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The Nagorno-Karabakh Conflict and the Right of Self-Determination

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Abstract

The dissolution of the former Soviet Union did not result in the long-desired and internationally recognized self-determination and independence for the region and the people of Artsakh. Artsakh formally used the constitution of the Soviet Union to declare its independence and Azerbaijan utilized the same legal framework when it became an independent republic. However, the resulting Nagorno-Karabakh armed conflict involved Artsakh's Armenian ethnic population, Armenia, and Azerbaijan. This armed conflict has not formally ended and regularly flares up with low intensity border incidents or more serious military incursions (e.g., the April 2016 "four-day war"), with consequent military and civilian losses. Azerbaijan, an oil-rich but autocratically ruled state, has utilized its oil wealth to dramatically increase its defense expenditures and arms purchases without, however, acquiring the capacity to impose a "military solution" to this ongoing crisis. Azerbaijan has also utilized the Nagorno-Karabakh crisis as a justification for its own domestic politics and as an excuse to avoid meaningful settlement negotiations. Because this crisis involves the interests of multiple actors, e.g., Armenia, Azerbaijan, Russia, Turkey, its peaceful and permanent settlement will serve multiple interests especially economic ones. Past international precedent and U.S. involvement can play a constructive role in this regard.

The Nagorno-Karabakh Conflict and the Right of Self-Determination

The continuous Nagorno-Karabakh crisis has often been characterized as a “frozen conflict” and has its genesis in the break-up of the former Soviet Union. The fragile ceasefire agreement of 1994 and its constant violations continue to cause casualties and creates feelings of mistrust among the population of both Armenia and Nagorno-Karabakh, also known as Artsakh. This continuous crisis not only involves the direct national security interests of Armenia and Azerbaijan, but also the national security interests of other regional actors such as Russia and NATO member Turkey. A permanent settlement of this crisis cannot be achieved without the appropriate international recognition that the Artsakh region (Nagorno-Karabakh) should be granted self-determination. This essay will examine various national security and international relations parameters concerning how this goal can be attained.

The 2016 clash between Nagorno-Karabakh Armenian units and Azerbaijani military forces has already been named the “Four Day War.” Although this was a limited Azerbaijani offensive that was effectively stopped, it caused significant casualties in relation to its very limited duration, and underlines the need for a permanent solution of the Nagorno-Karabakh crisis. This paper presents and analyzes the key regional actors, and their interests in resolving this conflict or prolonging it in its present status.

The roots of this problem go back to the end of World War I (WWI) when the Armenian populated Artsakh autonomous region was integrated within the Azerbaijani Soviet Republic as a result of political intrigues between the Soviet Bolsheviks and the then emerging modern Republic of Turkey.

The primary role of creating the foundations of this enduring crisis belongs to the Bolsheviks, who purposely supported this segregation not only for the Armenians but

also for other regional ethnic groups within the U.S.S.R. that held national independence aspirations and presented a potential risk of armed conflict, e.g. Georgia, Moldavia, Ukraine and Kazakhstan.

In regard to Armenian Autonomy in Artsakh the main characteristic of this part of the territory was that this region was added to Azerbaijani territory. This partition resulted in the following 70 years of fragile co-existence between the Azerbaijani and Armenian populations in the region of Artsakh. Behind the facade of a fictitious peace between two religiously, culturally and historically opposite nations was a tremendous friction, which was strictly controlled by the domestic policy of the Soviet regime. This peace was mainly framed by mutual trade between Armenians and Azeri and a certain degree of “friendship” at a county level. Occasionally, vendetta conflicts emerged among neighboring populations; however, the strong hand of the Soviet Communist Party stopped such conflicts from escalating.

In the late 1980s, when the Soviet Union had entered its final decline, tensions between Armenians in Artsakh and the Azeri population started to be more lasting and harder to eliminate or control. The terrible earthquake of 1988 in the second largest Armenian city of Gyumri resulted in mass casualties and also escalated further tensions between two neighboring Soviet republics. The reason for this escalation was that the railroad that connected Armenia with the rest of the Soviet Union ran through Azerbaijani soil. All trains bringing humanitarian aid were either robbed or vandalized. This deteriorating situation was simultaneously reflected in the Artsakh region as well, where Azeris started to force the Armenian population to depart from their ancestral lands. Any resistance by the Armenian population was eliminated by Soviet military

units located in the region in conjunction with the newly formed Azeri movement against the Artsakh Armenians.

This situation lasted until the Armenian secession from the Soviet Union in 1991. Simultaneously, with the Armenian declaration of independence, the Armenian population in Artsakh conducted a referendum in accordance with the Constitution of the Soviet Union for the right of self-determination, which overwhelmingly endorsed the independence of the Artsakh region from the Azerbaijani Republic. Interestingly, when the people of Artsakh carried out this referendum, Azerbaijan had already declared its independence from the Soviet Union, without considering the unclear status of Artsakh and the results of its local referendum.

Artsakh's declaration of independence was not only unacceptable for the Azerbaijani Government, it also sparked a full scale war with the Armenian population that involved the use of all available military means, including military equipment and munitions from the Soviet Army and Warsaw Pact countries. The Armenian movement in Artsakh started to grow drastically with significant support from Armenia, which had already established its own governmental structure and Armed Forces.

Omitting the tactical and operational nuances of this terrific fight, the resulting war cost the lives of more than 30,000 people including non-combatants. The war ended with the defeat of the Azerbaijani offensive in 1994, when by the request of the Azerbaijani Government the cease-fire treaty was signed in Bishkek under the arbitration of the Russian Federation. Geographically, the war concluded with the total liberation of the Armenian populated territories of Artsakh, including seven Azerbaijani districts that act as a buffer or security zone between Artsakh and Azerbaijan. Since

then, this conflict has transitioned into a slow-tempo frozen conflict with the constant presence of the Armed Forces from both countries and continuous border incidents of small arms and sniper fire initiated mainly from the Azerbaijani side. This situation subsequently changed into more intensive border violations by Azerbaijani military infiltrator groups and cease-fire violations involving heavy weapons. This continuous low grade armed conflict costs the Armenian population both in Artsakh and along the Armenian-Azerbaijani border the lives of approximately 100 soldiers and civilians annually.

Following the Bishkek agreement, Azerbaijan focused its efforts both on the development of its energy export based economy and in the rapid increase of its military capabilities. Azerbaijan's energy exports were facilitated through existing and new pipeline networks, e.g., the Baku-Tbilisi-Ceyhan (BTC) oil pipeline that transits the Republic of Georgia and terminates at the Turkish port of Ceyhan. Energy export revenues have facilitated Azeri increased defense expenditures and weapons systems purchases that are domestically justified because of the alleged "Armenian threat." Azerbaijan's regional policies have enjoyed strong political and military support (including arms transfers) from Turkey (e.g., Turkey has closed its borders with Armenia since the initial phase of the Nagorno-Karabakh conflict).

Throughout the past years, there were attempts to identify a solution of the Nagorno-Karabakh conflict under the auspices of the specifically established Organization for Security and Cooperation in Europe (OSCE) Minsk Group. However, these efforts proved unsuccessful. The last major attempt was made by the Armenian President Serzh Sargsyan, who offered the return of the "security zone" districts to

Azerbaijan in exchange for the unconditional acceptance of Artsakh independence. This offer was rejected by Azerbaijani President Ilham Aliyev, possibly fearing the loss of his autocratic power and means to maintain the personal wealth of his family and the control of the population. This fear led President Ilham Aliyev to trigger the failed military offensive in April 2016 against Artsakh in order to restore Azerbaijani “sovereignty.” The failure of this operation had a significant impact on the Azerbaijani population, which reasonably questioned the achievements of this operation. There are indications of a growing threat towards the current autocracy of Azerbaijani President Aliyev and growing resistance to his autocratic rule within the public opinion in Azerbaijan. These developments provide an opportunity to apply political and economic pressure towards the formal and internationally recognized ratification of Artsakh’s independence. Such a move will not only favor the indigenous Artsakh population but will also benefit the more prosperous Azerbaijan, which will can substantially re-focus its government spending from the military sector to the country’s economic development and public welfare.

The following economic aspects are among the most important pre-conditions to establish a balanced and frank dialog between Armenia and Azerbaijan on this longstanding dispute.

Energy Resources and Pipeline Politics

Oil and natural gas resources in Azerbaijan have been of high importance since the 19th Century. After the dissolution of the U.S.S.R., Azerbaijan undertook major efforts to establish a transnational oil pipeline from its capital city of Baku up to the Turkish Mediterranean port of Ceyhan, under the sponsorship of the Turkish government and British Petroleum Company. Due to well-known reasons this pipeline was built bypassing Armenia. The pipeline revenues and net profits support not only the

Azerbaijani economy but also an extensive arms acquisition program and a revisionist foreign policy. While Armenia lacks energy resources, Azerbaijan is widely viewed by the West as an alternative to Russia for diversifying the sources of energy supplies for Western Europe.

The Azerbaijani policy of energy resources was established in the early age of post-Soviet era by Heydar Aliyev, the father of the current President, Ilham Aliyev. As an experienced politician, whose political background was rooted in the Soviet era and possibly included affiliations or positions with the Soviet KGB, he envisioned the importance of the oil and natural gas resources as a major leverage tool not only in the Caucasus region but also as means of access to the international arena. After being elected as President in 1993, he focused his efforts in expanding the energy industry of his country with international support. In 1993, the first agreement for pipeline construction was signed with Turkey in Ankara. With the strong support of British Petroleum (BP), such regional actors as Uzbekistan and Kazakhstan, and with Georgia as transit country, the Baku-Tbilisi-Ceyhan (BTC) pipeline was built and first transported oil from the Baku oil fields in 2005.

This achievement triggered a rapid growth in the Azerbaijani economy and created a strong dependence on this natural resource and formed the biggest part of the country's GDP (78%) and 85% of the state's budget.¹ Dependence on oil and natural gas revenues is currently the ultimate foundation for the political stability of Azerbaijan. Profits from oil production and export are reflected in every sector of Azerbaijan and include the military, whose budget is as big as the entire state budget of Armenia.² This helps Aliyev's administration to maintain constant tension with Armenia,

especially on the border with Nagorno-Karabakh. Moreover, it also helps to create a perception in the Azerbaijani population that the military is capable of regaining Nagorno-Karabakh territory at short notice by inflicting a military defeat on the “Armenian aggressors.” The failure of the recent Azerbaijani military offensive demonstrated how deceptive that perception is and has caused an increased level of civilian unrest within Azerbaijan.

There is another significant issue with oil production, which is widely acknowledged as a growing challenge for existing and readily exploitable reserves. There are three main oil fields that ensure the entire oil production in Azerbaijan. Since these fields were established nothing else has been discovered. According to certain assumptions, known oil reserves will be depleted by approximately 2019 with the current extraction rates.³ If so, this will inevitably destabilize the political reign of Aliiev’s family and may set preconditions of larger civilian unrest that may include the oil revenue-dependent military.

The energy sector of Azerbaijan has another issue besides the depletion of the existing oil reserves. In the late 2010s, the BTC pipeline started to serve as a transit pipeline for Caspian Sea countries, Kazakhstan and Turkmenistan. Russia, as a traditional partner of these countries wanted to join as well; however, Azerbaijan stopped this effort. The denial of full access to the pipeline capacity forced the Russians to seek alternative pipeline routes. Russia, as a strong regional and European energy exporter, despite recent tensions with the West and economic sanctions (e.g., Russian annexation of the Crimea), has never stopped to expand its energy influence despite the decline in the international price of oil.

Understanding the potential of Azerbaijan in the energy sector and especially its unwillingness to accept Russian involvement, Russia is obviously considering alternative options with Iran, among which is the pipeline connection with Armenia. This pipeline is regulated under the Armenian branch of the Russian “GAZPROM” corporation and may serve as an alternative transit route that can benefit the Armenian economy and, subsequently, “GAZPROM.” Interestingly, Iran is potentially interested in energy integration with Azerbaijan; however it faces the Turkish political and cultural influence within Azerbaijan, despite the religious dissonance between Turkey and Azerbaijan (the Sunni versus Shia religious affiliation). This situation favors Armenia, which fosters good relations with Iran including international diaspora support and a trade partnership. Russia is also implementing its Northern pipeline projects, simultaneously working on Russia-Chinese energy objectives. The recent warming in Russian-Turkish relations, despite the controversial nature of such a “friendship,” may also affect the “Southern Stream” pipeline project. Additionally, the Russian annexation of the Crimea is believed to have a set of future goals, where energy transit and access to the Black Sea (along with its undersea natural gas resources close to the Crimean peninsula),⁴ will play an important geopolitical role.

In sharp contrast with Azerbaijan, Armenia does not have such an economic instrument as the energy pipelines in the region. However, this vulnerability could be mitigated by ground lines of communications, particularly through Iran. The long-term planning for the 556 km long North-South highway, which will cross the entire country, resulted in the initiation of this project in 2012. Currently, 1/3 of the overall project is accomplished with the total completion date planned for 2019. Although the construction

process is slow due to the mountainous terrain and budgeting issues, this project is one of the most important goals for the Armenian Government to mitigate the economic development and trade risks of a landlocked country. This road will grant Iran a direct access to the Black Sea region and subsequently Europe. This road is also a part of the Silk Road Plan also known as One Belt, One Road (OBOR), promoted by China. Moreover, Armenian officials in cooperation with Iranian transportation authorities have already started the transit of goods through Armenia. The most recent cargo loads were delivered to Iran from Europe in November 2016. Transit through Armenia is feasible and efficient because Armenia can provide security guarantees despite the frozen conflict with Azerbaijan. The Turkish alternative to this route was most probably rejected due to the lack of aforementioned security for transportation assets, not to mention the questionable relations between Iran and Turkey.

These factors may potentially diminish the regional role of Azerbaijani oil exports. The Russian example where the country's budget ultimately depends on energy exports, and the fluctuating international price of oil, are factors that should be heeded by the Azerbaijani government. However, it seems that the current political direction of Azerbaijan is still based on short-term profits from the oil exports. There are no visible state infrastructure investment projects that Azerbaijan is developing as an alternative to the limited oil and gas resources. The income from tourism or hosting the "Formula-1" race cannot replace the oil income, at least in the foreseeable future. The current goal of the oil production seems to serve domestic policy objectives of advertising the state wealth as a tool against the poor and "aggressive" neighbor, Armenia.

Leveraging of Azeri oil revenues in order to deal with Armenian “aggressors” will obviously fail in the foreseeable future. Instead, the Azerbaijani government should simply recognize the independence of Nagorno-Karabakh, reduce military expenditures, and focus more on the domestic prosperity of Azerbaijani society and on other means of financial stability and economic development (e.g., diversification of the currently “monoculture” economy). This option seems to be a political trap for the current political regime of Azerbaijan, because oil production most probably serves as a source for the personal wealth of the presidential family and for other members of the governing elite.

Political Interests

Closely connected with the pipeline profits and having common cultural and historical traits, Turkey took a strong stance in support of Azerbaijan, specifically in the war that took place in the early 1990s (e.g., Turkey has closed its borders with Armenia to international trade). Russia is a strategic ally to Armenia and since WW I it has established a constant Armed Forces presence in support of Armenian sovereignty that continues to the present time. For instance Russian forces are also involved in Armenia’s air defense and the Armenian-Turkish border security. In contrast, Russian-Turkish relations have been unstable, influenced by both global and regional developments. For example, Turkey’s accession to NATO in the 1950s was designed to deter the Warsaw Pact threat. The recent and active involvement of both Russia and Turkey in the Syrian crisis has demonstrated that Russian-Turkish relations can and do affect the regional national security interests of Armenia and Azerbaijan.

A peaceful solution was the main option accepted by both Armenia and Azerbaijan when the war ended in 1994.⁵ Since then numerous presidential level meetings have been held between the two countries involving such mediators as Russia

and European countries.⁶ Certain achievements were recorded such as the exchange of prisoners of war and captured border infiltrators; however, overall progress towards a permanent peace settlement has been very slow. The Four Day War demonstrated how deceptive this progress was and the recent clash apparently requires a revision of the entire framework for peace talks. However, there are a few aspects to consider for a successful negotiation including public opinion and “conflict fatigue” in both countries, and assurances that the Four Day War or any type of war will never happen again.

The mini-war concluded in another ceasefire agreement,⁷ but public opinion began to slowly oppose the governmental tolerant inaction in regard to permanent peace negotiations in both countries. The Azerbaijani population is patiently (or perhaps not) waiting for the big “military victory” declared by Aliyev. The Armenian public, on the other hand, is demanding constructive solutions to end constant killings of Armenian soldiers on the border. It is an increasingly popular belief in Armenia that no more peace talks with the enemy should be initiated unless the Azerbaijani Army is significantly weakened. The most important public demand is to undermine Azerbaijani military capabilities in order to prevent further incidents on the border⁸ that took approximately more than 50 soldiers’ lives annually before the Four Day War. The recent war itself took over 100 lives and even more in other military and civilian casualties and this has irritated the entire population of Armenia, as well as in Artsakh.⁹

Another widely discussed opinion is that Armenia, instead of focusing on defensive measures alone, should have implemented more offensive operations and inflicting a larger scale defeat on the Azerbaijani Army in such a way as to make them totally incapable of further military aggression. Armenian government officials seem not

to share this opinion and are focused on solving the issue by peaceful means.

Conversely, the Azerbaijani government is also trying to avoid further military escalation as their tactical defeat shook Azeri public opinion as well, and Aliyev seems to be incapable of justifying his aggressive policy.¹⁰

At this point it is important to understand the nuances of the current political environment that negatively affect the will of the Azerbaijani President to accept change in his policymaking process. Following the dissolution of the Soviet Union, Turkey took over the responsibility of “big brother” for Azerbaijan. That included Turkish unlimited access into every domain of the Azerbaijani governmental structure. At the same time, Turkey had frozen any diplomatic relations with Armenia in response to the Artsakh “occupation” by Armenia. The Armenian “aggression” became a propaganda issue used mainly for domestic policy purposes. Under the umbrella of the Armenian “threat,” the further development of Azerbaijan was focused on pumping enormous investments into the Armed Forces, oil production and trade, which were closely connected with oil exports.

Azerbaijan’s domestic and foreign policies have centered on these two instruments of power. On the one hand the significant profits from oil exports affected the Azerbaijani Government’s egotistical behavior on the international scene and prevented them from a constructive dialog with their Armenian counterparts. It also helped them to advertise the questionable prosperity of the country to the local population. On the other hand, the fictitious threat from Armenia (i.e., Artsakh) and the perception of implementing a forceful solution over the return of the Artsakh territories,

justified significant increases of the military budget. As already mentioned, these objectives could serve Azerbaijani ideology only for a short- and mid- term perspective.

In light of these policies President Aliyev's administration is utilizing double standards. Domestically, it highlights the necessity for the use of force in order to bring Artsakh under Azerbaijani rule. Internationally, it stands for a peaceful solution of this conflict assuming, however, an unconditional return of Artsakh to Azerbaijani sovereignty, which is an unacceptable option both for the Artsakh indigenous population and Armenia.

On the Armenian side, the political environment has its own issues. Throughout multiple meetings both on the ministerial and presidential level with their Azeri counterparts, Armenia declared its readiness for a permanent peace solution. However, the discussion of an Azerbaijani Artsakh was strictly rejected. The longevity of these unsuccessful negotiations in conjunction with continuous losses on the border from adversary fire and growing public opinion, forced the Armenian officials to take major decisions. Thus, in 2009, the meeting with Turkish officials was planned in order to normalize bilateral relations. The success of this agreement would shape the entire process of conflict resolution into a new, and more permissive and flexible domain. Before that meeting the Armenian President Sargsyan took a decision to deliver (convince) the worldwide Armenian Diaspora of the importance of such a historical agreement, which would open new opportunities for both countries. Despite the strong disagreement both domestically and internationally, the Armenian President finally met with Turkish officials, however, Turkey rejected the agreement proposals on the day of meeting.

Another attempt to solve this conflict was initiated by President Sargsyan in 2011, when he offered to his Azerbaijani counterpart to return seven districts of the security zone in exchange for Artsakh sovereignty. This offer was presumably based on the announcements of the Azerbaijani President that no positive negotiation is possible until the security zone territories are returned to Azerbaijan. This offer was, surprisingly, rejected by President Aliyev, possibly fearing the loss of his domestic power.

Considering the negative stance of Western powers against the autocratic Azerbaijani regime in conjunction with the growing regional influence of Russia, which is also a strategic partner of Armenia, President Aliyev will sooner or later face the challenge to either accept the peace agreement with his Armenia counterpart in exchange for certain benefits or simply accept unconditional peace without receiving any territory from the security zone.

Defense Affairs

Azerbaijan has taken advantage of the income derived from the exports of its energy resources and has substantially increased its defense equipment purchases. Most of these weapons were initially imported from Russia, which in turn declared weapons trade with Azerbaijan as one of its foreign policy priorities. In order to balance tensions with its Armenian ally, Russia also announced that the weapons trade with Azerbaijan is strictly controlled and aims to prevent Azerbaijan from buying weapons from elsewhere. However, Azerbaijan has diversified its modern weapon systems purchases (e.g., procurement of Israeli made unmanned aerial vehicles).

Oil profits resulted in enforcing Azerbaijan's military equipment acquisition in respond to Armenian "aggression." Within the last decade Azerbaijan has drastically increased its military power to a capacity that overwhelms Armenia's own.

The rapid growth of the arms race in Azerbaijan started from 2004 with a 51% increase in defense expenditures that rose to 81% percent in 2006.¹¹ For example, the overall number of main battle tanks (MBTs) grew from 105 in 2004-2006¹² to 244 by 2015.¹³ The number of armored personnel carriers (APCs) rose from 4 in 2011 to 132 in 2015.¹⁴ Among the most noticeable equipment procured from Russia is the flamethrower multiple rocket launcher (MLRS) “SOLNTSEPEK”, a thermobaric weapon designed to generate high temperature blast effects and destroy infantry and unarmored vehicles. This weapon was intensively used during the “Four Day War” against Armenian forces in Nagorno-Karabakh.¹⁵ All these weapons were mainly imported from Russia.¹⁶

Interestingly, equipment procurement for the Azerbaijani Army is not limited by a business partnership with Russia. The recent conflict with Nagorno-Karabakh revealed the intensive use of drones including combat ones.¹⁷ These drones are believed to be imported from Israel, a country that not so long ago was struggling for its own independence in a completely hostile environment. Additionally, Israel sold to Azerbaijan five “ATMOS” artillery 155mm howitzers, more than nine “IMI Lynx” 122mm multiple rocket launchers and five “CARDOM” 120mm mortars. Turkey, as a main ally, is also supporting the Azerbaijani military, especially in training, education and military advisory aspects. Turkey was also deeply involved in the Azerbaijani Army reorganization process since the end of war in 1994.¹⁸

All these facts justify Azerbaijani willingness to preserve the false façade of peace through intentions of military aggression, therefore resulting in an end way potentially aiming at a military solution for the Nagorno-Karabakh issue. Balancing

between an alliance with Turkey¹⁹ and weaponry purchases from Russia, especially in view of the recent friction between these two countries over Syria, may eventually backfire with a cessation of the Russian weapon trade. In such a scenario other countries like Israel or Turkey will obviously face difficulties in replacing Russia's supply of weaponry. Additionally, the recent conflict demonstrated that a large amount of weapons does not necessarily ensure victory over rivals even on a limited tactical level. Therefore, the need of further increase in military capabilities in Azerbaijan must be questioned not only by the international community but by the Azerbaijani population as well.

Legal Precedent

Last but not least, and among the most important arguments in adopting the independence of Artsakh is the legal impetus to solve this aging issue. The people of Artsakh had attempted to legally obtain their independence in the early 1990s through the referendum in accordance with the Soviet constitution provisions for the self-determination of ethnic groups residing within the Union of Soviet Republics. As it is already known, this decision sparked a full scale war between two nations and the result of this referendum was rejected by the Azeri Government. Interestingly, Azerbaijan itself successfully used the same Soviet constitutional provisions in order to declare its own independence from the Soviet Union without addressing the status of Artsakh. This provides the initial — and *de jure* or *de facto* (but mutually recognizable) — legal foundation for the premise of Artsakh's self-determination.

The International Court of Justice (ICJ) in The Hague, Netherlands, has observed that during “the second half of the twentieth century, the international law of self-determination developed in such a way as to create a right to independence for the

peoples of non-self-governing territories and peoples subject to alien subjugation, domination and exploitation.”²⁰ There is no doubt that the region of Artsakh was historically subjected to an “alien subjugation, domination and exploitation” under a central ethnic Azerbaijani administration that was actively assisted by the military and domestic security authorities of the former Soviet Union. Although the people of Artsakh utilized the available and appropriate legal means of a peaceful referendum in order to declare their independence and self-determination, they became the targets of Azerbaijani military aggression and exercised their legitimate rights of self-defense. In that sense, the self-determination of the people of Artsakh was not a “separatist movement” that overnight and unilaterally declared independence without the use of an appropriate legal process.

The July 22, 2010 advisory opinion ruling of the ICJ on the unilateral declaration of independence by Kosovo provides a useful example that further supports the premise of independence and self-determination for the Artsakh region. The ICJ ruled that the unilateral declaration of independence by Kosovo ethnic Albanians on February 17, 2008 “did not violate international law,”²¹ and that such action was not barred by an applicable United Nations Security Council (UNSC) resolution.²² The ethnic Albanians in Kosovo had engaged in armed struggle against the government of the former Federal Republic of Yugoslavia resulting in the Kosovo crisis of 1998-1999, the 1999 NATO military intervention against Serbia, the withdrawal of Serb forces from Kosovo, and the institution of self-government under “an international territorial administration.”²³

Although there are some differences between the issue of self-determination for the Artsakh region and the ICJ decision endorsing the unilateral declaration of

independence for Kosovo and its compatibility with international law, e.g., Artsakh was never under an “international territorial administration” regime, there are also some very important and applicable similarities. For example, Artsakh is democratically governed through an elected parliament and there was also a recent constitutional referendum in Artsakh with numerous international observers.²⁴ To the extent that there may be an additional and future requirement for a self-determination referendum, this process can easily be managed through existing electoral processes under appropriate international monitoring arrangements. Not surprisingly, Azerbaijani President Aliyev has backed off from such a demand during past negotiations.

Kosovo had to develop its institutions of government under international supervision and with considerable amounts of foreign economic assistance.²⁵ The people of Artsakh established their own executive, legislative, and judicial institutions and sustain their own economy being dependent on Armenian issued currency and passports. They continue to invest in their regional infrastructure and their educational and social services systems. They also support a credible army for legitimate self-defense purposes and appropriate internal security forces. Regional economic development and stability could easily be enhanced if certain infrastructure projects could be put to their intended use. For example, a newly built airport in the Artsakh region that is fully compatible with international civil aviation standards is currently underutilized because of the fear of Azerbaijani air strikes.

Artsakh was able to achieve the current level of economic development and quality of life without the interference of international peacekeeping forces but through a capable army, which is ultimately the only guarantee in deterring Azerbaijani aggression

and ensuring Artsakh's independence and territorial integrity. This factor adds more credibility for those international actors that may consider an implementation of peacekeeping or even peace enforcement as a precondition for further stability in the region and international formal recognition of a self-sustainable State. Artsakh apparently does not need this option contrary to the Kosovo example. Currently, the Artsakh people can live and prosper without third party involvement despite the existing problems of a developing country. The biggest uncertainty that one may identify among the Artsakh people is the international legal framework and status of their existence. In and of itself this uncertainty inhibits economic development and growth or, alternatively, introduces unnecessary but additional costs to international trade transactions.

The ICJ Kosovo Advisory Opinion noted with approval the Kosovar unilateral declaration of independence and its statement reflecting "the awareness of its authors that the final status negotiations had failed and that a critical moment for the future of Kosovo had been reached."²⁶ More significantly, the ICJ found that "the authors of that [independence] declaration did not act, or intend to act, in the capacity of an institution created by and empowered to act within that legal order [the international territorial administration regime] but, rather, set out to adopt a measure the significance and effects of which would lie outside that order."²⁷ In comparison, the Artsakh region and its people have existed under an undefined international legal status while negotiations for the permanent settlement of the Nagorno-Karabakh conflict have repeatedly failed. Thus, in accordance with the ICJ's Kosovo Advisory Opinion, Artsakh's existing declaration of self-determination and independence is not contrary to international law.

The United States can play a pivotal role in settling the Nagorno-Karabakh allegedly “frozen conflict” while maintaining a balanced relationship both with Azerbaijan (e.g., the energy source alternative to Russia), and a NATO ally-Turkey. From a legal perspective, the United States did not hesitate to support Kosovo’s unilateral declaration of independence. Thus, the self-determination and democratic self-governance of the Artsakh region should not present any real issues. Furthermore, the United States was instrumental in establishing the then newly independent state of Israel in the much more volatile region of the Middle East in May 1948. However, because of its global leadership role the United States has been able to balance its interests and relationships among multiple nation-state actors. The Nagorno-Karabakh conflict is no different.

The United States exercise of “soft power” (use of diplomacy and economic incentives) in the region can accomplish multiple objectives. First, the United States involvement will provide certain synergies since other actors including Russia are interested in maintaining peace and stability in the region. For example, the removal of Armenia as an alleged military “threat” to Azerbaijan can easily lead to the latter’s decrease in defense spending (a very high 5.2% of GDP in 2015),²⁸ and the reallocation of valuable funds for economic diversification and development and needed social programs. This outcome has the potential to enhance Azerbaijan’s own internal stability even when the country is autocratically governed. A stable Azerbaijan serves the national security interests of both the United States and Russia. Similarly, the opening of the Armenian-Turkish borders will produce substantial international trade benefits for

the Armenian and Turkish economies. Such trade benefits will significantly outweigh the value of military equipment sales from Turkey to Azerbaijan.

Conclusion

The open question of the future for the Artsakh region and its people is closely connected to the international perception of this conflict. It seems to be politically convenient and expedient to classify this conflict as “frozen,” thus placing it on the shelf with other long-term and unresolved conflicts. However, it is important to understand that this conflict is NOT frozen. It is an ongoing process of identifying and exploiting political opportunities to postpone a permanent peaceful outcome because of various geopolitical goals that are formulated outside the territorial boundaries of this conflict. As it is reflected in this paper, the historical roots of this conflict are founded in the attempts by Azerbaijani politicians to eliminate the Armenian presence from this region. When this plan failed, they re-focused into maintaining and cultivating hate towards their Armenian neighbors. This helped the Azerbaijani Presidential family to frame the label of alleged Armenian “aggression” and shape the Azerbaijani domestic policy accordingly. To support this goal, the Azerbaijani leadership also triggered an enormous arms race, thanks to the significant energy resources and its benefits by reaching energy markets outside the Caucasus, e.g. Turkey, Europe and to a certain degree Russia. Within the benefits of energy exports, Azerbaijan has reached a threatening level of military capabilities, which it tested during the April 2016 border conflict. Moreover, the Azerbaijani military continues to undermine the fragile security in the region through constant military border engagements with Armenia, resulting in constant losses of Armenian and Azerbaijani soldiers and civilians.

This situation definitely cannot be classified as a “frozen” conflict. The more international community perceives it as frozen, the more the chances are that another full scale war may ignite between the two countries resulting in more than ever victims because of the increased military capabilities and open aggression that Azerbaijan pursues both against Armenia and in the Artsakh region. In comparison, the Armenian population may inevitably lose its patience and trust to the government to handle this situation, and may respond to Azerbaijani provocations with unpredictable outcomes.

After all, how this issue is going to be solved, when no mutually acceptable solution is on sight? Hopefully, it can take place through the leveraging of the international law as it happened with Kosovo. It is an outstanding and notably the most recent case when the population of an unrecognized state achieved the long-awaited right for sovereignty. With the firm and decisive support of such actors as the United States, the EU, and Russia the Nagorno-Karabakh conflict has the potential to be solved favoring not only the Armenians in both Armenia and Artsakh, but it will also create concrete economic and social benefits for Azerbaijan as well. Among these global actors, the United States can play a dominant role of an “honest broker” that can simultaneously balance the interests of multiple parties in the region. The international recognition of self-determination for the Artsakh region and its people will promote not only regional transnational peace and stability but also domestic economic and social development for all the actors that are directly involved in this long-standing conflict. This outcome serves the long-term national security interests of the United States, the EU, and Russia.

Endnotes

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