General Assembly resolution 2625 (XXV). Resolutions adopted by the United Nations General Assembly at its twenty-fifth session. Official records of the General Assembly, 25th session, Supplement No. 28 (A/8028), p. 153.

<sup>42</sup> *Ibid.*

<sup>43</sup> Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, 18 November 1987. United Nations General Assembly resolution 42/22. Resolutions adopted by the United Nations General Assembly at its forty second session. Official Records of the General Assembly, 42nd session, Supplement No. 41 (A/42/41), p. 403.

<sup>44</sup> *Military and Paramilitary Activities in and against Nicaragua case (Nicaragua v. United States of America)*, Judgment of 27 June 1986, I.C.J. Reports 1986, paras. 188 and 190; see also *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. Advisory Opinion of 9 July 2004, I.C.J. Reports 2004, para. 87.

<sup>45</sup> Vienna Convention on the Law of Treaties, 22 May 1969. For text, see Ian Brownlie (ed.), *Basic Documents in International Law* (Oxford: Oxford University Press, 5th ed., 2002), pp. 270-297, at p. 285. See also *Military and Paramilitary Activities in and against Nicaragua case (Nicaragua v. United States of America)* (Merits), para. 190; Articles on Responsibility of States for Internationally Wrongful Acts. Annex to United Nations General Assembly resolution 56/83 of 12 December 2001, article 41, para. 2; Ian Brownlie, *Principles of Public International Law* (Oxford: Oxford University Press, 6th ed., 2003), pp. 488-489.

The sole exception to this rule is the right of self-defence under article 51 of the United Nations Charter. Bearing in mind the arguments put forward by the Armenian authorities on this issue, it is important to note that the beneficiaries of this rule are States. As pointed out by the International Court of Justice in its advisory opinion regarding the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, "[a]rticle 51 of the Charter thus recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State."<sup>46</sup> The entity established on the occupied territory of Azerbaijan by Armenia and rendered subservient to its will is not a State and cannot therefore invoke the right of self-defence.

This understanding is reflected in the relevant resolutions of the United Nations Security Council, adopted in 1993 following the armed seizure of Azerbaijani territory. The resolutions recognize that the Nagorny Karabakh region belongs to Azerbaijan and reaffirm the sovereignty and territorial integrity of the Republic of Azerbaijan, the inviolability of its international borders and the inadmissibility of the use of force for the acquisition of territory. The resolutions demand the immediate cessation of all hostilities and the immediate, complete and unconditional withdrawal of the occupying forces from all occupied regions of the Republic of Azerbaijan and, in this context, call for the restoration of economic, transport and energy links in the region and for measures to assist refugees and displaced persons to return to their homes. In this light it is clear that the actions of the Armenian authorities can only be viewed as a violation of the peremptory norms of international law.

### Armenia's role in the occupation of Azerbaijani territory

It cannot be denied that the policy pursued by Armenia in the occupied territories of Azerbaijan differs little from comparable activities carried out by occupying countries in other areas of the world. Considerations of time and geographical conditions do not substantially alter the methods employed in the occupation.

There have been numerous instances in history of States arguing that situations in which their armed forces have become embroiled do not constitute a military occupation or that, at the very least, are substantially different from the notion of occupation as defined in the 1907 Hague Regulations respecting the Laws and Customs of War on Land<sup>47</sup> and the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War.<sup>48</sup>

In addition, the occupiers often disguise their own role in the forcible seizure of the territory of another State by setting up quasi-independent puppet regimes in the occupied territories.<sup>49</sup> At the same time, the occupying Power generally endeavours to lend its actions a semblance of legality and to confer an appearance of independence on the entities created through those actions, entities that, more often than not, have been formed with the collaboration of certain elements of the population of the occupied country. It is clear, however, that to all intents and purposes they are always subject to the will of the occupying Power.<sup>50</sup> Sometimes actions of

<sup>46</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, para. 139.

<sup>47</sup> Annex to the 1907 Hague Convention IV respecting the Laws and Customs of War on Land: Regulations respecting the Laws and Customs of War on Land, 18 October 1907. For text, see Adam Roberts and Richard Guelff (eds.), *Documents on the Laws of War* (Oxford: Oxford University Press, 3rd ed., 2003), pp. 73-84. Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949. For text, see Adam Roberts and Richard Guelff (eds.), pp. 299-369.

<sup>48</sup> Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949. For text, see Adam Roberts and Richard Guelff (eds.), pp. 299-369.

<sup>49</sup> Adam Roberts, "Transformative military occupation: applying the laws of war and human rights", see at <[http://ccw.politics.ox.ac.uk/publications/roberts\\_militaryoccupation.pdf](http://ccw.politics.ox.ac.uk/publications/roberts_militaryoccupation.pdf)>.

<sup>50</sup> Jean Pictet (gen. ed.), *International Committee of the Red Cross, Commentary on the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War* (Geneva, 1958), p. 273.

this kind are accompanied by attempts to endow the subordinate regimes set up in the occupied territories with a respectable image and to foster the impression that they espouse democratic values.

The features enumerated above are all evidenced in the policies and practices followed by Armenia in the occupied territories of Azerbaijan. Armenia denies both that there is any occupation within the meaning of international law and that it has anything to do with controlling these territories. Thus in one of recent interviews Prime Minister Serzh Sarkisian<sup>51</sup> claimed once again that only volunteers had fought for Nagorny Karabakh. At the same time, Armenia, in his words, acted as “guarantor of the security of Nagorny Karabakh,” prepared to intervene immediately in the event of the outbreak of a new war.<sup>52</sup> The question of Armenia providing guarantees is also mentioned in the country’s national security strategy of 7 February 2007.<sup>53</sup> No explanation is provided, however, of how these guarantees, which affect a portion of Azerbaijan’s territory, fit with international law.

In addition, the authorities in Yerevan are trying to give the puppet regime they set up in the occupied territories the appearance of legitimacy, independence and democracy. In the words of Serzh Sarkisian, “the young Republic of Nagorny Karabakh is today taking mature strides towards the formation of statehood and the development of democracy.”<sup>54</sup>

It is no secret, however, that democracy cannot be propagated by the sword, and the holding of multiparty elections is not in itself proof of pluralism or the absence of authoritarianism.<sup>55</sup> Generally speaking, such attempts to disguise aggression against a neighbouring State are unlikely to be taken seriously, given the incontrovertible evidence of a situation that is the diametric opposite.

In addition to the facts at the disposal of the Azerbaijani authorities attesting to the direct involvement of the Armenian armed forces in the military hostilities against Azerbaijan, which are qualified as armed aggression, and the presence of these forces in the occupied territories — issues which merit a separate and careful investigation — the assessment of Armenia’s role given by independent observers is also completely unequivocal.

As the PACE rapporteur David Atkinson pointed out, “Armenians from Armenia had participated in the armed fighting over the Nagorny Karabakh region besides local Armenians from within Azerbaijan. Today, Armenia has soldiers stationed in the Nagorny Karabakh region and the surrounding districts, people in the region have passports of Armenia, and the Armenian government transfers large budgetary resources to this area.”<sup>56</sup>

This view is corroborated by other sources as well. For example, according to the findings of the International Crisis Group, “[t]he highly trained and equipped Nagorny Karabakh Defence Army is primarily a ground force, for which Armenia provides much of the backbone.” According to estimates by this non-governmental organization, the Armenian military presence in the occupied territories of Azerbaijan consists of some 10,000 soldiers from Armenia. Attention is also drawn to reports that many conscripts and contracted soldiers from Armenia are forcibly sent to serve in Nagorny Karabakh as part of their military service, and not as volunteers, as maintained by the Armenian authorities. The Crisis Group states: “[t]here is a high degree of

<sup>51</sup> Since 2008 Serzh Sarkisian is the President of the Republic of Armenia.

<sup>52</sup> *Caucasus Context* 2007, vol. 4, issue 1, pp. 43-44. See also the message by the Armenian Prime Minister Serzh Sarkisian of 1 September 2007 on the occasion of the “sixteenth anniversary of the independence of the Republic of Nagorny Karabakh”. “Hayinfo” website: <[http://www.hayinfo.ru/page\\_rev.php?tb\\_id=188&sub\\_id=1&id=18956](http://www.hayinfo.ru/page_rev.php?tb_id=188&sub_id=1&id=18956)>.

<sup>53</sup> National security strategy of the Republic of Armenia of 7 February 2007, chapter III, see website of the Ministry of Defence of Armenia <<http://www.mil.am/eng/?page=49>>.

<sup>54</sup> Message by Serzh Sarkisian, Prime Minister of Armenia, of 1 September 2007.

<sup>55</sup> Adam Roberts, “Transformative military occupation: applying the laws of war and human rights”.

<sup>56</sup> Report of the Parliamentary Affairs Committee of the Parliamentary Assembly of the Council of Europe. Document 10364, 29 November 2004. Explanatory memorandum by the Rapporteur, para. 6.

integration between the forces of Armenia and Nagorny Karabakh. Senior Armenian authorities admit they give substantial equipment and weaponry. Nagorny Karabakh authorities also acknowledge that Armenian officers assist with training.<sup>57</sup>

In its final report on the outcome of the presidential elections in Armenia in 1998, the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) expresses its "extreme concern that one of the mobile boxes has crossed the national borders of the Republic of Armenia to collect votes of Armenian soldiers posted abroad (Kelbajar) [in Azerbaijan]".<sup>58</sup>

The Human Rights Watch/Helsinki report entitled "Seven years of conflict in Nagorno Karabakh", prepared in 1994 following a visit to the region — including the area of hostilities — by representatives of this human rights organization, states outright that the available evidence outweighs the Armenian authorities' denials. Adducing a wealth of facts based both on their own observations and on interviews with soldiers from the Armenian armed forces conducted during their visit to Nagorny Karabakh, the report's authors unequivocally conclude: "[a]s a matter of law, Armenian army troop involvement in Azerbaijan makes Armenia a party to the conflict and makes the war an international armed conflict, as between the government of Armenia and Azerbaijan."<sup>59</sup>

In addition, the economy of Nagorny Karabakh is closely tied to Armenia and, to a large extent, depends on its financial infusions. As noted by the Crisis Group, "State loans" provided by Armenia since 1993 constituted 67.3 per cent of Nagorny Karabakh's budget in 2001 and 56.9 per cent in 2004. To date, nothing has been repaid against these loans. Moreover, "[a]ll transactions are done via Armenia, and products produced in Nagorny Karabakh often are labelled 'made in Armenia' for export."<sup>60</sup>

Resolution 1416 (2005) adopted on 25 January 2005 by the Parliamentary Assembly of the Council of Europe acknowledges the continued occupation of considerable parts of the territory of Azerbaijan and the conduct of ethnic cleansing. The Assembly also draws attention to Armenia's obligations under international law and points out "that the occupation of foreign territory by a Member State constitutes a grave violation of that State's obligations as a member of the Council of Europe."<sup>61</sup> The resolution also contains an appeal for compliance with the United Nations Security Council resolutions, in particular, by withdrawing military forces from any occupied territories.<sup>62</sup>

Accordingly, in view of Armenia's involvement in it, the conflict falls within the purview of international law and, in particular, the principle of the territorial integrity of States. International practice demonstrates that there is no legal foundation to irredentist claims, which all too often are based on the ethnic affinity between the population of a parent country and the inhabitants of a territory which has separated from it. The irredentist nature of the conflict between Armenia and Azerbaijan and the application to it of international law are also reaffirmed, *inter alia*, in the United Nations Security Council resolutions on the conflict. While these resolutions may not directly invoke the responsibility of Armenia, they do nonetheless contain a number of telling phrases, such as the "inadmissibility of the use of force for the acquisition of territory"

<sup>57</sup> International Crisis Group, "Nagorny Karabakh: Viewing the conflict from the ground". Europe Report No. 166, 14 September 2005, pp. 9 & 10.

<sup>58</sup> OSCE/ODIHR Final Report of 9 April 1998, see OSCE website <[http://www.osce.org/documents/odihhr/1998/04/1215\\_en.pdf](http://www.osce.org/documents/odihhr/1998/04/1215_en.pdf)>.

<sup>59</sup> Human Rights Watch/Helsinki, "Seven years of conflict in Nagorny Karabakh" (1994), pp. 67-73.

<sup>60</sup> International Crisis Group, "Nagorny Karabakh: Viewing the conflict from the ground", pp. 12 and 13.

<sup>61</sup> PACE resolution 1416 (2005), entitled "The conflict over the Nagorny Karabakh region dealt with by the OSCE Minsk Conference", 15 January 2005, para. 2.

<sup>62</sup> *Ibid.*, para. 3.

and "occupied territories", which are generally used in connection with international armed conflicts. Thus, as Adam Roberts stresses with reference to the treaties and other legal texts on the occupation, "an occupation is essentially of an international character".<sup>63</sup>

### The situation in the occupied territories of Azerbaijan on the agenda of the United Nations

It is clear that Armenia is seeking to achieve a transfer of sovereignty over Azerbaijani territories that it seized through military force and in which it has carried out ethnic cleansing. As there is no likelihood that such a transfer will be agreed to by Azerbaijan, whose officials have repeatedly stated that national territory cannot be a subject of compromise,<sup>64</sup> the one hope remaining for Armenia is to solve the problem outside a legal framework, namely by bringing about a situation in which recognition of a *fait accompli* is inevitable. These plans are being implemented through efforts to alter the demographic composition of the population in the occupied territories and prevent a return to the pre-war situation.

In a letter dated 11 November 2004 from the Minister for Foreign Affairs of the Republic of Azerbaijan addressed to the Secretary-General of the United Nations attention is drawn to Armenia's concerted efforts to transfer its population into the occupied territories, the exploitation of Azerbaijan's natural resources and the destruction and appropriation of its historical and cultural heritage, as well as other illegal activities carried out to consolidate the status quo of the occupation and to prevent the expelled Azerbaijani population from returning to their places of origin, thereby imposing a *fait accompli*.<sup>65</sup>

Deeply concerned by the far-reaching implications of these activities, Azerbaijan requested that the situation in its occupied territories should be addressed within the framework of the United Nations General Assembly. Accordingly, on 29 October 2004 the General Assembly decided to include in its agenda the item entitled "The situation in the occupied territories of Azerbaijan".<sup>66</sup> This item was considered on 23 November 2004 during the fifty-ninth session of the Assembly.<sup>67</sup>

A fact-finding mission of the Organization for Security and Cooperation in Europe (OSCE) visited the occupied territories of Azerbaijan from 30 January to 5 February 2005. On the basis of material provided by Azerbaijan and obtained during an investigation of the situation on the ground, the mission produced a detailed report which confirmed the facts of the settlement of the occupied territories.<sup>68</sup>

The following year was marked by further escalation of the situation in the occupied territories of Azerbaijan. From mid-May 2006, a portion of these territories along the line of contact was swept by large-scale fires, which caused significant harm to the environment and biodiversity in Azerbaijan. The Azerbaijani side stated that the magnitude and character of the fires and the way they had spread confirmed that they were of intentional and artificial

<sup>63</sup> Adam Roberts, "What is a military occupation?", 55 *The British Yearbook of International Law* 1985, pp.249-305, at p.255.

<sup>64</sup> See, e.g., Elmar Mammadyarov, "Towards peace in the Nagorny Karabakh region of the Republic of Azerbaijan through reintegration and cooperation", 17 *Accord* 2005, pp. 18-19.

<sup>65</sup> Letter dated 11 November 2004 from the Permanent Representative of Azerbaijan to the United Nations addressed to the President of the General Assembly, transmitting a letter dated 11 November 2004 from the Minister for Foreign Affairs of the Republic of Azerbaijan regarding the illegal activities carried out in the occupied territories of the Republic of Azerbaijan and providing information on the transfer of population into the occupied territories of Azerbaijan. United Nations Document A/59/568.

<sup>66</sup> Forty-sixth plenary meeting, 29 October 2004, A/59/PV.46.

<sup>67</sup> Sixtieth plenary meeting, 23 November 2004, A/59/PV.60.

<sup>68</sup> Letter dated 18 March 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General. Annex II: Report of the OSCE fact-finding mission to the occupied territories of Azerbaijan surrounding Nagorny Karabakh, United Nations Document A/59/747-S/2005/187.

origin.<sup>69</sup> Having considered the situation in the occupied territories of Azerbaijan, the United Nations General Assembly adopted at its 60th session the resolution submitted by Azerbaijan on the question. The resolution expressed serious concern about the fires in the affected territories and, *inter alia*, stressed the necessity to urgently conduct an environmental operation to suppress the fires and to overcome their detrimental consequences.<sup>70</sup>

On the basis of that resolution, the occupied territories were visited by an OSCE-led environmental assessment mission to the fire-affected territories in and around the Nagorny Karabakh region from 2 to 13 October 2006. The mission concluded, *inter alia*, that "[t]he fires resulted in environmental and economic damages and threatened human health and security."<sup>71</sup>

On 14 March 2008, the United Nations General Assembly adopted at its 62nd session another resolution on the situation in the occupied territories of Azerbaijan. Seriously concerned that the armed conflict in and around the Nagorny Karabakh region of the Republic of Azerbaijan continued to endanger international peace and security, the General Assembly reaffirmed its continued strong support for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders, demanding the immediate, complete and unconditional withdrawal of all Armenian forces from all occupied territories of the Republic of Azerbaijan. At the same time, the Assembly reaffirmed the inalienable right of the population expelled from the occupied territories to return to their homes. It has also recognized the necessity of providing normal, secure, and equal conditions of life for Armenian and Azerbaijani communities in the Nagorny Karabakh region of the Republic of Azerbaijan, which would allow to build up an effective democratic system of self-governance in this region within the Republic of Azerbaijan. The General Assembly also reaffirmed that no State shall recognize as lawful the situation resulting from the occupation of the territories of the Republic of Azerbaijan, nor render aid or assistance in maintaining this situation.<sup>72</sup>

### **A legal assessment of activities in the occupied territories of Azerbaijan**

The policy being pursued by Armenia in the occupied territories of Azerbaijan, which is aimed at achieving a transfer of sovereignty over these territories, is well known in international practice. Such attempts have been made on more than one occasion in the past, leading the international community to draw up regulations to effectively counteract them.

International law is not applicable only to the inhabitants of the occupied territory; it also protects the separate existence of the State, its institutions and its laws.<sup>73</sup> International law also prohibits actions which are based solely on the military strength of the occupying Power and not on a sovereign decision by the occupied State.<sup>74</sup> A generally established rule, upheld by lawyers and confirmed on many occasions by the decisions of international and domestic courts, is that the occupation of a territory in time of war is temporary in nature and thereby does not entail a transfer of sovereignty. Provisions relating to occupation, in particular the

<sup>69</sup> Letter dated 28 July 2006 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, transmitting a letter dated 28 July 2006 from the Minister for Foreign Affairs of the Republic of Azerbaijan regarding the wide-scale fires in the occupied territories of Azerbaijan, United Nations Document A/60/963.

<sup>70</sup> General Assembly resolution 60/285 of 7 September 2006, entitled "The situation in the occupied territories of Azerbaijan".

<sup>71</sup> Letter dated 20 December 2006 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General. Annex: OSCE-led environmental assessment mission to the fire-affected territories in and around the Nagorny Karabakh region. Report to the OSCE Chairman-in-Office from the Coordinator of OSCE Economic and Environmental Activities. United Nations Document A/61/696.

<sup>72</sup> United Nations General Assembly resolution 62/243 of 14 March 2008, entitled "The situation in the occupied territories of Azerbaijan".

<sup>73</sup> Jean Pictet (gen. ed.), p. 273.

<sup>74</sup> *Ibid.*

relevant articles of the Hague Regulations respecting the Laws and Customs of War on Land and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, are premised on the short-lived nature of a situation of occupation and remain in force for the duration of a war, even in the event of a ceasefire or a truce. The occupation of a territory *jus in bello* does not entail the right to annex that territory, since *jus contra bellum* forbids any seizure of territory based on the use of force.<sup>75</sup>

According to the traditional concept of occupation (article 43 of the Hague Regulations respecting the Laws and Customs of War on Land), the occupying authority must be considered as merely being a *de facto* administrator.<sup>76</sup> Furthermore, occupants should use their powers only for the immediate needs of administration and not for long-term policy changes.<sup>77</sup> Therefore, the occupying Power is obliged to respect the laws of the occupied State unless "absolutely prevented" (article 43 of the Hague Regulations respecting the Laws and Customs of War on Land). In other words, the occupying authority is not entitled to modify the legislation in force, except in cases motivated by military necessity or maintenance of public order.

As noted above, all of Armenia's hopes for the recognition of an eventual *fait accompli*, and thus of the transfer of sovereignty over the occupied territories of Azerbaijan, involve an altering of the demographic composition of the occupied territories and prevention of a return to the pre-war situation. Indeed, the available information shows that Armenia has pursued a policy and developed practices that call for the establishment of settlements in the occupied Azerbaijani territories. There have been reports of a programme called "Return to Artsax" whose purpose is to artificially increase the Armenian population in the occupied Azerbaijani territories to 300,000 people by 2010. A working group set up to implement this resettlement programme under the leadership of the Prime Minister of Armenia includes both Armenian officials and representatives of non-governmental organizations operating in Yerevan.<sup>78</sup>

During the working visit to Nagorny Karabakh on 2 and 3 September 2000 of Andranik Margaryan, the former Prime Minister of Armenia, an agreement was concluded between the latter and the representative of the subordinate regime in the occupied territories which also includes provisions on the transfer of population to the occupied territories of Azerbaijan.<sup>79</sup> In an interview on 18 December 2003 the Prime Minister confirmed that "Armenia and NKR are within the common economic space" and that their "main purpose is the settlement of NKR and development of its investment field by means of creating the favourable regime for economic subjects".<sup>80</sup>

It should be noted in that connection that the sixth paragraph of article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War prohibits transfers of population to occupied territory. State practice has made that provision one of the norms of customary international law applied in cases of international armed conflict.<sup>81</sup> The provision was intended to prevent a practice adopted during the Second World War by certain States, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they had claimed, to colonize those territories.<sup>82</sup> At the Trial of the Major

<sup>75</sup> Eric David, *Principes de droit des conflits armés* (Principles of the Law of Armed Conflicts) (Moscow: ICRC, 2000), pp. 376-378; Jean Pictet (gen. ed.), p. 275.

<sup>76</sup> Jean Pictet (gen. ed.), p. 273.

<sup>77</sup> See, e.g., "Thawing a Frozen Conflict: Legal Aspects of the Separatist Crisis in Moldova". A Report from the Association of the Bar of the City of New York, p. 69.

<sup>78</sup> Eric David, p. 381.

<sup>79</sup> See the "Noyan Tapan" report dated 5 September 2000 and the "Mediamaks" report dated 6 September 2000.

<sup>80</sup> See at <[http://www.gov.am/ruversion/premier\\_2/print.html?&url=299&url](http://www.gov.am/ruversion/premier_2/print.html?&url=299&url)> and <[http://www.menq.am/pls/dbms/mnp.show\\_npitem?np=128&pxfile=359977&pnew=y&plgg=3](http://www.menq.am/pls/dbms/mnp.show_npitem?np=128&pxfile=359977&pnew=y&plgg=3)>.

<sup>81</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law* (Cambridge: Cambridge University Press, 2005). Volume I: Rules, p. 462.

<sup>82</sup> Jean Pictet (gen. ed.), p. 283.

War Criminals before the International Military Tribunal in Nuremberg in 1946, the Tribunal found two of the defendants guilty of attempting to "Germanize" occupied territories.<sup>83</sup>

The legislation and military regulations and codes of many States, including Armenia, include provisions prohibiting a party to a conflict from deporting or transferring part of its population to territory under its occupation. Official announcements and practice reflected in accounts also confirm the prohibition on transferring civilian population to occupied territory.<sup>84</sup>

Attempts to change the demographic composition of the population of occupied territory have been condemned by the United Nations Security Council,<sup>85</sup> the United Nations General Assembly,<sup>86</sup> the United Nations Commission on Human Rights<sup>87</sup> and other international bodies.

The International Committee of the Red Cross (ICRC), in its verbal note of 10 November 2000 addressed to the Permanent Mission of Azerbaijan to the United Nations Office and other international organizations at Geneva, shared "the concern [...] as regards the 'cooperation agreement' between Armenia and Nagorny Karabakh whereby, according to the 'Noyan-Topan' news agency, there will be a sharp increase in the population of Nagorny Karabakh [...]." In this regard, ICRC made it clear that "it [...] endeavours to direct its humanitarian assistance in a way that does not help to consolidate territorial gains by one party to a conflict and that will not encourage resettlement which could be an obstacle to the return of forcibly displaced persons to their homes."

In their recommendations, based on the conclusions contained in the report of the OSCE fact-finding mission on illegal settlement, the Co-Chairs of the OSCE Minsk Group "discouraged any further settlement of the occupied territories" and urged the parties to "accelerate negotiations towards a political settlement in order, inter alia, to address the problem of the settlers and to avoid changes in the demographic structure of the region." The Co-Chairs pointed out in particular that "prolonged continuation of this situation could lead to a fait accompli that would seriously complicate the peace process."<sup>88</sup>

In addition, Armenia, as the occupying Power, is aiming to consolidate the results of ethnic cleansing and denying the right of return to those forced to resettle by encouraging various forms of economic activity in the occupied territories, directly affecting property rights. It should be recalled in this connection that international law, in particular the Hague Regulations respecting the Laws and Customs of War on Land (articles 46, 52, 53, 55 and 56) and the Geneva Convention relative to the Protection of Civilian Persons in Time of War (articles 53 and 147), imposes on the occupying Power an obligation to respect property located in occupied territory. That rule applies both to the physical integrity and to the ownership of such property.<sup>89</sup> Specific provisions of the Charter of the International Military Tribunal at

<sup>83</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, p. 463.

<sup>84</sup> *Ibid.*, p. 462.

<sup>85</sup> See, e.g., United Nations Security Council resolutions 446 of 22 March 1979; 452 of 20 July 1979; 476 of 30 June 1980; 465 of 1 March 1980; 677 of 28 November 1990; 752 of 15 May 1992 and 787 of 16 November 1992.

<sup>86</sup> See, e.g., United Nations General Assembly resolutions 36/147 of 16 December 1981; 37/88 C of 10 December 1982; 38/79 D of 15 December 1983; 39/95 D of 14 December 1984; 40/161 D of 16 December 1985 and 54/78 of 22 February 2000.

<sup>87</sup> See, e.g., resolution 2001/7, of 18 April 2001, of the United Nations Commission on Human Rights. See also the report of the Special Rapporteur of the United Nations Commission on Human Rights Sub-Commission on the Prevention of Discrimination and Protection of Minorities entitled "Human rights and population transfer", United Nations Document E/CN.4/Sub.2/1997/23, p. 19, para. 65.

<sup>88</sup> Letter dated 18 March 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, Annex I, "Letter of the OSCE Minsk Group Co-Chairs to the OSCE Permanent Council on the OSCE Minsk Group fact-finding mission to the occupied territories of Azerbaijan surrounding Nagorny Karabakh", United Nations Document A/59/747-S/2005/187.

<sup>89</sup> Eric David, p. 389.

Nuremberg (article 6 (b))<sup>90</sup> and the Rome Statute of the International Criminal Court (article 8) also cover protection of property.<sup>91</sup> Undoubtedly, the applicable instruments of international law should also include human rights conventions for which an occupying Power holds the primary responsibility for fulfilment in occupied territories.<sup>92</sup>

From a legal point of view, the previous owners of property located in occupied territory are legitimate. As a result, any economic activity undertaken by natural or legal persons jointly with an occupying Power or under the tutelage of that Power's local authorities is illegal and performed at their own risk. There is no point in hoping that such economic activity will be sanctioned after the final resolution of the conflict or that those involved will be able to escape responsibility. It goes without saying that all agreements which provide the basis for altering the economic value of property will be challenged and abrogated once Azerbaijani sovereignty over the occupied territories is restored. Advocating otherwise would be tantamount to justifying the crimes committed and violating the peremptory norms of international law.

Neutral States which fail to take all necessary and feasible action to prevent their nationals from seizing property in occupied territories are considered to be providing indirect assistance for the occupier's illegal activities and are therefore to be considered accountable in ways which could include being forced to provide compensation for the injury inflicted.<sup>93</sup>

### Responsibility under international law

As stated in the Articles on Responsibility of States for Internationally Wrongful Acts, developed by the International Law Commission, "[e]very internationally wrongful act of a State entails the international responsibility of that State." Such an act of a State is deemed to occur when conduct consisting of an action or omission: (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State.<sup>94</sup> As early as 1928, in its ruling in the *Factory at Chorzów* case, the Permanent Court of International Justice described the principle of international responsibility as one of the principles of international law and, furthermore, of the general understanding of the law.<sup>95</sup>

The principle of responsibility is closely bound up with the principle of the conscientious fulfilment of obligations under international law (*pacta sunt servanda*). It is important to note that a breach that is of an ongoing nature relates to the entire period over which the act was performed and remains at variance with obligations under international law. Furthermore, in the event that a State breaches its obligations under international law through a series of wrongful acts or omissions, the breach extends over the entire period starting with the first of the acts or omissions in the series and continues for as long as they are repeated and remain at variance with the State's obligations under international law.<sup>96</sup>

<sup>90</sup> Judgment (extracts). *The Charter Provisions*. For text, see Adam Roberts and Richard Guelff (eds.), pp. 177-178, at p. 177.

<sup>91</sup> Rome Statute of the International Criminal Court (Extract), 17 July 1988. For text, see Adam Roberts and Richard Guelff (eds.), pp. 667-697, at p. 676, article 8(2)(a)(iv).

<sup>92</sup> See, e.g., *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, paras. 102-113.

<sup>93</sup> Loukis G. Loucaides, "The Protection of the Right to Property in Occupied Territories", 53(3) *International and Comparative Law Quarterly* 2004, pp. 677-690, at p. 686.

<sup>94</sup> Articles on Responsibility of States for Internationally Wrongful Acts, articles 1 and 2. See also *Ilaşcu and others v. Moldova and Russia*, ECHR Judgment of 8 July 2004, para. 314, EHCR Portal, HUDOC Collection.

<sup>95</sup> *Factory at Chorzów (Claim for Indemnity) Case (Germany v. Poland)* (Merits), P.C.I.J. Series A (1928) No. 1, Permanent Court of International Justice. For text, see Martin Dixon and Robert McCorquodale, *Cases and Materials on International Law* (Oxford: Oxford University Press, 3rd ed., 2003), p. 404. See also I.I. Lukashuk, *International Law* (Moscow: Walters Kluwer, 3rd ed., 2007), p. 376.

<sup>96</sup> *Ilaşcu and others v. Moldova and Russia*, paras. 320-321. See also Articles on Responsibility of States for Internationally Wrongful Acts, article 14, para. 2, and article 15, para. 2.

The responsibility of the State is incurred for any act or omission of its authorities which occurs either within or beyond its national borders. An internationally wrongful act is also perpetrated by the organs of a State or by its agents, acting *ultra vires* or contrary to instructions.<sup>97</sup>

As noted above, there is a convincing body of evidence attesting to the use of force by Armenia against the territorial inviolability of Azerbaijan and the exercise by Armenia of effective overall military and political control of the occupied territories of Azerbaijan. This control is applied both by the armed forces of Armenia and through the puppet regime set up by it in the occupied territory, which, by performing the functions of a local administration, owes its existence to the support, in military and other terms, of the occupying State.

Armenia's responsibility arises as the consequence both of the internationally wrongful acts of its own organs and agents in the occupied territories and the activities of its local administration. Furthermore, there is responsibility even in the event of consent to, or tacit approval of, the actions of this administration.<sup>98</sup>

Armenia's international responsibility, which is incurred by its internationally wrongful acts, involves legal consequences manifested in the obligation to cease these acts, to offer appropriate assurances and guarantees that they will not recur and to provide full reparation for injury in the form of restitution, compensation and satisfaction, either singly or in combination.<sup>99</sup>

As stated in the commentary to the draft Articles on Responsibility of States for Internationally Wrongful Acts, "[e]very State, by virtue of its membership in the international community, has a legal interest in the protection of certain basic rights and the fulfilment of certain essential obligations."<sup>100</sup> A significant role in securing recognition of this principle was played by the decision of the International Court of Justice in the *Barcelona Traction* case. This identified the existence of a special category of obligations — obligations towards the international community as a whole. The International Court of Justice states: "[b]y their very nature the former [the obligations of a State towards the international community as a whole] are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*."<sup>101</sup> Accordingly, serious breaches of obligations flowing from peremptory norms of general international law may have additional consequences affecting not only the State bearing the responsibility, but also all other States. Inasmuch as all States have a legal interest, they are all entitled to invoke the responsibility of the State which has breached its responsibility *erga omnes*. Furthermore, States must cooperate with a view to ending such breaches by lawful means.<sup>102</sup>

It is generally recognized that the category of serious breaches of obligations under peremptory norms of general international law includes, among others, aggression, genocide and racial discrimination.<sup>103</sup>

As stated in the Articles on Responsibility of States for Internationally Wrongful Acts, "[n]

<sup>97</sup> *Ilaşcu and others v. Moldova and Russia*, para. 319. See also *Ireland v. United Kingdom*, ECHR Judgment of 18 January 1978, para. 159, ECHR Portal, HUDOC Collection; Articles on Responsibility of States for Internationally Wrongful Acts, article 7.

<sup>98</sup> See *Louizidou v. Turkey*, ECHR Judgment of 23 March 1995, para. 62; *Louizidou v. Turkey*, ECHR Judgment of 18 December 1996, para. 52; *Cyprus v. Turkey*, ECHR Judgment of 10 May 2001, para. 77; *Ilaşcu and others v. Moldova and Russia*, paras. 314-319, ECHR Portal, HUDOC Collection.

<sup>99</sup> See Articles on Responsibility of States for Internationally Wrongful Acts, articles 28, 30, 31 & 34-37.

<sup>100</sup> Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries (2001), comment to article 1, para. 4.

<sup>101</sup> *Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*, I.C.J. Judgment of 5 February 1970, I.C.J. Reports 1970, para. 33. See also I.I.Lukashuk, pp. 379-380.

<sup>102</sup> I.I.Lukashuk, pp. 379-380, 394-396; Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries (2001), commentary to article 1, para. 4.

<sup>103</sup> Draft Articles on Responsibility of States for Internationally Wrongful Acts with commentaries (2001), commentary to article 40, para. 4.

o State shall recognize as lawful a situation created by a serious breach [of obligations under peremptory norms of general international law], nor render aid or assistance in maintaining that situation.”<sup>104</sup>

Alongside Armenia’s responsibility as the State which unleashed war against Azerbaijan, under the customary and treaty norms of international criminal law, certain acts perpetrated in the context of an armed conflict are viewed as international criminal offences and responsibility for them is borne on an individual basis by those participating in the said acts, their accomplices and accessories.

A distinction should be drawn between the two stages in the perpetration during a conflict of the most serious international offences such as genocide, crimes against humanity and military crimes. The first stage can be sited during the active military campaign, which had such tragic consequences for the civilian Azerbaijani population. The events which took place at that time were sufficiently well covered by international organizations, non-governmental human rights bodies and the media. The second stage relates to the situation in the occupied territories of Azerbaijan. Concern about the extent to which the rules of international law were being observed in those territories was heightened when an item on the issue was placed on the agenda of the United Nations General Assembly and when the resolutions on the situation in the occupied territories of Azerbaijan were adopted at the Assembly’s sixtieth and sixty second sessions.

At the same time, when considering this issue and elaborating measures to prevent unlawful activities in the occupied Azerbaijani territories, it is essential that the situation be appraised from the standpoint of international law. Thus, measures undertaken by the occupying Power to change the demographic composition of the population of the occupied territories, including by moving, both directly and indirectly, civilians into the occupied territory,<sup>105</sup> the destruction or appropriation of State and private property in the occupied territory,<sup>106</sup> attacks against cultural properties<sup>107</sup> and effects on the environment,<sup>108</sup> are categorized as military offences — in other words, serious breaches of the law of armed conflicts.

In addition, depending on the specific circumstances, a single action may constitute a number of offences. Thus, the military crimes committed by the Armenians during the conflict in some cases compound other crimes of war, such as genocide and crimes against humanity, or are coterminous with them. For example, the massacre in February 1992 of the civilian Azerbaijani population of the town of Khojaly, which constituted a serious breach of the law of armed conflicts, may also be categorized as genocide.<sup>109</sup>

The international community, acting chiefly through the United Nations, has proclaimed and set down in international instruments a compendium of fundamental values, such as peace

<sup>104</sup> See Articles on Responsibility of States for Internationally Wrongful Acts, article 41; See also General Assembly resolution 62/243 of 14 March 2008, entitled “The situation in the occupied territories of Azerbaijan”, op. 5.

<sup>105</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. For text, see Adam Roberts and Richard Guelff (eds.), pp. 419–479, at p. 471, article 85 (4) (a); Rome Statute of the International Criminal Court, 17 July 1998, p. 677, article 8 (2) (b) (viii).

<sup>106</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, p. 352, article 147; Rome Statute of the International Criminal Court, 17 July 1998, pp. 676–677, article 8 (2) (a) (iv).

<sup>107</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, p. 471, article 85 (4) (d); Rome Statute of the International Criminal Court, 17 July 1998, at p. 677, Article 8 (2) (b) (ix).

<sup>108</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, p. 352, article 147; Rome Statute of the International Criminal Court, 17 July 1998, p. 677, article 8 (2) (b) (xiii).

<sup>109</sup> Convention on the Prevention and Punishment of the Crime of Genocide, General Assembly resolution 260 A (III), 9 December 1948. For text, see United Nations Centre for Human Rights, Human Rights: A Compilation of International Instruments, ST/HR/1/Rev.5, vol. 1 (Second Part), New York and Geneva, United Nations 1994, pp. 673–677. For more information about the massacre in Khojaly, see Annex 1.

and respect for human rights. The consensus on them was reflected in the adoption in 1948 of the Universal Declaration of Human Rights, according to which "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". At the same time, the Universal Declaration emphasizes that "disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind."<sup>110</sup>

Regrettably, even some 60 years after the adoption of the Universal Declaration of Human Rights, the conspicuous "silence" in certain international criminal proceedings serves to accentuate a deficiency characteristic of the international community today: the gap between the theoretical values of law and harsh reality, which impedes the application in practice of the rich potential of international law standards. At the same time, if one is to be consistent in upholding universally accepted values, it is essential to take steps to inhibit any brazen attempt to reject these and not to permit lawlessness, including by prosecuting their supposed perpetrators.<sup>111</sup> It is clear that there can be no long-term and sustainable peace without justice and respect for human dignity, rights and freedoms.



# ARTICLES

<sup>110</sup> Universal Declaration of Human Rights, General Assembly resolution 217 A (III), 10 December 1948. For text, see United Nations Centre for Human Rights, Human Rights: A Compilation of International Instruments, ST/HR/1/Rev.5, vol. 1 (First Part), New York and Geneva, United Nations, pp. 1-7, at p. 1.

<sup>111</sup> See, e.g., Antonio Cassese, International Criminal Law (Oxford: Oxford University Press, 2003), p. 446.

# PEACEFUL SETTLEMENT FOR NAGORNY KARABAKH: NECESSARY AND POSSIBLE

Dan Smith\*

## Introduction

The effects of the unresolved conflicts from the late 1980s and early 1990s in the South Caucasus have held the region back from fulfilling its economic and human potential. While the conflicts over Nagorny Karabakh and over South Ossetia and Abkhazia have passed out of their most violent phases, they have not been resolved. So far, no mutually acceptable settlement has been achieved, and although there have often been high hopes of settlement, the hard truth is that the basic positions of the opposing sides have never been close enough for agreement to be likely. Despite their efforts, neither the national political leaders nor the international community have managed to create the possibility of breaking the stalemates, or of finding a bridge between the incompatible positions of the parties involved in each conflict. The issues are serious and the differences are profound, so this lack of success is not necessarily surprising. However, the inability to resolve the conflicts is imposing serious costs on the people and governments of the region.

Only in Azerbaijan, as a result of oil, do economic prospects seem moderately good, but even so the unresolved conflict over Nagorny Karabakh is a severe hindrance for economic development for Azerbaijan, as it also for Armenia, and as the Abkhazia and South Ossetia conflicts are for Georgia. In addition, there is a regional dimension. Development prospects in Georgia are also weakened by the continuing conflict over Nagorny Karabakh, and prospects in Armenia and Azerbaijan are likewise negatively affected by the Abkhazia and South Ossetia conflicts. All of these conflicts are both national issues and regional issues, and have negative human and economic impacts at both national and regional levels. One and a half decades after the end of the USSR, it is time for a decisive move to resolve the situation. From an external perspective, at least, there appears to be only one productive and positive way to approach the issue.

## The consequences of the status quo

The costs of the unresolved conflicts in the South Caucasus are felt in human terms, as lives continue to be lost across the years in small scale armed clashes. The sporadic violence also creates an atmosphere of insecurity and danger, particularly in border areas, that affects people's minds and spirit. And the human costs are also experienced by the refugees and internally displaced people that the violent phases of the conflicts produced some 15 to 20 years ago. Many of them still live in unacceptable conditions with no clear vision of a stable or hopeful future.

The economic consequences are also recognized by expert opinion to be serious. The most direct and immediate of these is the burden of military spending that is higher than it would

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be if the conflicts could be resolved. High military spending is not only a burden on the State budget, absorbing funds that might otherwise be spent differently, such as on health, education, roads or urban development. It also generally slows economic growth.<sup>1</sup>

Because of the unresolved conflicts, economic opportunities have been lost. The region has been a major trade and transport corridor since ancient times but the judgment of the World Bank's experts is clear and irrefutable: "As a result of these conflicts, trade flows in the region are seriously distorted. Disrupted traditional transportation routes stifle the export and import capabilities of Armenia and Azerbaijan."<sup>2</sup> This regional trade disruption was estimated to have cost Azerbaijan 5 per cent of its GDP.<sup>3</sup> Transport costs that are prohibitively high and border crossing procedures are cumbersome and time-consuming, adding to expense. Worse, as a result, the transport and communications infrastructure is decaying. The environment is not secure and the atmosphere is uncertain, which are factors that weigh particularly heavily for foreign companies and investors. As a result, prospective shippers to Russia, the Persian Gulf, Turkey and Central Asia have sought alternative routes.

In addition, high transport costs also limit the international export competitiveness of all three countries in the region. The unresolved status of the conflicts has also blocked any effort to enhance regional economic links. As a result, the economic market is fragmented. The current costs and difficulties of trade between the three countries mean each one's market is less dynamic than it could be, because none of them benefits from economies of scale. Consequently, prices are higher for domestic consumers as well as for exporters, while commercial and individual career opportunities are restricted. All of this also affects income from Customs duties and other business taxes. In turn, this means that government income is lower than it would be if the conflicts were resolved.

The region has also lost out on income from tourism. The region has obvious advantages in its natural features, including both landscape and climate. While the conflicts continue in their current unresolved condition, however, this is an economic option that is not available in the South Caucasus.

Overcoming deficiencies such as these is not likely to be quick or easy even in the best of circumstances. The consequences of these deficiencies create difficulties, dangers and insecurity for ordinary people, and at the same time make it harder to solve the economic problems and move ahead in a way that the region both deserves and is, in principle, capable of. Ultimately, it will take more inter-governmental cooperation than is currently feasible to overcome the trade and economic deficiencies discussed above. By definition and in practical reality, one State alone cannot improve border crossing procedures or the regional network of highways. One State alone cannot make mutual trade easier. Only by working together is that possible. And only through achieving an improved level of practical cooperation with the region will it be possible for each country in the South Caucasus to gain the kind of economic and cultural connections to the rest of the world that it seeks.

The conflicts are the obstacle to that cooperation, and thus the obstacle to laying firm foundations for economic development and prosperity.

<sup>1</sup> Ron P. Smith, "Defence Expenditure and Economic Growth", in Nils Petter Gleditsch, Göran Lindgren, Naima Mouhleb, Sjoerd Smit & Indra de Soysa (eds.), *Making Peace Pay: A Bibliography on Disarmament & Conversion* (Claremont, Ca: Regina Press) 2000, pp. 15-24. The economic effects of high military spending depend to some degree on the economic environment. Taiwan and South Korea were able to combine high military expenditure with high economic growth during the 1950s and 1960s, but the former USSR could not. Its high military spending is part of the explanation for the period of stagnation and the USSR's eventual demise. In general among free market economies as well as centrally planned economies, the balance of the evidence indicates that military spending reduces economic growth.

<sup>2</sup> *Changing Trade Patterns after Conflict Resolution in South Caucasus*, The World Bank: Washington, DC, 2000.

<sup>3</sup> *Ibid.*

## The necessity for peaceful settlement

If the current situation is too costly and effectively unsustainable, there is in principle a choice between two options. One option is to attempt settle the conflict through victory and defeat; the other is to attempt to settle it by agreement. We should not hide from the fact that there are people on both sides of all three conflicts in the South Caucasus who do believe that a military solution is both feasible and desirable. This is a different position from being ready for war should the other side act aggressively, which is the position taken, for example, by official representatives of both Armenia and Azerbaijan.<sup>4</sup> Readiness to defend perceived national interests and national territory if the need arises is not destabilizing and is not evidence of any aggressive intention. Propagating a military solution as the best option, by contrast, is destabilizing even if it is only the view of a minority.

It is worth putting an end once and for all to the idea that military action can bring a real solution. Firstly, the human cost has to be taken into account. The number of people who died and fled their homes during the fighting over Nagorny Karabakh from 1988 when the initial violence began until the ceasefire in 1994 is disputed. Estimates for the total number of dead range from 18,500 to about 45,000 and a respected international authority uses the figure of 20,000.<sup>5</sup> Estimates of the number of international refugees and displaced people vary much widely and are much disputed; there is no doubt, however, several hundred thousand people on each side fled their homes before and during the war of 1992 to 1994. The government of Azerbaijan estimates there are almost 700,000 displaced Azerbaijanis.<sup>6</sup>

It has rarely been the case in history that a war brought matters that were in dispute to a peaceful and settled conclusion. The more usual pattern is that one war paves the way for the next one, at intervals ranging from a few years to a generation, as the sense of injury deepens and the desire for vengeance (often expressed as a demand for justice) grow. This was the pattern in conflicts in Europe, the Middle East and the Caucasus for centuries. It is highly unlikely that a war will produce a sustainable peace between Azerbaijanis and Armenians, or between Georgians and Abkhaz, or between Georgians and South Ossetians. Worse, both the short-term and long-term costs of war will be extremely high.

Fortunately, official voices do not favour war. In the case of the conflict over Nagorny Karabakh, representatives of both Armenia and Azerbaijan have called for peaceful settlement of the issues in dispute.<sup>7</sup> In this they are backed by representatives of the international community<sup>8</sup> including those leading the Minsk Group negotiating process under the auspices of the Organization for Security and Cooperation in Europe.<sup>9</sup> There is in short an overwhelming

<sup>4</sup> See speech by President Ilham Aliyev on 4 May 2007 at a new settlement for IDPs in Sabunchu, Baky (<[http://www.president.az/index\\_en.jsp](http://www.president.az/index_en.jsp)>): "we are trying and we will try for some time to solve the problem through negotiations because we do not want more blood to be shed, and our young people to become martyrs." Likewise, see the interview with Serzh Sarkisian, now the President of Armenia, at the time of the interview - the Armenian Defence Minister: "I have repeatedly said that we are not afraid of war, but we do not want it to resume. We realize what catastrophic consequences it may have for both nations." *BBC Monitoring Caucasus*, 16 October 2006.

<sup>5</sup> Reported by the Internal Displacement Monitoring Centre: <[http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/7840803F1B8B36B3802570B8005A6D50?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/7840803F1B8B36B3802570B8005A6D50?OpenDocument)>.

<sup>6</sup> See compilation of figures by the Internal Displacement Monitoring Centre: <[http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/17D873CC377B6A54802570B8005A73AE?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/17D873CC377B6A54802570B8005A73AE?OpenDocument)>; see also the report of the International Crisis Group, Nagorny Karabakh: Viewing the Conflict from the Ground, Europe Report No. 166, Brussels, 14 September 2005, p. 2.

<sup>7</sup> See, e.g., the statement by the Ministry of Foreign Affairs of the Republic of Azerbaijan, June 14, 2005, <[http://www.mfa.gov.az/eng/mfa\\_statements/11.shtml](http://www.mfa.gov.az/eng/mfa_statements/11.shtml)>; see also the interview with Serzh Sarkisian on *BBC Monitoring Caucasus*, 16 October 2006.

<sup>8</sup> Resolution of the Parliamentary Assembly of the Council of Europe 1416 (2005).

<sup>9</sup> See comments by Russian Foreign Minister Sergey Lavrov, Azeri Press Agency, 3 April 2007, see at <<http://en.apa.az/news.php?id=23792>>.

consensus among the relevant political actors in favour of a peaceful settlement over Nagorny Karabakh.

### **The possibility of peaceful settlement**

To assert the necessity of a peaceful settlement, however, is one thing; to identify how to do it is altogether another and more demanding thing. Those official voices that assert each side's commitment to a peaceful outcome sometimes do so within a series of propositions that the other side cannot conceivably accept. Quite often these statements simply add up to a rhetorical commitment to winning without fighting; this is self-evidently attractive but only at the most superficial level because it is not practical politics.

The only viable foundation for sustainable peace is a mutually agreed settlement. Since this must, by definition, be agreed by both sides, it is bound to involve compromise. In this context, while it is understandable if official representatives declare themselves in favour of achieving their side's maximum demands, it is not helpful. It has two counter-productive consequences: first, it encourages the other side to respond in the same vein; second, it educates the domestic public to accept as desirable a goal that is unattainable.

These are difficult truths that often seem hard to hear and absorb because they are out of tune with the positions and arguments that prove politically popular within each country. Yet they are truths that have been absorbed by the opposing sides in numerous profound and protracted conflicts over the past two decades – Northern Ireland, South Africa, Guatemala, Namibia, El Salvador, Nepal, Democratic Republic of Congo, Aceh in Indonesia, Mozambique, Egypt and Israel, Jordan and Israel, Lebanon. In all of these cases, hearing, absorbing and finally acting upon the truth that compromise is necessary has proven the route to peace – not an easy or guaranteed route, to be sure, but the only one that was available.

Many examples show that it is possible for the parties to an entrenched conflict to come to an agreement, even though both sides may have to settle for less than they had originally wanted. But the solution that was found in each of these examples was distinctive and specific to that case and it is often the case that far-reaching political insight and imagination are required. The 1979 peace treaty between Israel and Egypt involved the return of the Sinai to Egypt in exchange for security guarantees and an international monitoring force. In South Africa, Guatemala, Nepal, DRC and other cases, the key to settlement was compromise between the parties about political participation and access to power. In Northern Ireland, the key was a combination of an agreement to share power within the province, combined with cross-border agreements on a wide range of matters between the governments in Dublin and London.

A settlement between Armenia and Azerbaijan will similarly involve features that are specific to the Nagorny Karabakh issue alone. We live in a time when the world is changing and we cannot afford to be confined by pre-existing models. The only wholly applicable generalization to make about peace agreements is that they must be mutually agreed. The alternative, which is not viable in the case of Nagorny Karabakh, is to attempt to force through a unilateral settlement. This is, in fact, what Israel has been trying to do since about 2002, to create a situation in which Palestinians have no choice but to accept Israeli occupation of the West Bank. International opinion is rightly sceptical that this effort can succeed. In any case, conditions in the case of Israel/Palestine are very different from those in the case of the dispute over Nagorny Karabakh; the striking differences in conflict history, the balance of power, the legal background and the holding of territory permit few if any parallels to be made beyond one simple one: events in Israel and the Occupied Territories simply confirm the rule that peace settlements are by defini-

tion a matter of agreement between the contending parties.

Beyond that one big generalization, it is up to the parties – with international advice and assistance as and when appropriate – to find the solution that fits their specific case, regardless of whether it has been tried already. However, the many examples that can be cited of agreements that have been reached in other conflicts can serve as an inspiration, as a demonstration of the truth that peace is always possible as well as desirable, and as a source of ideas that are worth assessing to see if and how they can be adopted or adapted.

### The architecture of peace

The task of arriving at a peaceful settlement of the Nagorny Karabakh conflict belongs to the political leaderships of the contending parties and not to outsiders.

Conflict and peace are political issues, and the decision to enter a peace process, sign a peace agreement, and achieve a settlement is a political decision. These are matters that belong in the hands of the legitimate political leaders on each side. However, peace is also a matter of much, much more than those decisions taken by political leaders.

It is a much quoted statistic that some 40-50 per cent of peace agreements break down within five years.<sup>10</sup> The reasons for this vary from case to case but one common feature is the failure of those who led the peace process to stay in touch with popular feeling. This is particularly a problem in protracted conflicts over deeply felt and emotional issues, especially when the leaders of the contending parties have put more effort into stating militant positions than into arguing the case for a peaceful settlement. It is frequently the case – such as in Sri Lanka where a ceasefire agreed in 2002 has all but broken down, or in Cyprus where a majority of Greek Cypriots rejected a UN backed peace proposal that was accepted by Turkish Cypriots – that politicians and mass media act together to make support for compromise politically difficult at home. These are cases in which there is more political credibility in a hard line than a willingness to make the compromises that could bring peace.

It is therefore necessary for political leaders of conflicts that can only be settled by mutual agreement to be steady and bold in explaining the realities and persuading public opinion that settlement is the better course and that it must involve compromise on both sides.<sup>11</sup> This often involves a quite basic shift in the way in which the key issues are discussed. Politicians often resist making this change because they are wary of being shown to be weak; they therefore delay until the right time comes – but, of course, the right time never does come, and the leaders' reluctance to talk seriously and openly about the need for compromise in a peace agreement is one of the reasons why the right time seems to be delayed forever. The alternative – as British and Irish leaders showed over Northern Ireland, as de Klerk and Mandela showed in South Africa, as far sighted Israeli and Palestinian leaders and politicians have sometimes managed but so far, tragically, without success, as leaders of all political parties including the Maoists

<sup>10</sup> The most cited exposition of this view is a World Bank report from 2003: Paul Collier, VL Elliott, Håvard Hegre, Anke Hoefler, Marte Reynal-Querol & Nicholas Sambanis, *Breaking the Conflict Trap: Civil War and Development Policy* (Washington, D.C.: World Bank & Oxford University Press, 2003), p. 83. The analysis has been authoritatively endorsed by, among others, Kofi Annan in his report to the United Nations General Assembly, *In Larger Freedom* (New York: United Nations, 2004) p. 31. For earlier academic expositions, see, e.g., Roy Licklider, "The Consequences of Negotiated Settlements in Civil Wars 1945-93", *3 American Political Science Review* 1995, volume 89, pp. 681-90; Paul Collier and Anke Hoefler, "On the Incidence of Civil War in Africa", *Volume 46, No. 1, 2002*, pp. 13-28. For a critique, see Astri Suhrke and Ingrid Samset, "What's in a Figure? Estimating Recurrence of Civil War", *2 International Peacekeeping* 2007, volume 14, pp. 195-203.

<sup>11</sup> On 15 April 2005, for example, the Minsk Group Co-Chairs called on the leaders of Armenia and Azerbaijan "to prepare their populations for a balanced negotiated agreement that will require compromise on both sides" – see text on <<http://www.osce.org/item/13896.html>>.

showed in Nepal, as political leaders all round the world have shown – the alternative is to start the public discussion of the needs of peace, even where there is no short-term prospect of peace talks, and to help public opinion understand the political realities.

### Working towards reconciliation

Just as experience affirms that peace agreements are possible even where there has been profound and sustained conflict, so experience also provides plenty of examples of reconciliation between people who had, in their majority, believed themselves to be enemies forever. In Europe perhaps the relationship between France and Germany is the most striking example – 75 years of war until 1945, followed by cooperation setting up the European Economic Community in 1956, and a joint military brigade within a few years more. Between the vast majority of Protestants and Catholics in Northern Ireland there is now a tolerable degree of reconciliation – don't yet ask them to love each other but there is a political consensus in favour of political cooperation. In the much older conflict between the British and the Irish, the racism of the British and the hurt and resentment on the Irish side have been replaced by mutual respect. This has progressed so far that the British national anthem was heard without incident or protest by tens of thousands of Irish rugby followers this year in a stadium that was the site in 1921 of one of the worst British atrocities in the war of independence.<sup>12</sup> Between Greece and Turkey, an easing of tension in 1999 – only three years after the two countries came close to an armed clash over the Aegean islet of Imia/Kardak – was aided by the humanitarian reaction in each country to the needs of the other when earthquakes hit first Istanbul and later Athens in August and September that year. Even in Cyprus, when the Turkish Cypriot authorities decided in April 2003 to make it easier to gain access across the 'Green Line' dividing the two communities, there were fears that there would be violence and provocations; in fact, tens of thousands of people crossed in each direction with no incidents, no harassment and no problems. That Greek Cypriots voted against the UN brokered settlement in 2004 was because the majority disliked specific terms in the proposed agreement, not because of deep enmity towards Turkish Cypriots as people. Indeed, personal reconciliation has also proven possible in the Israel/Palestine conflict even though the conflict continues for political reasons.

Three conclusions can be drawn from these and many other cases. First, reconciliation is possible. It may not always involve everybody – there can and perhaps one should say always will be some people for whom the pain suffered in the violent phase of the conflict is too great for reconciliation to be a viable feeling. Likewise, it may not go very deep – it may amount to a grudging acknowledgement rather than any deep statement of friendship. Yet reconciliation can and does happen between the people on different sides of violent conflict. Second, as cases such as Cyprus and Israel/Palestine show, reconciliation is not enough to bring about settlement; a peace agreement is both a political and a social process and both parts must be strong and moving in time with each other. Third, the process of reconciliation can begin before a political settlement has been reached, without impinging on the key role of political leaders in defining the terms of settlement.

Some of the initiatives that International Alert and other international organizations have undertaken prove that Armenians and Azerbaijanis could live peacefully and develop friendly

<sup>12</sup> The killing of 12 spectators and one player by police and auxiliaries of the British authorities on 21 November 1920 at Croke Park football ground is an incident that has lived vividly in the memory of Irish nationalists. The England Rugby team became the first English team to play there on 24 February 2007. Incidents and protests had been forecast but none occurred. Ireland won the match.

relationships. Since 2003, International Alert has been leading a consortium of international NGOs that is working to address the conflict between Armenians and Azerbaijanis over Nagorno Karabakh. Through this programme, International Alert has facilitated a process of civil society dialogue underpinning the peaceful resolution of the conflict.

It was our and our partners' intention from the very outset to implement initiatives that would include all key stakeholders in the peace process and to engage those people and groups that have been directly affected by the conflict – Armenians who live in Nagorno Karabakh at present and Azerbaijanis who lived there before the war and fled because of the conflict, as well as IDPs and refugees from war affected regions across Armenia and Azerbaijan, people living along the line of contact or the border, ex-combatants and those who have lost families. We work in each society as well as facilitate joint Armenian and Azerbaijani meetings and initiatives.

In September 2005, key Armenian and Azerbaijani civil society leaders, peace activists and supporters of our initiatives came to meet in Istanbul and took part in a joint Armenian-Azerbaijani event focused solely on the Nagorno Karabakh conflict. This was the largest meeting till then of Armenian and Azerbaijani peace activists. It was considered by many to be a milestone for the confidence building process. Three further joint Armenian-Azerbaijani meetings took place in December 2005, in June 2006 and in September 2006. And then in December 2006, the first meeting of representatives of constituencies directly affected by the conflict took place. As many as 24 representatives of groups directly affected by the conflict came to meet in Cyprus with their counterparts "from the other side". A group of 12 experienced Armenian and Azerbaijani peace activists, including peace activists from Nagorno Karabakh, facilitated the preparation process and the meeting. The emotional but constructive atmosphere was another proof that reconciliation between Armenians and Azerbaijanis is not impossible, as long as there is direct contact and dialogue.

### **Moving forward**

The current stalemate in the Armenian-Azerbaijani negotiations has led many involved to emphasize the need for a process to bring together the divided societies. International Alert has been laying the groundwork in the past two years for such engagement. Over time, these activities can help create the right atmosphere so that, when it is possible to move politically, the conditions are right for a peace agreement and the compromises it will entail to be supported by public opinion on both sides. Reconciliation activities offer one route towards an eventual settlement that could be mutually acceptable, sustainable, popular in public opinion on all sides, and the foundation of future prosperity.

# NORTHERN IRELAND AND NAGORNY KARABAKH – SOME REFLECTIONS

*Thomas de Waal\**

In January the year, the leader of Sinn Fein, the main Republican (and Catholic) party in Northern Ireland, Gerry Adams made a remarkable gesture. He attended the funeral of David Ervine, the leader of the Progressive Unionist Party, a fiercely Unionist (and Protestant) party in East Belfast, the part of the divided city which has an overwhelming Protestant population. Adams embraced the widow of Ervine in a highly symbolic moment.

Both men had been described during the years of the worst violence in Northern Ireland as “terrorists” and their organizations had been in a virtual state of war. Both were members of extremist parties linked to banned paramilitary organizations and had served time in prison. Adams was leader of Sinn Fein, closely associated with the IRA or Irish Republican Army which attacked the British security forces and Protestant community, while Ervine was leader of a party closely linked to the Protestant paramilitary organization UVR (or Ulster Volunteer Force).

The journey both men took to renounce violence and become supporters of a peace process in Northern Ireland was a long and difficult one. The current phase of the Northern Ireland conflict began in 1969 and resulted in more than three thousand deaths out of a population of only one and a half million. Only this year can it be said with confidence that the violence is over and politics has prevailed.

It goes without saying that all conflicts are different. Even the unresolved conflicts in the South Caucasus – over Abkhazia, South Ossetia and Nagorny Karabakh – have important differences. But on another level, all conflicts share similar features. On a basic level all of them are quarrels that politics failed to solve and which declined into violence. So I believe that the tortuous road from conflict to political consensus in Northern Ireland (a journey which has come a huge distance but has not been finished yet) does offer some useful lessons for Nagorny Karabakh at a moment when the Armenian-Azerbaijani peace process appears to have broken down.

Only on 8 May 2007 r, some two decades after the first serious attempts to find a political solution to Northern Ireland’s problems, could it be said with confidence that the peace process had finally worked. On that day a new local government was formed for Northern Ireland, with power being shared by the fiercely Unionist (pro-British) party, the Democratic Unionist Party and the strongly Republican (anti-British) party, Sinn Fein.

For any observer of the Northern Ireland dispute this was an extraordinary occasion. Only a few years ago these two parties were bitter enemies, supporting violence against one another and with absolutely contradictory ambitions for the disputed province.

Many problems remain in Northern Ireland – a heavily subsidized economy, segregated education with different communities choosing different schools, a big legacy of criminality with paramilitary gangs turning to crime. However, the lack of violent conflict means that these problems can be addressed by political means.

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Some of the lessons that have learned from this process are the following:

- Stamina and patience. Agreement has been a long-term process in Northern Ireland with many advances and then long periods of frustration and setbacks. The modern peace process can be dated back to 1985, when the governments in London and Dublin agreed that they had a shared interest in solving the problem and Dublin was given a “consultative” role by the British government in the affairs of Northern Ireland. Five years later the British government agreed to hold secret talks with the Irish republic paramilitary group, the IRA. Sinn Fein and the IRA then began to hold a fierce internal debate about whether to continue its campaign of violence against British and Protestant targets or whether to pursue the “respectable” option of fighting for its goals using only political methods. This finally culminated in a victory for the moderates and the first IRA ceasefire declared in August 1994. This however ended in 1996 when the organization decided there had not been enough progress on the issues that were of concern to the Catholic community.

After renewed talks with the British government, the IRA decided to resume its ceasefire in July 1997. This led the way to the biggest breakthrough, the signing of the detailed Belfast agreement of April 1998. The agreement set out the terms for a future political arrangement for Northern Ireland, in which the region would be governed by a power-sharing assembly and its status would be decided only by consensus.

Paradoxically however, with the main elements of an agreement in place, it took another nine years for a power-sharing executive to be formed effectively. A huge amount of trust had to be built up on both sides and the unionist parties insisted that the IRA fully de-commission its weapons and make them unusable.

A lesson here is that time is an important factor in peace processes and sometimes they cannot be rushed. It takes time for parties to examine their own strategies and be willing to change them and also to build up a relationship trust with the other side. At the same time it is important for the population to see the tangible benefits of the progress made – in the case of Northern Ireland, a decrease in violence and increased economic investment – so as to keep forward momentum in the peace process, even when there are setbacks.

A problem with the Nagorny Karabakh peace process has been that the mediators have identified “windows of opportunity,” often of only a few months’ duration, during which they have pushed the parties hard to make concessions and to sign an agreement. But in retrospect it seems very unlikely that a conflict even more entrenched than the Northern Ireland dispute – and without the same level of international commitment – could have been solved so quickly. It is easy to understand the rationale of the Minsk Group mediators who wanted to use periods of political calm to make progress – but the danger of this approach is that, when no agreement was reached, it left the population on each occasion even more cynical about the peace process. This suggests that Karabakh peace process needs two basic elements – a “framework agreement” in which the parties can state what they agree on as the basis for movement forward; and also a “step-by-step” approach which allows both sides to demonstrate small steps forward to their populations and gives the peace process greater momentum.

- Bringing in the extremes. A problem that the democratic West is currently struggling with in the Middle East is how to cope with “extremist” governments that are nonetheless democratically elected – such as Hamas in Gaza for example.

The example of Northern Ireland suggests it is almost impossible to ignore those on the extremes, if they represent a real constituency in society. Both London and Dublin worked for many years with the more moderate political parties on both sides, the Catholic SDLP and the Protestant Ulster Unionist Party. Most people believed that these two parties would ultimately

share government and be able to do a deal together. That is not what happened. Instead, those two parties spent years “looking over their shoulders,” unsure of what steps they could take as more hard-line politicians on both sides criticized them. Both these two moderate parties declined and the harder-line parties, Sinn Fein and the DUP, picked up votes from the public who felt more secure backing the stronger positions these two parties represented. So in the end it was the DUP and Sinn Fein that did the deal in 2007. If these parties looked over their shoulders all they could see were a few marginal extremists with little public support.

In the Nagorny Karabakh conflict, I believe that two constituencies have been ignored in the peace process and their voice needs to be heard, even if it sometimes perceived as being more “extreme.” These are the voices of the Azerbaijani IDPs and of the Nagorny Karabakh Armenians. After all these two groups have a direct and personal stake in both the past of the conflict and in its future that others do not. The example of Northern Ireland suggests it would be foolish to ignore them.

- Constructive ambiguity. As is the case with Karabakh, a dispute over sovereignty and political status, over territorial integrity and self-determination, hangs over the Northern Ireland dispute, with the Catholic republicans wanting to secede from the United Kingdom and the Protestant unionists wanting Northern Ireland to remain part of the UK. The peace process has dealt with this issue by encouraging deliberate “constructive ambiguity” over the status issue and tackling other issues. Both London and Dublin have made symbolic steps to soothe the problem of disputed sovereignty.

In 1990 Peter Brooke the then British Northern Ireland secretary (the main British official in charge of the province) stated that Britain had “no selfish, strategic or economic interest in Northern Ireland,” signalling to the Catholic community that it would respect potential secession by the province in the future if it happened on democratic principles. In March 1991 Brooke persuaded the main unionist and nationalist parties (although excluding Sinn Fein, the political arm of the IRA) to agree talks that would study relationships “within Northern Ireland, within the island of Ireland and between the peoples of these islands” – a geographical formula that deliberately left the difficult issue of status open. It was crucial that the British and Irish governments were in agreement about the main point – that they wanted to see a peaceful political process for Northern Ireland decided by consensus.

Dublin then made its own symbolic move two years later when the Irish government changed its constitution to renounce territorial claims on Northern Ireland. That signalled its acceptance that the future of the region would be decided by consensus.

The Belfast agreement was founded on ideas of constructive ambiguity and consensus, accepting for example that “Both governments accept the right of Northern Ireland citizens to declare themselves as either British or Irish. Dual citizenship will be provided for those who desire it.”

In 2007 neither side in the Northern Ireland dispute has surrendered its position on the status issue. The Catholics could be said to have “lost” in the sense that the province remains part of the United Kingdom. However, they have obtained greater involvement of Dublin in the government of the province, they now share the local government of the province and they have the assurance that the status could change in the future. In a strange way they feel more confident than the Protestant parties. In the mean time the issue of sovereignty has not strangled other questions and life and government can continue.

- Language of mutual respect. “You don’t make peace with your friends, you make peace with your enemies,” it has been observed. Peace processes involve the anguished scenario of two parties who have tried to destroy one another sitting down together at the same table and

talking. In this context no one expects either side to change their fundamental position – or to stop honouring those they lost in the conflict. However, a successful peace process is based on the principle that progress can be achieved by, if not accepting the other side's position, at least respecting the other side's right to *have* a position -- or, to put it more simply, the other side's right to exist.

This is what happened in Northern Ireland. The two communities had lived side by side for centuries but in many important ways did not understand one another at all. When real talks got underway, many found that they had much more in common than they had thought – this was the case for example with Gerry Adams and David Ervine, whom I mentioned at the beginning of this article.

One shared feature of the Northern Ireland and Karabakh conflicts is the issue of a "double minority." In Northern Ireland the Catholic nationalists have been a minority within the region itself and have felt insecure as a result – looking to Irish brethren in the Republic of Ireland or in the United States to support them. In their turn the Protestant Unionists have felt that they are a British minority in the island of Ireland and have felt threatened as a result; the Unionists of Northern Ireland, with their flags and songs and loud support for the British monarchy, have always been "more British than the British."

Take a look at Karabakh and you see similar patterns of mutual insecurity. In Soviet times the Nagorny Karabakh Armenians were worried that they were a threatened minority in Azerbaijan; Azerbaijan as a whole felt threatened by a potential "fifth column" of Armenians with strong links to a neighbouring Union Republic; and the Nagorny Karabakh Azerbaijanis in their turn felt insecure as a minority within Nagorny Karabakh itself, outnumbered by the Armenians.

Those mutual insecurities eventually led to war. In the current situation of "no war, no peace" over Karabakh the violence has almost stopped but the aggression continues in the form of ferocious public language and bellicose rhetoric. That means that the insecurity also continues – both Karabakh Armenians and Karabakh Azerbaijanis, when they hear the kind of language that comes from the other side – the labels "fascism" or "genocide" for example – doubt that they have a future with one another and entrench their positions.

In both disputes, historical claims have been deployed as weapons. The two sides have denigrated not only the current position of the other side but their past as well. David Ervine remarked that the players in Northern Ireland had become "the prisoners of history" and one (perhaps mythical) demonstrator is said to have shouted out the slogan, "To hell with the future, let's get on with the past!"

In Northern Ireland, the word "terrorist" was used to label men of violence from both the Catholic and Protestant communities. It is a word that obscures much more than it reveals – terrorism after all is not an ideology but a tactic. In March this year, the two hard-line leaders Gerry Adams and Ian Paisley – or in the tribal colours of Northern Ireland the leaders of "green" and of "orange," found a different kind of language in the public statements they used to agree to work together.

Paisley said, "I want to make it clear that I am committed to delivering not only for those who voted for the DUP [unionist Democratic Union Party] but for all the people of Northern Ireland. We must not allow our justified loathing of the horrors and tragedies of the past to become a barrier to creating a better and more stable future. In looking to that future we must never forget those who have suffered during the dark period from which we are, please God, emerging.

We owe it to them to craft and build the best future possible and ensure there is genuine support for those who are still suffering."

Adams said, "In all of the initiatives we have taken in recent times we have been guided by the need to deliver for the people of Ireland. So, in our discussions we have listened very carefully to the position put forward by Ian Paisley and his colleagues. The relationships between the people of this island have been marred by centuries of discord, conflict, hurt and tragedy. In particular this has been the sad history of orange and green. Sinn Fein is about building a new relationship between orange and green and all the other colours, where every citizen can share and have equality of ownership of a peaceful, prosperous and just future."

Both leaders found eloquent language that expressed pride in their own communities and positions but also respect for the other. It was an impressive balancing act.

- Building a security architecture. In Northern Ireland the frustration and disappointment of the nine-year lag between the Belfast agreement of 1998 and the power-sharing agreement of 2007 can be put down to one factor above all – security concerns.

To simplify greatly, both sides had strong worries about their own security. The Protestant side was worried that the Sinn Fein/IRA strategy might merely be a huge confidence trick and that the IRA might have plans to return to violence, as soon as British security support for the Protestant community was scaled back. They were only convinced of this after an exhaustive enquiry by an independent commission eventually concluded that the IRA had finally "decommissioned" its weapons and put them beyond use.

On the Catholic side, the big worry was about the impartiality of the police force. The old police force, the Royal Ulster Constabulary in its very name embodied British control over Northern Ireland and it was more than 90 per cent Protestant in composition. Only after it was reformed and renamed the Police Force of Northern Ireland, did the Catholic community begin to build trust in it. And only in 2007 did Sinn Fein formally agree to support and cooperate with the new police force.

In Nagorny Karabakh the security issues are even more challenging. Of course such issues as disarmament or a multi-ethnic police force are a distant dream in the Karabakh conflict! But in a similar way, the whole dispute can be ascribed to a breakdown in security architecture, when in 1988 both Armenian and Azerbaijanis abandoned trust in the Soviet law-enforcement agencies and turned to their own home-made armed groups to protect themselves instead.

It is obvious that only a neutral outside force can provide the security architecture that Karabakh needs for both communities to feel secure. For obvious reasons, neither Armenians nor Azerbaijanis will be trusted by the other side as sole "protectors" while for historical reasons Azerbaijanis will not trust Russians or Armenians Turks to do the job. This is where the international community must play a more enhanced role and commit resources to provide security forces to make a peace agreement work. And sadly, because of Iraq, Afghanistan, Lebanon and Darfur, I see little commitment on the part of Western countries to pledge policemen or soldiers to provide security for Karabakh. Yet this element is essential if a political agreement can be made to stick. Sovereignty can be made ambiguous, but security is a matter of life and death for ordinary people. It must be put at the heart of any eventual deal for the people of Armenia and Azerbaijan, so that in the future both Armenians and Azerbaijanis come to feel the same growing feeling of security that the people of Northern Ireland are beginning to enjoy.

# Inter-group contacts in the context of the conflict between Armenia and Azerbaijan: a conflict resolution or post-conflict reconciliation tool

Rovshan Sadigbayli\*

## Introduction

The complex nature of the conflict between Armenia and Azerbaijan where elements of ethnicity, identity and historical narratives are closely interconnected with territorial issues requires multi-faceted approach in its settlement. As evidenced by the dynamics of the conflict during the last century, although the Soviet rule ended the hostilities between Armenia and Azerbaijan for a while, the conflict between the two countries has transformed into what is called "negative peace", i.e. absence of direct physical violence whereas the tensions were left simmering throughout the Soviet period only to erupt with renewed intensity in 1988.<sup>1</sup>

There is an understanding that if the lasting peace is to be achieved additional efforts should be made to reconcile the opposing nations and communities by fostering mutual understanding, tolerance and peaceful coexistence with the ultimate goal of eradicating sense of animosity and hatred.<sup>2</sup> Although the emphasis is usually put on inter-state peace negotiations as a political means to find solution to this protracted conflict, there are increasingly calls to implement confidence-building measures and use tools of track II or citizen diplomacy, i.e. conflict mediation efforts by unofficial people, humanitarian organizations and NGOs outside official political negotiation process.

However, there are divergent opinions on whether programs that pursue the above-mentioned goals can be introduced as a conflict resolution tool when formal peace talks have not yet yielded positive results or such initiatives are applicable and can produce positive results only in post-conflict settings, when there is already a political agreement in place.<sup>3</sup>

Peace-building is a very broad field and includes all kinds of programs differing in goals, target groups and means of achievements.<sup>4</sup> For the scope of this article I will narrow the broad concept and will focus primarily on building confidence through inter-group contacts. I will identify lessons learned from the actual programs carried out in various parts of the world, which can be generalized and serve as a theoretical basis for analyzing strengths and weaknesses of facilitated dialogue between the representatives of the conflicting societies as a

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<sup>1</sup> J.Galtung, "Violence, peace and peace research", 6(3) Journal of Peace Research 1969, pp. 167-191.

<sup>2</sup> Report by D.Atkinson "The conflict over the Nagorny Karabakh region dealt with by the OSCE Minsk Conference", Document 10364, Political Affairs Committee, Council of Europe, Adopted 25 January 2005 (2nd Sitting), see at <<http://assembly.coe.int/Documents/WorkingDocs/doc04/EDOC10364.htm>>.

<sup>3</sup> E.Azar, The management of protracted social conflict (Hampshire, UK: Dartmouth Publishing Company Ltd. & Brookfield, VM: Gower Publishing Company, 1990); F.O.Hampson, Nurturing peace: Why peace settlements succeed or fail (Washington, D.C.: U.S. Institute of Peace Press, 1996).

<sup>4</sup> D.Last, From peacekeeping to peace-building, 5(1) The Online Journal of Peace and Conflict Resolution 2003, <[http://www.trinstitute.org/ojpcr/5\\_1last.htm](http://www.trinstitute.org/ojpcr/5_1last.htm)>.

conflict resolution tool. In particular I will elaborate on the factors and conditions that may potentially hinder implementation of such confidence-building programs in the context of the conflict between Armenia and Azerbaijan.

The primary conclusion of this article is that the confidence-building programs implemented amidst on-going conflict are constantly challenged by the dynamics of the conflict and hence will produce limited results. However, they may be useful in the de-escalation phase of the conflict when there is already a formal political agreement between the parties to the conflict.

### **“Contact hypothesis” as a theoretical framework for peace-building programs**

Although depending on the dynamics of a conflict, confidence-building programs differ from one another in scope and modalities, they have one common underlying feature: they address the socio-psychological aspects of conflict and see changing perceptions, stereotypes and prejudices pertaining to the entire conflicting groups as their ultimate goal.<sup>5</sup> Pruitt and Kim argue that “unlike emotions (such as blame, anger and fear) which diminish and eventually disappear when conflict is over, hostile attitudes and perceptions are persistent, in a sense that they can last longer than the conflict itself and may lead to escalation of new conflict and/or generate perceptions of conflict where none exist.”<sup>6</sup>

In achieving these goals, confidence building and reconciliation programs essentially draw their theoretical basis from the principles of the “contact hypothesis” theory formulated by Gordon Allport in his classic book *“The Nature of Prejudice”*. The contact hypothesis assumes that facilitating inter-group contact may change attitudes and perceptions between opposing groups, eliminate mutual prejudices and stereotypes and eventually diminish hostilities and subsequently improve inter-group relations.<sup>7</sup>

The basic assumption behind fostering contacts between conflicting groups is that if left unaddressed, repressed painful experiences may negatively affect people’s behavior and attitudes.<sup>8</sup> To this end, the ultimate goal of such inter-group encounters is helping people to deal with their psychological trauma and emotions associated with conflict through emotional process of sharing a personal story (the storytelling process) and apology for past wrongdoings.

By encouraging people to feel empathy toward others and take roles of the representatives of the other group, such programs aim at training people to see the conflict from the perspective of people in the out-group, which was previously de-legitimized.<sup>9</sup> Empathy is believed to reduce negative attitudes toward the other group because it allows members of the opposing groups to see that the perceived differences between the groups are not supported by evidence and that the threat that they thought was emanating from the other group is also exaggerated.<sup>10</sup>

However, implementation of confidence-building programs in Cyprus, in the context of conflict between the Israelis and Palestinians and elsewhere revealed that addressing the socio-psychological aspects of protracted conflicts is a challenging task. There is evidence sug-

<sup>5</sup> G.Salomon, “A Narrative Based view of Coexistence Education”, 60 (2) *Journal of Social Issues* 2004, pp. 273-2874; G.Salomon, “The nature of peace education: Not all programs are created equal”, in G.Salomon & B.Nevo (eds.), *Peace education: The concept, principles, and practices around the world* (Mahwah, New Jersey: Lawrence Erlbaum Associates Inc., 2002).

<sup>6</sup> D.Pruitt & S.Kim, *Social conflict: Escalation, stalemate and settlement* (New York, NY: McGraw Hill Inc., 2004), p. 105.

<sup>7</sup> G.Allport, *The Nature of Prejudice* (Cambridge, MA: Addison Wesley Publishing Company, Inc., 1954).

<sup>8</sup> D.Bar-On & F.Kassem, “Storytelling as a Way to Work Through Intractable Conflicts: The German-Jewish Experience and Its Relevance to the Palestinian-Israeli Context”, 60 (2) *Journal of Social Issues* 2004, pp. 289-306.

<sup>9</sup> W.Stephan, & K.Finlay, “The Role of Empathy in Improving Intergroup Relations”. 55 (4) *Journal of Social Issues* (1999), pp. 729-743; G.Salomon, “A Narrative Based view of Coexistence Education”, pp. 273-287.

<sup>10</sup> W.Stephan & K.Finlay, pp. 729-743.

gesting that attitudes and perceptions of small groups as a result of inter-group encounters and dialogue do change.<sup>11</sup> However, the real challenge is how to make such changes persistent and how to spread newly acquired positive attitudes to embrace the whole society.

Experience of confidence-building programs elsewhere indicates that attempts to bridge mutually exclusive collective narratives, legitimization of the other side's story, fostering critical assessment of one's group role in the conflict spiral, and development of empathy and trust between the opposing groups will be inevitably challenged by the dynamics of the on-going conflict and deep-rooted societal beliefs internalized by the conflicting societies.<sup>12</sup>

Allport was cautious himself about the results expected out of inter-group encounters and identified the following pre-conditions under which contact could produce positive results. The first condition is the frequency of interaction, i.e. contact should be made regularly during specified period of time. The second condition is environmental support, i.e. there should be societal demand for such interaction and wider social support at all levels should be secured. The third condition is equal status of participants during the interactions. Equality is supposed to help actually change attitudes and perceptions of participants towards each other, since, as will be discussed below, stereotypes and prejudices are based on the devaluations and exclusion of others. And the fourth condition is cooperative environment during such encounters.<sup>13</sup>

Some experts working in the field argue that it is not possible to achieve positive results by simply bringing belligerent parties together.<sup>14</sup> This can be partially explained by the difficulty to achieve all conditions specified by Allport simultaneously amidst on-going conflict.

When the conflict is on-going, opposing parties enter the spiral of escalation of conflict and every move of the other side is accepted with suspicion and distrust. The conflict is increasingly viewed as a zero-sum confrontation, when one side's winning by definition means that the other side loses. Goals and interests of each side are viewed as diametrically opposed, and the groups themselves become polarized.<sup>15</sup>

Under these circumstances, as was evidenced by the experience in the context of the Israeli-Palestinian conflict, unless inter-group encounters are consistent and repeated on a regular basis, positive changes among participants after short workshops evaporate in the course of a couple of months.<sup>16</sup> Even if such encounters are sustained over time, people participating in these programs upon return to their communities face the problem of "re-entry" i.e. dissonance between their newly acquired perspective on the opposing groups and the prevailing hostile attitude of their fellow citizens. Kadushin and Livert explain this by the fact that personal relationships are part of broader "informal networks" influenced by informal institutional arrangements such as families, schools, work places and neighborhoods. People in such informal institutional frameworks establish common norms and opinions, which eventually transform into the "social pressure" which group members find difficult to resist to.<sup>17</sup>

In order to secure support for such encounters by all levels of society there should be a "societal agreement" on the objectives, goals and content of such programs.<sup>18</sup> However, reaching a wider audience outside the narrow circle of participants of inter-group contacts and trying

<sup>11</sup> G.Salomon, G. "A Narrative Based view of Coexistence Education", pp. 273-287. G.Salomon & B.Nevo; D.Bar-Tal, "Nature, rationale and effectiveness of education for coexistence", 60 (2) Journal of Social Issues 2004, pp. 253-272.

<sup>12</sup> G.Salomon. & B.Nevo.

<sup>13</sup> G.Allport.

<sup>14</sup> N.Tal-Or, B.Bominger & F.Gleicher, "Understanding the conditions and processes necessary for intergroup contact to reduce prejudice", in G.Salomon & B.Nevo (eds.), p. 88.

<sup>15</sup> D.Pruitt & S.Kim.

<sup>16</sup> G.Salomon & H.Kupermintz, "Lessons to be learned from research on peace education in the context of intractable conflict", 44 (4) Theory Into Practice 2005, pp. 293-302.

<sup>17</sup> C.Kadushin. & D.Livert, "Friendship, contact and peace education", in G.Salomon & B.Nevo (eds.), p. 119.

<sup>18</sup> D.Bar-Tal, pp. 253-272.

to reverse the negative attitudes and perceptions dominant in the society at large is also constantly challenged by the current dynamics of conflict.

Until the consequences of the conflict are removed, achieving equality of the target groups seems to be problematic. At the same time, if the sense of victimhood is not eliminated on either side then there are little chances that encounters will be fruitful. Speaking about the peace education programs David Perkins notes that “peace education makes little sense when a strong aggressor is looming on your borders.”<sup>19</sup>

In the context of the conflict between Armenia and Azerbaijan it is obvious that until the consequences of the conflict are removed and the Azerbaijani IDPs return to their homes in and around the Nagorny Karabakh region of Azerbaijan, they will perceive themselves vulnerable and any programs between displaced Azerbaijani population and Armenians in Nagorny Karabakh region will produce limited results, if any.

The fourth condition specified by Allport – cooperative environment is also constrained by the dynamics of the conflict. There is empirical evidence suggesting that when the conflict is on-going participants of confidence-building programs will capitalize on the relative gains and perceive the whole process as a zero-sum game. As a result a sense of competition will prevail during the meetings and may actually reverse the effects of the programs.<sup>20</sup>

Analysis of the confidence-building programs implemented elsewhere allows concluding that in real-life settings implementation of such programs is challenged by contextual and situational factors that stimulate inter-group conflict.<sup>21</sup> The primary question to address is to what extent facilitated dialogue takes into account these factors and whether such programs are capable to circumvent them amidst on-going conflict.

The social conflict theory as well as analytical tools of the social and peace psychology disciplines will be used here to guide us through discussion of particular factors that contribute to the maintenance of negative attitudes and perceptions among the conflicting groups.<sup>22</sup>

### Uncovering dynamics of conflict: is it all about perceptions, attitudes and prejudices?

Almost all existing definitions of conflict stress that the irreconcilable and conflicting interests are “perceived” by the members of the conflicting groups, implying that such perceptions about divergent and incompatible interests may be detached from reality.<sup>23</sup> There is a widely accepted belief that attitudes and perceptions influence to a large extent the behaviors of the groups in conflict.

Negative inter-group relations can be generated either from ethnocentrism of interacting groups (group’s belief in its superiority over other group or groups)<sup>24</sup> or from the *realistic* conflict of interests between the different groups over territory, resources or other aspirations.<sup>25</sup> Bar-Tal notes that these categories are not mutually exclusive and on a number of occasions they are complimentary.<sup>26</sup>

<sup>19</sup> D.Perkins, “Paradoxes of peace and the prospects of peace education”, in G.Salomon & B.Nevo (eds.), p. 39.

<sup>20</sup> R.Hertz-Lazarowitz & D.Eden, “Empowering Arab and Jew – school leadership in Acre”, in G.Salomon & B.Nevo (eds.), p. 213.

<sup>21</sup> M.Fitzduff, “Introduction”, in M.Fitzduff & C.Stout (eds.), *The psychology of resolving global conflicts* (Westport, CT: Praeger, 2006).

<sup>22</sup> T.F.Pettigrew, “Applying social psychology to international social issues”, 54 (4) *Journal of Social Issues* 1998, pp. 663-675.

<sup>23</sup> W.W.Wilmot & J.L.Hocker, *Interpersonal conflict* (New York: McGraw-Hill, 2001); D.Pruitt & S.Kim, *Social conflict: Escalation, stalemate and settlement* (New York, NY: McGraw Hill Inc, 2004).

<sup>24</sup> D.Bar-Tal, pp. 253-272.

<sup>25</sup> D.Pruitt & S.Kim.

<sup>26</sup> D.Bar-Tal, pp. 253-272.

Thus, negative attitudes and perceptions are partially maintained by prejudices and stereotypes, which emerge in the natural process of social categorization of individuals into groups. In the inter-group behavior individuals are guided not so much by their personal identities, but by their common identification as a group, which is referred to as social identity.<sup>27</sup> This is why in the regions of protracted conflict programs designed to improve relations between the opposing nations and communities target collectives as a whole (as groups) and not as separated individuals.<sup>28</sup> Social identity of groups is protected as well as enhanced artificially by elevating one's own group over the other groups. Such devaluation of the "out-group" gradually becomes part of a culture, constructing "Good Us" and "Evil Them".<sup>29</sup>

Although, there are some elements of ethnocentrism in the relations between the Armenians and the Azerbaijanis, they are not the root-causes of the conflict and subsequently are not among the factors capable to jeopardize the process of reconciliation. If the primary reason of the persistence of negative attitudes and conflict would have been merely "cultural bias", lack of information about the other side and devaluation of the other side, then fostering multicultural understanding through cross-cultural training programs and inter-group contacts would indeed help reducing stereotypes and contribute to the elimination of inter-group hostilities.<sup>30</sup>

As evidenced from the reviewed literature on the subject, although identity formation per se may follow "inevitable natural purposes such as the need to create separate ethnic identity"<sup>31</sup> and prejudices "have some automatic components that operate outside our conscious awareness"<sup>32</sup>, in reality, on many occasions the group's identity is ideologically sustained serving political objectives of ruling elites. Similarly, negative attitudes and hostility towards other groups are sometimes deliberately emphasized and are used for political purposes.

Staub argues that once created, devaluation of a particular group and its negative image is most often maintained artificially.<sup>33</sup> In other words, the negative image of opposing group may be a product of a social construct, which can be easily manipulated. If so, then simply bringing small groups from conflicting sides together and "working-through" negative memories and trauma without addressing factors maintaining and reinforcing these negative attitudes and perceptions will produce limited results.<sup>34</sup>

### **Constructed "State identity": A source of persisting polarization of groups**

The research in field of social conflict indicates that conflict arises more from perceived threat to the in-group, than from negative qualities attributed to the out-group.<sup>35</sup> As shows the analysis below perceptions of threat to in-group can also be constructed and artificially maintained by ruling elites.

<sup>27</sup> M.Hewstone & R.Brown, *Contact and conflict in intergroup encounters* (Oxford: UK, New York, NY: Basil Blackwell Inc, 1986).

<sup>28</sup> G.Salomon, "The nature of peace education: Not all programs are created equal", in G.Salomon & B. Nevo (eds.); G.Salomon & H.Kupermintz, pp. 293-302.

<sup>29</sup> E.Staub, "From healing past wounds to the development of inclusive caring: Contents and processes of peace education", in G. Salomon & B. Nevo (eds.).

<sup>30</sup> I.M.Harris, "Peace education theory", 1 (1) *Journal of Peace Education* 2004, p. 11.

<sup>31</sup> K.Bush & D.Saltarelli, "The Two Faces of Education in Ethnic Conflict", UNICEF Study 2000.

<sup>32</sup> M.Alexander & S.Levin, "Theoretical, empirical and practical approaches to intergroup conflict", 54 (4) *Journal of Social Issues* 1998, p. 630.

<sup>33</sup> E.Staub, p. 75.

<sup>34</sup> A.Nadler, "Post-resolution processes: Instrumental and socio-emotional routes to reconciliation", in G.Salomon & B. Nevo (eds.).

<sup>35</sup> C.McCauley, "Head-first versus feet-first in peace education", in G. Salomon & B. Nevo (eds.).

Based on the premises of the sections above it is possible to argue that neither individual nor collective identity formation, as well as prejudices taken separately from context, can succeed in explaining why it is extremely difficult to solve protracted conflicts. In order to understand the link between the policies of ruling elites and attitudes and behaviors of the peoples and to grasp fully the forces that contribute to the intractability of the inter-group conflicts it is necessary to introduce into our discourse the notion of "State identity" defined in terms of "national interest" of the countries.<sup>36</sup>

Contrary to the conventional theories of international relations some scholars do not take threats to the State as "real" and "national interests" (defined in terms of security) as something that goes without saying, arguing that they are constructed.<sup>37</sup> Weldes conceptualizes the notion of State identity, which is crucial for understanding how national interests are formed. Weldes underlines that identity and interests of State are shaped by identity and interests of decision-makers, e.g. ruling elites. Identities of decision-makers as well as their perceptions of other objects are shaped by the historical events, which are made politically meaningful through interpretation of the past.<sup>38</sup> In other words, narratives, perceptions and patterns of attitudes and behavior are reproduced by the every next generation of political elites, who automatically follow the path if they want to come and stay in power. Weldes concludes in this regard that national interests are thus social constructions.<sup>39</sup> In this process, depending on the position of a State in conflict devaluation and negative image of a particular group is built into and linked to the constructed "national interest" of in-group, which is gradually transformed into indisputable and sacred "right cause".

Although according to the *contender-defender model* developed by Pruitt and Kim to analyze the escalation of conflict both parties engaged in confrontation would argue that their actions are that of defender, as opposed to the contender tactics of the other side, reference to the positions of Armenia and Azerbaijan at the negotiation table will be useful in analyzing why and how social constructions are maintained.

Attempts by Armenian leadership to present the root-causes of conflict as the "top dog" vs. "underdog" standoff caused by the "structural inequalities" (unequal access to resources and opportunities embedded in social structures) fit with the demand for the self-determination (implying secession) of the Armenian population of the Nagorny Karabakh region of Azerbaijan. The economic development of the region in the Soviet period is beyond the scope of the article. Here it would be suffice to mention that according to the independent non-regional researchers structural inequalities were non-existent in the case of Karabakh conflict.<sup>40</sup> In order to sustain this argument Armenian leaders are constantly putting emphasis on identity of the Armenians of the Nagorny Karabakh region, which is alleged to be at stake. Such position by definition is bound to reinforce exclusion patterns embedded in exclusive identities and narratives of the Armenians. Former Armenian President Kocharian's notorious statement about the "ethnic incompatibility" of Azerbaijanis and Armenians and hence impossibility to live peacefully in Nagorny Karabakh is only one recent example of how exclusion patterns and negative perceptions are maintained.

One of the consequences of using ethnic sentiments and animosities for political purposes was and remains that soon political leadership becomes entrapped in its own rhetoric that resonates with the dominant sentiments of society at large. As a result, any government taking

<sup>36</sup> J.Weldes, "Constructing National Interest", 2(3) European Journal of International Relations 1996, pp. 275-318.

<sup>37</sup> *Ibid.*

<sup>38</sup> M.Barnett, "Culture, strategy and foreign policy change: Israel's road to Oslo", 5(1) European Journal of International Relations 1999.

<sup>39</sup> J.Weldes, pp. 275-318 & 282.

<sup>40</sup> Thomas de Waal, "The Nagorny Karabakh conflict: origins, dynamics and misperceptions", 17 Accord 2005, pp. 12-17.

over the power is forced to continue pursuing policies of their predecessors. As Coppieters argues, "it is not so easy to accept the compromise solution when the basic interests or even survival of the ethnic community or the State is declared to be at stake."<sup>41</sup> Under these circumstances, any unfavorable change of *status quo* in the conflict could undermine positions of the political elites. This was clearly illustrated by the ouster of the former Armenian president Levon Ter-Petrossian in February 1998, when he showed readiness to accept the compromise solution to break the impasse in the conflict resolution.<sup>42</sup>

The primary conclusion which can be made here is that the policies of the authorities can be major obstacles to the desired changes in attitudes and behaviors of collectives envisaged and expected by peace-building programs. As a result it will be difficult to achieve the condition of a "hurting stalemate" – a condition when parties to the conflict realize that both sides will lose as a result of continued strife and want to make genuine steps to achieve peace.<sup>43</sup>

Azerbaijan's position on the contrary puts emphasis on genuine reconciliation between the Armenians and the Azerbaijanis and proposes bi-communal model for the Nagorny Karabakh region of Azerbaijan insisting that the Azerbaijani population of the region who was forced to flee should return to their homes and together with the Armenian community should equally participate in the political, economic and social life. The position of Azerbaijan is derived from the very logic of the "reconciliation" and "peaceful coexistence" concepts. As to the accusations in the "war rhetoric" which is allegedly heard in Baky, they are unfounded, since declarations of the political leadership in Baky about the available alternative options to put an end to the occupation of the territories of Azerbaijan, are a direct response to the statements in Yerevan that the Nagorny Karabakh region will never be part of Azerbaijan again.

As evidenced by the research in the field in conflicts where elements of ethnicity and identity are closely intermingled with realistic conflicting interests of the opposing communities, reconciliation and peace-building efforts should be directed towards establishment of a sense of inclusive "common in-group identity".<sup>44</sup> This model envisages reduction of inter-group bias by redirecting cognitive and motivational processes to include out-group members. This strategy also seems to be appropriate in an effort to reconcile mutually exclusive identities and narratives between opposing communities.

Experts working in the field, underline that coexistence based on separation does not lead to reconciliation.<sup>45</sup> Simply fostering "separated" coexistence between the opposing communities through confidence-building programs will hardly lead to genuine reconciliation between the Armenian and Azerbaijani communities in the Karabakh region of Azerbaijan, as well as between Armenia and Azerbaijan in general. Creation of two separate ethnic zones in the Nagorny Karabakh region will inevitably sustain a "mentality of siege" of the local communities to borrow the phrase of Salomon rather than reverse it.<sup>46</sup>

Allport also noted in this regard that forced or voluntary regional segregation of groups will result in segregation in schools, medical facilities and stores, eventually disrupting the commu-

<sup>41</sup> B.Coppieters, *Contested Borders in the Caucasus* (Brussels: VUB Press, 1996).

<sup>42</sup> E.Walker, "Armenia's 'Constitutional Coup' and the Karabakh Conflict", see at <[http://istsocrates.berkeley.edu/~bsp/caucasus/articles/walker\\_1998-armenia.pdf](http://istsocrates.berkeley.edu/~bsp/caucasus/articles/walker_1998-armenia.pdf)>, originally appeared in 10(3-4) *Analysis of Current Events*, March/April 1998.

<sup>43</sup> F.O.Hampson, "Nurturing peace: Why peace settlements succeed or fail" (Washington, D.C.: U.S. Institute of Peace Press, 1996).

<sup>44</sup> M.Houlette, S.Gaertner, K.Johnson, B.Banker, B.Riek, & J.Dovidio, "Developing a more inclusive social identity: An elementary school intervention", 60(1) *Journal of Social Issues* 2004, pp. 35-55.

<sup>45</sup> L.Kriesberg, "Coexistence and the Reconciliation of Communal Conflicts", in E.Weiner, (ed.), *The Handbook of Inter-ethnic Coexistence* (New York: Continuum Publishing, 1998), pp. 182-198. Article summary by Conflict Research Consortium Staff retrieved 4 April 2006 from <<http://www.beyondintractability.org/articlesummary/10337/?nid=5836>>.

<sup>46</sup> G.Salomon, *Does Peace Education Really Make a Difference?* (Israel: Center for Research on Peace Education, University of Haifa, 2004), p. 6.

nication channels between the opposing communities and paving the way for continued misperception of each other and prejudice between the groups. Such environment may naturally reduce the chances that the representatives of the two ethnic groups will engage in joint community development projects, which is considered to be an important element in eliminating a sense of competition and zero-sum attitudes between the communities. This in turn may create problems for the reconciliation of the communities in the long-term perspective.

### Collectively held narratives – unquestioned truths or constructed past?

There are many ways (education, literature, media) though which negative attitudes towards others are nourished and passed on to the next generations thus maintaining the “spiral of violence”. In the context of the protracted conflicts attention should be given to formation of collective narratives, which as evidenced by the research of the inter-group conflict become powerful instrument of social exclusion and have implications for the implementation of peace-building programs.

Collective narrative is a memory consisting of the shared beliefs, history, aspirations, explanations and legitimization of in-groups behavior and attitude toward out-groups transmitted from one generation to the other.<sup>47</sup> Emphasizing the role history is playing in formation of collectively held narratives, Salomon argues that “history not only provides the roots for a group’s collective narrative, but is reciprocally colored by the narrative: Historical events are made to fit the narrative, are added or, more often, are excluded from the narrative”.<sup>48</sup> It is worth mentioning here Salomon’s observation that “a group constructs a narrative that best suits its aspirations, interests and, if there is inter-group conflict, builds its “true” account of the history of the conflict by capitalizing on certain aspects of the conflict and “forgetting” or excluding other events that do not fit well into the overall picture of “Good Us” and “Evil Them”.<sup>49</sup>

Such “selective information processing”, as Pruitt and Kim call it, is used not only when narratives are created but also in contemporary events when information about the opposing group is carefully selected to support the negative views. Constructed narratives de-legitimize goals, actions, history, humanity and sufferings of the conflicting sides.<sup>50</sup> Thus, collectively held narratives may be invisible at first sight, but influence to a large extent the perceptions, attitudes and hence behavior of conflicting groups.

The conflict between Armenia and Azerbaijan is a vivid example of how negative image is artificially sustained by constructed narratives, which are turned into the political instrument.

Of particular importance is the impact of Armenian narrative related to the events of 1915 to Armenians’ perceptions about Azerbaijanis. Emphasis of ethno-linguistic bonds of the Azerbaijanis with the Turks in the Armenian historiography is a common place. The logic behind emphasizing ethno-linguistic affinity of the Azerbaijanis towards the Turks became clear later when tensions between Armenia and Azerbaijan escalated into overt violence. As argues Hunter “Armenians often identify the Azerbaijanis with Turks, thus creating an association between the Azerbaijanis and the ‘Armenian Genocide’”.<sup>51</sup> Given the deep-rooted negative feelings among the Armenians toward Turks associated with the alleged events of the 1915, and the role this perceived group trauma plays in the Armenian identity, it is possible to argue that this linkage was used to mobilize the Armenians around “Armenian cause” by expanding the sense of

<sup>47</sup> G.Salomon, “A Narrative Based view of Coexistence Education”, pp. 273-287.

<sup>48</sup> *Ibid.*, p. 275.

<sup>49</sup> *Ibid.*

<sup>50</sup> G.Salomon, “A Narrative Based view of Coexistence Education”, p. 277.

<sup>51</sup> S.T.Hunter, *The Transcaucasus in transition: Nation-building and conflict* (Washington D.C.: CSIC, 1994), p. 30.

animosity, the Armenians feel towards Turks, to include the Azerbaijanis.<sup>52</sup> Historical linkages of contemporary events are also made with events that happened thousands years ago in different circumstances and more importantly, which do not have direct link to the present-day conflict.<sup>53</sup> Clearly, Armenian national leaders used history to construct narratives to fit in the “right cause” by identifying the adversary, strengthening and consolidating Armenians’ group identity around “Karabakh issue” and nourishing a sense of frustration – all important factors, which according to social conflict theory contribute to mobilization of “conflict group” willing to challenge the status-quo.<sup>54</sup> The fact that historical events were used by the Armenian nationalists to justify current politics is also recognized by the Armenian authors.<sup>55</sup> One of the consequences of the group mobilization in Armenia was strong group identification of both in-group and out-group, i.e. “Good Us” vs. “Evil Them”, which coupled with national aspirations, generated potential for breaking out of conflict.

Thus, zero-sum attitudes and conflicting, mutually exclusive narratives created what Kelman calls “negative interdependence” of identities, i.e. conviction that the other side wants to destruct one’s identity or assert its identity at the expense of the other’s.<sup>56</sup> Under these conditions, such an important ingredient of any confidence-building programs as acceptance of other side’s collective narrative will face serious challenges.

As a result of social constructs, deep-rooted societal beliefs internalized by the conflicting societies gradually become highly resistant to change and, unless taken into account, may constitute a major challenge in the process of reconciliation.

### **Inter-group contacts: conflict resolution or post-conflict reconciliation tool?**

Salomon identifies two separate psychological domains, which need to be distinguished while addressing socio-psychological aspects of inter-group conflict: the *core* of group’s belief system and its *periphery*. At the core of the group’s narrative is the “most cherished belief systems” which constitute the “backbone of a group’s identity”. On the periphery, he argues, are less central issues.<sup>57</sup>

Facilitated dialogue between representatives of the conflicting groups usually target the attitudes, stereotypes, prejudices and perceptions, which are at the “periphery” of a narrative’s core and are thus more susceptible to change.<sup>58</sup> However, positive changes in this domain are constantly challenged by the impact of more central “unquestioned truths”. Core beliefs are case specific and can include beliefs about security, in-group images (“Good Us” vs. “Evil Them”), victimization, de-legitimization of other group’s collective narrative, key events in in-group’s historical narrative forming the group’s identity. As we can see these core beliefs are related to the issues that are at the root of the conflict. Success or failure of facilitated encounters depends on what particular domain is addressed and under what conditions.

The dynamic of core – periphery interaction indicates that convictions located at the core of values system of societies are not easily changed.<sup>59</sup> When the source of conflict is conflict-

<sup>52</sup> R.Panossian, “The Past as Nation: Three Dimensions of Armenian Identity”, 7 (2) Geopolitics 2002, pp. 121-146; Thomas de Waal, Black garden: Armenia and Azerbaijan through peace and war (New York, London: New York University Press, 2003); A.Alstadt, Personal communication (USA: Amherst, 2006).

<sup>53</sup> R.Panossian, pp. 121-146, note 62.

<sup>54</sup> D.Pruitt & S.Kim.

<sup>55</sup> R.Panossian, p. 131.

<sup>56</sup> H.Kelman, “The interdependence of Israeli and Palestinian national identities: the role of the other in existential conflicts”, 55(3) Journal of Social Issues 2004.

<sup>57</sup> G.Salomon, Does Peace Education Really Make a Difference?

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

ing interests that constitute the core value of a given society, the negative attitude towards the other group may be accepted by society members as a norm.<sup>60</sup>

As evidenced by the experience of confidence-building programs in the conflict in Cyprus, Israeli-Palestinian context and elsewhere such programs are vulnerable to current political atmosphere.<sup>61</sup> Most scholars working in the field note that such initiatives can produce only limited results, when the conflict and hostilities are on-going.<sup>62</sup> The developments in the Israeli-Palestinian conflict prove that major political and military events may contribute to the maintenance of the existing strained relations between the groups and halt the modest attempts to initiate dialogue and foster mutual understanding between the opposing groups.<sup>63</sup>

Hence, confidence-building through inter-group contacts will produce better results when implemented in the de-escalation phase of the conflict. This is why experts working in the field conclude that initiatives aimed at establishing inter-group dialogue should be complementary to the efforts made at the governmental level to transform the nature of conflict and overall attitudes towards the other side.

Thus said, confidence-building programs in the context of the conflict between Armenia and Azerbaijan will most probably produce limited results amidst on-going conflict. Current political events will constantly reinforce zero-sum thinking and will foster negative perceptions and attitudes between the societies.

## Conclusion

There is substantial evidence suggesting that as a result of facilitated inter-group contact attitudes and perceptions between opposing groups do change in a positive manner. This may create grounds for elimination of mutual prejudices and stereotypes and eventually diminish hostilities and subsequently improve inter-group relations.

However, the real challenge is how to make such changes persistent and how to spread newly acquired positive attitudes throughout societies. Experience of confidence-building programs elsewhere indicates that in real-life settings attempts to bridge mutually exclusive collective narratives, legitimization of the other side's story, fostering critical assessment of one's group role in the conflict spiral, and development of empathy and trust between the opposing groups is challenged by the dynamics of the on-going conflict and deep-rooted societal beliefs internalized by the conflicting societies. Hence, confidence-building through inter-group contacts will produce better results when implemented in the de-escalation phase of the conflict, when there is already a formal political agreement.

<sup>60</sup> D.Bar-Tal.

<sup>61</sup> R.J.Burns & R.Aspeslagh, Three decades of peace education around the world: An anthology (New York & London: Garland Publishing, Inc, 1996).

<sup>62</sup> D.Bar-Tal.

<sup>63</sup> *Ibid.*

# THE EUROPEAN UNION AND THE “FROZEN CONFLICTS” IN THE SOUTH CAUCASUS

Martin Malek\*

## Introduction

The author originates from a small and neutral EU member country in Central Europe, which has no innate interests in the South Caucasus (and not even embassies). Still he does not consider this region as insignificant: On the contrary, it seems to him that there are several reasons for drawing attention to it. First of all, it is a striking phenomenon what one could call an “asymmetry of attention” in humanitarian affairs. For instance, the Palestine conflict is being covered by the media almost everyday in numerous details, while the fate of South Caucasian refugees is being largely unknown to the European public and politics.

The European Security Strategy, adopted in 2003, identifies terrorism, proliferation of weapons of mass destruction, regional conflicts, State failure and organised crime as “key threats.” – At least the last three thereof are relevant to the South Caucasus, even though it appears in just one single text passage within the strategy: “We should now take a stronger and more active interest in the problems of the Southern Caucasus, which will in due course also be a neighbouring region.” European politics and media mention the South Caucasus and the Caspian Basin solely in the context of energy security, since the region is both a source area and transit corridor for oil and gas supplies to Europe, which remains heavily dependent on oil from the Persian Gulf and Russian gas supplies.

The enlargements which took place in 2004 and 2007 brought the EU geographically closer to the South Caucasus. However, the region’s appreciation has not automatically increased with this event. In the EU, in many cases it is not being understood that politics in the South Caucasus is conducted according to completely different criteria than in Western and Central Europe. Moreover, “there is no general consensus in the EU that South Caucasus is an urgent matter.”<sup>1</sup> At times, EU representatives admit this quite frankly. Peter Semneby, since 2006 the EU’s Special Representative for the South Caucasus, stated that “there is [...] (a) lack of knowledge in the EU about the South Caucasus and its particular problems and about the importance of this region for the EU.”<sup>2</sup> And Marie Anne Isler Béguin, member of the European Parliament and Chairwoman of the South Caucasus Parliamentary Delegation, reckoned candidly: “Nobody (in the EU) is interested in Georgia’s problems.”<sup>3</sup> She could have added the other South Caucasian countries too, even though Armenia is in a special position: It can rely on an active and lobbying-experienced Diaspora not only in Russia and the U.S., but also in some EU countries.

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<sup>1</sup> Nicu Popescu, “Europe’s Unrecognised Neighbours. The EU in Abkhazia and South Ossetia”, CEPS Working Document No. 260/March 2007, p. 7.

<sup>2</sup> Cited in Thomas de Waal, “EU Could Assume Peacekeeping Role”, 341 IWPR’S Caucasus Reporting Service 25 May 2006.

<sup>3</sup> Anya Vvedenskaya, “Evrosoyuz ne sovetuet Saakashvili podlivat masla v ogon” (Interview), “Nezavisimaya gazeta”, 13 October 2006, p. 6.

The European Security Strategy showed awareness of the fact that “violent or frozen conflicts [...] threaten regional stability. They destroy human lives and social and physical infrastructures; they threaten minorities, fundamental freedoms and human rights.” Likewise, in documents of the EU Commission it is said that “frozen conflicts” are “not only our neighbours’ problems. They risk producing major spillovers for the EU, such as illegal immigration, unreliable energy supplies, environmental degradation and terrorism.”<sup>4</sup> All this should be a sufficient cause to sum up the situation around the South Caucasian breakaway regions Abkhazia, South Ossetia, and Nagorny Karabakh and to examine the role of the EU in the conflict settlement efforts.

Brussels should not confine its politics towards the South Caucasus to the claim for a shut-down of the Armenian nuclear power plant Medzamor, as the phenomenon of separatism and regionalism – although in different characteristics – is in fact familiar to several EU countries. Concretely, this concerns the United Kingdom (the Catholics of Northern Ireland, Scottish National Party), France (Corsica), Belgium (Vlaams Belang, before known as Vlaams Blok), Spain (ETA, Catalonia), Italy (South Tyrol, Lega Nord) and Cyprus (Turks in the North). But obviously, this did not lead to a better general understanding of sources and consequences of violent separatism in the South Caucasus.

### The EU and the territorial integrity of the South Caucasian States

In the EU/Georgia Action Plan within the European Neighbourhood Policy (ENP) one of the mentioned goals is to “contribute to the conflicts settlement in Abkhazia, Georgia and Tskinali Region/South Ossetia, Georgia, based on respect of the sovereignty and territorial integrity of Georgia within its internationally recognised borders.”<sup>5</sup> However, the document does not envisage any concrete steps to achieve this. Potentially meaningful distinctions are to be found in comparison of the ENP Action Plans for Azerbaijan and Armenia. Thus, according to the Action Plan for Armenia, the Karabakh conflict shall be resolved “on the basis of international norms and principles, including the principle of self-determination of peoples.”<sup>6</sup> At the same time, the Action Plan for Azerbaijan does not contain any reference to the mentioned “principle.” Instead, it refers (in the introduction, not in the chapter about Karabakh) to “respect of and support for the sovereignty, territorial integrity and inviolability of internationally recognised borders.”<sup>7</sup> But this clarification is absent in Armenia’s Action Plan.

EU representatives in their obvious efforts to please everybody like to stress the existence of two “contradictory principles” in international law – the right of territorial integrity and the right of self-determination of peoples. However, it is generally well known that taking up the right of self-determination does not automatically include (or lead to) the right of territorial separation from an internationally recognised State. Even if that would be the case, one should ask why Chechnya, which has declared independence in 1991 (and has more inhabitants than Abkhazia, Nagorny Karabakh, and South Ossetia altogether), could not separate itself from Russia as well. The author of this text has gained an experience within numerous discussions and conferences in Central and Western Europe and has learnt from a lot of publications that most of those (also and especially non-Russian) voices, which defend the Chechen war with

<sup>4</sup> Communication from the Commission to the Council and the European Parliament “On Strengthening the European Neighbourhood Policy”. Commission of the European Communities, Brussels, 4. December 2006, p. 2.

<sup>5</sup> EU/Georgia Action Plan, see at <[http://ec.europa.eu/world/enp/pdf/action\\_plans/georgia\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/georgia_enp_ap_final_en.pdf)>, [accessed 30 May 2007]), Priority area 6.

<sup>6</sup> EU/Armenia Action Plan, see at <[http://www.armeniaforeignministry.com/perspectives/061114\\_armenia\\_enp\\_ap\\_final\\_en.pdf](http://www.armeniaforeignministry.com/perspectives/061114_armenia_enp_ap_final_en.pdf)> [accessed 30 May 2007]), Priority area 7.

<sup>7</sup> EU/Azerbaijan Action Plan, see at <[http://ec.europa.eu/world/enp/pdf/action\\_plans/azerbaijan\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/world/enp/pdf/action_plans/azerbaijan_enp_ap_final_en.pdf)> [accessed 8 January 2008]), p. 1.

indications regarding Russia's territorial integrity, find no critical words regarding the separatist entities on Azerbaijani and Georgian soil.

### The EU and the breakaway regions

The management of the wars in the Western Balkans in the 1990's already overburdened the EU at times: Even though this region is in direct proximity to Central Europe, one could be astounded with the naivety and low level of knowledge of some EU facilitators and crisis managers. With regard to the South Caucasus, it is even lower. Time and again, especially verbal utterances of EU politicians and diplomats show a lack of knowledge about the situation with "frozen conflicts" in the South Caucasus and the roles played by third countries therein.

In his mission statement, Semneby prefers not to speak about Karabakh's territorial affiliation – for him, this "disputed enclave" is "located in the border area between Azerbaijan and Armenia."<sup>8</sup> This is astonishing because documents of the European Commission put it unambiguously that "portions of Azerbaijan's territory remain under Armenian occupation."<sup>9</sup> However, the meaning of this issue in the relations between Brussels and Yerevan is obviously insignificant.<sup>10</sup>

With regard to Georgia, a document of the European Commission puts it in clear words: "The separatist regime (in Abkhazia) won a de facto victory in 1993 over the forces of the newly independent Georgia which resulted in the forced expulsion of the Georgian population. [...] South Ossetia has in recent years become a haven for smuggling operations which have also provided the major source of income for the separatist leadership in Tskhinvali. [...] Due to the two unresolved territorial disputes [...], nearly 18% of Georgian territory remains beyond the control of the Georgian Authorities."<sup>11</sup> And the European Parliament in a joint resolution strongly condemned the attempts by movements in the Georgian regions of Abkhazia and South Ossetia to establish independence unilaterally.<sup>12</sup>

Recognition of Abkhazia, South Ossetia, and Karabakh as "independent States" is not a matter of discussion within the EU. Brussels has repeatedly stated that it would not recognise the separatist regimes as well as elections and referendums held by them. However, these regimes and the conditions they have created and maintained are still in existence, which means that the EU position in this question has no impact on the circumstances after all; nothing depends on whether EU accepts it or not.

One cannot ignore that West European and North American countries and organisations are also contributing to the survival of those entities: companies, relief organisations, diplomats, journalists, and even several politicians deal with them quite impartially. According to Vladimir Socor, the High Representative for the Common Foreign and Security Policy and Secretary-General of the EU Council Javier Solana "allowed himself to be maneuvered by (Rus-

8 Mission statement of Peter Semneby, see at <[http://www.consilium.europa.eu/cms3\\_fo/showPage.asp?id=1037&lang=EN](http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1037&lang=EN)> (accessed 12 May 2007).

9 Identical in: Commission of the European Communities. Brussels, SEC (2005) 286/3: Commission Staff Working Paper. Annex to: European Neighbourhood Policy, Country Report Azerbaijan, Chapter 2.4.; Commission of the European Communities. Brussels, SEC(2005) 285/3: Commission Staff Working Paper. Annex to: European Neighbourhood Policy, Country Report Armenia, Chapter 2.4.

10 Conflict Resolution in the South Caucasus: The EU's Role. Crisis Group Europe, Europe Report No. 173, 20 March 2006, p. 11, see at <[http://www.crisisgroup.org/library/documents/europe/caucasus/173\\_conflict\\_resolution\\_south\\_caucasus.pdf](http://www.crisisgroup.org/library/documents/europe/caucasus/173_conflict_resolution_south_caucasus.pdf)> (accessed 21 March 2006).

11 Commission of the European Communities. Brussels, SEC (2005) 288/3: Commission Staff Working Paper. Annex to: European Neighbourhood Policy, Country Report Georgia, p. 13.

12 MEPs denounce and fully reject Transnistria referendum on independence / South Ossetia – MEPs call for a peaceful resolution to the conflict. Press Service of the European Parliament, 26 October 2006, see at <[http://www.europa.eu/news/expert/infopress\\_page/030-11950-293-10-42-903-20061020IPR11906-20-10-2006-2006-false/default\\_en.htm](http://www.europa.eu/news/expert/infopress_page/030-11950-293-10-42-903-20061020IPR11906-20-10-2006-2006-false/default_en.htm)> (accessed 30 October 2006). However, in foreign policy matters the European Parliament can only act in an advisory capacity.

sian President) Putin into a meeting with the Abkhaz and South Ossetian secessionist leaders in Sochi" in 2005.<sup>13</sup> EU delegations headed by the European Commission director for Eastern Europe, the South Caucasus and Central Asia met senior officials of separatist Abkhazia. Semneby met the separatist leadership of Abkhazia in Sukhumi and insisted that "we have worked with the de-facto-leaders of Abkhazia and South Ossetia and keep working with them."<sup>14</sup>

No matter whether the EU wants this or not: every contact with the separatists reevaluates them, strengthens their self-confidence (which, for example, appeared in Abkhazia's claim for direct links with the EU, without mediation of Tbilisi<sup>15</sup>) and, finally, makes them even more adamant. This is, of course, clearly counterproductive for any conflict settlement.

The EU's interest in contacts with the South Caucasian separatists is in a peculiar contrast with the uproar caused by a single commercial flight of an Azerbaijani airline to the Turkish North Cyprus in 2005: the government of Cyprus considered this an infringement of its national sovereignty and reacted harshly towards Azerbaijan, and the EU External Commissioner Benita Ferrero-Waldner warned that unless the Azerbaijani government abandons its "policy of cultivating ties with the unrecognized Turkish Republic of North Cyprus, it risks being excluded from the imminent talks with South Caucasus States on closer cooperation within the EU's European Neighborhood Policy."<sup>16</sup> Altogether, this flight provoked more criticism by the EU than the continuing occupation of the Azerbaijani territory.

### The EU as a donor in the region

In the South Caucasian region the EU has a role of a "payer" instead of a "player." Thus, Brussels obviously tries to compensate a lack of political engagement. It provided Georgia with 369.43 mil. Euro between 1992 and 2003, Azerbaijan with 399.674 Euro in 1992-2006, and Armenia with 386.39 mil. Euro in 1991-2006.<sup>17</sup> This means that Armenia has received much more financial assistance per capita than Azerbaijan. The cancellation of the EU aid for Armenia due to the occupation of the Azerbaijani territory has never been up for discussion. Notwithstanding the significant financial support from the EU and the U.S.,<sup>18</sup> Armenia has up to now at no point appeared as if it would be more flexible in the Karabakh question.

Between 1997 and 2006, the EU allocated 33 million Euro for humanitarian programs in Abkhazia and South Ossetia. In 2006, the EU became the biggest international donor to the two breakaway provinces. Several EU representatives actually present the granting of outside help to Armenia and to the separatists as a contribution towards the conflict settlement. However, it is exactly the opposite: the separatists (and the countries and interest groups behind them) feel assured in their course if they receive money without any push towards the reintegration into the States they belong to under international law. It is likely that they will act even more uncompromisingly to gain more money.

<sup>13</sup> Vladimir Socor, "Solana Blinks, Deeply", 187 Eurasia Daily Monitor – The Jamestown Foundation, vol. 3, 11 October 2006.

<sup>14</sup> Olga Allenova, "Vopros o priznanii Rossiiy Abchazii i Yuzhnoy Osetii ne stoyal i ne stoit" (Interview). Newspaper "Kommersant", 20 December 2006, p. 9.

<sup>15</sup> "Sokhumi Wants 'Direct Links' with EU", Civil Georgia, 18 January 2007, see at <<http://207.44.135.100/eng/article.php?id=14470>> (accessed 17 May 2007).

<sup>16</sup> RFE/RL Newline, vol. 9, No. 190, part I, 7 October 2005.

<sup>17</sup> The EU's relations with Georgia, see at <[http://ec.europa.eu/external\\_relations/georgia/intro/index.htm](http://ec.europa.eu/external_relations/georgia/intro/index.htm)>; The EU's relations with Azerbaijan, see at <[http://ec.europa.eu/external\\_relations/azerbaidjan/intro/index.htm](http://ec.europa.eu/external_relations/azerbaidjan/intro/index.htm)>; The EU's relations with Armenia, see at <[http://ec.europa.eu/external\\_relations/armenia/intro/index.htm](http://ec.europa.eu/external_relations/armenia/intro/index.htm)> (all accessed 13 May 2007).

<sup>18</sup> Over the past decade the U.S. has provided over 1.5 billion dollars in assistance to Armenia, the highest per capita amount in the Newly Independent States (NIS). In the Fiscal Year 2006 alone, it received 76.5 mil.; U.S. Department of State: Background Note: Armenia, see at <<http://www.state.gov/r/pa/ei/bgn/5275.htm>> (accessed 17 May 2007); U.S. Department of State, Bureau of European and Eurasian Affairs, 17 May 2006, see at <<http://www.state.gov/p/eur/rls/fs/66320.htm>> (accessed 17 May 2007).

The EU is funding such fields as road engineering, civil engineering, banking and finances, agriculture and energy – all of which the separatist entities would otherwise have to finance on their own. Now when the EU participates, the saved capital can be used for the armed forces – which again is being clearly counterproductive for any conflict settlement. Furthermore, the EU has popularised itself in the separatist areas by no means only because of its money donations – “mistrust of EU assistance in the secessionist entities is widespread.”<sup>19</sup>

### The EU and the negotiations regarding the “frozen conflicts”

The Finnish diplomat Heikki Talvitie was appointed as Special Representative for the South Caucasus on 7 July 2003. His mandate included among other things to “assist in conflict resolution, in particular to enable the EU better to support the UN Secretary-General and his Special Representative for Georgia, the OSCE Minsk Group, and the conflict resolution mechanism for South Ossetia under the aegis of the OSCE.”<sup>20</sup> With this reference to the UN and OSCE, the EU abandoned in its mandate an explicit independent role within the conflict management a priori. Up to date the EU is no formal participant in any of the regions’ conflict resolution mechanisms.

The EU Member States - Germany, Italy, Sweden, and Finland - are members of the Minsk Group, but the EU as institution has not appeared there up to now. Documents of the European Commission constitute that the EU through its Special Representative for the South Caucasus provides “strong political support” to the mediation efforts of the OSCE Minsk Group.<sup>21</sup> Likewise, Semneby made clear that the “EU backs the activity of the Minsk Group.”<sup>22</sup> But *de facto* the EU in the Karabakh conflict offers little more than verbal support to the Minsk Group process, which has since its establishment in 1992 not made any progress towards Karabakh’s reintegration into Azerbaijani State structures. In the Abkhazian and South Ossetian conflicts, the EU works in partnership with the UN and OSCE, providing them with acutely needed funds for confidence building in support of negotiations. Negotiations for settlement of the Georgian-South Ossetian conflict are facilitated by the OSCE in the Joint Control Commission, which includes Georgian, South and North Ossetian, as well as Russian representatives. The EU Commission is an informal observer.<sup>23</sup>

Return of refugees and internally displaced persons to the places of their origin is a part of the mandate of the EU Special Representative for the South Caucasus, but neither Talvitie nor Semneby have alleged that due to their actions just one single refugee has returned to Karabakh or Abkhazia.

The separatists like to underline their “commitment to peace.” If one has already reached his goal – violent separation from a hateful central government – it is naturally easy to present oneself as peace devotee and to blame simultaneously this government for wanting to change the status quo violently, for preparing a new war, for being a “warmonger” etc.

<sup>19</sup> Popescu op. cit., p. 16.

<sup>20</sup> There was a subtle change in language in the mandate assigned to Semneby, who now has to “contribute to the resolution of conflicts” (Official Journal of the European Union, 21 February 2006. Joint Action 2006/121/CFSP of 20 February 2006 appointing the European Union Special Representative for the South Caucasus.). Semneby said this linguistic change was small but important, calling it “a political signal that the conflicts are very high on the agenda” (cited in: de Waal op. cit.).

<sup>21</sup> Identical in: Commission of the European Communities. Brussels, SEC(2005) 286/3, op. cit; Commission of the European Communities. Brussels, SEC(2005) 285/3, op. cit.

<sup>22</sup> Quoted according to: A.Ismayilova, “EU Special Envoy: It is Time to Establish Relations between Azerbaijan and Nagorno Karabakh”, see at <www.trend.az>, 20 February 2007.

<sup>23</sup> The first-ever civilian mission to the former Soviet Union under the European Security and Defense Policy (ESDP), the EUJUST Themis Rule of Law Mission, which was launched in July 2004 for one year, assisted and advised Georgian law-enforcement agencies on how to reform the judiciary, criminal law, police and penitentiary systems and had nothing to do with the “frozen conflicts.”

The international community also plays – being aware or unaware of that – into the hands of the separatists, since there is an extensive consensus that a settlement must be reached peacefully and through talks. But the separatists as well as external forces behind them can delay those talks *ad libitum*. Hence the negotiations lead to a prolongation of the status quo, advantageous to the separatists, and the secessions will consolidate, which will make it even harder for the affected States to restore their territorial integrity.

Georgia believes that the EU “can have a positive influence on Russia to make its role more constructive.”<sup>24</sup> Tbilisi calls on the Union to intensify its participation in existing negotiation forums and assist in creating new mechanisms,<sup>25</sup> since it believes such an enhanced EU presence would serve as a counterweight to Moscow. The latter very obviously is not being aspired by Brussels. Larger EU’s engagement in the negotiations on the “frozen conflicts” would hardly change their course. The main cause for the stalemate is not the negotiation format but the mutually exclusive interests of the parties concerned, that is, the Azerbaijani and Georgian governments on the one side and the *de facto* leadership of the separatist regions on the other.

### How does the EU comprehend the “settling” of the frozen conflicts?

EU politicians and diplomats use to emphasise the general importance of “settlements” of the South Caucasian “frozen conflicts.” However, their statements do not comprise ideas about the goals of such settlements. It remains unclear what the EU actually wishes to attain or considers as desirable – an extrapolation of the current status quo for an undetermined time? Reintegration of the separatist entities into Azerbaijan and Georgia? Or, on the contrary, their definite independence and international recognition? EU representatives underscore – like Russia (which at the same time fights separatists in Chechnya) and the U.S. – always independently, that there is no viable alternative to continued efforts to reach peaceful solutions of the “frozen conflicts.” But this is a statement about an *instrument* rather than a *goal*. And this common approach of Brussels, Washington, and Moscow accommodates the separatists and makes their positions practically intangible, since they are not going to let themselves be reintegrated into their metropolitan States through negotiations: There is no thinkable behaviour of Tbilisi or Baky which could prompt the separatists to recognise the State governments again as legitimate leaderships. Those circumstances should inherently be the underlying principle for the subsequent conflict management. But Brussels has not made any suggestions so far in case the peaceful reintegration of the separatist regions into their metropolitan States is not feasible.

EU representatives like to animate a “broad, far-reaching autonomy” for Karabakh, Abkhazia, and South Ossetia. But this has been proposed by official Baky and Tbilisi for many years and on countless occasions without any success. The separatists feel – with the support of Russia and Armenia respectively – strong enough to insist on their “independence” and to decline compromises of any kind. This does not seem to impress the EU, which is not intending to change its course towards the breakaway regions. EU representatives suggest for the “settlement” of the Nagorny Karabakh conflict the model of the Åland Islands, which belong to Finland, but with ethnically Swedish inhabitants who enjoy some privileges. The Karabakh Armenians keep declining such a solution stating that “Azerbaijan is not Finland.” Although this is indisputable, they always forget to mention that they are no Swedes.

<sup>24</sup> Giorgi Baramidze, Georgian State Minister on European and Euro-Atlantic Integration, talking points for a meeting with Benita Ferrero-Waldner, EU Commissioner for External Relations and European Neighbourhood Policy, May 2005, see at <<http://www.eu-integration.gov.ge/eng/speeches.php>> (accessed 17 May 2007).

<sup>25</sup> “Elements for Inclusion in an EU/Georgia ENP Action Plan”, amended draft, 20 December 2005. Crisis Group interviews, officials, Georgian ministry of foreign affairs and ministry for European integration, Tbilisi, January and February 2006. See also Ahto Lobjakas, Georgia lobbies for EU backing in standoffs with Russia, RFE/RL Caucasus Report, 27 January 2006.

## The European Neighbourhood Policy and the “frozen conflicts”

The EU in June 2004 formally included Georgia, Armenia, and Azerbaijan in its European Neighbourhood Policy (ENP). On 15 November 2006, the ENP Action Plans with the three countries were signed. Brussels has stressed many times that the ENP is not intended as a preliminary step towards the EU membership. However, even a membership perspective would hardly facilitate a fair settlement of the “frozen conflicts:” As known generally, the Greek-Turkish conflict over Cyprus was not resolved due to the accession of the island to the EU.

At the end of 2006, the European Commission drew at a quite disillusioned picture: “The ENP has achieved little in supporting the resolution of frozen or open conflicts in the region”. But “if the ENP cannot contribute to addressing conflicts in the region, it will have failed in one of its key purposes. Such conflicts can threaten the Union’s own security, whether through the risk of escalation or of an exodus of refugees, or by interrupting energy supplies or cutting trade and transport links, or through the spread of terrorism and organised crime including trafficking in human beings, drugs and arms.”<sup>26</sup>

## Russia as a factor for the EU activities in the South Caucasus

The EU policy towards the South Caucasus is obviously marked by a “Russia first” approach. EU representatives with Solana taking the lead have affirmed on several occasions that settlement of the “frozen conflicts” in the South Caucasus and Moldova is “impossible without Russia.” However, nobody in the EU is able to give an example of a “frozen conflict,” settled *in collaboration with the “Russian friends”* (Solana). This indisputable fact should suffice to cause an alteration of the EU strategy, but there are seem to be no prospects of that.

Russia tries to convince the EU, U.S., and NATO that “bellicose statements” and “hate speeches” from Azerbaijani and Georgian politicians as well as allegedly too high military expenses of the both countries cause tensions – and not the existence of separatist entities within their territory. The success of Moscow’s Strategy<sup>27</sup> is all the more astounding as Russia itself wages a war in Chechnya; moreover, the rhetoric of its politicians and mass media against the Chechen rebels in terms of acrimony leaves nothing to be desired.

Though Tbilisi is keen on greater EU’s engagement, it may not have understood how reluctant Brussels is to take on a greater role in the conflict resolution process – especially with regard to Russia. Due to Russia’s concerns, the EU failed to deploy a full-fledged border mission in Georgia in 2005. This aggravated the impression that without Russia’s affirmation the EU would not attempt any significant initiatives. But even the EU’s already quite passive role in the management of the “frozen conflicts” in the CIS is being considered by many in Moscow as still too active. They are always afraid of a “displacement of Russia from the negotiation processes, which bears the danger of destabilisation.”<sup>28</sup> Consequently Russia shows itself highly unwilling to include the EU’s Special Representative in the existing mechanisms for settling the three South Caucasian “frozen conflicts.” Putin generally called on Brussels to keep out of them.<sup>29</sup>

There is an unexpressed, but definite reluctance of the EU to engage in a settlement of the separatist conflicts because it considers the CIS as a “Russian special interest zone” and does not wish to “unsettle” Moscow. In plaintext, the territorial integrity of Azerbaijan, Georgia, and Mol-

<sup>26</sup> Communication from the Commission to the Council and the European Parliament, op. cit., pp. 4 & 9.

<sup>27</sup> For example, Peter Semnby said in September 2006 (by the way, in Yerevan): “Military rhetoric by Azerbaijan is, certainly, not welcomed by the EU” (The ISCIPI Analyst, volume XIII, No. 1, 21 September 2006).

<sup>28</sup> E.S.Khotkova, “Tsenarii razvitiya otnosheniy Rossii i Evrosoyuza”, in Evgeniy M.Kozhokin (ed.), *Politika v XXI veke: vyzovy i realii*, 5 (15) *Analiticheskiy almanakh*, Moskva 2006, pp. 43-79, at p. 73.

<sup>29</sup> Michael Stürmer, “Energie ist der Schlüssel zu allem”, *Die Welt*, 13 September 2006, p. 3.

dova is not important enough to the EU to “put at risk” its relations with Russia. In other words, nobody in the EU thinks of the Russian support in favour of armed separatists in Azerbaijan, Georgia, and Moldova as a factor which should bother the relations between Brussels and Moscow.

It is well known that the official Russia tries to present the independence of Kosovo as an “original precedent” for the “independence” of separatist entities in the CIS. In this issue, the EU politicians and diplomats have contradicted one another and at times even themselves.

### What the EU could do?

First of all, the EU would have to take the *realities* as foundation of its policy towards the Caucasus in general and the “frozen conflicts” in particular. In this regard, it would be an important insight that there are regions in the world where “soft approaches,” “light footprints,” “incentive packages,” financing of workshops and conferences in order to “enter a dialogue,” “facilitate confidence building,” “increase mutual confidence,” “apply moderation,” “rebuild trust” or to “create a better environment for the negotiations,” calls to “make full use of the existing negotiating mechanisms” and for a “federalization of the relations between the capitals and break-away regions,” democratization, civil society, etc. do not work or sometimes turn out to be even counterproductive. The South Caucasus is one of them.

Also of extreme importance is the definition of a clear goal of the EU’s involvement in the negotiations on the “frozen conflicts.” Again, this can only be the reintegration of the separatist entities (accompanied by an effective protection of ethnic minorities) into their metropolitan States, otherwise would mean to legitimise violent border changes. Furthermore the EU would have to call on Russia and Armenia to stop providing support to separatists. It would also be important that the EU calls a spade a spade with regard to the occupiers and the occupied. Brussels has up to date never called for a withdrawal of the Armenian military forces from Azerbaijan.

It has become indisputable that the separatists will not be brought to more flexibility without any pressure, which the EU could impose by taking the following measures:

- Denial of entry for all officials and other citizens of the separatist regions within Azerbaijan, Georgia, and Moldova (also and especially with the usually used Armenian and Russian passports);
- Trade embargo towards the separatist regions;
- Ban on investments by natural as well as judicial persons from the EU;
- No – under which title whatsoever – financing the separatists or projects on their territories;
- No financial aid for countries which support the CIS separatists;
- Opposition to all attempts of the separatists to appear in the UN and other international organisations;
- Claim for demilitarisation of the separatist regions.

### Summary and Conclusions

In the words of Dov Lynch, the EU in the South Caucasus “retained a low overall profile, with little presence in the negotiating mechanisms, no direct involvement in mediation, and an undefined strategy to lead policy.”<sup>30</sup> A reason for the EU (and NATO) for showing restraint with regard to the “frozen conflicts” in the Black Sea region is the unwillingness to interfere with the OSCE mediation. However, it is appropriate to confess that the efforts of the latter did not produce any results so far. A further, arguably even more important reason for the European

<sup>30</sup> Dov Lynch, “Why Georgia Matters”, 86 Chaillot Paper (EU Institute for Security Studies, Paris, February 2006), p. 61.

restraint is the “thoughtfulness” for Russia: the EU does not want to engage in the negotiations on the “frozen conflicts” also because of the possibility of “irritating” or “alienating” Russia; eventually all separatist entities of the CIS owe their existence and sustainability to a certain extent to Moscow. “Despite EU efforts directed at Abkhazia and South Ossetia, the trend of *de facto* annexation of the secessionist entities to Russia remained predominant, limiting the scope for EU policies in the future.”<sup>31</sup> Altogether it is indisputable that greater EU involvement in conflict resolution in the South Caucasus is opposed by Russia. Thus, the EU will hardly advocate Azerbaijani and Georgian interests towards Moscow, and it will not actively help the governments in Baky and Tbilisi to restore their territorial integrity. The South Caucasian “frozen conflicts” are much less important for the EU to – what one seems to be afraid of in Brussels all the time – “put at risk the relations with Russia.”

The EU is hardly concerned about the support provided by third countries to Karabakh, Abkhazia and South Ossetia respectively. Although the EU has the potential to put pressure upon separatists, it will hardly come to this. Up to now, the EU’s actions entailed the prolongation of the status quo with regard to the “frozen conflicts” for an undetermined time span – meaning that separatists can feel safe in their position. However, in the long run Brussels will not be able to avoid answering the question what should happen with the separatist regions in the CIS if – and everything points on that – all of its past recipes fail.

EU engagement and presence in the South Caucasus can be no end in itself. The Union must stay aware of its principles, and this should actually include the unconditional protection of territorial integrity of States and the subsequent impossibility of violent border changes.



<sup>31</sup> Popescu op. cit., p. 22.

# SOUTH CAUCASUS: NEW PARADIGMS FOR PEACE AND DEVELOPMENT IN THE 21ST CENTURY

Tabib Huseynov\*

## Introduction

The South Caucasus has entered the 21st century with a heavy heritage of ethnic and territorial conflicts. The vicious cycle of conflict seriously impedes the development of the region and also, having a dangerous spillover potential, poses a threat to the international peace and security. This article argues federalism and regional integration in the South Caucasus coupled with wider European integration provides the best possible solution for the region's intractable conflicts and for sustainable peace and development.

In order to support this thesis, the article makes an overview of the general trends in governance, focusing on the potential of the federalism and integrative solutions in mitigating and transforming the conflicts, followed by a discussion of their possible application in the South Caucasus region.

## 1. Current trends in governance and their impact on the European core and periphery

The rise in the number of ethnic and territorial conflicts from the early 1990s, combined with growing regional and global interdependencies (generally referred to as globalization), have posed serious challenges to the centralized governance and traditional system of international relations, centered around the notion of sovereign nation-States. Both downward and upward pressures on the current State-centered international system reflected in simultaneous global processes of integration and fragmentation lead to erosion of State sovereignty, withering of national boundaries and eventually, the creation of new forms of governance.

By "fragmentation" I mean not only secession, but also the increasing trends towards decentralization, devolution, federalization in the State governance. By "integration" I mean parallel trends, particularly among the developed States, most evidently exemplified in the case of the EU members, to transfer part of their sovereign rights to the supranational structures.

The global processes of fragmentation and integration also largely explain the growing internationalization (or rather, multilateralization) of ethnic and territorial conflicts, i.e. the more and more active involvement of the international community in these conflicts either through coercive (e.g. humanitarian interventions) or non-coercive means (e.g. through various forms of mediation and inducements).

*The European core: integration plus fragmentation*

Today the European Union is at the center of these global transformations. If we look at the

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trends, within the EU the governance is gradually capitalized at the hands of the supranational structures on the one hand, and local communities on the other. Within the EU, supranationalism and federalism (or in EU terminology, *subsidiarity*, i.e. allowing local communities to make decisions for themselves) go hand in hand: more powers for Brussels is complemented with more powers for local communities, and all this takes place at the expense of nation-States, which increasingly relinquish their sovereignty.

With such trends in place, the traditional perceptions on State sovereignty, ethnic self-determination, national and ethnic territories, majority-minority relationships, i.e. all those factors which are at the core of the ethnic and territorial conflicts, lose their previous meanings and get transformed, allowing for more constructive, non-violent and creative ways of solving these conflicts.

Thus, in the developed European core the global processes of fragmentation and integration have emerged and continue to evolve as parallel processes, (mostly) in non-violent ways, with the European Union leading this transformation process.

### *The European periphery: fragmentation minus integration*

Unfortunately, in the underdeveloped European peripheries, most notably the Balkans and the Caucasus, fragmentation has occurred at the detriment of integration and has been carried out in violent forms, resulting in enormous human suffering and economic losses. The regional conflicts largely evolved around the old-fashioned contests over sovereignty and ethnic ownership over a territory, which significantly undermined the prospects for regional cooperation and integration.

In the Balkans, the EU, in cooperation with NATO and the US, reacted to violent conflicts by opting for active intervention, and later by setting up a Stability Pact for the Balkans, which put a strong emphasis on co-operation among the neighboring countries, and, as a final reward, by offering a prospect of EU membership. By its involvement and policies the EU has largely succeeded in breaking the vicious circle of conflict in the region (with notable exception of Kosovo, where situation remains uncertain) and complementing fragmentation with parallel integration mechanisms in order to mitigate the negative effects of fragmentation.

While the Balkans, enjoying more proximity to the European core, received major attention from the EU throughout the 1990s and early 2000s, the South Caucasus has largely been viewed as an insignificant periphery. It is true that the EU's attention and involvement in the South Caucasus has significantly increased with the recent round of enlargement, which made South Caucasus a border area for the EU, and facilitated the region's inclusion in the ENP in 2004. However, for many in the European core, South Caucasus still remains a distant periphery, and South Caucasus conflicts still largely remain in the shadow of other conflicts: in the Balkans, in the Middle East, in Iraq.

## **2. South Caucasus as one of the major sources of conflict in Europe**

The EU's failure to assume a more assertive role in the South Caucasus may have significant negative effects for the future European security. Indeed, the South Caucasus conflicts represent not less, but arguably, more threat to the common European security than the Balkan conflicts nowadays. The following section briefly discusses the conflict potential of the South Caucasus region in order to show the urgency for more proactive and assertive European involvement in the region.

### *Antagonizing Russia and the West*

The regional conflicts in the South Caucasus significantly complicate and upset the relations between and among the external powers, particularly the Russia and the West, which contest influences in the South Caucasus. These conflicts, and particularly the most intractable regional conflict between Armenia and Azerbaijan over Nagorny Karabakh, if resumed, may have huge spillover effects, going far beyond the borders of the region.

The South Caucasus today is a highly fragmented region. It has three secessionist entities and two out of three regional States, Armenia and Azerbaijan, are at a state of undeclared war with each other. Unable to independently provide for their own security, both conflicting nations seek to forge alliances with the external powers and play out their interests in the region against each other, contributing to the tensions among these external powers.

Thus, Armenia is part of the Russian-led Collective Security Treaty Organization (CSTO), which is essentially a military-security structure to counter NATO. Azerbaijan, on the other hand, is closely allied with Turkey. Azerbaijan-Turkey alliance is based not only on close ethnic kinship, but also on actual economic, political and strategic interests of the two countries, which, along with Georgia, play pivotal role in the East-West energy and transport corridors, viewed by Europe as the vital part of its present energy security strategy.

In such a regional setting, as a nightmare scenario, the resumption of hostilities in Nagorny Karabakh may provoke a conflict between Russia siding with Armenia, and NATO member Turkey siding with Azerbaijan. If this scenario is instigated, the world would be one step away from WWII between Russian-led Collective Security Treaty Organization (CSTO) and NATO.

### *Causing friction within the Western bloc*

In addition to antagonizing the relationships between Russia and the West, the existing conflicts in the South Caucasus also have a potential of destabilizing the internal unity of the Western allies, particularly causing friction between Turkey on one hand and the EU and Turkey's NATO allies on the other. This division may have serious negative effects on Western interests not only in the South Caucasus but also far beyond.

Turkey's policies coincide with its NATO and EU allies in the region on the major issues, such as security for the East-West energy and transport corridors, greater role for the West in the South Caucasus and the region's integration with the European and Euro-Atlantic space. The only significant difference between Turkey and its Western allies' policies in the region concerns Armenia.

Turkey, reacting to the Armenian occupation of Azerbaijani territory, closed the borders and ceased political ties with Armenia during the height of the Karabakh conflict in 1993. Armenia, on the other hand, along with its small but vocal Diaspora all over the world, has consistently conducted an international campaign against Turkey accusing it of genocide against Armenians during the last years of the Ottoman rule. Both policies have poisoned and served to entrench the hostility in the Armenian-Turkish relations. Furthermore, the Armenian genocide campaigns, and Diaspora's limited success in persuading some US and European national and local legislatures to recognize "Armenian genocide" have served to further antagonize Turkey and spoil its relations with EU and NATO allies.

The unresolved nature of Armenian-Turkish relationships brings volatility not only to the South Caucasus, but to the overall Western policies in the South Caucasus and the Middle East, two strategic regions, in which the West relies on its ally Turkey.

The analysis above demonstrates that the South Caucasus has a destabilizing potential going far beyond its borders and should be treated with more attention and urgency by the external powers, and particularly the EU, as the major center of gravity for the South Caucasus.

### 3. Federalism in the South Caucasus: How it Can Promote Peace in the Region?

As has been mentioned, the South Caucasus today is a highly fragmented region. The peace process is stalled as the conflicting sides exchange claims over sovereignty and ethnic ownership of a territory. There is a need for re-thinking the traditional perceptions underlying the conflicts in the South Caucasus, such as sovereignty, ethnic self-determination, majority-minority relationships, national and ethnic territories, and based on this, establish new forms of governance in the region.

#### *A middle ground between self-rule and shared-rule*

The secessionist entities in Nagorny Karabakh, Abkhazia and South Ossetia demand a solution which would exclude their direct subordination to the central government. At the root of this claim lies a legitimate aspiration to be the masters of their own fate, provide for their own security and have a final say on decisions directly affecting them. Because of the widespread distrust and insecurity surrounding the conflicts, the public and elites in the breakaway territories overwhelmingly believe that their underlying needs could be met only through secession. As a result, citizens in the secessionist entities do not contemplate on other possible options which would essentially provide them with the same level of security and independence in conducting their affairs, without doing it at the expense of the underlying needs and interests of the other party.

On the other hand, the public and elites in Azerbaijan and Georgia demand restoration of the country's territorial integrity. This demand is based on another legitimate concern that their nations may disintegrate if they fail to restore their territorial integrity. Similarly, because of the widespread distrust between and within the societies in conflict, the elites and public in both Azerbaijan and in Georgia have so far articulated their positions mostly from the prism of "restoring sovereignty and territorial integrity" of the State, often failing to draw the line between these two very different concepts and failing to realize that sovereignty does not always has to be "indivisible" but can also be shared.

If to put aside the maximalist positions and instead focus on the underlying needs of the parties, it is possible to reconcile the secessionist entities' aspiration to independently govern themselves and nation's demand for preservation of their unity. This is possible through various forms of power-sharing, especially in its territorially based federal form, which would exclude the possibility of subordination, while still preserving the international borders.

In Azerbaijan and Georgia, which traditionally perceived themselves as unitary States, there is a huge lack of knowledge on federalism, which encompasses constitutional, institutional and procedural arrangements. Federalism does not necessarily imply federation, and in fact, can exist even under a unitary system of government. In general, under federalism the public authority is constitutionally divided between national and the constituent regional units, which have their exclusive and shared competences. In the South Caucasus context, application of federalism in State governance would imply creation of a system in which sovereignty would be constitutionally divided and shared between national and constituent political units, each of which would have exclusive competence on issues directly affecting them, and shared com-

petence on issues of common concern. This governance would allow for maximum level of self-rule for the secessionist entities, while still preserving the territorial integrity of Azerbaijan and Georgia.

#### *Federalism: indispensable but not sufficient*

However, there are several shortcomings to federalism, especially in the South Caucasus context, which if not dealt with properly can actually lead to further instability rather than peace.

Since the resolution of the conflicts in the region would also imply the restoration of the conflict areas' multiethnic composition, under ethnic federalism will inevitably lead to disputes over "ethnic territories". Especially in the Armenian-Azerbaijani conflict, considering that Nagorny Karabakh is situated inside of Azerbaijan and was completely surrounded by ethnic Azerbaijani-populated areas, and in Abkhazia, where ethnic Georgians outnumbered ethnic Abkhaz, the restoration of pre-war ethnic demographics, while important for peace, also constitutes one of the major security dilemmas to deal with.

In such circumstances, federalism, especially ethnic federalism, if not complemented with integrative strategies, would serve to further entrench ethnic divisions. The federal entities, and their constituent parts, having received wide-ranging self-governance verging on a *de facto* independence, would have no incentives to cooperate with the central governments. This would in turn render governance ineffective and may lead to renewed conflict.

In order to neutralize negative effects of ethnic federalism, particularly ethnic entrenchment, it should be complemented with parallel integrative mechanisms, which would provide channels of communication and incentives to communicate by binding the interests of the former foes and transforming them into allies.

#### **4. The EU as the major center of gravity for the South Caucasus**

The EU can serve as an excellent example for South Caucasus nations to complement fragmentation with integration in order to neutralize the negative effects of the former. In general terms, this is possible through applying similar formula and practices adopted previously by the EU in terms of economic and political integration and creating mutually beneficial economic and political partnerships, which would gradually transform themselves into supra-national structures.

#### *Integration limited to South Caucasus is not viable*

However, the fundamental truth about integration in the South Caucasus is that regional integration within the South Caucasus is not possible if not supported and complemented by the parallel process of wider European integration. The region is ridden with too many and too deep conflicts and rivalries, which disallow any meaningful locally driven integration processes limited to the region itself. In this regard, the failure of the short-lived independent Transcaucasus Confederation (1918) and Transcaucasian Soviet Federal Socialist Republic (1922-1936) should serve as learning examples for policy makers inside and outside the region.

Furthermore, the South Caucasus is a mini-region with tough neighborhood surrounded by greater regional players, including Russia, which still views the region its sphere of influence. Therefore, despite its significant economic potential, the South Caucasus cannot provide independently for its security, political and economic development. It is vitally important for

sustainable peace and development that all three South Caucasus nations belong to the same security, political and economic alliances in order to jointly provide for their interests, and reduce the possibility for external manipulations.

The EU represents the only such regional setting which may serve as the uniting factor for all three South Caucasus nations. The European integration is perhaps the sole biggest issue on which all three South Caucasus nations, including Armenia and Azerbaijan, agree and share similar views and aspirations.

### *Europeanization as a mechanism for conflict resolution in the South Caucasus*

The EU possesses several important features, which make it an efficient mechanism for preventing and resolving ethnic conflicts in the European periphery in general and in the South Caucasus in particular.

With the evolution of the EU as a stability and prosperity zone in Europe, the number of countries aspiring to the EU membership has significantly increased. This gave the EU a significant political power to impose the rules of accession, the *acquis communautaire*. Before accession, all candidate countries should fulfil the *acquis*, which among other principles include compliance with democratic principles, rule of law, stable market economy, as well as minority protection and devolution of governance. Combined together these large-scale reforms serve as important tools for conflict prevention and resolution.

Certainly the EU is not free of problems of secession either, as the lingering but largely non-violent conflicts in Northern Ireland, Basque Country or Cyprus demonstrate. However, problems notwithstanding, the EU is able to transform the attitudes and behaviours of the conflicting parties due to its 'soft powers' and institutional framework which allow for convergence of the interests among the sub-State, State and inter-State actors.

In addition to above-mentioned features, in the South Caucasus context, the EU is also more appealing than any other alternative regional setting, such as the CIS, because the EU is not dominated by a single actor, which tries to impose its will on others. Nor does it rely on policy of pressures and intimidation as a major instrument of its foreign policy, providing incentives for certain behaviors instead.

This is why the EU is the most appealing center of gravity in the European continent and overall all three South Caucasus nations aspire to greater integration with the EU. This integration is largely viewed as a means and process towards democratization, better governance, economic prosperity, and also more opportunities for conflict resolution and transformation.

The EU integration will also serve to reinforce the integration on the South Caucasus scale. If we look at the history of integration of the Central and Eastern European States to the EU in early and mid-1990s, we can see that the EU conditioned membership offer with their prior resolution of bilateral problems threatening European stability (by supporting Stability Pact for the Central and Eastern European Countries; by encouraging the countries to sign bilateral agreements on friendship and good neighborliness etc). A similar process is under way in the Balkans now.

In the South Caucasus, application of similar policies would also imply that the EU would condition integration with the regional actors' progress on achieving agreements, with active EU support, on issues threatening the European stability. Thus, the South Caucasus and wider European integration should be viewed as parallel and mutually reinforcing processes.

It is also important to note that while giving all South Caucasus nations equal opportunities to integrate, the EU should employ a policy of 'multiple-speed integration', which would

allow more successful applicants from the South Caucasus to accelerate the speed of their EU integration. This policy would allow for a positive rivalry, whereby the South Caucasus nations would 'compete' with each other on adoption of the EU norms and practices, so as not to lag behind one another.

Last but not least, the inclusion of the South Caucasus into the EU "sphere of influence" could solve many geopolitical problems in the region. The EU is the only powerful actor, which may accommodate the interests of all other external parties involved in the South Caucasus region, who have so far rivaled with one another for influences in the region, thus facilitating to growing regional tensions.

Thus, Turkey, which itself aspires to EU, is interested in strengthening of the EU's role in the region, not least because this would increase Turkey's strategic importance for both the EU and the South Caucasus. Strengthening of the EU position in the Caucasus is not against the US interests either. In fact the EU and the US have walked hand-in-hand in articulating their policies in the South Caucasus in terms of response to the aspirations of the South Caucasus States to integration towards European and Euro-Atlantic economic and security space. This scenario may also satisfy Iran, which otherwise is very cautious of strengthening US positions in its northern frontiers. It would also be beneficial for Iran in terms of its economic relations with the EU. And finally, the strengthening of the EU in the South Caucasus could be beneficial for the Russian-EU relations. In case of further improvement in EU-Russia relations, Russia would not oppose the EU's more active involvement in the South Caucasus, at least not in the same manner as it would oppose to NATO's enlargement in the region. To the contrary, considering that unlike NATO the EU is perceived as much less confrontational and non-threatening economic-political actor, the EU's enlargement to the South Caucasus may be beneficial for Russia and its relations with the EU, allowing for a closer economic and political cooperation between the two.

## Conclusion

What the South Caucasus elites and public need today is to articulate a common vision, which would lead to a common discourse. This vision and discourse should serve to break win-lose attitudes dominant in the region by emphasizing on common values, needs and aspirations.

As this article argued, in the South Caucasus context this vision and discourse could be based on an understanding that federalism at a national level combined with regional and European integration in supra-national level can pave the way for peace and development in the South Caucasus.

In order for this process to start, there is an urgent need to engage elites and general public in the South Caucasus in a genuine and open debate on various most sensitive issues, including discussion on carrying out substantial reforms in their State governance. The road to peace and development lies only in conscious and informed decision of the people. Therefore, civil society, including scholars, and political elites should assume a leadership role to inform and educate people on these issues, so that better informed people would make better decisions for themselves.

# ARMENIAN DIASPORA: MYTH AND REALITY

*Kamila Mammadova\**

**A**rmenian lobbies have always been active in their efforts to orient the governments of the States of residence by using exorbitant amounts of money and political blackmail. There are many examples of successful speculation by the Armenian Diaspora in its electoral votes. Time and again the recognition of the so-called Armenian genocide and adoption of law providing for criminal responsibility for its denial are being discussed in parliaments of various States.

Notwithstanding the fact that there are many cases of effective influence of Diasporas on the politics of the States of residence, one can hardly find another example of such radicalism, which is an essential element of the Armenian communities worldwide.

One should admit that the Armenian Diaspora in a certain way plays an important role in social and political life of many countries, as well as of the Republic of Armenia. Therefore, it would be interesting to find answers to the questions on what the Armenian Diaspora really represents, how its formation and development proceeded, whether it is a unity of people who were forced to leave their homeland and now are striving for the fair appraisal of the historical events, or, on the contrary, those who are trying under the disguise of attractive slogans to veil their own ethnic and religious prejudices.

It is known that Diasporas usually emerge as a result of the security and survival problems within different States, and the Armenians also try to connect their dispersion and subsequent settlement in various countries with the same reasons. The belief that the emergence of the Armenian Diaspora was caused by the so-called genocide and following expulsion of Armenians from the Ottoman Empire is widely propagated. This interpretation pursues several goals.

Thus, in some opinions, the so-called genocide became a defining moment – the “founding symbol” – of the contemporary Armenian identity. Armenians saw themselves as “the first Christian nation” and “the first victims of genocide in the twentieth century”.<sup>1</sup> Also there is an assumption that speculations on the 1915 year events were necessary for unhampered settlement of Armenians in various countries and consolidation of Armenian organizations. Moreover, the image of “victim nation” and “martyrs” was to cause compassion from the local population and to improve attitude towards newly arrived Armenians which had a bad reputation.<sup>2</sup>

However, by referring to history one reveals facts on Armenian obvious tendency to disperse around the world notwithstanding the aforesaid factor of threat. Armenian and independent sources contain information on the existence of Armenian communities in Europe and Asia already in the Middle Ages and the beginning of Armenian migration to U.S. and Latin America in the 17th and 18th centuries.<sup>3</sup>

At the same time, clearly defined foreign policy priorities of the Armenian Diaspora may create an impression of its monolithic character. In fact, it is far from reality.

The early Armenian communities in the U.S. were organized around political parties, which

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<sup>1</sup> R.Panossian, “The Past as Nation: Three Dimensions of Armenian Identity”, 7 (2) Geopolitics 2002, pp.137-138.

<sup>2</sup> See G.Allport, The Nature of Prejudice (Cambridge, MA: Addison Wesley Publishing Company, Inc, 1954).

<sup>3</sup> See Robert H. Hews, Armenia. a Historical Atlas (Chicago & London: University of Chicago Press, 2001), pp. 272-280

in turn shaped religious and social organizations. Nevertheless, there was a politically motivated split between the Armenian Diaspora organizations since their very emergence. Even the religious institutions, which played an important role in Diaspora's formation and establishment, could not prevent disagreements among the Armenian communities. The political and ideological divisions within the Armenian community widened with the founding of the Republic of Armenia in 1918 and its fall to the Soviets in 1920-1921. These developments created two camps within the Armenian community of the U.S. The first camp consisted of the Armenian Revolutionary Federation "Dashnaksutiun" (ARF), which formed the government of the Republic and was exiled with the Soviet takeover. They espoused a staunch anti-Soviet, anticommunist rhetoric. The opposing camp consisted of the Hunchags, Ramagavars, and the Armenian Progressive League, which aligned against the ARF to support the Soviet take-over of the Republic, albeit for different ideological reasons.<sup>4</sup>

Political and ideological disagreements between the Armenian political organizations affected the relations between various religious and social organizations. The result of the schism within the Diaspora has been the construction of parallel organizations – churches, schools, newspapers, charities, social clubs and lobby groups – that remain divided to this day.<sup>5</sup>

Thus, the Armenian community suffers from a lack of structures capable of representing the community as a whole, which could have the budget made of membership fees, and bodies to express the will of all community members.<sup>6</sup>

There is no single public opinion in Armenia about the role and place of Armenian Diaspora in the life of this South-Caucasian State. One reckons that State's growing dependence on foreign financial assistance (first of all, rendered by the Diaspora) results in increase of Diaspora's involvement into internal political processes and, accordingly, limitation of power of the Armenian authorities.

The difficulties arise from the fact that the Diaspora factor and their demands play an important role in Armenia's foreign policy.<sup>7</sup> Armenian Diaspora was directly involved in change of power in Armenia in 1998. Ex-President L.Ter-Petrosyan's independence from the Diaspora predicted his political future. He always tried to bar the Diaspora from intervention in the domestic affairs of the country.

Unlike Ter-Petrosyan, his successor Robert Kocharyan enjoyed big support and respect from foreign Armenians. One of his first steps as a head of State was the legalisation of Dashnak Party which Ter-Petrosyan banned in 1995.

The dual citizenship bill adopted in February 2007 was the concrete step to expand Diaspora's influence in Armenia. The opponents of the bill objected the idea of giving citizenship to those who lived abroad. Actually, certain circles are worried by the possibility of more increased Diaspora involvement into Armenian domestic and foreign affairs.

The analysts believe that the creation of additional opportunities for radical Diaspora organizations, which are more organized and experienced with regard to public mobilization, may result in taking by Yerevan a more hard-line stance against its neighbors in the region. The special attention is drawn to the methods used by Armenian Diaspora organizations for achieving their goals, which are strictly contradicting norms and values of the States of residence.

Beside the terrorist acts performed on the territories of different States,<sup>8</sup> many Diaspora

<sup>4</sup> See Heather S. Gregg, "Divided they conquer: The success of Armenian ethnic lobbies in the United States", Working paper 13 2002, see at <[http://web.mit.edu/cis/www/migration/pubs/rrwp/13\\_divided.html](http://web.mit.edu/cis/www/migration/pubs/rrwp/13_divided.html)>.

<sup>5</sup> See *ibid*.

<sup>6</sup> See "Голос Армении", 16.05.2006, <[http://www.golos.am/2000/may\\_2006/16/st04.html](http://www.golos.am/2000/may_2006/16/st04.html)>.

<sup>7</sup> See Asbed Kotchikian, "Armenian Foreign Policy: Between State And Nation", Armenian News Network/Groong, August 12, 2003, URL: <http://groong.usc.edu/ro/ro-20030812.html>

<sup>8</sup> For more information about Armenian terrorism, see Annex 2

members, who migrated from Turkey, make statements with territorial claims to this country and speak about the necessity of reconsidering the international borders. Moreover, Armenian Diaspora organizations openly support the occupational regime in Nagorny Karabakh region of Azerbaijan and provide it with some kind of forum for imitation of international recognition.

There are numerous facts testifying the Armenian efforts to consolidate the status-quo of the occupation of Azerbaijani territories by purposeful and organized transfer of settlers into these lands. It is known that the biggest portion of settlers comes from Armenia, though Armenians from other countries are also actively involved in this process. Various Armenian Diaspora organizations assist in colonization of the occupied Azerbaijani territories. For example, according to the Charter of the World Armenian Congress, one of its main purposes is "to assist in providing an infrastructure and transferring of Armenian migrants into Nagorny Karabakh."<sup>9</sup>

The aggressive position taken by the Diaspora towards Armenia's neighbors raises concerns among comparatively sensible part of Armenian society who think that radical demands imposed as State policy may be dangerous for Armenia.<sup>10</sup>

Apparently, the present-day Armenian political elite faces a dilemma. In the light of Azerbaijan's strengthening economy and rapidly changing geopolitical situation in the region, Armenia, more and more isolating itself from the regional processes, is forced to look for additional financial sources to maintain parity with Azerbaijan, to prevent further aggravation of economic situation and decline of life level in Armenia, which compel its population to leave the country. In these circumstances official Yerevan does not have many options. Unambiguously it either puts an end to the policy of hatred towards neighboring States and establishes a full and mutually beneficial cooperation with them, or will face Armenia's increased dependence on the Diaspora with its extremely dubious political ideology.

<sup>9</sup> See at <<http://worldarmeniancongress.com/ru/wac/ustav2php>>.

<sup>10</sup> See Christian Henderson, "Diaspora fuels Armenian economy", Aljazeera, Monday, March 13, 2006, at <<http://english.aljazeera.net/English/Archive/Archive?ArchiveID=18992>>.

## ANNEX 1

### KHOJALY MASSACRE

In February 1992, an unprecedented massacre was committed against the Azerbaijani population in the town of Khojaly. This bloody tragedy, which became known as the Khojaly genocide, involved the extermination or capture of the thousands of Azerbaijanis; the town was razed to the ground. Over the night from 25 to 26 February 1992 the Armenian armed forces with the help of the infantry guards regiment No. 366 of the former USSR implemented the seizure of Khojaly - a small town situated in the Nagorny Karabakh region of the Republic of Azerbaijan with the total area of 0.94 sq. km. and the population before the conflict of 23,757.



The inhabitants of Khojaly remained in the town before the tragic night (about 2500 people) tried to leave their houses after the beginning of the assault in the hope to find the way to the nearest place populated by the Azerbaijanis. But these plans have failed. Invaders destroyed Khojaly and with particular brutality, which violated every norm of common sense, implemented carnage over its peaceful population.

Brutal annihilation of hundreds of blameless inhabitants of Khojaly was one of the most heinous crimes during the armed conflict in and around the Nagorny Karabakh region of the Republic of Azerbaijan. The Armenian armed forces and foreign military units spared virtually none of those who had been unable to flee Khojaly and the surrounding area. As a result, 613 persons were killed, including 106 women, 63 children and 70 elderly people. 1,275 inhabitants were taken hostage, while the fate of 150 persons remains unknown to this day. In the course of the tragedy 487 inhabitants of Khojaly were severely maimed, including 76 children not yet of age. 6 families were completely wiped out, 26 children lost both parents, and 130 children one of their parents. Of those who perished, 56 persons were killed with especial cruelty: by burning alive, scalping, beheading, gouging out of eyes, and bayoneting of pregnant women in the abdomen.

Armenian officials deny their responsibility for the crimes committed during the conflict, including against the population of Khojaly, airily falsifying facts and sharing own interpretations of them, which deviate not only from reality but also from elementary logic. Nevertheless, even the subtlest propaganda will never manage to disprove the facts that speak of a situation diametrically opposite to that represented by the Armenian side.

Apart from the considerable information in possession of the law-enforcement agencies of the Republic of Azerbaijan, the responsibility of Armenia is documented also by numerous independent sources and eyewitnesses of this tragedy.

Thus, as Thomas Goltz reported, “[t]he attackers killed most of the soldiers and volunteers defending the women and children. They then turned their guns on the terrified refugees.”<sup>1</sup>

According to *Reuters*, though “[t]he Republic of Armenia reiterated denials that its militants had killed 1,000 people in the Azerbaijani-populated town of Khojaly last week and had massacred men, women and children fleeing the carnage across snow-covered mountain passes”, “[b]ut dozens of bodies scattered over the area lent credence to Azerbaijani reports of a massacre.”<sup>2</sup>

In view of *The Times*, “[m]ore than sixty bodies, including those of women and children, have been spotted on hillsides in Nagorny Karabakh, confirming claims that Armenian troops massacred Azeri refugees.”<sup>3</sup>

In response to misrepresentation by the Armenian side, Executive Director of the Human Rights Watch/Helsinki Holly Cartner made clear that the Armenians bore direct responsibility for the civilian deaths in Khojaly, while no evidence supported the argument of the Armenian side that Azerbaijani forces had obstructed the flight of, or had fired on Azerbaijani civilians.<sup>4</sup>

Congressman Dan Burton in his speech in the U.S. House of Representatives on 17 February 2005 pointed out the following:

[F]or years a number of distinguished Members of this House have come to the Floor of this Chamber every April to commemorate the so-called Armenian Genocide - the exact details of which are still very much under debate today almost 90 years after the events. Ironically and tragically, none of these Members has ever once mentioned the ethnic cleansing carried out by the Armenians during the Armenia-Azerbaijan war which ended a mere decade ago. Khojaly was a little known small town in Azerbaijan until February 1992. Today it no longer exists, and for people of Azerbaijan and the region, the word “Khojaly” has become synonymous with pain, sorrow, and cruelty. On February 26, 1992, the world ended for the people of Khojaly when Armenian troops supported by a Russian infantry regiment did not just attack the town but they razed it to the ground. In the process the Armenians brutally murdered 613 people, annihilated whole families, captured 1275 people, left 1,000 civilians maimed or crippled, and another 150 people unaccounted for in their wake [...] This savage cruelty against innocent women, children and the elderly is unfathomable in and of itself but the senseless brutality did not stop with Khojaly. Khojaly was simply the first. In fact, the level of brutality and the unprecedented atrocities committed at Khojaly set a pattern of destruction and ethnic cleansing that Armenian troops would adhere to for the remainder of the war [...]

Armenian officials deny their responsibility for the crimes committed during the conflict, including against the population of Khojaly, airily falsifying facts and sharing own interpretations of them, which deviate not only from reality but also from elementary logic. Nevertheless, even the subtlest propaganda will never manage to disprove the facts that speak of a situation diametrically opposite to that represented by the Armenian side.

Apart from the considerable information in possession of the law-enforcement agencies of the Republic of Azerbaijan, the responsibility of Armenia is documented also by numerous independent sources and eyewitnesses of this tragedy as well as is acknowledged by the direct perpetrators of the massacre.

<sup>1</sup> “Armenian soldiers massacre hundreds of fleeing families”, *The Sunday Times*, 1 March 1992.

<sup>2</sup> “Massacre by Armenians being reported”, *The New York Times*, 3 March 1992.

<sup>3</sup> Anatol Lieven, “Massacre uncovered”, *The Times*, 3 March 1992)

<sup>4</sup> Human Rights Watch/Helsinki, 24 March 1997.

Thus, for example, Markar Melkonian, brother of the well-known international terrorist Monte Melkonian, while considering what has happened in Khojaly simply as a consequence of "discipline problems" and "insubordination" among Armenian military units, testified the following:

At about 11:00 p.m. the night before, some 2,000 Armenian fighters had advanced through the high grass on three sides of Khojaly, forcing the residents out through the open side to the east. By the morning of February 26, the refugees had made it to the eastern cusp of Mountainous Karabagh and had begun working their way downhill, toward safety in the Azeri city of Agdam, about six miles away. There, in the hillocks and within sight of safety, Mountainous Karabagh soldiers had chased them down. "They just shot and shot," a refugee woman, Raisa Aslanova, testified to a human Rights Watch investigator. The Arabo fighters had then unsheathed the knives they had carried on their hips for so long, and began stabbing.

Now, the only sound was the wind whistling through dry grass, a wind that was too early yet to blow away the stench of corpses.

Monte crunched over the grass where women and girls lay scattered like broken dolls. "No discipline", he muttered. He knew the significance of the day's date: it was the run-up to the fourth anniversary of the anti-Armenian pogrom in the city of Sumgait. Khojaly had been a strategic goal, but it had also been an act of revenge.<sup>5</sup>

In his book "Black Garden: Armenia and Azerbaijan through peace and war", the British journalist Thomas de Waal makes references to words of the Armenian militaries. Thus, "[a]n Armenian police officer, Major Valery Babayan, suggested revenge as a motive. He told the American reporter Paul Quinn-Judge that many of the fighters who had taken part in the Khojaly attack "originally came from Sumgait and places like that."<sup>6</sup>

But the most important was that the recently elected President of Armenia Serzh Sarkisian said of what had had happened:

Before Khojaly, the Azerbaijanis thought that they were joking with us, they thought that the Armenians were people who could not raise their hand against the civilian population. We were able to break that [stereotype]. And that's what happened. And we should also take into account that amongst those boys were people who had fled from Baky and Sumgait.

As Thomas de Waal sums up, "Sarkisian's account throws a different light on the worst massacre of the Karabakh war, suggesting that the killings may, at least in part, have been a deliberate act of mass killing as intimidation".<sup>7</sup>

The facts mentioned above confirm that the intentional slaughter of the Khojaly town civilians on 25-26 February 1992, including children, elderly and women, was directed to their mass extermination only because they were Azerbaijanis. The Khojaly town was chosen as a stage for further occupation and ethnic cleansing of Azerbaijani territories, striking terror into the hearts of people and creating panic and fear before the horrifying massacre.

<sup>5</sup> Markar Melkonian, *My Brother's Road. An American's Fateful Journey to Armenia* (London & New York: I.B.Tauris, 2005), pp. 213-214.

<sup>6</sup> Paul Quinne-Judge, "Armenians, Azerbaijanis tell of terror; Behind an alleged massacre, a long trail of personal revenge", *Boston Globe*, 15 March 1992, as cited in Thomas de Waal, *Black Garden: Armenia and Azerbaijan through peace and War* (New York: New York University Press, 2003).

<sup>7</sup> Thomas de Wall, *Black Garden: Armenia and Azerbaijan through peace and war* (New York & London: New York University Press, 2003), pp. 169-172.

PHOTOS OF VICTIMS



## ANNEX 2

### CHRONOLOGY OF TERRORIST ACTS COMMITTED IN THE COURSE OF THE ARMENIA-AERBAJAN CONFLICT

1984	In Baky, a passenger bus on the No. 106 route was blown up, killing one woman – the mother of two children – and injuring several other people. An Armenian named Vartanov was identified as the perpetrator.
May 27, 1989	On a train from Yerevan to Baky, an Armenian citizen, V.Minasian, was arrested and found to be in possession of an explosive device. In her statement, she confessed that she had been intending to carry out an act of sabotage in Baky.
July 24, 1989	An explosion on an Azerbaijan Railways train at Karchevan station.
October 7, 1989	The road bridge across the river Halfalichai on the southern edge of the town of Khankendi, was blown up. On April 29, 1992, the perpetrator of this act – A.Abramian – was sentenced to fifteen years imprisonment by the Supreme Court of Azerbaijan.
January 19 - February 17, 1990	A terrorist group based in Yerevan carried out numerous raids from the territory of Armenia on the inhabitants of frontier villages in the Gazakh district of Azerbaijan, resulting in the deaths of the villagers and shepherds of Khirimly and Sofulu villages. The same group carried out an attack on a patrol vehicle of the Gazakh district division of internal affairs and plotted the destruction of a railway locomotive. Two members of the group, L.Arutyunian and A.Mkrtchian, detained by law enforcement agencies of Azerbaijan, were sentenced by the Supreme Court of Azerbaijan to five and six years imprisonment respectively.
February 18, 1990	13 people were injured by an explosion in an inter-city bus on the Shusha-Baky line, at the 105 km marker on the Evlakh-Lachin road.
March 4, 1990	The Armenians blew up the Nabiyar-Shusha pipeline, which supplied the town of Shusha with drinking water.
July 11, 1990	Between the settlements of Getavan and Charektar in the Aghdara district of Azerbaijan, an armed assault was launched on a road convoy, traveling under troop escort and conveying people and goods to the town of Kalbajar. Three people were killed and 23 injured. On June 19, 1992, the Supreme Court of Azerbaijan found A.Airiian guilty of committing this crime.
August 10, 1990	In the Khanlar district of Azerbaijan, terrorists blew up an inter-city bus operating on the Tbilisi-Aghdam route, killing 20 passengers and injuring 30. The perpetrators of that terrorist act were arrested before they were able to carry out their plan to blowup, on June 17, 1991, a bus on the Aghdam-Tbilisi route. The Supreme Court of Azerbaijan found A.Avanesian and M.Tatevosian guilty of committing these crimes.

November 1990,	A terrorist group composed of inhabitants of the Echmiadzin district of Armenia was sent into the territory of Azerbaijan. The group was set up by M.Grigorian, a member of the terrorist organization <i>Ergraparkh</i> , based in Armenia, on the instructions of his leaders. This group was disarmed by law enforcement agencies of Azerbaijan while attempting to carry out acts of terrorism and sabotage. By its decision of June 18, 1991, the Supreme Court of Azerbaijan sentenced three members of the group, T.Khachatryan, Z.Oganian, and A.Grigorian, to nine, eight, and seven years, respectively.
January 9, 1991	At the five km marker on the Lachin-Shusha road in the area of Galadarasi village, Armenian terrorists fired on a UAZ-469 vehicle belonging to military unit 44688 of the city of Ganja, killing the driver, Sergeant I.I.Goek, the commander of the reconnaissance battalion, Lt.-Col. A.P.Larionov, the chief of staff in the commandant's office of military unit 3505 (the command center for the special units of the forces of the Ministry of Internal Affairs of the USSR), Maj. I.D.Ivanov, and a journalist from the newspaper <i>Molodezh Azerbaidzhana</i> , Mrs. S.A.Askerova, who left an orphaned infant son. On March 23, 1993, the Supreme Court of Azerbaijan found the perpetrators of this attack – A. Mkrtchian, G.Petrosian, A.Mangasarian, G.Arutyunian and G.Arustamian guilty of committing this crime, as well as other acts of terrorism and murders.
May 30, 1991	11 people were killed and 22 injured following an explosion on a passenger train from Moscow to Baky near Khasavyurt station (Dagestan, Russian Federation).
May 1991	Officials of law enforcement agencies arrested S.Aznarian, an inhabitant of the Noemberian district of Armenia, in a Baky-Tbilisi train at Shamkir station and removed from his possession two mines, a sub-machinegun and maps of the Azerbaijan rail and road network.
July 31, 1991	A Moscow-Baky passenger train was blown up near Temirgaur station (Dagestan, Russian Federation), killing 16 people and injuring 20.
August 2, 1991	Two members of the Armenia-based terrorist organization <i>Urartu</i> , A.Tatevosian and V.Petrosian, had carried out an armed attack on inhabitants of the Kalbajar district of Azerbaijan. The terrorists in question were detained and disarmed by the law enforcement agencies of Azerbaijan and subsequently sentenced by the Supreme Court of Azerbaijan to ten and eight years imprisonment, respectively.
November 20, 1991	A Mi-8 helicopter carrying a group of peace-enforcement representatives from Russia, Kazakhstan, and many of the senior Azerbaijani leadership, was shot down near the village of Garakand in the Khojavan district of the Republic of Azerbaijan. The killing of 22 people, including statesmen from three countries, effectively put an end to the first attempt to settle the Armenia-Azerbaijan conflict and prompted an escalation of violence in the region.
January 8, 1992	An explosion on the ferry <i>Sovetskaya Kalmykia</i> , operating between Krasnovodsk and Baky, claimed the lives of 25 people and injured 88. The same year an attempt to carry an explosive device onto the steamer <i>Sabit Orujiev</i> was prevented.

January 28, 1992	A civilian helicopter flying on the Aghdam-Shusha route was shot down over the Azerbaijani town of Shusha by Armenians, killing 41 passengers, most of them women and children, as well as the crew.
February 28, 1993	11 people were killed and 18 injured near Gudermes station (Dagestan, Russian Federation) by a bomb placed in a Baky-Kislovodsk train.
June 2, 1993	A passenger carriage was blown up at a siding at Baky railway station. On July 22, 1994 I.Khatkovskiy, a Russian national born in 1959, correspondent for the newspaper <i>Demokratichesky Tilzit</i> , resident of the village of Gastelovo in the Slavsky district of the Kaliningrad region of the Russian Federation, was found guilty of committing this crime and sentenced to eight years imprisonment by the Supreme Court of Azerbaijan. The investigation process revealed that I.Khatkovsky was recruited by the intelligence service of the Directorate for National Security (the former KGB) of Armenia and provided with detailed instructions on how to organize the bombing of transportation facilities, communications and vital services in Azerbaijan, gather intelligence information and commit terrorist acts in the territory of the Russian Federation.
February 1, 1994	A Kislovodsk-Baky passenger train was blown up at Baky station, killing three people and injuring more than 20.
April 9, 1994	A railway car was blown up at Khudat station.
March 17, 1994	An Iranian Air Force/Lockheed C-130 <i>Hercules</i> transport aircraft was shot down in Azerbaijan's airspace over its occupied territories, resulting in the deaths of 32 people who were citizens of the Islamic Republic of Iran.
March 19, 1994	A bomb placed in one of the carriages of a train exploded an underground railway station in Baky; 14 people were killed, and 42 were injured, some seriously.
March 26, 1994	Railway staff found an explosive device in an Azerbaijan Railways carriage at Kazy-Magomed station.
April 13, 1994	Six people were killed and three wounded at Dagestanskiye Ogni station (Russian Federation) as a result of an explosion on a Moscow-Baky passenger train.
July 3, 1994	There was an explosion on a train between the May 28 and Ganjlik underground stations, killing 14 people and wounding 54.

***In all, as a result of terrorist acts committed against Azerbaijan since the late 1980s by the Armenian special services and Armenian terrorist organizations closely connected with it, including terrorist acts on road, rail, sea and air transport and ground communications, over 2,000 citizens of Azerbaijan have been killed, the majority of them women, the elderly and children.***

## **International Conference “Basic principles for the settlement of the conflicts on the territories of the GUAM States”, Baky, 15-16 April 2008**

**Joint efforts of the GUAM Member States on the settlement of the protracted conflicts on their territories**



**T**he Joint Declaration on the issue of conflict settlement was adopted at the Summit of Heads of State of the Organization for Democracy and Economic Development-GUAM, held on 22-23 May 2006 in Kyiv. This document provides a political and legal appraisal of the armed

conflicts on the territories of the GUAM Member States, draws attention to the threats to international security and obstacles to sustainable development of these countries caused by the conflicts, and consolidates the principled basis for their settlement.

The Joint Declaration recognizes that un-

resolved conflicts and illegal military presence on the territories of the Republic of Azerbaijan, Georgia and Republic of Moldova undermine the sovereignty, territorial integrity and political independence of those States, impede implementation of full-scale democratic reforms, negatively impact pan-European integration processes and challenge the international community.

In this connection the document declares that settlement of the conflicts on the territories of the GUAM States shall be carried out exclusively on the basis of respect for the sovereignty, territorial integrity and inviolability of the internationally recognized borders of these States, and is one of the priority objectives of cooperation within GUAM.

The document underlines that the territory of a State shall not be the subject of acquisition or military occupation resulting from the use of force in contravention of the relevant norms of international law. In this regard, according to the Joint Declaration, no territorial acquisition and the resulting self-declared entities shall be recognized as legal under any circumstances whatsoever.

The document reminds about the obligation of States not to intervene in the affairs of any other State and non-exertion of military, political, economic or any other coercion thereupon.

The GUAM Heads of State underscore the lack of prospects and malignancy of separatism and disintegration, the incompatibility of the use of force and the practice of ethnic cleansing and territorial seizures with the universal and European values, the principles and ideals of peace, democracy, stability and regional cooperation.

The Joint Declaration stresses in this context the importance of consolidation of efforts of the GUAM Member States and the international community to settle the conflicts by means of re-integration of the uncontrolled territories into the States that they are part of, return of forcibly displaced population to the areas of permanent residency

and ensuring peaceful coexistence of various ethnic groups within the internationally recognized borders of the States, development of civil society, restoration of destroyed infrastructure on these territories, and as well as the use of communications to the benefit of all parties.

The Joint Declaration contains an important conclusion that the status of self-rule for the communities constituting the population of uncontrolled territories will create the necessary conditions for effective exercise of their rights to equal participation in the conduct of State affairs, including through formation of legitimate regional authorities at all levels, can be determined exclusively within the legal and democratic process.

The Joint Declaration welcomes the efforts of international community and stresses the importance of providing support to the GUAM Member States in the development and implementation of a comprehensive and consistent strategy for conflict settlement based on the above mentioned principles, including short-term and long-term measures aimed at the achievement and maintenance of lasting peace, security and sustainable development.

With the view of consolidating the ideas laid down in the Joint Declaration and to attract attention of the international community to the necessity of soonest resolution of the conflicts on the territories of the GUAM Member States, an item "Protracted Conflicts in the GUAM area and their Implications for International Peace, Security and Development" was included in the agenda of the United Nations General Assembly and the draft resolution was submitted.

### **The findings of the Conference**

On 15-16 April 2008 the Ministry of Foreign Affairs of the Republic of Azerbaijan, in capacity of the country's chairmanship in the Organization for Democracy and Economic Development – GUAM, convened an Interna-



tional Conference entitled "Basic principles for the settlement of the conflicts on the territories of the GUAM States".

The Conference gathered the high level representatives and experts of the GUAM Member States, of the partner countries and other interested States as well as renowned foreign experts in the fields of international law and international relations.

In his opening remarks, H.E. Mr. Elmar Mammadyarov, Minister of Foreign Affairs of the Republic of Azerbaijan, drew the attention of the participants of the Conference to the fact that the process of development and integration among the GUAM Member States is still burdened by the unresolved conflicts on the territories of these States. He underlined that these conflicts have almost the same origin, similarly developed scenario and dangerous consequences. They all started from the manifestation of aggressive separatism, were aimed from the very beginning at seizing the territories by using force and fundamental change of their demo-

graphic composition. The conflicts were accompanied by serious international crimes, such as war crimes, crimes against humanity and genocide.

The Minister of Foreign Affairs of Azerbaijan reminded that the GUAM Member States have elaborated the joint position on the conflict settlement issue, which is based on respect for the territorial integrity of Azerbaijan, Georgia, and Moldova, return of forcibly displaced persons to their homes, providing normal, secure, and equal conditions of life for all communities of the conflict-affected territories, which will allow to build up an effective democratic systems of self-governance therein within the internationally recognized borders of the respective GUAM States.

The officials from Georgia, Moldova, Ukraine, Poland, Latvia, Lithuania Switzerland, Slovenia, Romania, Secretary-General of GUAM Mr. Valeri Chechelashvili, Honorary President of the Parliamentary Assembly of the Council of Europe Mr. Peter Schieder,

Chairman of the United Nations International Law Commission Mr. Ian Brownlie, representatives of the academic communities of the GUAM Member States as well as of the leading academic institutions of Austria, Germany, United Kingdom, Israel, Russia, the USA, and Turkey delivered speeches in the deliberations of the Conference.

During the Conference particular attention was given to discussions of the wide range of issues pertaining to international law, including those relating to correlation between the principles of the territorial integrity of States and the right of people to self-determination, consequences of the illegal use of force and territorial acquisitions, as well as the responsibility for internationally wrongful acts and perspectives of making use of mechanisms of the international judicial institutions to this end.

The participants of the Conference expressed firm conviction that after the dissolution of the USSR the international legal doctrine (*uti possedetis juris*) created a foundation for the international, regional

and national legitimation of the borders of the GUAM Member States. In this context, the change of sovereignty as a result of the break up of the USSR and the State succession declared by the former Union Republics were powerless to undermine their existing boundaries which achieved permanence. It was unequivocally stressed that from the time of attainment by the GUAM Member States of their independence, their former administrative borders, which included autonomous entities, were recognized as international and thus were protected by international law, in particular by the principle of territorial integrity of States.

In this regard, it was emphasized that attempts to legitimize unilateral secession through conducting "referendums" in the self-proclaimed entities on the eve and in the aftermath of the dissolution of the USSR are not valid and therefore create no legal consequences.

The renowned experts participating in the Conference held the opinion that unilateral secession of the part of the territory from





the sovereign State does not involve the exercise of any right conferred in international law and hence cannot be associated with the international legal principle of self-determination, which apply within precisely identified limits. Moreover, self-determination is *a priori* ruled out when it is realized through the practice of ethnic cleansing and serious international crimes.

The participants of the Conferences particularly noted that occupation and separatism undermine the right to self-determination of the peoples of the GUAM Member States, which they exercise on their territories within the internationally recognized borders.

According to the experts, international law will not remain neutral when its imperative norms are breached in an attempt of unilateral secession. Thus, in case of the use of force for the acquisition of territory and committing of serious international crimes, the international community is obliged not to recognize self-proclaimed entity created in this way.

Furthermore, it was stated that attempts of unilateral secession accompanied by serious violations of fundamental human rights and freedoms, commission of war crimes, crimes against humanity and genocide entail international legal responsibility.

In the context of the conflict between Armenia and Azerbaijan the participants of the Conference noted the existence of the well-established facts proving the use of force by Armenia against the territorial integrity of Azerbaijan, which is qualified as aggression and that Armenia in practice exercises overall effective control of the occupied territories of Azerbaijan, whether directly by its own armed forces or indirectly through a subordinate regime which, fulfilling the functions of the local administration, survives by virtue of Armenia's military and other support. Hence, as was elaborated by the international experts, the responsibility of Armenia is a consequence of both the illegal actions of its own authorities, its representatives or entities in the occupied territories and by actions

of subordinate local administration.

In regard of serious international crimes committed in the territories of the GUAM Member States during the conflicts, the participants of the Conference underlined the necessity of redoubling measures aimed at ensuring effective criminal persecution of those responsible. In this context it was recommended to explore the possibility of creating *ad hoc* tribunals or special national ju-

dicial bodies with international involvement.

The participants of the Conference expressed their solidarity with the efforts of the GUAM Member States directed at conflict settlement and removing of their consequences, and underlined the importance of the development of a comprehensive and consistent strategy aimed at achieving and maintaining of lasting peace, security, rule of law and sustainable development.



# AZERBAIJANI CHAIRMANSHIP IN GUAM

