

Apprehending Shifts in Status over Time

The Quest for Strategic Patience
in the South Caucasus

Ernst M. Felberbauer, Frederic Labarre and George Niculescu (Eds.)

Study Group Information



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Foreword

Frederic Labarre and George Niculescu

How much time is enough for reconciliation, or for merely accepting “new realities”? That was the question that the 11th workshop of the Study Group Regional Stability in the South Caucasus attempted to answer in Kiev (Ukraine) on 26-29 March 2015. The venue was evocative. The workshop was held on the anniversary and not far from the Maidan of the first full-blown European revolution of the 21st century, which evolved into yet another unresolved conflict over Crimea and Eastern Ukraine. The Ukrainian venue spoke of the title of our workshop; “Apprehending Status Shifts over Time: the Quest for Strategic Patience in the South Caucasus”. With the Crimean, Donbas and Lugansk regions seeking a change of their political status in the midst of the tug-of-war between the Western and Russian “civilizations”, the constituencies on both sides of the divide have to apprehend the possibility that change may not be to their liking.

The Ukrainian crisis, fresh in everyone’s mind, provided the opportunity to revisit the events of more than a quarter of a century ago, when the troubles between Azerbaijan and Armenia began, and Georgia began to lose touch with Abkhazia and South Ossetia. Western media had barely covered the events then, but the Ukrainian crisis vividly recalls them to mind. With an object of forging examples to follow, representatives of Armenia, Azerbaijan, Georgia, and the unrecognized “republics” of Nagorno-Karabakh and South Ossetia - without forgetting Russia and Ukraine - met to shape actionable policy recommendations that one can find at the end of this booklet.

The first panel focused on “successful” status shifts that did not result in further protracted conflicts. There, the group heard from experts on the secessionist cases of the South Tyrol, Czechoslovakia and Quebec. The conclusion was that on the one hand, legitimate secessionism occurred only with elite consent and when certain institutional conditions were met. On the other hand, secessionism was prevented with patient “branding” and the development of an attractive “public image” behind which one-time

separatists can rally. The latter takes an inordinate amount of time, and is based on selective abdication of political and administrative responsibilities to the breakaway entity.

In panel 2, the group considered other cases of unresolved conflicts; first it heard about the on-going tensions in Transnistria, and the emerging tensions occupying the Tatar minority of Crimea. In both cases efforts at compromise have failed. The comparison between the cases in panels 1 and 2 provided for rich debate during the interactive discussions, and as such prepared the group to focus on the situation in the un-recognized republics of the South Caucasus, which were featured in panel 3. Sadly, the situation between Russia and Ukraine has meant that from the Georgian conflicts, only one representative from Russia and one from South Ossetia were able to come. Nevertheless, the hopelessness of the situation was palpable; it was extremely difficult for anyone within that panel to conceive of radical change without formal recognition of a political entity, or a central government's authority.

Exceptionally, the workshop intended to experiment with scenario-based simulation exercises to explore more discretely and more particularly, the components of a narrative that would throw the bases of a new understanding of intra-regional relations in post-conflict scenarios. The objective was to find a *modus vivendi* between groups in tension, underpinned by a number of very broad and uncontroversial principles (also known as the Brussels Consensus on post-conflict regional integration scenarios in the South Caucasus)¹. These include the right of all people to live in an environment of peace and security; a shift in government strategy from preparing for war to building enduring peace and fostering economic development; good neighbourly relations as a basis for peace building; the right of all people to strive for economic prosperity; and the right of all IDPs and refugees to return to their homes and/or lands and live there in peace and security. The audience was divided into two groups, one dealing with Nagorno-Karabakh, and the other with the Abkhazia and South Ossetia conflicts. Each group would run its own simulation and develop partial recommendations from its conclusion.

¹ Read more on http://gpf-europe.com/upload/egf_nk_summary_conclusions.pdf.

The Armenia-Azerbaijan-Nagorno-Karabakh group played a post-conflict scenario building simulation exercise on Nagorno-Karabakh. While this exercise highlighted that Armenians and Azerbaijanis could not agree on all of the key elements of the OSCE Minsk Group’s Basic Principles, it also resulted in having the parties agreeing on a number of post-conflict security, governance and economic measures. Such bilaterally agreed measures might, on the one hand, lead to building the mutual confidence and trust needed for agreeing on and implementing a compromise solution to the Nagorno-Karabakh conflict, and, on the other hand, help generate a shared vision and a post-conflict blueprint for regional integration and (economic) development in the wider region.

The Georgia-Russia-Abkhazia-South Ossetia group opted to start from scratch; basing the discussion from the 1991 recognition of Georgia as an independent state, it explored a new start to relations, forgetting about the failed attempts at reintegration up until 2008. Much of the effort went into giving consensual meaning to terms like “self-determination” and “independence”. Then discussions concentrated on how to separate the academic meaning of these terms from their political implications. The result of this was a discussion where more attention could be focused on how depoliticized meanings could be leveraged with the political elite and their respective constituencies.

There were obvious limits to the exercise, but it did yield interesting results, some of which have found their way into the policy recommendations at the end of this Study Group Information Series booklet.

The way forward continues to be difficult and is furthermore complicated by the conjunction of the Ukraine crisis and the approach of critical anniversaries: the painful remembrance of the Armenian genocide, and soon, the 100th anniversary of the Bolshevik revolution. All these events may conspire to bring South Caucasus minds into an idealised past. Yet the concept of “future time” is difficult to grasp in the region, as the second interactive discussion demonstrated; it is difficult for constituents from the region to positively identify their experience of conflict with similar ones in other regions. A shared post-conflict vision of the region and a blueprint for regional integration and economic development are missing, which

makes it nearly impossible to imagine a “golden age”, if the example of Schuman and Monet was followed.

Therein lays the duality of the “personality” of the region: at once rightfully proud, yet also lacking confidence in the future. No wonder so many of their youth leave to study or work elsewhere! The crucial human capital on which economic, social and political development depends is bleeding out of the South Caucasus because of the sentiment that there is no future in the South Caucasus as long as the current state of insecurity prevails. The objective of the breakout groups’ simulation exercise was to create the conditions for a new “regional bargain enabling a shared future” that puts the initiative in the hands of the South Caucasus elite, rather than in centres of power like Washington, Moscow, Berlin or Brussels.

New concepts were achieved, but much work remains to be done. The workshop did not achieve a unified conception of “how much time” is needed for stability to take hold, for acceptance – of new realities, or of the status quo – to take place. But a certain common understanding of the conditions has been achieved. Much negotiating took place around that. Among the major successes; the avoidance of recrimination and a better focus on the peculiarities of each conflict thanks to the breakout sessions. In the future, when feasible, the concept will be revisited again.

The editors would like to express their thanks to all authors who contributed papers to this volume of the Study Group Information. They are pleased to present the valued readers the analyses and recommendations from the Kiev meeting and would appreciate if this Study Group Information could contribute to generate positive ideas for supporting the still challenging processes of consolidating peace in the South Caucasus.

Special thanks go to Ms. Maja Grošinić, who supported this publication as facilitating editor and to Mr. Benedikt Hensellek for his stout support to the Study Group.

Abstract

The publication of the 11th Workshop of the PFP Consortium Study Group “Regional Stability in the South Caucasus”: “Apprehending Shifts in Status over Time: The Quest for Strategic Patience in the South Caucasus” deals with the effects of time in the process of adaptation to status change in the South Caucasus. How much time is needed for constituencies to come to the conclusion that peace is preferable to tension?

Inevitably, the participants’ impressions will orient conclusion towards their preferred end result: status quo or restoration. But in dealing with this opposition, the speakers have been encouraged in providing examples where time has healed rifts, and if not time, then what measures have been used by elite or communities to help their own constituencies accept change.

Zusammenfassung

In der Publikation zum 11. Workshop der PFP-Konsortium Studiengruppe “Regionale Stabilität im Südkaukasus” “Apprehending Shifts in Status over Time: The Quest for Strategic Patience in the South Caucasus” geht es um die Wirkung des Faktors Zeit während des Anpassungsvorgangs an Statuswechsel im Südkaukasus. Wie viel Zeit ist nötig, damit Wahlkreise zu einer einheitlichen Auffassung kommen, dass Frieden dem Konflikt vorzuziehen wäre?

Scheinbar unvermeidlich führten die Eindrücke der Teilnehmer zu einem von ihnen bevorzugten Endergebnis: Status quo oder Rekonstruktion. Während der Behandlung dieser Konfrontation waren die Teilnehmer aufgefordert, Beispiele zu finden, wo der Verlauf der Zeit in der Lage ist, Konflikte zu heilen; wenn allerdings Zeit nicht hilft, dann welche Maßnahmen die Eliten oder Gesellschaften verwendeten, um ihrer eigenen Wählerschaft das Akzeptieren der Veränderungen möglich zu erleichtern.

PART I:

HISTORICAL EXAMPLES OF CONFLICT RESOLUTION THROUGH THE PASSAGE OF TIME

Lessons and Recommendations from the South Tyrol Solution 1946-1992: Between Supposed Internationalization and Bilateral Normalization: the South Tyrol

Michael Gebler

I. Why do we Speak about a South Tyrol Question? The Prehistory

During the period before 1918, the territory south of the Brenner Pass belonged to the Crown lands of Tyrol (Kronland Tirol). These included the southern part of Tyrol (with the capital Bozen/Bolzano) as well as Trentino (Welschtirol, with the capital Trient/Trento) along with the northern part (with the capital Innsbruck). Due to a secret treaty in London in April 1915, the Entente powers (France, the United Kingdom and Russia) agreed with Italy that if the latter joined the coalition and victory was achieved against the Central Powers (the German Empire and the Austro-Hungarian Monarchy), South Tyrol would be separated from Austria and given to Italy. This occurred when Austria was constrained to sign the Treaty of Saint-Germain-en-Laye with the victorious powers in 1919 and the Kingdom of Italy annexed South Tyrol in 1920.

When Mussolini took the power in Rome in 1922 and established a fascist regime in Italy, a period of the Italianization of South Tyroleans began, bringing suffering in its wake. They were not allowed to use their own language. German-speaking schools were closed. The children had to be taught only in Italian. Even the names on gravestones were changed to Italian names. Supposed “antifascist” South Tyroleans were persecuted and transferred to prison isles in the South. In 1939, the Duce and Hitler negotiated a population transfer treaty (an Umsiedlungsabkommen). People in South Tyrol had to decide whether they wanted to remain and become Italians or else leave their homeland and get German citizenship (the so-called “Option”). Due to their bad experiences during the time of fascism (1922-1939) and also as a result of Nazi propaganda, nearly 90 percent opted for Hitler’s Germany. The authorities tried to postpone the procedure. Because of the outbreak of World War II, only a portion of the whole population (around 75,000) was transferred to the German Reich. From

September 1943 onwards, when Italy broke with the Axis and moved to the anti-Hitler Coalition, until May 1945, the German Wehrmacht controlled the territory of the South Tyrol within the framework of the so-called Operationszone Alpenvorland (“Alpine Foothills Operations Zone”).

When the unconditional surrender was signed bringing World War II to an end, the South Tyrolean People’s Party (the Südtiroler Volkspartei, or SVP) was founded. It proclaimed the right of self-determination. Both the re-established Austrian Government in Vienna and the Tyrolean provincial government in Innsbruck asked for a plebiscite in South Tyrol in order for that part of the former Austro-Hungarian monarchy to be returned to Austria. But at the conferences of foreign ministers both in London in September 1945 and again in Paris in May 1946, the victorious Allied powers favored Italy and decided against the right of self-determination. On the September 5, 1946 during the Paris Peace Conference, Italian Prime Minister Alcide De Gasperi and the Austrian Foreign Minister Karl Gruber signed an agreement allowing those South Tyroleans who had opted for Germany (1939-1943) to return and also granting South Tyrol a special autonomy within the Italian state. But the special autonomy was not adopted only for the German speaking population of the province of Bolzano. It was merely an autonomy within a regional framework together with the Trentino (the Regione Trentino-Alto Adige), which gave the Italian-speaking population a five to two majority. This was not a true and fair compromise. It was therefore not surprising that the issue was not solved at that time in that way, and new potential for conflict was produced.

II. Twenty-one Lessons Learned from that Conflict Solution

The regulations contained in the Paris Agreement and their inclusion in the Italian peace treaty was merely “noted” by the signatory states. They were not compelled to intervene, and there also was no Italian obligation to adhere to them. There could be no question of an international guarantee of the rights of the South Tyroleans, but there could be a discussion of grounding in international law. The signatory states of the peace treaty did not publicly or officially complain about a possible non-fulfilment of the Paris Agreement. Although they followed the matter of concern with goodwill, they did not actively stand up for South Tyrol.

Lesson 1: The attempted solution to conflict was a product of the end of World War II, when Italy was in a very weak position. The autonomy solution was included in the Italian Peace Treaty of 1947 as an appendix. Without a consensus among the Four Powers and diplomatic pressure by the British, the autonomy solution could not have been found. It seemed to be an internationally binding agreement which had to be fulfilled.

The hand held by Austria, North Tyrol, and South Tyrol continued to be a strong one. The only “guarantee” was the “goodwill” of Italy. But in the 1940s and 1950s, there was not much to be observed of the oft-cited “spirit of Paris”. With Gruber’s resignation in 1953 and the death of De Gasperi in 1954, the signers of the Paris Agreement – and along with them, the personal guarantors of the agreement – were out of the political picture. Their successors seemed to no longer attach such importance to the “gentleman’s agreement”.

Lesson 2: The existence of strong political personalities signing a compromise solution and guaranteeing it may help and can be important, but in the end this fact is not decisive. There is a certain relevance concerning prominence and political leadership at the times of the creation of those agreements, but the successors also have an obligation to keep to them.

South Tyrol had varying levels of importance for Austria’s foreign policy. It only took priority at too few points in time or during brief periods, for example, after the end of the war (1945-46), in times of radicalization (1959-61) and of escalation (1967), when getting a new compromise (1969), and at the time of reaching the Declaration of Settlement of Dispute before the United Nations (1991-92). For broad stretches of time, it was subordinate to other issues.

Lesson 3: Regarding the politically stronger partner or opponent, there is a need for strategic patience by the politically weaker one and the ability to wait for windows of opportunity.

The Paris Agreement was not only an expression of bilateralization (a reoption settlement for those who had left South Tyrol in 1939-1943 and wanted to return after 1945 in order to obtain Italian citizenship) but also especially an expression of an internal Italianization of the conflict (regula-

tion of autonomy). Only the continuing frustration about the solution that had remained unsatisfactory on the part of the South Tyroleans (1947-51) and the growing regionalization of the issue (1952/53-1958) created the preconditions for an actual internationalization of the problem through the involvement of the United Nations (1960-61) which, through recommendations for resolutions, once again led to bilateralisation in 1961 and, through the involvement of the “Commission of Nineteen”, once again resulted in an internal Italianization (1961-64).

Lesson 4: The South Tyrol issue was debated and treated within a dynamic multilevel system at bilateral, intrastate, interregional, European, and international levels. The bilateral level along with the assistance of the interregional level was able to contribute the most and in the end were the decisive ones.

Up through the middle of the 1950s, Austria attempted to convince the South Tyroleans that nothing more could be achieved with the Paris Agreement that Rome was not prepared to give (the thesis of “the maximum of that which was possible”), but Vienna would keep an eye on the adherence to the regulations. Thus the main burden for the realization of the agreements lay on the shoulders of the South Tyroleans, that is, on the umbrella party, the South Tyrolean People’s Party (SVP). Austria only once again grew into the role of a protecting power beginning in 1955-56 when the dilatory behaviour of the Italian treaty partner became clear. Vienna was compelled to act in this capacity by the regional elites in Bolzano and Innsbruck. The actual role of an interregional guarantor and constable for the South Tyroleans was held by North Tyrol.

Lesson 5: Austria and North Tyrol served as protection actors (not so say as guarantee powers) and the South Tyroleans were supported by a strong political party, which served as a kind of minority representation: the SVP can be defined as a “catch-all party” which won all elections with an absolute majority and therefore had a firm position towards Rome.

On the internal Italian level, there was on the one hand an increasing polarization between Bolzano and Trento but, on the other hand, the futile requests by the South Tyroleans for improvements in their autonomy statute in Rome. A double area of conflict existed: a) the internal Italian potential

for tension with Rome and b) the interregional area of conflict with Trentino. Out of this grew an explosive regional-political mood in the second half the 1950s. The rather uncompromising position of the residents of Trentino was also crucial for the escalation of the conflict in the 1960s. The attitude of the South Tyroleans, who were rather willing to compromise, was superseded in the second half of the 1950s by a policy of hardening and distancing from Trento (as evidenced by the demonstration at Sigmundskron in 1957).

Lesson 6: If a given autonomy promise is not fulfilled because of a lack of willingness by the state to concede and grant a well-functioning solution, this will provoke political resistance by the minority representation.

The political escalation through the bombings would have been averted by a conciliatory autonomy policy from Rome before 1961. The attacks were not aimed at provincial autonomy, but rather at the unleashing of a policy of self-determination, which turned out to be unsuccessful. They complicated the situation and made an earlier bilateral solution on an international level more difficult.

Lesson 7: If the minority representation is not able to manage and to solve the autonomy conflict with the capital on a democratic level due to radicalization, then a political escalation can take place claiming the right of self-determination or, at worst, creating terrorism and the use of violence.

The series of events in the province of Bolzano 1961 sent the Italian side into a state of alarm. The liberalization of Italian domestic policy beginning in the middle of the 1960s by the centre-left governments created a fundamental transformation in Rome's South Tyrol policy at the highest level. The ministerial and bureaucratic elite, however, adhered to their formal legal viewpoints (the South Tyrol question as an "internal matter", no relationship between the Treaty of Paris and a new "package", etc.).

Lesson 8: A change of the political climate and in domestic policies can contribute to a better negotiation atmosphere, but the question of open-mindedness by the administrations and bureaucrats remains decisive.

The regional elites had considerable influence upon the solution of the conflict. They always had the last word. The international agreements depended upon their assent or rejection. In 1965, the South Tyroleans dismissed a new solution by the foreign ministers Bruno Kreisky (Austria) and Giuseppe Saragat (Italy) that was not broad reaching enough for them in terms of autonomy policy, a solution which had provided for an unprecedented (though temporary) international arbitral jurisdiction.

Lesson 9: Without the acceptance by the people which should profit from the autonomy, the best negotiated solution will not work. The inclusion of minority representatives is a necessity.

The policy of neutrality conducted by Austria – which, in contrast to that of Switzerland, was carried out in an offensive manner (UN membership in 1955, joining the Council of Europe in 1956, humanitarian and political engagement in the Hungarian crisis and uprising of 1956, etc.) – allowed for considerable scopes of action. To the disappointment of Rome, neutrality did not represent an obstacle for the South Tyrol policy. Through the human rights dimension of the Kreisky's neutrality policy, Austria's foreign policy status experienced a particular tone from which a special legitimation was derived to “actively” stand up for the matters of concern of the South Tyroleans.

Lesson 10: Political and legal neutrality pursued by the protecting and guarantee actor are more useful than an obstacle.

It was prominent individual personalities in party politics – such as the Social Democrats/Socialists Kreisky and Giuseppe Saragat and the Austrian and Italian Christian Democrats like Josef Klaus, Mariano Rumor, and Aldo Moro at the highest level or Ludwig Steiner and Alcide Berlofffa behind the scenes at the interregional level – who contributed to the resolution of the conflict. As provincial governors, the pragmatists and practitioners of Realpolitik Silvius Magnago and Eduard Wallnöfer made a great contribution toward bringing about the improved autonomy solution of 1972.

Lesson 11: A combination of important political actors and personalities, behind-the scene diplomacy, and pragmatic provincial governors can pave the way to new compromise solutions.

These political solutions must be viewed against the background of the abating Cold War and the policy of reduction of tensions in Europe that was beginning to set in. The East-West conflict in general and the Cold War in particular specifically formed the basic conditions for the stagnation of the solution to the problem. These were only to fundamentally changed beginning in the 1970s. Within the context of the Conference on Security and Co-operation in Europe (CSCE) process (and its successor, the OSCE), the South Tyrolean second autonomy statute could grow and thrive: the “package” was repeatedly “untied”, renegotiated, and expanded.

Lesson 12: Favourable international conditions like easing tensions and normalizing international relations are essential preconditions for such a conflict solution.

The South Tyrol policy had a function of anticipatory effect with regard to Austrian integration policy. It can be understood as a prior concession for Italian goodwill in the matter of relations with the European Community, for example, in 1966-69 or 1989-92. The South Tyrol issue was to not be an obstacle to Austria’s interests in the areas of foreign trade and integration policy. This attitude also played a role with the settlement of the dispute. Under mutual abandonment of legal positions and with internal confidence-building assurances, Vienna and Rome agreed to solve the conflict at the international level. In so doing, Austria refrained from formulating a reservation of rights with regard to the Alignment and Coordination Authority that had been in force in Italy since 1970 and which could annul South Tyrol autonomy rights. The Ballhausplatz was aware of this risk and took it.

Lesson 13: New common frameworks and goals for all of the conflicting partners concerning a bigger political future project (the Common Market, rule-of-law community, and monetary union) can help to overcome remaining obstacles.

What led to the ending of the dispute before the United Nations in 1992? Six aspects must be considered in this regard which served as special actual circumstances and short-term specific reasons:

First: the Cold War came to an end in Europe in 1989-90. With it, the external Communist potential for threat evaporated. At the same time, however, the still-unresolved conflict areas in Europe flared up.

Lesson 14: In this special sense, “the end of history” (Francis Fukuyama) came true with an ending as well of old ideologies and the start of a new area of democratization.

Second: German reunification changed the geopolitical situation in Central Europe. Eighty million Germans were now standing behind Austria instead of sixty million. The situation could be viewed this way, and in Rome it was in fact viewed this way. It was not Austrian economic power, but rather that of Germany along with tourism from Germany which exerted an influence that was not inconsequential upon the development of South Tyrol. These aspects appeared to even further intensify at the time.

Lesson 15: Third factors – such as Germany’s demographic increase and its strong economy – can put enforced pressure on the state which had to grant a well-functioning autonomy.

Third: the smouldering Yugoslavian crisis with developments along the lines of civil war beginning in 1991 and the declaration of the right of self-determination by Croatia and Slovenia also generated a new debate about self-determination in South Tyrol which not only challenged identity-minded circles, but also encompassed the SVP and its party youth. A mood arose which could be – and which, in Roman circles, indeed had to be – alarming.

Lesson 16: Crises and instability in a neighbouring country with claims of self-determination in its regions may have an impact of intensifying a compromise solution.

Fourth: Rome signalled continuous readiness for subsidies for the province of “Trentino-Alto Adige” and the district of Bolzano. The predominance of economic and political advantages led to the continued renunciation of the exercise of the right of self-determination on the part of the regional political elite. As early as 1987-88, the SVP leadership under Silvius Magnago attempted to achieve a package deal, but no breakthrough could be

achieved because of the repeated changes of government in Italy. Under the Christian Democratic government of Giulio Andreotti, this seemed possible at the time, and Rome also imparted urgency to the matter.

Lesson 17: Financial subsidies may help in order to contain claims of external self-determination.

Fifth: against the background of the upcoming fulfilment of the Maastricht criteria, Italy stood in the midst of internal structural and constitutional reform, but also in view of incidents of corruption and scandal, it stood before a political crisis whose scale was not yet fully known. The system of the Christian Democrats that had functioned over decades threatened to collapse. Andreotti himself had become a symbol of Mafioso entanglement. Italy acted out of internal practical constraints.

Lesson 18: Domestic political changes and intrastate crises make more autonomy concessions possible.

Sixth: on its part, the Austrian government had been on course for membership in the European Communities since July 1989. With the Treaty of Maastricht, integration through the European Union became even more attractive. Austria's negotiations with the European Union were only supposed to begin in 1993. For this to occur, all existing obstacles had to be removed and the new policy had to be freed from old historical baggage. The normalization of relations with Italy was a precondition for Rome's goodwill agreement in the European Union Council of Ministers. As long as the South Tyrol conflict was unresolved, the relationship between Italy and Austria remained strained. It was only in the 1990s that relations were normalized as a result of the Declaration of Settlement of Dispute before the UN in 1992, Austria's accession to the EU in 1995, and the entering into force of the Schengen Agreement for both states in 1998.

Lesson 19: The attempts by one of the conflicting partners to fundamentally change its foreign policy interests and goals can also contribute to a compromise solution.

Attempts at cross-border cooperation within a closer or broader regional framework – with the Accordinò (a 1949 agreement providing for the free

circulation of goods between South Tyrol, North Tyrol, and Vorarlberg), the Arbeitsgemeinschaft Alpenländer (or ARGE ALP, a working group of Alpine provinces in Austria, Germany, Italy, and Switzerland), and the Zweierlandtag, Dreierlandtag, and Viererlandtag (meetings of combinations of the joint provincial assemblies of North and South Tyrol, with Trentino, and with Vorarlberg, respectively) – had functions that were primarily secondary and additive, that is, supplementary, assisting, and calming in nature.

Lesson 20: Cross-border cooperation on economic, trade, and technical issues as well as the coordination and cooperation of parliamentary assemblies can contribute to a conflict solution.

In the wake of the intensification of European integration after the end of the Cold War, initiatives such as the “European region” of North Tyrol-South Tyrol-Trentino with its own liaison office received an additional and new function beginning in 1995 that specifically was primarily one of support and competition. In this regard, the location of Brussels, aside from serving as lobbying for economic policy, also served as the clarification of a symbolic policy of emancipation from Rome and Vienna.

Lesson 21: New established representations outside of the conflicting and negotiating partner countries can develop a new dimension of emancipation and mediation.

III. Interim Conclusion: Austria vs. Italy – Who Won the Tug of War?

In retrospect and when measured against the original goals of both sides, Austrian South Tyrol policy achieved more than did that of Rome.

Since 1945, Italy had wanted the following conditions to be met;

- (a) to secure the border at the Brenner Pass,
- (b) to concede to the South Tyroleans as little autonomy as possible and, in the long-term,
- (c) to bring about an outvoting of the German-speaking element of the population.

After the failure of self-determination for South Tyrol in 1946, Austria had attempted

- (a) to make the border at the Brenner Pass more permeable,
- (b) to obtain for the South Tyroleans as much autonomy as possible, and
- (c) to safeguard the continued ethnic existence of the German-speaking national minority.

In all three points, the diplomacy of the Ballhausplatz – always accompanied by insistent North Tyrolean and stubborn South Tyrolean politics – showed greater tenacity and skill. With its original South Tyrol policy of immigration, repression, and a return to fascism, Italy had already failed by the 1960s. In that conflict case, the regional political elite on both sides exercised a stimulating, intensifying, and at times even radicalizing effect upon each other over the long run. In that regard, the role of North Tyrol but also that of South Tyrol and of Trentino must be taken into consideration. The intransigence of Rome's South Tyrol policy was not only disadvantageous; it also made possible the opportunities of the supposedly weak Austria. As long as it succeeded in keeping the conflict alive, then considerable possibilities for the structuring of and substantial possibilities for the improvement of the autonomy settlement were possible for the South Tyroleans.

As soon as the international potential for conflict diminished or even was minimized, the opportunities for optimization correspondingly sank. The wrapping up or undoing of the package dragged on considerably through the 1970s and 1980s. Austria's fundamental interests, however, did not lie in adhering to the condition of tension, even if this was sometimes to be used to for manoeuvring room in the diplomatic or negotiating policy area. From the point of view of regional politicians, the application of Austrian influence during the phases of high tensions was thoroughly desirable. However, during the period after the settlement of the dispute, this seemed to be obsolete, if not even anachronistic. On the other hand, neo-fascist participation in the governments of Silvio Berlusconi (in 1994 and again beginning in 2001) provided cause for caution and vigilance.

But interregional political nuances also underwent a transformation in the last decade. South Tyrol's political elite not only attempted to worm their

way free of Trento, with which they expressed themselves increasingly more critically with regard to the “province”, but also from Innsbruck. The emancipation from the tutor role of North Tyrol, which intensified beginning in 1992-93, is one particularly noteworthy consequence of the Declaration of Settlement of Dispute. Austria thus was threatened with losing the critical conscience of its South Tyrol policy up to that time. The question is raised, however, as to whether such a policy of the protection of autonomy is still necessary in a united Europe with a single market, unified legal area, and monetary union.

IV. Final Conclusion

If South Tyrol is to serve as an example of resolution, then its function as a model lies in the normalization of bilateral relations and settlement at the bilateral level (between Rome and Vienna), but also at an interregional level (between Innsbruck, Bolzano/Bozen, and Trento/Trient). Repeated attempts at internationalization ended with bilateralisation, and thus the efforts at the 1946 Paris Peace Conference and the involvement of the United Nations in 1960-61 ended up with the dispute before the UN being declared settled in 1992. The solution of the South Tyrol conflict basically took place at the exclusion of Europe. Even the United Nations could only provide recommendations for the settlement of the problem using the international path. In every case, however, that world forum had a more lasting and crucial effect upon the solution of the South Tyrol issue than did the European institutions (such as the Council of Europe). Even today, the European Union still does not have any effective mechanism for solution to offer for minority conflicts within Europe.

V. Five Recommendations

How much time is needed to get a minority conflict solved in an “acceptable” way? Why do some geopolitical changes become accepted while others have remained unacceptable? What are the conditions of the process of acceptance over time? I think it does not depend so much on time, but more on the existence of structural issues. Five recommendations can be given. It is absolutely necessary to

- 1) Establish a broad consensus of the international and global players

- acting as negotiating partners;
- 2) Grant a functioning autonomy, whether it is cultural, economic, personal, or political as a kind of internal self-determination;
 - 3) Freely elect the government in the disputed region which is able to communicate and legitimate itself;
 - 4) Provide good, constant economic development as well as a prosperous situation;
 - 5) Develop a convincing cultural and historical narrative that explains and interprets the change in order to contribute to identity-building as well as to creating a new identity which accepts the new realities.

Strategic Patience and the Division of Czechoslovakia

Mary Heimann

Czechoslovakia's peaceful division, at the end of 1992, into independent Czech and Slovak republics is often held up as an example of successful conflict resolution to be emulated by other aspiring states. Contrasted, at the time, with the violent breakup of Yugoslavia and disorderly collapse of the USSR, the Czechoslovak case continues to be invoked today in debates such as those surrounding the 2014 referendum on Scottish independence.

No two cases can ever be exactly alike. East-Central Europe is not the South Caucasus; and the international situation today is very different from that which prevailed in 1992. All the same, the break-up of the Czechoslovak state is worth examining since it was legal, peaceful and has proved to be durable; and also because the pre-1989 Czechoslovak Socialist Republic, which had been federated since 1969, shared some strong family resemblances, both structural and ideological, with both the former Yugoslavia and the former Soviet Union.¹

This paper seeks first to dispel a few common misconceptions about Czechoslovakia's "Velvet Divorce" of 1 January 1993. Next, it points to some distinctive features of the break-up of the Czechoslovak state into separate Czech and Slovak states. Finally, it considers what lessons might be taken from the Czechoslovak case of relevance to the aims of promoting peace and regional stability in the South Caucasus (and, indeed, Ukraine).

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Czechoslovakia's peaceful division into separate states on 1 January 1993 is often stated or implied – not least in official Czech and Slovak sources – to

¹ For the structure of the federated Czechoslovak Socialist Republic as it existed between 1969 and 1990, see laws 66-85, Ústavní zákon o československé federaci, *Sbírka zákonů Československé socialistické republiky*, vol. 143 (Prague, 1968) and also Law 143, 'Ústavní zákon ze dne 27. října 1968 o československé federaci' (known in Slovak as 'Ústavný zákon o česko-slovenskej federácii'), *Sbírka zákonů Československé republiky* 1968, 41 (4 November 1968), pp. 381-403.

have been due to the “political maturity” or innately “democratic character” of the two nationalities (peoples or ethno-linguistic groups) involved: the Czechs and the Slovaks. This line of argument draws on a long Czech tradition of presenting the Czech-speaking population of the Bohemian Crown Lands (Bohemia, Moravia and formerly Austrian Silesia) as more “progressive” and “democratic” than rival nationalities within the Habsburg Empire, especially the allegedly “aggressive” and “imperialist” German and Hungarian speakers. It also draws on older self-perceptions of the Slavs as “dove-like” and peace-loving, again in contrast with local non-Slav populations, who are presented as militaristic or aggressive.

The message that the Czech people or “nation”, and by extension the interwar Czechoslovak state, was innately democratic, progressive and peace-loving has nineteenth-century roots but was promoted with particular vigour during the First World War as a means to clearly distinguish Czech (and, later, also Slovak) speakers within the Austro-Hungarian Empire from German and Hungarian speakers; and to convince the Allied Powers to support fledgling Slovak and Czech independence movements as part of their strategy to defeat the Central Powers.

While it is perfectly true that Czechs and Slovaks resolved their differences without violence or disorder in 1993, this tells us more about specifically Czech-Slovak relations at a specific time and in a specific context than it does about the two nations’ supposed “characters” or levels of political “maturity”. The Czechs and Slovaks are no more (and no less) innately tolerant or nonviolent than any other European nation: alongside the peaceful 1989 Velvet Revolution and equally peaceful Velvet Divorce we should also remember the forced expulsions of 3 million German speakers, and the forced exchanges or “re-Slovakization” of hundreds of thousands of Hungarian speakers, that took place at the end of the Second World

War, together with many accompanying atrocities.² We should also be aware that a number of racist state policies – especially the state-sponsored persecutions of Gypsies (Roma) in the Czech Lands and Jews in the wartime Slovak Republic – were independently legislated and implemented by Czech and Slovak authorities, quite apart from those better-known forms of discrimination and persecution that were demanded by rival, German authorities.³

In Eastern and Central Europe, the justification for cruelty to whole groups of people, together with widespread faith in the validity of collective guilt, were often based in a sense of national vulnerability, the notion that the

² On the German expulsions, see especially T. Staněk, *Peržekuce 1945* (Prague: Institut pro středoevropskou kulturu a politiku, 1996); T. Staněk, *Tábory v českých zemích 1945-1948* (Ostrava: Tilia, 1996); Dušan Kováč, *Vysídlenie Nemcov zo Slovenska (1944-1953)* (Prague: Ústav pro soudobé dějiny AV ČR, 2001); M. Schvarc, “Evakuácia nemeckého obyvateľstva z územia Slovenskej republiky v rokoch 1944-1945”, *Historický zborník* 15, 1 (2005); Soňa Gabzdilová-Olejníková and Milan Olejník, *Karpatskí Nemci na Slovensku od druhej svetovej vojny do roku 1953* (Bratislava: SNM-Múzeum kultúry karpatských Nemcov, 2004); B. Frommer, *National Cleansing: Retribution against Nazi Collaborators in Postwar Czechoslovakia* (Cambridge: Cambridge University Press, 2004); R.M. Douglas, *Orderly and Humane: The Expulsion of the Germans after the Second World War* (New Haven: Yale University Press, 2012). On the Hungarian exchanges and forcible “re-Slovakization”, see Masarykův ústav AV ČR, Benešův archive, EB III, “Slovensko 1945”, 60, P60/1, “Návrh” (13 September 1947) and covering letter from the head of the Re-Slovakization Commission in Bratislava to V. Clementis, Ministry of Foreign Affairs in Prague, ff. 1-8. See also Katalin Vadkerty, *Maďarská otázka v Československu 1945-1948: Trilógia o dejinách maďarskej menšiny*, tr. M. Lesná, K. Borbášová and G. Sándorová (Bratislava: Kalligram, 2002); Iris Engemann, “Slovakizácia Bratislavy v rokoch 1918-1948” in M. Medvecký, ed., *Fenoméni Bratislavy* (Bratislava: ústav pamäti národa, 2011) and Katalin Vadkerty, ‘Nemci a Maďari v Bratislave v rokoch 1945-1948’ in *Kapitoly z dejín Bratislavy* (Bratislava: Kalligram, 2006).

³ For English-language accounts, see Jan Láníček, *Czechs, Slovaks and the Jews, 1938-1948: Beyond Idealisation or Condemnation* (Houndsmills: Palgrave Macmillan, 2013); C. Nečas, *The Holocaust of Czech Roma*, tr. Šimon Pellar (Prague: Prostor, 1999); James Ward, *Priest, Politician, Collaborator: Jozef Tiso and the Making of Fascist Slovakia* (Ithaca and London: Cornell University Press, 2013) and chapters 4 and 5 ‘The Fascist Appeal’ and ‘A Republic and a Protectorate’, in Mary Heimann, *Czechoslovakia: The State that Failed* (New Haven and London: Yale University Press, 2009, 2011), pp. 87-149. See also J. Gjuríčová, *Na okrají: Romové jako object státní politiky* (Prague: Ministerstvo vnitra, 1999) and B. Kenety, “The “Devouring”: A Look at the Romani Holocaust”, <http://www.romove.cz> (27 January 2005).

“life” of one’s own nation would be endangered by the very existence of another, rival people. National minorities were commonly portrayed as potential or actual fifth columnists. One of the first acts of the independent Slovak state that came into being on 14th March 1939 and collapsed in April 1945 was to instruct the Slovak Ministry of Interior to set up a concentration camp, at Ilava near Trenčín, to hold prisoner those whom it had ‘reason to fear’ would “create an obstacle” to the “building of the Slovak state” (these turned out to be mainly Communists, Hungarians and Jews).⁴ One of the principal ways in which the newly independent Slovak government sought to demonstrate its competence to manage its own affairs was by taking its own, distinctively Slovak approach to “solving” the Jewish “problem” and coming up with anti-semitic legislation which was different from, though no less vicious, than the contemporary Nazi German model.⁵

The removal of German speakers from the reunited post-war Czechoslovak state was particularly brutal. Quite apart from the so-called “unofficial” transfer (divoký odsun) which was marked by the same sorts of atrocities that took place in liberated Poland, Vichy France, and elsewhere (and which included the immediate internment and often sadistic maltreatment of German speakers in formerly SS-run prisons),⁶ “official” measures taken against the Germans and Hungarians by the post-war Czechoslovak state and/or regional and local authorities included the automatic removal of citizenship and confiscation of property (including watches and jewellery, including wedding-rings, during body searches at the border); the reduction of food rations to starvation levels; the requirement, in some districts, that German speakers wear a white armband to distinguish them from others;

⁴ Decree 32 “Vládne nariadenie zo dňa 24. marca 1939 o zaist’ovacom uväznení nepriateľov Slovenského štátu” (Government Decree of 24 March 1939 Concerning the Detention of Enemies of the Slovak State).

⁵ Law 63, “Vládne nariadenie zo dňa 18. apríla 1939 o vymedzení pojmu žida a usmernení počtu židov v niektorých slobodných povolaniach” (20 April 1939), *Slovenský zákonník* (Bratislava, 1939), 77-79. See also laws 63, 74, 145, 147, 184, 150, 197 in *Slovenský zákonník* (Bratislava, 1939), pp. 77-9; 17 (26 April 1939), pp. 88-9; 32-44 (June-August 1939), pp. 288-301.

⁶ See, for example, the testimony of deputy commandant Václav/Wenzel Hrncěk about the routine sadism and brutality in Linzervorstadt detention camp (16, 18, 25 July 1952), RG 466/250/84/32/04 box 50, NARA, as cited and discussed in R.M. Douglas, *Orderly and Humane: The Expulsion of the Germans after the Second World War* (New Haven and London: Yale University Press, 2012), pp. 130-5.

incarceration in mass detention and forced-labour camps; and the use of overcrowded railway cars to transport German-speaking civilians to Germany.⁷ Many did not survive the journey, let alone the camps. Although Germans who could prove that they had been ‘reliable comrades and anti-Fascists’ were supposed to be spared, even ethnic Germans who could meet the stringent criteria were usually deported, the only difference in their treatment being that the 88,614 “anti-Fascist Germans” that the Ministry of Interior recorded as having been expelled by 29 October 1946 were allowed to keep their property and were transported separately, in carriages carrying just 300 rather than the more usual 1,200 to 1,500 expellees.⁸

Czech-Slovak rivalries and hatreds, although seemingly never as intense as those between the two nations’ traditional national enemies, could nevertheless get quite nasty, as with the expulsions of 9,000 Czech-speaking public employees from autonomous Slovakia in 1938 or the so-called “Slovak bourgeois nationalist” political show trial of 1954 in which the Czechoslovak authorities, not the Soviets, extracted confessions by means of sleep deprivation and other forms of torture and imposed lengthy prison sen-

⁷ See Masarykův ústav AV ČR, Benešův archive, EB III, “Transfery obyvatelstva (odsun Němců, repatriace čs. Občanů”, 44, P44/2, Ministerstvo vnitra, “Směrnice k provádění soustavného odsunu (transferu) Němců z území Československé republiky”, ff. 1-2. See, for example, governmental decree 6 “Vládní nařízení o některých opatřeních v zásobování obyvatelstva potravinami” (17 May 1945), p. 11; presidential decree 5 “Dekret presidenta republiky o neplatnosti některých majetkově-právních jednání z doby nesvobody a o národ. správě majetkových hodnot Němců, Maďarů, zrádců a kolaborantů a některých organizací a ústavů” (19 May 1945), pp. 7-10; presidential decrees 16 and 18 “Dekret presidenta republiky o potrestání nacistických zločinů, zrádců a jejich pomahačů a o mimořádných lidových soudech” (19 June 1945); presidential decree 21 “Dekret presidenta republiky o konfiscaci a urychleném rozdělení zemědělského majetku Němců, Maďarů, jakož i zrádců a nepřátel českého a slovenského národa” (21 June 1945). See also Tomáš Staněk, *Odsun Němců z Československa, 1945-1947* (Prague: Academia, 1991).

⁸ Masarykův ústav AV ČR, Benešův archive, EB III, “Transfery obyvatelstva (odsun Němců, repatriace čs. Občanů”, 44, P44/3, Nosek and Kučera to Beneš (15 November 1946), ff. 1-4; R.M. Douglas, *Orderly and Humane: The Expulsion of the Germans after the Second World War* (New Haven: Yale University Press, 2012), p. 191.

tences after convicting their Slovak victims on trumped-up charges.⁹

So the first lesson that the Czechoslovak example teaches is not to fall into essentialist arguments about the so-called “national character” or “stage of development” of any particular nationality. It is not just that such stereotypes are patronizing: they are also profoundly misleading. This is an especially important lesson for those whose instinct is to divide Central and Eastern Europe into nations of heroes or villains, victims or perpetrators, and so remain blind to the more common pattern, in which the same national groups may be the victims in one case, but the perpetrators in the next.

The second common Western assumption that should be dispelled is the notion that Czech-Slovak nationalism or rivalry was somehow “frozen” or successfully “suppressed” under Communism – that authoritarian Communist regimes put a lid on nationalism which inevitably blew off after the Communist regime fell in 1989-1990. At its crudest, this line of argument states or implies that time stopped with the Communist takeover in 1948 only to begin ticking again with the overthrow of the Communist regime in 1989, as if nothing of any importance or note happened during the four intervening decades, apart from brief interludes tellingly referred to as “thaws” or, in the Czechoslovak case, the Prague “Spring”. In fact, of course, Czech-Slovak national tensions and rivalries never went away: and relations between the Czech and Slovak nations continued to be negotiated under successive Communist leaderships, which were themselves subject to change over time: Communist rule was not the same thing under Gottwald or Zápotocký as under Novotný, Dubček or Husák or, again, under Jakeš, any more than Soviet rule was the same thing under Stalin, Khrushchev or

⁹ A formal agreement for the removal of about 9,000 Czech state employees was reached on 12 December 1938 between the autonomous Slovak authorities in Bratislava and the central Czecho-Slovak government in Prague. The Slovak “bourgeois nationalist” political show trial (“Proces s rozvratnou skupinou buržoázných nacionalistov na Slovensku”) took place 21-24 April 1954, at a time when the Soviet Union was officially seeking to turn away from Stalin’s “crimes”, including political show trials. The Czechoslovak Communist Party, which had the largest statue of Stalin anywhere in the world erected in Prague in 1955, did not announce its own “de-Stalinization” campaign until the end of 1961. The Slovak “bourgeois nationalists” were formally cleared by the Barnabítky commission of 1963.

Gorbachev. Among the most grotesque, but seldom remembered, political show trials to take place in the Eastern bloc were the so-called Slovak “bourgeois nationalist” trials that concluded on 24 April 1954 and which, unlike the notorious Slánský and related show trials, had nothing to do with either the Soviet Union or with Stalin.¹⁰ One of the Prague Spring reforms associated with Alexander Dubček’s presidium (politburo), and the only one not to be reversed after the Warsaw Pact intervention of August 1968, was the federalization of the Czechoslovak Socialist Republic into a union of two republics: The Czech Socialist Republic and the Slovak Socialist Republic. First Secretary Alexander Dubček and his successor, Gustáv Husák, both Slovaks, had risen to power in the statewide Czechoslovak Communist Party by way of leadership of the regional Slovak Communist Party.¹¹

Struggles within the Czechoslovak state over Czechoslovak centralisation versus Slovak autonomy, struggles which first came to a head in 1938-9, peaking in Slovak autonomy in October 1938 and in Slovak independence in March 1939, continued to be negotiated after the return to a unitary state in 1945 and the piecemeal erosion of Slovak autonomy between 1945 and 1948. Further constitutional adjustments were made in 1960, when Czechoslovakia became a Socialist Republic and Slovakia was divided into regions; and again in 1969, when Czechoslovakia became a Federation of two nominally equal Socialist republics, one Czech and one Slovak, under a Czechoslovak Communist structure.¹² In short, various attempts to regulate Czech-Slovak relations were tried during the Communist period as well as both before and after it. So the national question was in fact neither “frozen” in time nor successfully “suppressed” during the Communist period.

A third assumption, one which was especially prominent in Slovak émigré literature before the regime change in 1989 and has continued to be reflect-

¹⁰ Contrary to what some late Cold War commentators would have us believe. See J. Rupnick, *The Other Europe*, (London: Nicholson and Weidenfeld, 1988).

¹¹ See M. Heimann, “The Scheming Apparatchik of the Prague Spring”, *Europe-Asia Studies* 60:10 (December 2008), 1717-34.

¹² For the text of the 1960 Constitution see Constitutional Law (Ústavní zákon) 100, *Ústava Československé socialistické republiky* (11 July 1960), *Sbírka zákonů Československé socialistické republiky*. Prague: Knihtisk, 1960 or http://www.psp.cz/docs/texts/constitution_1960.html.

ed in official Slovak documents since 1993, is the assumption that independence was the natural or final expression of the will of the Slovak people: that the Slovak nation, supposed somehow to have existed (in spirit if not on maps) survived underground in all ages and was inevitably to find expression in a Slovak state. While serious Slovak scholarship has moved on, this remains the assumption made in most works on Slovak history published in English, of which the best-known is exemplar is probably Josef Kirschbaum's *Slovakia: The Struggle For Survival* (New York: St Martin's, 1995). In such portrayals, the territory that forms today's Slovak republic but used to be known as Upper Hungary or Felvidék, is treated as if its history formed part of a 'Slovak', rather than an "Hungarian", story from as long ago as the tenth century. This sort of Whiggish narrative, in which the "nation" (whether Slovak, Czech, Polish, Hungarian, German, Ruthenian, Ukrainian or any other), is anachronistically presented as if it had always existed in the late-nineteenth and twentieth-century senses, even during historical periods when language or ethnicity were far less important markers of identity than, say, region or religious denomination or place in the social hierarchy – will be familiar to anyone with even the most rudimentary experience of Central and Eastern Europe. Until very recently, and still in a great deal of contemporary Czech historiography, the historical lands of the Bohemian Crown have similarly been presented as if they had always been linguistically and ethnically Czech, rather than – as they in fact were – mixed German, Czech, Polish, Ruthenian/Ukrainian, Jewish and Gypsy. Rival histories of Central and Eastern European nations which continue to be presented to modern view remain highly contested and are often profoundly misleading.

Given these three central objections, one might well ask: if the Czechs and Slovak are not necessarily any more peaceful than any other nationality; if Czech-Slovak rivalries were not effectively suppressed under Communism; and if there was nothing inevitable or predetermined about the creation of either a Czech or Slovak state, how is one to account for the fact that Czechoslovakia did in fact split into two countries, just two years after the Czechoslovak Communist Party was ousted from power, and that the split proceeded without violence?

There seem to me to be five main reasons to account for why the break-up of the Czechoslovak state occurred at the time, and in the peaceful way,

that it did. These may be briefly summarised as follows:

1. The two “nations”, i.e. Czech-speakers and Slovak-speakers, were already largely separate anyway. Czechs and Slovaks did not mix much, even before the Velvet Divorce. Czechs mostly lived in the Bohemian Crown Lands, while Slovakia – save for its important, yet contested, Hungarian and Ruthenian (Rusyn or Ukrainian) minorities – remained overwhelmingly settled by Slovaks.
2. The borders of the prospective territories were not in dispute. The Bohemian Crown Lands had existed as a clear and distinct administrative unit for centuries, and an independent Bohemian Kingdom had existed in the past (until the infamous Bohemian defeat at the White Mountain - Bílá hora - in 1620). Although Slovakia had not existed, even as a serious geographical concept, before the First World War, because post-Munich Slovakia was briefly autonomous between 1938 and 1939 and independent for the six years between 1939 and 1945, there was also a Slovak precedent for an independent Slovak republic.
3. Whether or not to end the Czechoslovak state was not left to the people to decide. Had a referendum been held in either 1991 or 1992, the breakup of the federal state would not have happened. Opinion polls taken in both halves of the state showed the overwhelming majority of both Czechs and Slovaks to be in favour of remaining together in a single Czechoslovak state. What led the Czech and Slovak premiers to negotiate the break-up of the state anyway, without popular mandate, was the deadlock caused by the fact that, although the Czech and Slovak leaderships both claimed to wish to retain Czechoslovakia, they seemed unable to agree on anything else. And since the race to join NATO and the European Union – to “return” to Europe – was on, there was a sense of urgency from the Czech side to move forward, even without Slovakia.
4. The structures for separate republics were already in place. Practically the only “Prague Spring” reform not to have been overturned after the Warsaw Pact intervention of August 1968 was the federalization of the state into two socialist republics: the Czech Socialist Republic

and the Slovak Socialist Republic. Having nominally separate administrative structures, capital cities and political parties was arguably rather meaningless so long as the Czechoslovak Communist Party remained the real power in the land; but federalization meant that the infrastructure for separate republics already existed, at least on paper. This surely made separation easier both to contemplate and, after 1989, to implement.

5. The times were exceptional. The division of Czechoslovakia took place at a time when the impossible, the overthrow of Communist Party rule, had just been achieved. The atmosphere was one that made radical change seem much more possible. Heightened fear of being left out in the cold, perhaps without EU or NATO protection, made Czechoslovaks eager to act, and to act quickly, to try to safeguard their future at a time of new risks and possibilities.

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Between the summer of 1990 and the elections in June 1992, summit after summit between the Czech and Slovak governments was called to try to reach a consensus on a formulation of a new kind of federalization that would be deemed acceptable by both sides and so could be passed by the Federal Assembly. At the first meeting of the leaders of the Czech, Slovak and federal governments (held at Trenčianské Teplice on 8-9 August 1990), a proposal was drawn up suggesting that decision-making power be devolved to the republics, but that defence, foreign policy, border security and police powers, together with taxation and price controls, be retained by the federal government. After the proposal was rejected by the representatives of the Slovak National Party, together with eight smaller parties, Czech Prime Minister Petr Pithart announced that the Trenčianské Teplice agreement was the only viable alternative to the disintegration of the state.¹³

At a celebration to commemorate Andrej Hlinka, the founder of the Slovak People's Party, held a couple of weeks later and attended by about fifteen thousand people, speakers called on the Slovak National Council to declare Slovak sovereignty and shouted "Down with Czechoslovak federation!"

¹³ See P. Pithart, *Devěta osmdesátý: Vzpomínky a přemýšlení. Krédo* (Prague, Academia, 2009) and J. Rychlík, *Češi a Slováci ve 20. století: Spolupráce a konflikty 1914-1992* (Vyšehrad: Ústav pro studium totalitních režimů, 2012).

and “Long Live the Slovak State!” Demonstrations followed in Bratislava to demand that Slovak be made the official language in Slovakia. On 25 October 1990, the Slovak parliament adopted a new law to do just that, with the right for minorities (only in areas where they formed at least 20 per cent of the population) to use their own language in an official capacity. In a television address on 28th October 1990 to mark the seventy-second anniversary of the founding of the Czechoslovak state, Czechoslovak President Václav Havel pleaded with the Czechs to put aside their “condescending attitude” towards the Slovaks and urged the latter to avoid “nationalist demagoguery”.

The Trenčianské Teplice proposal was twice returned to the negotiating table, barely amended, before being approved by republican bodies on both sides in November, and finally by the Federal Assembly on 12th December 1990. Agreement on devolution seemed finally to have been reached. The next round of difficulties arose over the need to draft three separate constitutions (federal, Czech and Slovak). As Allison Stanger explains, article 1 of the 1968 Law on Federation opens with the claim that Czechoslovakia’s two constituent nations, each of which possesses sovereignty (*suverenita*), have joined together of their own will; but fails to explain how this kind of *suverenita* relates to *svrchovanost* (e.g. “sovereignty” in international affairs).¹⁴ This left the way open for the Slovak premier Vladimír Mečiar to argue that Slovakia had the right to negotiate its own treaties and enter independently into international negotiations with foreign powers, and for former dissident Ján Čarnogurský to maintain that the two republics must conclude a treaty (*smlouva*) to codify Czech-Slovak equality before embarking on the question of federal competencies. The Czech side, unwilling to countenance any radical break with the legal past on the grounds that this would be potentially dangerous for future constitutional developments, insisted that there was no need to clarify the meaning of “sovereignty” and that only internationally recognised bodies could enter into treaty agreements. The Slovak side, mistrustful of Czech promises, refused to budge until its national “sovereignty” was assured, resulting in a complete impasse.

¹⁴ A. Stanger, “Price of Velvet” in Kraus and Stanger, eds., *Irreconcilable Differences? Explaining Czechoslovakia’s Dissolution* (London: Rowman and Littlefield, 2000), p. 144.

By March 1991, things were starting to get ugly. Thousands of Slovaks, whose anti-regime revolution – aimed at the federal government in Prague as well as at Communist Party rule – was still in full swing, kept up the momentum by repeatedly turning up in SNP Square in Bratislava to reject Prague and call for independence. Meanwhile, calls for a referendum on the continuation of the state were being heard from every quarter, Czech as well as Slovak. On 13th March, between five and ten thousand people turned up to a ceremony in Bratislava to consecrate a cross on the grave of the former Slovak fascist dictator (and war criminal) Jozef Tiso in honour of the fifty-second anniversary of the founding of the first, extreme nationalist, Slovak state. When President Václav Havel unexpectedly appeared at the rally, he was shouted at and even attacked. Later that day, the president made a television address to the Slovak people in whom he urged them not to seek independence by unconstitutional means, but also declared that he would respect the outcome of a Slovak referendum on the question. After a parliamentary crisis in April, Mečiar was replaced as Slovak prime minister by Čarnogurský and the Slovak revolutionary organisation Public Against Violence (*Verejnosc' proti násiliu* or VPN) formally split in two: a new faction, led by Mečiar and calling itself Movement for a Democratic Slovakia (*Hnutie za demokratické Slovensko* or HZDS); and the remainder, which now represented a substantially weakened rump VPN.

By September 1991, everyone was speculating openly about the division of the state and calling for a referendum on the question; petitions were being circulated and signed on both sides; a movement for Moravian autonomy also seemed to be gaining ground. On 3rd November 1991, in a last-ditch attempt to avoid a split, President Havel held a meeting with the Czech and Slovak leaders at his summer house at Hrádeček at which a number of constitutional amendments were proposed. All were blocked by the Slovak nationalist side, which saw no good reason to give up its only trump card: the capacity to block any unwanted piece of Czech-sponsored Czechoslovak legislation. In the end, after two failed attempts to agree on even the terms of dissolution of the state, on 25th November 1992 the Federal Assembly agreed that the constitution should be amended to separate the Czech and Slovak republics into completely independent states.

On 31st December 1992, Czechoslovakia ceased to exist. The next day, 1st January 1993, two new states – the Czech Republic and the Republic of

Slovakia – took their place on the third “new” map of Europe to have appeared in a century.¹⁵ The Czech Republic, which declared in the preamble to its constitution to be “reconstituting” an “independent Czech state”, drew its line of descent from the medieval Kingdom of Bohemia down to the twentieth-century Czechoslovak Republic without so much as mentioning the Habsburg Empire, let alone the Holy Roman Empire.¹⁶ It naturally retained Prague as its capital city and the Castle (Hrad) as the official seat of state power; but also kept the old Czechoslovak flag and other national and state symbols, although explicitly forbidden to do so by law. It also kept 28 October, Czechoslovak Independence Day, as a state holiday whereas Slovakia, tellingly, did not. Slovakia revived the double-barred cross that had been used during the first Slovak republic; advertised itself as a “Christian” country, and kept its Hungarian, Ruthenian, Gypsy and Jewish populations at arm’s length, even in the preamble to its new constitution, by defining the Slovak people as heirs to the Great Moravian Empire of the ninth century who – together with “members of national minorities and ethnic groups living in the Slovak Republic” – wished a “democratic forms of government” and seek “spiritual, cultural and economic prosperity”.¹⁷

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Czechoslovakia’s peaceful separation into independent Czech and Slovak states was widely hailed in the West as an example of Czech political maturity, a Velvet Divorce to match its Velvet Revolution, in contrast with the bloody disintegration of Yugoslavia and the chaos unfolding in the former republics of the USSR. Spokesmen for the Czechs made the most of the

¹⁵ See Laws 460, “Ústava Slovenskej republiky” (1 October 1992), *Sbírka zákonů České a Slovenské Federativní Republiky* (Prague 1992), p. 241 and 13 (6 March 1990), pp. 2659-80; 542, “Ústavní zákon o zániku České a Slovenské Federativní Republiky”, *Sbírka zákonů České a Slovenské Federativní Republiky*, r. 1992, č. 110 (8 December 1992), pp. 3253-4, 1, “Ústava České republiky”, *Sbírka zákonů České republiky*, r. 1993, č. 1 (28 December 1992), pp. 1-16.

¹⁶ *Ústava České republiky*, *Sbírka zákonů České republiky*, r. 1993, č. 1 (28 December 1992), p. 1.

¹⁷ No. 50, “Ústavný zákon Slovenskej národnej rady z 1. marca 1990 o názve, štátnom znaku, štátnej pečati a o štátnej hymne Slovenskej republiky” (1 March 1990) and no. 53, “Ústavní zákon České národní rady ze dne 6. března 1990 o změně názvu České socialistické republiky” (6 March 1990), *Sbírka zákonů Československé socialistické republiky* (Prague, 1990), pp. 241, 250. The English translation cited here is from the approved National Council of the Slovak Republic, *The Constitution of the Slovak Republic* (Press Agency of the Slovak Republic, Pressfoto, 1993), p. 15.

contrast, suggesting that the legality and peacefulness of the separation proved the Czechs to be mature, confident and responsible enough as a nation to let the younger, more impetuous Slovaks go. Slovaks, on the other hand, argued that the Czechs had deliberately left them in the lurch to speed up their own transition to capitalism and to curry favour with the West, leaving Slovakia with no option but to plump for independence by refusing all viable alternative forms of sovereignty. Although neither the Czech nor the Slovak populations wanted to take responsibility for ending the state, let alone stand accused of petty nationalism or ethnic chauvinism, prominent spokesmen for both nations seemed relieved to have the matter settled. The split was described, on both sides, as undesirable but “inevitable”, as if it had been predestined, a natural development in the course of the “life” of the Czech and Slovak nations.

The flattering notion of a “Velvet Divorce”, as Abbey Innes has pointed out, underestimates the depth of the authoritarian Communist legacy, which made it possible for such a radical act to be passed, without a referendum, and against the stated wishes of a majority in both republics.¹⁸ Among the people of what was still Czechoslovakia, the decision to end the state was widely blamed on the “arrogance” and high-handedness of the two politicians – the Slovak Vladimír Mečiar and the Czech Václav Klaus – who brokered the deal, securing their own political positions in the process. It afterwards became a matter of almost obsessive interest to scholars to seek to solve the paradox of how, as Carol Leff put it, it could have come about that a democratic state could have “disintegrated even though a majority of its citizens favoured its continuance.”¹⁹

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The Czechoslovak case offers a number of variations on themes familiar to those with knowledge of Eastern and Central Europe in general and the South Caucasus in particular. It therefore seems worth seeking to establish what general lessons might be learned from the case of Czechoslovakia.

What I’d like to stress above all are the dangers of allowing history to be used (or, rather, misused) to bolster the position, or reputation, of any par-

¹⁸ A. Innes, *Czechoslovakia: The Short Goodbye* (New Haven, 2001), pp. xii, 73.

¹⁹ C.S. Leff, *The Czech and Slovak Republic: Nation versus State* (Boulder, Co., 1997), p. 128.

ticular “nation” as against another. Most, if not all, nations have their moments of heroism and martyrdom, episodes in which they appear as victims and others in which they appear as perpetrators. We should not fall into the trap of stereotyping whole peoples as if they were innately “violent” or innately “peaceful”, innately “Communist” or innately “Fascist”, innately ‘progressive’ or innately “backward”, as if these attitudes were somehow hard-wired into their DNA.

Construing one’s nation as the blameless victim is endemic to the whole of the East-Central European region: this is the way that rival groups have traditionally sought to justify their right to exist as nations or as states. Countless state-funded historical institutes, school textbooks, historical monographs, documentaries, museums, memorials and tourist guides exist to support such narratives. These same nationalist narratives, consisting largely of simplified, selective and partial presentations of the past, are generally incompatible with those being simultaneously put forward by neighbours, rivals and opponents.²⁰

The presentation of history has an important role to play in the quest for regional stability. Historical research can help not so much by providing ready-made models to be applied to current conflicts, but rather by uncovering a plurality of perspectives and encouraging a diversity of interpretations. School textbooks, museum exhibitions, monuments and state-sponsored documentaries, as well as historical monographs and scholarly articles, should ideally include embarrassing and shameful as well as heroic and self-justifying aspects of the nation’s past, be scrupulous to avoid historical anachronisms and assumptions, and take care to present regional and local, as well as national, perspectives. Only by recognising common experiences both of victimhood and perpetrator guilt may local populations come to empathise with and humanise their traditional enemies, and so realise that what divides them is much smaller than what unites them.

²⁰ For a helpful regional survey, see James Mark, *The Unfinished Revolution: Making Sense of the Communist Past in Central-Eastern Europe* (New Haven and London: Yale University Press, 2010).

No More two Solitudes: Canada's Patient Strategy towards Quebec Separatism

Frederic Labarre

Introduction

This paper will deal with the evolution of relations between what has been called “Two Solitudes” of Anglophone and Francophone Canada, characterised by the Federal-Provincial relationship between Canada and Quebec in the context of the threat of separation. The first part of the argument depicts the structure of Quebec society and how it came to change with urbanization and industrial development in the post-War years. The second part of the argument shows how the notion of Quebec separatism was born out of the structure of Quebec society, and how the narrative around the separation project has changed over the years.

The third part of the demonstration shows what the Canadian Federal government has done to mitigate or respond to recurring threats of separation. This part will show that the interaction of two processes has eventually reduced the risk of separatism. These two processes took place by occasional Constitutional and legal “adjustments” and in the patient “branding” of Canada as an attractive identity to hold. This part will give pride of place to several important milestones in the relationship between Canada and Quebec. During the 8th Regional Stability in the South Caucasus Study Group workshop (What Kind of Sovereignty?), held in November 2013 in Reichenau, Austria, discussions betrayed the fact that many participants did not clearly grasp the many forms of federalism on offer, and also why national constitutions had to be necessarily resilient to capricious changes. This paper addresses the need for South Caucasus countries not only to adopt Constitutions that reflect an equitable balance of power between interest groups within society, but also the need to develop the legal mechanisms that make change predictable and possible only with the widest consensus possible.

The Structure of Quebec Society

Although this Working Group should shy away from looking in the past for solutions, exceptions can be made, especially when the aim is to describe the structure of something other than the structure of a conflict. In the case of the Americas, the structure of societies was guided by the hazards of colonial politics and European international relations.

When Jacques Cartier formally discovered Canada in 1534, he had been preceded by forty years by Christopher Columbus (a Spanish-Italian) who had himself been preceded by Amerigo Vespucci and Giovanni Cabotto. North America became British mostly through the landings at Jamestown and Pilgrim Rock in the 1600s, which would set the foundation of the American colonies. As for Canada, it was called New France until the conclusion of the Seven Years War in 1762.

The Seven Years War found echo in Canada between the forces of the British and French empires, and at the Battle of Quebec, the fate of the French colony was sealed by its defeat. This would enable the unification of both British North American and French colonies into a single colony, by then distinct in management from the Thirteen American colonies. This distinction became more acute when the latter broke off from the British Crown during the American Revolution of 1776. The American Revolution is an important milestone in Quebec separatist thinking; because the attempted (and failed) Canadian revolution of 1837-1838, which it tried to emulate, galvanized Francophone historians into believing that the drive to create an independent country from British North America was an exclusively French-Canadian idea. It wasn't; Mackenzie King, modern Canada's longest serving Prime Minister, had an ancestor who fought in the Canadian Revolution on the side of the Canadian Republicans. Many Anglophones thought that Canada would be better free from the control of the British Crown. This means that in the early 19th century, identity owed less to language or ethnic background than to a shared geographical condition away from colonial centres, faced with the task of developing half a continent with scarcely a million people.

Be that as it may, the defeats of 1762 and 1838 became important founding moment for the Francophone identity later on, and also for separatist

thinking. For one, the 1838 events triggered efforts by the British Crown to better accommodate its colonies. The Durham Report, in particular, made recommendations with regards to Anglophone-Francophone relations which culminated in a decision by Great Britain to afford French speakers the right to live, study and practice religion in the language of their choice, and also to retain the Napoleonic Code of laws for justice. From then on, what was once a single people speaking two languages would evolve into “two solitudes.”

The 19th century also provided the backdrop for the Industrial Revolution. In 1867, in what was now called Canada, the Industrial Revolution accentuated the cleavage between Anglophone and Francophone. For one the linguistic cleavage more or less corresponded to the religious cleavage; Protestant versus Catholics. Because of the British desire to maintain the peace by affording special rights to the French minority rather than try to assimilate it (or integrate it, in today’s parlance) religion has never been a factor of discord in Canada. Nevertheless, the Catholic Church was fearful of the influence that the Anglophone majority might have on the French-speaking Catholic minority. This led the Church to sponsor a drive to steer the parishes towards pastoral – as opposed to industrial – activity. In other words, the Francophone Catholics were encouraged to tend their lands (which would also mean a more significant birth rate) rather than to move to the big cities to seek more lucrative work. What was a linguistic and religious cleavage became an urban-peasantry and regional cleavage as well. This threefold cleavage endured without significant friction until the two World Wars.

After the World Wars, returning troops sought to reintegrate society and for many this meant moving to big cities rather than returning to farming activities. And it is there, in the ensuing two decades, that the frictions would emerge. As more and more Francophones entered work in Anglophone areas, they would often find themselves discriminated against because they didn’t speak English. This prevented their entrance in fields like finance and engineering. Although Francophones traditionally held liberal professions like accounting and law, their market was severely restricted, and manual labour in big cities like Montreal and Ottawa was almost exclusively Anglophone-dominated.

This context provided fertile ground for resentment at what was the “British” identity. In 1965, the creation and adoption of the Canadian flag to replace the Red Ensign Union Jack did little to alleviate the disparity in identities, since the Province of Ontario retained the old Canadian flag as its provincial flag. In 1968, the Parti Québécois, aiming at “sovereignty association”, a form of sovereignty where the Province of Quebec would have more autonomy relative to the Federal State was created in Quebec. From then on, the separatist movement would gather steam. “Masters in our own House” became their mantra and “Je me souviens” (I remember, or, I won’t forget), hinting at past attempts at independence (1762 and 1838) became their motto. As a means of addressing the language issue which was part of the Separatist narrative, Canadian Prime Minister Pierre Trudeau made the Federal bureaucracy bilingual, so that a French speaker could receive Federal services anywhere in Canada in his/her native language.

The Quebec Separatists’ Narrative 1968-1995

The initial claims made by the Parti Québécois were ambiguous to the remainder of Canada. What more can Quebec want, they would say, when the Constitution – essentially a province-to-province free trade agreement which Quebec ratified in 1867 at foundation – guarantees the right to speak and worship in French, also their own laws within Provincial jurisdiction, and provides them with the power of three Supreme Court Judges and twenty four Senators?

The Parti Québécois aimed at “Sovereignty-Association”, essentially a monetary and customs union between two independent countries, and the power to make its own laws, raise taxes and establish foreign relations. In the bid to win over the political electorate to his way of thinking, the Separatist Premier of Quebec, René Lévesque, remained ambiguous about the notion of sovereignty. As a result, the 1980 provincial referendum on whether to implement or not Sovereignty Association was also based on a confusing notion, since Quebec already had, by virtue of the 1867 Constitution, Sovereignty Association. The only thing that this proposal added was the possibility to enter into foreign relations and mint coinage. Also, the leaders of the movement who pushed for such a change would also find their status quite elevated.

Mostly, those who voted against the proposal in a proportion of 60 percent in the 1980 referendum feared that with independence might come total autarchy and the cutting of lucrative bridges with the rest of Canada, in addition to a diminished power vis-à-vis the United States. Ironically, many of those who voted in favour of Souveraineté Association were envious of American independence and took their cues from the decolonization process that took place two centuries before. It is no coincidence that the Parti Québécois got formed in 1976, year of the U.S. bicentennial!

Following the defeat at the 1980 referendum, the narrative of the Separatist movement would change somewhat to reflect the need to protect cultural specificity.

In 1982, Canada repatriated its Constitution, which meant essentially that the Canadian Bill of Rights and the Canadian Constitution would be included into a single document and would in addition meet some of Quebec's grievances and demands relative to the Canadian Federation. The new Constitution met with the requisite level of support, and was signed and ratified in April 1982. However, Quebec, realizing that this would mean the end of the independence dream, did not ratify the new Constitution.

This put the Province of Quebec in legal limbo, and this decision was aimed at preserving the prerogative of declaring independence (through referendum or unilaterally). For the next five years, up until the Meech Lake constitutional negotiations, Quebec would insist on five key demands; 1) the right for provinces (including the nine others) to choose their Senators, 2) the right to opt out of Federal programs (i.e. to use perequation money for provincial programs), 3) shared jurisdiction in matters of immigration, 4) unanimity of the provinces to change central institutions, and 5) the status for Quebec of Distinct society.

As the latter was a concession to Separatists, the Federal level feared that the "Distinct" status of Quebec would open the door to claims for self-determination, and ultimately, independence no matter how favourable to Quebec the outcome of Constitutional negotiations would be. The question of the "Distinct" character of Quebec society would become a crucial aspect of Federal-Provincial angst until the next referendum on separation, in October 1995.

The years 1987-1992 would see an effervescence of comity and commission reports by various political parties, which effectively changed the narrative of independence towards demands for decentralization. One report in particular called for the transfer of most Federal prerogatives to the provinces, which would reduce the role of Ottawa in the affairs of the provinces. This was no more a question of granting Quebec some specific demands, but of acknowledging to all provinces the right to manage their own affairs without Federal involvement. In effect, the model, while remaining a Constitutional monarchy, would resemble more the balance of power found in the United States. Decentralization was agreed in the 1992 Charlottetown Accords, which invited a major revision of the Canadian Constitution. Amending the Constitution requires a nation-wide referendum. And while this referendum also failed, the notion that excessive centralization was the real grievance continued to percolate in the minds of separatists, who no longer viewed the need to appoint their own Senators or have free use of Ottawa's money as important, since the narrative more and more pointed to actual separation. The separatist narrative became more radical, but the appeal of the movement correspondingly decreased.

The point of this description is that the narrative moved from the proposal of a customs union to five specific demands, to calls for decentralization. At every step, the Federal government has taken measures to meet some of the grievances of the Separatist side while taking into account the opinions of the rest of the Provinces and Canadians. During this lengthy, two-decade-long process, the attitude towards Quebec independence has changed, and with it, the actual support for Separation, which is now limited to a core of some 30-32 percent of the Quebec population. The next section summarizes the legal and other adjustments that have been made to achieve this result.

1995: the Separatists' Last Hurrah and Branding

The flurry of Constitutional activity, commissions, votes and referendums that took place between 1987 and 1992 had left the Separatist camp feeling that they could get more, if only they tried a bit harder. On the Federalist side, the feeling was, more and more, that Quebec kept keeping Canadian unity hostage to their capricious demands. Neither camp was happy at the proposals or results they got in previous Constitutional consultations.

In 1993, the Federal Conservative Party was heavily defeated after a corruption-filled nine-year stint, leaving the Liberal Party of Canada with an outstanding majority. In the interim however, a Separatist party had been formed at the Federal level and one a significant turnout in Quebec, reaping most of the Conservative seats. This put the practice of Canadian politics in a conundrum; there was a party dedicated to the destruction of Canada, commanded from Quebec City, who had to pledge allegiance to the Queen of United Kingdom! Furthermore, although this is rare in Canadian politics, a minority government, if it came to pass, might have to enter into coalition with the Separatists, which would increase their power. Significantly, the members of that party were not prevented to sit due to the incongruity of their position, or due to *lèse-majesté*.

In 1994, an emboldened Parti Québécois was returned to power in Quebec with a significant majority. As usual, the party leadership interpreted this turnout, as well as the presence of a Separatist counterpart at the Federal level, as a vote of confidence for separation and began making plans for yet another referendum on independence. By this time, however, the recent decentralization narrative seemed to take hold, but the Parti Québécois was still unsure of how to muster support for its option to separate. In a bid to evoke some form of prior legitimacy, the Parti Québécois entered into discussion with the Bloc Québécois (Federal Separatist party) and the Action Démocratique du Québec (ADQ – a splinter from the Quebec Liberal party seeking greater autonomy from Ottawa) and signed an agreement on the future of Quebec on the 12th of June 1995. The exact content of this agreement resembled Sovereignty Association, but this is not the most critical aspect. The most important thing is that although the public was just as puzzled as to what the 12th of June agreement implied as to what Sovereignty Association meant, it nevertheless had the notion that some sort of agreement had been reached between Quebec and the Federal level. This of course wasn't the case; an agreement had merely been entered between the Quebec Party in power, a party of the Provincial opposition, and a party of the Federal opposition.

This enabled the 1995 referendum on Quebec sovereignty to be based on the following question:

“Do you agree that Québec should become sovereign, after having made a formal offer to Canada for a new economic and political partnership, within the scope of the Bill respect-

ing the future of Québec and of the agreement signed on 12 June 1995?”

To which one can answer many times “yes”; do you agree that Québec should become sovereign, yes, because that doesn’t mean independence. Do you agree that Québec should make a formal offer of a new economic and political partnership? Yes, why not? Within the scope of a Bill (a law)? Yes, I agree that Québec can pass laws. Agreement? Well if there’s an agreement already. Yes!

The results were 50.56 percent *against* Separation of Quebec. The highest result in favour of Separation ever achieved. However, ever since, the prospect of Separation has been in decline in Quebec. As Eugene Lang wrote in the Toronto Star on 13th April 2014:

It might well be that on Oct. 30, 1995, a significant number of Quebecers, those allegedly most strategic of voters, went to the polls not unlike an angry guy who goes out to the bar and gets hammered. The next morning he wakes up, looks in the mirror bleary eyed, head pounding, vaguely recalling the night’s regrettable events, and says to himself, “I’m never doing anything like that again.”

In the wake of this close call, the Federal level made a number of concessions to Quebec, namely, the power to opt out of Federal programs that do not meet Quebec priorities, shared responsibility for immigration, and a general spirit of co-existence within the “incomplete” Federal status of Canada, and incomplete Quebec participation to the Canadian project.

It must be said that the referendum vote was preceded by three days by an unprecedented “love-in” of Canadians coming to Quebec to show their support for Canadian unity, and as a demonstration of respect for Quebec’s privileged position as founding member of the Federation.

This is part of the “branding” effort of Canada destined to make the idea of Federation attractive. The point was to make every Canadian and of course every Quebecer feel proud of any association to Canada. This extended to the “soft” realms, like television spots, sports, and certain aspects of international relations. It is now clear that the Canadian reputation displayed internationally was aimed at generating this kind of attractiveness. This was particularly striking in comparison with the treatment that many Americans abroad were receiving, compared to Canadians.



Figure 1: 27 October 1995: Canadians show their support for unity in Montreal. Credit: The Canadian Press

For example Canada's role in UN peacekeeping missions in Somalia, Bosnia and Rwanda, taking place at the same time as the constitutional com-motion, helped convince some Quebecers that being Canadian equated with being seen as a responsible international partner. Furthermore, the contact between Canadian troops in UN Mission triggered refugee inflows into Canada and Quebec who were tired of war, and quickly adopted Canadian citizenship. The immigrant population which developed since the end of the Cold War has mostly come from trouble spots around the globe. Any hint that the trauma they have just escaped might reproduce in Quebec of Canada prompts their voting against separation. There is also an asymmetry in the branding capacity between Quebec and Canada. Essentially, Canada had stolen a march on Quebec so that when individuals travel, Quebec is less recognizable (the word is not accidental) than Canada.

The appointment of Canadians and Quebecers to high profile positions, such as Louise Arbour at the International Court of Justice, or Suzanne Fréchette or Maurice Strong at the UN also helped convinced Quebecers that a) Canada and Canadians were taken seriously for big things, and b) even Quebecers could aspire to such lofty positions. The latter helped dispel the myth of the forever-oppressed Francophone.

The clash of the 1995 referendum helped the country come together in a practical way; many Quebecers had never been in the presence of Canadians from Western Provinces before, indeed many of them only travel to South America, the United States or Europe. The inter-Canadian contacts greatly increased after this event.

The Canadian Olympic Team also received generous public funds to prepare athletes from one end of the country to the next prepare for the Winter Games. These are occasions to showcase Canadian and Quebec excellence on the grand stage, but even medal-winners from Quebec will be awarded to the sound of the Canadian national anthem, for all Quebecers to see. The tendency to display Canadian flags at such events took such proportions that a Parliamentary delegation from the Bloc Québécois visiting the site of the Nagano Winter Games in 1998 took offense to the sheer number of Canadian flags at athletes' quarters. This drew a sharp bipartisan rebuke from most Canadians, even from Quebec, although many believed that this flag enthusiasm made Canada look more like the U.S.

Meanwhile, the Canadian government began exploring the question of the legality of the Quebec referendum question, referenda in general, and of a unilateral declaration of independence. The House of Commons passed a law demanding clarity (the 1995 question had been anything but clear) for future referendum questions. The Supreme Court emitted the opinion that while referenda and UDIs were not illegal, they implied significant changes in the makeup of the country that require Constitutional amendments. The Supreme Court decision also implied that recognition was the real test of independence, and that if the decision wasn't mutual (meaning that the Federal level and other Provinces had a voice in the matter), you could have all the referenda in the world; it would not change anything to Quebec's actual political status.

Branding opportunities continued unabated throughout the decade, culminating in the 2010 Vancouver Olympics, where Canada managed to win the greatest amount of medals on home soil. Merchandising helping, the image of Canada as something desirable kept increasing in Quebec.

Two conditions unrelated to branding also intervened. Between 2003 and 2012, Quebec has been blessed with a Federation-friendly Liberal Party,

interrupted by a brief interregnum of Parti Québécois under the disgraced Pauline Marois. Winner of a minority government in 2012, she triggered a new election in a bid to gain a decisive majority, under the banner of independence.

To the general surprise, the Liberal Party led by Philippe Couillard won by a landslide. Marois' interregnum had clashed badly with the lengthy period of Federal-Provincial harmony that had prevailed for the better part of a decade, to the point that many Quebec voters went against the Parti Québécois simply because they were exhausted by the bickering.

The second condition that helped Canadian unity was the oil shock of 2007. While it hurt many pockets, it created an oil boom in the Western province of Alberta that attracted scores of Quebecers in need of investment opportunities or jobs out West during the Great Recession of 2008-2010. This not only put people in touch with each other that would never have had the opportunity to meet, but it also affected the electoral balance of power in the country, shifting it to the West thanks to the demographic aspect change. The fortunes of the Parti Québécois, as well as those of the Bloc Québécois at the Federal level, became dimmer and dimmer.

By the last provincial election in Quebec, which took place in 2014, and for the first time in more than forty years, the proportion of people of age 18-22 (the Separatists' key voting base) in favour of separation had dropped by 70 percent, and were now in the minority.

What does it take to Separate Quebec from Canada?

While it is generally agreed that Quebec, should it secede, would maintain the current territorial boundaries, the existence of a new country in the middle of Canada would necessarily mean a change in the international boundaries of Canada. And change of international boundaries is regulated under the Constitution, and in other words, requires an amendment to the Constitution.

According to Part V, Section 38 (1) a) of the Constitution Act of Canada, amending the Constitution requires a resolution of the House of Commons and the Senate voted in the majority (which in the case of the Senate may

mean bi-partisan agreement), in addition to having two-thirds of the Provincial legislatures, composing at least 50 percent of the provincial electorate. That is, the rule of two thirds must be high enough to include fifty percent of the electorate. If one of those conditions is not met, an amendment cannot go ahead. If successful, the result is then emitted as a proclamation by the Governor General, and the actual amendment can then be voted upon.

The amendment in this case would be the revision of Provincial boundaries. In the case of Quebec separation, this would affect the Provinces of Ontario, New Brunswick and Newfoundland. A second vote must be taken where two-thirds of the House of Commons and Senate must concur, in addition to two-thirds of the aforementioned provinces, composing at least fifty percent of their respective populations.

As one can see, Canada can agree to modify its Constitution, but may disagree to apply the modification. Amending a Constitution is extremely difficult, as it should be, because the Constitution with permanence in mind, and only a significant change, stimulating general will of the public to alter the Constitution, as reflected by their respective Federal and Provincial representations, could authorize such alteration. It must also be noted that there is no real proportional representation in Canada. The rule of two-thirds guarantees that the non-proportional character of the Canadian system would not achieve an outcome that only the minority would propose.

Conclusion

“Strategic patience” is not only taking time to accept the inevitable, but it is also a way to let time do its work. This is in a way a Machiavellian tactic, enabling actors to see which way the wind blows, or better yet, convinces them to wait until the wind changes direction.

The Federal Government of Canada has used moments of Constitutional confrontation to simultaneously compromise enough on its position to affect the nature of what was at stake. As a result, the narrative of the Separatist project changed in such a way as it only appealed, in the end, to the core minority which can never be reduced further. This also meant that the

views, the further you go into this core, become more extremist and less palatable to more moderate Separatist sympathisers.

Simultaneously, the Canadian Government has used every opportunity to build up and promote the reputation of Canada as a responsible and recognizable actor internationally, a factor that reflected well on every citizen. This reflection achieved the desirability of the Canadian identity in time. And while this happening, the Federal level was perfectly content to offer the Province of Quebec all the advantages that the other provinces enjoyed. That is, coexistence was the norm, and this coexistence, even if it took place outside legal boundaries, was used to convince Separatists of the advantages of federation with Canada.

It is also true that the few occasions where Quebecers and the rest of Canadians were put in front of one another, either by design or by accident, they took the opportunity to communicate meaningfully. In this sense, Canada (and Quebec) was lucky. The quality of intra-Canadian interaction helped complete the work that the change of narrative driven by compromise had begun; people were able to see that the “other solitude” was neither as extremist nor as unreasonable as they thought.

This could never have happened hadn't Canada been blessed with a Constitution that is so difficult to modify. Because of this difficulty, compromise has always to be found between the Federal and the Provinces, and this is the essence of Federal-Provincial relations. A robust Constitution is also a reflection of the robustness of the country it constitutes. If a constitution can be capriciously altered, then the country itself is liable to suffer alteration due to capriciousness.

A robust constitution also means that jurisdictions are clearly delineated, especially in a federation. This said, this will only happen if the constituents are mature enough to respect their lines of jurisdiction, and if the courts are strong and independent enough to make that writ stick. A robust constitution is the fruit of dialogue and compromise among the many groups and interests that compose a society, and only a foundation block based on that strength can support national unity.

PART II:

**CURRENT EXAMPLES OF STATUS SHIFTS –
OR STATUS PERMANENCE**

Violence against Civilians and Justice Claims: Contesting Territorial Status Shifts

Cornelius Friesendorf

Introduction

One might argue that non-consensual status shifts can become acceptable over time, evolving into stable new territorial and political orders. This chapter argues that this view fails to take into account violence against civilians that occur in the process of status shifts, and the impact of such violence on the acceptance of change. Violence creates powerful historical narratives and justice claims that can undermine the sustainability of status shifts, with victims or their descendants contesting status shifts even decades later.

The first part of this chapter discusses claims for justice and sketches out several cases in which victims of violent status shifts or their descendants have resisted attempts to consolidate these status shifts.

The second part examines three mechanisms harming civilians in war: civilians become “collateral damage” of military operations; combatants deliberately target civilians to further their war aims; and principals are unable to prevent violence against civilians by their agents on the ground.

The third part analyzes a recent attempt of a territorial and political status shift: the war in Eastern Ukraine.¹ In the Donbas, the three mechanisms harming civilians have all been at work. The resulting harm to local populations has caused grievances that are likely to affect the sustainability of any future settlement of the conflict.

The conclusion argues that actors who work towards status shifts – whether internal or external to a conflict – will have to reckon with the power of

¹ The Ukrainian government does not speak of an armed conflict in Eastern Ukraine but says it is conducting “counter-terrorist operations” in the region. However, the situation in the Donbas fulfils the criteria of an armed conflict.

justice claims resulting from human rights violations. Avoiding violence against civilians is thus not only a moral and legal obligation; it is also of practical necessity.

This chapter does not discuss the conditions under which justice claims lead to a reversal of status shifts. The success of efforts to reverse status shifts depends on a variety of factors, including the levels and types of violence committed during war, the use of historical narratives by charismatic leaders, the domestic and international influence of those making justice claims, and the preferences of major powers. Also, the aim is not to assess the legitimacy and historical truths of justice claims, as history is not clear-cut but contested.

Claims of Historical Injustice

War is hell, as General William “Tecumseh” Sherman, who ordered the destruction of the city of Atlanta and the forced displacement of Atlanta’s population during the American Civil War, reportedly said. It is hellish not only for combatants but also for civilians, many of whom are injured, killed, displaced, and dispossessed, often through deliberately.

War has a negative impact, first and foremost, on local populations on the ground. But war also affects their descendants. These may experience economic hardship due to the long-term consequences of war. Moreover, violence is the foundation of powerful historical narratives of victimization and injustice.

Such narratives of past injustice go together with claims for the restoration of justice. Non-consensual, violent status shifts are inevitably accompanied by violence against civilians, and victims or their descendants will want justice. There are a variety of transitional justice mechanisms after war, including compensation payments, apologies, truth and reconciliation commissions, and war crimes tribunals.² But often, victims of human rights

² Former International Court of Justice for Yugoslavia Justice Louise Arbour has argued in a September 2013 lecture at the University of Ottawa that restorative and transitional justice was nearly always a political rather than legal endeavour, implemented upon the urging, blessing or benign neglect of large powers.

violations, especially of the large-scale forced displacement of populations, want something different: the restoration of the territorial *status quo ante*.

There are numerous examples where wartime violence led victims to construct powerful historical narratives that challenge the legitimacy and acceptance of status shifts. Three such cases shall be sketched out here: claims of injustice by Germans displaced during and after World War II; of Georgians displaced from Abkhazia in the early 1990s; and of Serbs victimized during World War II. In none of these cases did those making justice claims succeed in reversing status shifts; but in all cases were they able to challenge the legitimacy of these shifts.

Germany, under National Socialism, waged a war of aggression, and German armed forces intentionally killed millions of civilians (Snyder 2011). When the tables turned and the Allies began to gain the upper hand in the war, large numbers of Germans living in Central and Eastern Europe were displaced. Many fled the advancing Red Army, and many were forcibly displaced through official policy adopted by the Soviet Union and its Communist client states.

These displaced persons and their families and descendants formed powerful constituencies in the post-war politics of the Federal Republic of Germany (FRG). Associations of displaced persons, represented especially in conservative parties, pointed at the injustice they had experienced at the hands of Germany's enemies during the war, and questioned the legitimacy of Germany's post-war Eastern borders (see, e.g., Beushausen 1991).³ Those in the FRG wanting to make peace with Germany's Eastern neighbors faced stiff political resistance to any concessions made by the West German state. To be sure, associations of displaced persons failed to prevent the signing of treaties of recognition between West Germany and Communist states under the leadership of Social Democrat Chancellor Willy Brandt in the early 1970s, and, as part of Germany's unification process after the fall of the Berlin Wall, the final demarcation of Germany's Eastern borders. Yet, associations of displaced persons certainly made it harder to achieve peace between Germany and its Eastern neighbors.

³ I thank Stefan Engert for pointing me to this source.

Another case of massive population displacement that undermined prospect of reconciliation and the acceptance of territorial status shifts is the expulsion of ethnic Georgians from Abkhazia during and after the 1992-1993 war in Abkhazia. Following the collapse of the Soviet Union and the creation of an independent state of Georgia, Abkhazia decided to break away from Georgia. This move was supported by Russia, which claimed (and claims) to protect the legitimate interests of people in Abkhazia. Fighting ensued, and in the process large numbers of Georgians left Abkhazia, many of them being forced out of the breakaway region (Zürcher 2007: chapter 5).

By mid-2015, Abkhazia continued to be a disputed territory. It was recognized as an independent state by only few states, and certainly not recognized by Georgia, not least because Georgians displaced from Abkhazia would oppose any such attempt. Here, too, a narrative of historical injustice prevents permanently settling a shift in political and territorial status.

The third example of a narrative of historical injustice affecting the acceptance of status shifts is Yugoslavia. During World War II, Croatia sided with Nazi Germany and participated in the persecution of non-Croats (as well as Croats accused of collaborating with the enemy), setting up concentration camps and committing war crimes. Many victims of the fascist Croatian Ustaša government were actually Serbs.

The violence committed had consequences long after the defeat of fascism and the establishment of a centralized Yugoslav state under the leadership of Josip Broz Tito. In the late 1980s, Yugoslavia began to disintegrate. This process turned violent in 1991, when Slovenia, Croatia, and Bosnia declared their independence from Yugoslavia. Serb minorities feared a re-run of history and the persecution of Serbs by the authorities of the newly independent states. Radical leaders quickly emerged that played on these fears and that challenged the status shift through the use of force. In Bosnia, Serb leaders Radovan Karadžić and Ratko Mladić led the fight of Bosnian Serbs against the government in Sarajevo, and tolerated or presided over war crimes. These leaders presented the conduct of Serbian forces as the legitimate defense of Serbs. Atrocities committed during World War II formed part of their historical narrative presenting Serbs as victims of aggressive policies by internal and external enemies (Anzulovic 1999).

Mechanisms of Civilian Victimization

Writings on war focus on three mechanisms through which war harms civilians. First, civilians become “collateral damage”. Not in each case in which armed forces harm civilians do they commit human rights violations or war crimes. International Humanitarian Law (IHL) merely compels combatants to respect three principles when conducting hostilities: the distinction between combatants and non-combatants, the proportionate use of force, and military necessity. Even large numbers of civilians killed and injured can be acceptable from a legal point of view as long as commanders respect these three principles.

Many conditions influence the extent of “collateral damage”. One of these is the location of combat. Especially internal wars are fought “amongst the people” (Smith 2006). In urban combat it is difficult to distinguish between combatants and civilians, and to spare civilians when fighting combatants. The local population is therefore at high risk. The risk of becoming a victim of military action makes many people decide to leave their homes for safer places, which can trigger massive population movements. While not constituting a classical case of forced displacement, in practice people often have little choice but to leave, in order to increase their chances of survival.

A second mechanism that causes civilian suffering in war is the deliberate targeting of civilians by combatants who thereby further their war aims. Many authors claim that the deliberate targeting of civilians is a special feature of internal wars, which constitute the majority of wars since the end of the Cold War. Most prominently, Mary Kaldor (2005) introduced the concept of “new wars”. She argued that contemporary internal wars are marked by the collapse of state institutions, the prominent role of non-state actors, the pursuit of parochial war aims such as economic profit, ethnic and religious motivations, and deliberate attacks against civilians of the “other” side. Civilians are forcibly displaced and their property is stolen, and many become the victims of violations of physical rights, through rape, torture, and killing. Similarly, John Mueller (2004) underlines the difference between disciplined armies and the panoply of non-state and para-state actors constituting contemporary internal wars. Weekend fighters, hooligans, and professional criminals dominate internal war, he argues.

Stathis Kalyvas (2006) demonstrates when and why violence against civilians can be expedient for those fighting civil wars. To be sure, civilians are targeted not only in internal wars but also in interstate wars. Political leaders and the commanders of armed forces may have various motivations to commit, commission, or tolerate human rights violations, including the spread of terror in order to control people, ideological biases such as racism, and the acquisition of cheap labor. The German National Socialist policy of annihilation in Central and Eastern Europe is a case in point: German political leaders ordered military and police forces to murder millions of civilians. Many commanders of military and police units did not have to be pushed: to please their political principals, they committed numerous atrocities against civilians upon their own initiative (Snyder 2011).

A third mechanism harming civilians is the inability of political principals to control their agents. Principals delegate tasks to agents for various reasons, including the expertise of agents and a reduction in implementation costs. But the advantages of delegation may come at the cost of a loss in control. There are cases of “won’t control”, where political principals – such as German Nazi leaders – give their agents free reign over policy implementation. But there are also cases where agents act contrary to the directions of their principals without the latter being able to exert control (Mitchell 2004).

The risk that agents will use violence is particularly high when irregular forces operate, such as militias (see Carey et al. 2013). While in some cases political principals condone such violations, this is not always the case. In Afghanistan, for example, militias and auxiliary police forces supported by international actors have been responsible for numerous human rights violations that undermined attempts to win over the civilian population in the fight against insurgents (Krahmann and Friesendorf 2014).

Civilian Suffering in Eastern Ukraine

The violent conflict in the Donbas region began in spring 2014 when supporters of ousted Ukrainian president Viktor Yanukovich occupied government building in various Eastern Ukrainian cities. According to the United Nations (2015: 4), by mid-February 2015, at least 5,665 people had been killed in Eastern Ukraine and 13,961 wounded. By the UN’s own ad-

mission, this is a “very conservative estimate” (United Nations 2015: 4, footnote 5). Moreover, the ratio between combatants and civilians killed and injured is unclear. To civilian casualties one must add large numbers of persons displaced by the fighting or its consequences. The Ukrainian government, in mid-2015, reported that more than one million persons had become Internally Displaced Persons (IDPs) (United Nations 2015).

All of the three above-mentioned mechanisms causing civilian harm can be observed in Eastern Ukraine. First, much of the fighting has taken place in densely populated areas. Civilians have been killed and injured by bombs, shells, rifles fire, and mines, as combatants have fought over the control of villages, towns, and cities. Some parts of Donetsk, for example, are now completely destroyed. Moreover, civilians have died due to a lack of access to health care and food.

Many military operations were problematic from an IHL point of view, and some may amount to war crimes. Both pro- and anti-government forces used heavy weapons in densely populated areas, raising questions about compliance with the principles of proportionality, military necessity, and the distinction between combatants and non-combatants. Accusations of unlawful military operations have been leveled against the Russian-backed rebels controlling the unrecognized “Donetsk People’s Republic” and the “Luhansk People’s Republic. But the conduct of hostilities by pro-government forces has been problematic too, and civilian casualties have fueled local anger against the government of President Petro Poroshenko.

UN agencies and non-governmental organizations have also documented numerous instances of intentional attacks on local citizens. Citizens suspected of siding with the other side ran high risks, and some were kidnapped, tortured, murdered. Moreover, citizens lost their property through looting and theft. Especially rebel forces have been accused of human rights violations.⁴ However, criticism has also been leveled against pro-government forces. Moreover, Ukrainian government institutions such as the police and courts do not always respect the rights of those accused of

⁴ See the Reports of the UN’s Office of the High Commissioner of Human Rights on the human rights situation in Ukraine, at www.ohchr.org/EN/Countries/ENACARRegion/Pages/UARports.aspx.

supporting the rebels (author interviews with representatives of international organizations in Kharkiv, November 2014).

Armed groups in some cases intentionally violated human rights in order to further their own objectives. Anti-government forces thus threatened and attacked those opposed to the rebels and/or supporting the Maidan movement. The objective behind such human rights violations was to silence critics and to consolidate control over people and territory through the spread of fear. Moreover, property crimes reveal that at least some members of armed groups were motivated by economic gain.

A third problem for civilians has been the autonomy of some of the forces operating in Eastern Ukraine from their political principals. A variety of groups have operated in Eastern Ukraine. Only some of these are made up of well-trained soldiers. Others are local and out-of-the-region militias, which have often pursued their own agendas, at the cost of respect for human rights and human security. There have been speculations about the extent to which the Russian government, which has supported the rebels, fully controls the latter. With regard to the Ukrainian government, its military efforts depend significantly on volunteer groups. The use of such volunteers is risky because they tend to fall outside the regular chain of command and are less disciplined than regular forces (see also Schneckener 2014). It is these volunteer forces that have most often been accused of human rights violations, including war crimes (Amnesty International 2014).

Human rights violations in Eastern Ukraine are not only problematic from a moral and ethical point of view. They are practically relevant, too, in that they are likely to influence any future acceptance of status shifts. Rebels want a status shift, and have *de facto* created one: they have ended the control of the Ukrainian government over parts of Eastern Ukraine. Their aims in any future status discussion might range from autonomy to independence to accession to Russia. The Ukrainian government wants a status shift, too: it wants to re-establish control over the lost territories.

Both sides will have to reckon with responses from populations affected by the war. Many in the rebel-controlled areas blame the Ukrainian government for their plight, and are likely to resist attempts by the latter to re-

incorporate the rebel territories into the Ukrainian state. Vice versa, many of those who have been forced to leave the rebel-controlled areas, and who have been threatened or abused or count victims of human rights abuses among their families and friends, are unlikely to accept the rebels as a legitimate political force, even on the long run.

Conclusion

This chapter argued that the plight of people affected by violent status shifts, or their descendants, affects the acceptance and permanence of status shifts. Justice claims are often ignored by those who stress the normative power of historical facts, such as the expulsion of populations and the redrawing of borders. But justice claims have a long life, and may haunt those who try to cement status shifts. The adage that time will heal all wounds is flawed. Ask any survivor, or even descendant, of Germany's war of annihilation in Central and Eastern Europe.

To be sure, addressing justice claims by the victims of status shifts is tricky. Whether compensation, apologies, criminal prosecution of human rights violators, or even a reversal of status shifts is appropriate depends on various factors. One of these is power politics: which mechanism is politically feasible and supported by powerful states? Furthermore, there are practical issues. Thus, if territories are returned to a state, the question arises as to whether those who harmed civilians, directly or indirectly, will receive amnesty or be prosecuted.⁵

Last, choices over justice mechanisms involve moral trade-offs. For example, a return of refugees may be regarded as a threat by many of those who live in the areas to which the refugees return. Indeed, status shifts themselves are normatively ambiguous. There are numerous mechanisms for dealing with claims for status shifts and, more generally, ethno-political conflict. Some, such as genocide, displacement, and forced assimilation, involve violence, and are beyond moral consideration. But there are also peaceful ways of resolving status issues, such as partition through mutual consent (Fearon 2004: 394; for the case of Czechoslovakia, see Heimann 2011, and elsewhere in this volume). Even status shifts that do involve vio-

⁵ I thank George Niculescu for his comments on this point.

lence and mean hardship for at least some parts of the population may be regarded as legitimate. According to students of justice, secession can be warranted under some conditions, especially when local populations are severely repressed (Buchanan 2003).

Yet, any violent status shift not only entails short-term humanitarian costs but also long-term legacies that affect the legitimacy and possibly stability of new polities. Any violent status shift is likely to be contested. This makes it all the more imperative to reign in those pushing for violent status shifts, and to involve in discussions of status shifts those who will suffer the consequences. Moreover, once diplomacy has failed and war has begun, it is crucial to protect civilians from the dangers of war. At a minimum, combatants must respect principles of international law. But as these set merely minimal standards, parties to a conflict should apply a human security paradigm, according to which any action must be assessed in light of its consequences for individual human beings. Finally, once war has ended, justice claims by survivors and their descendants should not be ignored.

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PART III:

**STATUS QUO, OR STATUS QUO ANTE,
FOR THE UNRECOGNIZED REGIONS?**

Does “Sovereignty” Mean “Security”?

Zarina Sanakoeva

Understandably, “sovereignty” for any resident of South Ossetia is synonymous with “security”. Sovereignty received 25 years ago was a prerequisite for establishing security. On the other hand, everyone bears in mind that sovereignty means independence. Moreover, this independence, or rather solitude, so to say, could have led to seizure of South Ossetia by Georgia back in August 2008. Without the participation of Russia, South Ossetia would simply cease to exist. Everyone here knows the fact and keeps recalling it. These factors explain the special attitude towards “sovereignty”.

The discussion around the Alliance and Integration Agreement between South Ossetia and Russia, eventually signed on 18th March 2015 in Moscow, was yet another clear illustration of the above. The first draft of the Agreement published in December 2014 presumably implied, inter alia, a full and complete transfer of authority over defence and security structures to the Russian Federation. It had naturally triggered a hot discussion around the draft paper within the local community with a division into those backing the draft and those opposing it.

The most debated issue was the wording used in the draft that spoke about South Ossetia’s defence and security structures merging the Russian ones. In this public debate, the opponents of the draft clearly pointed out that this proposition went against the Constitution and basic legal norms thereof. However, it is not a matter of details (and the Devil in them), but rather the way the draft Agreement had been perceived by the public. The statements made by those backing the first reading, that the Agreement was meant to ensure security, hadn’t had the desired effect. It has been already 6 years since Russian military bases and border-guards have deployed in South Ossetia in accordance with the earlier-concluded bilateral Russian-South Ossetian cooperation agreement. Throughout these years, there were no instances when one could question or suggest a revision of the established military security arrangements in South Ossetia. The debates around the Alliance and Integration Agreement revealed that the South Ossetian

society is not ready to entrust its security even to the Russian Federation, a state unconditionally supported practically by all residents of South Ossetia. Despite this fact, there were repeated reminders voiced within the community and in the media that in 1991 South Ossetians were left alone unarmed face-to-face with unfriendly Georgia, and that in 2008, in the beginning it were several decentralized and uncoordinated groups of volunteers from among local residents who were fighting to prevent Georgian Army from seizing Tskhinval.

The signed Alliance and Integration Agreement sets forth that “separate detachments of Armed and Security Forces of the Republic of South Ossetia are merging with the Armed and Security Forces of the Russian Federation upon coordination between the Signatories”. Yet, it has not been specified which particular detachments or segments of forces were meant. The Agreement therefore provides for conclusion of ad hoc agreements. One thing is clear: the drafters of future agreements got a message that the existence of South Ossetian Armed Forces is no more questionable.

A core issue of existence of Armed Forces is as vital for South Ossetia as the signing of non-use-of-force paper with Georgia. It remains a top priority for South Ossetia and Abkhazia within the Geneva International Discussions. The format is working for 6 years with 31 rounds of talks held so far. The absence of any valuable result in the process towards legally binding non-use-of-force paper feeds the outside experts’ belief that this platform is ineffective and useless.

Another serious problem under discussion is the expected deployment of NATO training centre in Georgia. Among policy makers and expert community in South Ossetia this fact was considered as jeopardizing local and regional security and stability. In the meantime, in Georgia, the presence of Russian military contingents in Abkhazia and South Ossetia is also considered as a serious threat. Coupled with the absence of a direct dialogue between Tskhinval and Tbilisi, the situation is favourable for persisting tensions.

The Georgian authorities have attempted to transfer the whole dialogue into the non-governmental dimension, into a dialogue between the sides’ civil society representatives, deeming it relevant and useful to ignore the

official authorities in the republics. In the meantime, this tactics is not successful to the extent expected. Civil society activists maintaining contacts with international and non-governmental organizations are subjected to considerable informational pressure in South Ossetia. Georgia's hostility is actively used in South Ossetian informational wars, and while the military threat coming from Georgia is no longer seriously perceived, the presence of people in the society, who are ready to hold a loyal stance towards Georgia, is something many people tend to believe in. Moreover, the annoyance caused by statements of officials is easily targeted at those who have had any contacts with Georgia. In my opinion therefore, the capacities of civil society in conflict settlement are somehow exaggerated or overestimated.

Without the settlement of security related issues, the solutions to other problems are simply impossible. The displacement problem, so actively and widely discussed in various international forums, will only cause misunderstanding and annoyance in South Ossetia, which in my understanding is justified. In the early 90s around 100,000 ethnic Ossetians fled Georgia. The majority settled in North Ossetia, while a part of them was accommodated in South Ossetia. Throughout these years, no one has ever spoken in concrete terms about the restitution of their rights, and it was Russia who took care of them.

The situation around the status issue, whatever it is, is even more complicated. South Ossetia has clearly stated that its status stands beyond any discussion and it is out of question. Nonetheless, many people in South Ossetia support the idea of South Ossetia's accession to the Russian Federation. Very often, the idea is presented as the only means or solution to security guarantees. The discussion becomes even more vivid against the background of Georgia's growing military rhetoric, or in relation to the opening of NATO training centre in Georgia.

Despite the fact that the non-use-of-force issue is actively discussed, there were no instances in South Ossetia, when an opinion have been expressed in relation to what Georgia needs to agree on signing the agreement. Likewise, no one in Georgia bothers to understand what makes South Os-

setians consider the presence of Russian military base as the only security guarantee available.

The absence of direct dialogue to a greater extent reduces whatever responsibilities. This is clearly demonstrated through the absence of any dynamics in the relations between South Ossetia and Georgia.

The Caucasus Role in Peaceful Co-existence: The Caucasus Geostrata

Vakhtang Maisaia

Introduction

In the beginning of 21st century, issues of geopolitical fragmentation into “special zones” (division into districts) gained in significance. At the end of Cold War, the Caucasus region received a rather great chance to turn into a powerful geopolitical area and to execute the function of so-called “geopolitical gateway” – just as Central Eastern Europe, or the Caribbean region did before. Afterwards the region of Black Sea basin was created. Therefore the Caucasus was given a special geopolitical status in the first decade of the 21st century like the Balkans in the 1990s. From the point of view of geopolitics, the Caucasus (reasoning from its geographical conditions) can fulfil the role of “peacemaking buffer” between the West, Islamic and Slavic civilizations.¹ The Caucasus may play the role of the uniting buffer of the Christian, Confucian, Buddhist and Shinto confessions, when the centre of civilizations’ consent and co-existence will be placed into one geopolitical area.

In a similar context a pattern of geopolitical *Passionarism* (a jargon of the Eurasian geopolitical school) of the Caucasus region stands out combining the principles of thalassokratia and telurokratia into a common unique synthesis – Montecracy (Latin “Monte” – mountain, and Greek “Kratos” – force, power).² The scope of this paper does not permit further elaboration of the concept. As is known, the region contains three internationally-recognized sovereign states (Georgia, Armenia, and Azerbaijan), three mostly unrecognized self-declared states (Abkhazia, South Ossetia, and Nagorno-Karabakh), and seven internal Russian republics (Dagestan,

¹ Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order*, NY: Knopff, 1993.

² See Vakhtang Maisaia, *The Caucasus-Caspian Regional and Energy Security Agendas – Past, Contemporary and Future Geopolitics: View from Georgia*, second edition, IREX:Brussels-Tbilisi, 2007.

Chechnya, Ingushetia, North Ossetia-Alania, Kabardino-Balkaria, Karachay-Cherkessia, and Adygea); in addition, in 2007 regional Islamic insurgents proclaimed the so-called “Caucasus Islamic Emirate” which hitherto existed only in virtual space.

Caucasus Geographical Characteristics: Implications for World Politics

The Caucasus space has increased its geopolitical status due to the rapid development of international political process. After the demise of the USSR and the “Iron Curtain” new geostrategic realities have become dominant due to the geopolitical importance of the Black Sea for Euro-Atlantic security. At the NATO Istanbul Summit the region emerged as one of primary importance for the Alliance.³ The political climate of the Caucasus region greatly depends on the Caspian energy reserves. At the same time the region is gaining economic and strategic weight in the world. Moreover, the Caucasus has an important geopolitical role to play as a link between the North and the South (Central Eurasia, which is Russia and the Middle East) and the West and the East (Western Europe-the Caucasus-Central Asia-Southeast Asia-the Far East). The above considerations have produced economic and strategic projects: TRACECA, GUUAM (within the West-East structure), as well as the Eurasian Economic Union (EEU) within the CIS, the Alliance of Four (Russia, Belarus, Kazakhstan and Kyrgyzstan) within the North-South structure of which the Caucasus is the key.

Since the 18th and 19th century when the Caucasus was conquered by Tsarist Russia and later when the Soviet Union established its control between 1920-1990, the proper definition “Transcaucasia” had been formulated to correspond to the region.⁴ The Soviets referred to it as part of the “Eurasian” geopolitical classification as the then Soviet leadership considered the South Caucasus region as a geopolitical buffer zone against rival geopolitical powers. The creation of the “Transcaucasia Military District”, made the region the most militarized at the global level – the entire Transcaucasia

³ NATO Istanbul Summit Declaration, Brussels, 2004. Online <http://www.nato.int/docu/pr/2004/p04-096e.htm>.

⁴ Eldar Ismailov and Vladimer Papava, *The Central Caucasus – Essays on Geopolitical Economy*, Stockholm: CA&CC Press, 2006, pp. 10-11.

Military District, up to 1992 had been reinforced by the 4th and 7th Armies, the 255th Motorized Brigade, 34th Air Army, the 19th Air Defense Army, Caspian and Black Sea Fleet units, Border troops, formations of Central Command in Moscow, like the 12th Special Forces Brigade of the Central Military Intelligence Directory, named “BAT” and the 104th Airborne Division. The District operational zone was thought to be the shortest way to reach the “heartland” of the Eurasian space – via the internal territories of Russia to the north, Central Asia, and to the east via the Caspian Sea and Eastern Europe, then to the north-west across the Black Sea.

The establishment of Western control over the Caspian and Central Asian natural resources will be directed towards strengthening the internal structure and unity of the strategic buffer zone.⁵ The economic integration of buffer zone states (Caucasus-Caspian and Central Asia) will lead to the political integration of those states. Western projects for transiting Caspian oil and Central Asian natural gas to world markets must also be considered in this context. The majority of routes will bypass Russia, generating negative reactions and irritating its leaders.

However from the perspective of political stratification the Caucasus geopolitical model could be defined as “tripolar” to which would be added “outside” global Powers’ involvement where the actors linked to the space would identify in one of the following manners; a) at the micro-political level. This would be the lot of the breakaway political actors like Abkhazia, South Ossetia, Nagorno Karabakh and perhaps some other non-State actors; b) at the regional level, this would be the case of Georgia, Armenia, and Azerbaijan; c) regional influence centers, such as the Russian Federation, Iran and Turkey and d) at the global power level, influencing the Caucasus Region from “Outside.” This would be the Euro-Atlantic sphere, China and the “Islamic Caliphate.”

From these levels, it becomes possible to consider the South Caucasus as a self-contained geo-strategic region. The historic survey of the region’s past integration processes corroborates this impression.

⁵ D. Levine, *The Oil and the Glory*, NY: Random House, 2008.

Political Stages of the Caucasus Integration History

An integration politics in the Caucasus area has its own history and several phases. The area has been a central-pillar for various imperial invasions and was subsequently integrated within the plans of the conquering powers. Even in times of geopolitical transition, the Caucasus emerged as one of the most important regions in international politics. Hence, the “Caucasus Integration” model could be divided into six stages.

The first stage occurred between the two Islamic empires (1555-1801). In 1555 in Amasya, the Persian and Ottoman empires signed a peace agreement ending 40 years of war. The Caucasus space was divided between the two powers and by doing so, the Caucasus came under “Islamic integration.” The second Stage of the Integration was “Russification” from roughly 1801-1878. At the second part of 18th century Russia expanded into the Caucasus until the 19th century when it managed to subdue the region. The third stage of Integration could be called “consolidation.” Russia solidified its hold over the Caucasus by creating the Caucasus Military District, and the Kutaisi and Tbilisi governorates, ruled by Count Vorontsov, under the principle of the “power vertical” integration model.

The fourth Stage of integration took place at a moment of disintegration of the Tsarist model. “Independent” integration took place between 1917-1922. In that period in parallel conditions two integration projects were taking shape; the Transcaucasia United Parliamentary Republic in the South Caucasus, and in the North Caucasus the “North Caucasus Mountainous People Republic.” Both projects premature attempts at political integration in the Caucasus space, owing to the onset of the Bolshevik revolution and of the Russian Civil War.

The fifth Stage of integration is certainly Sovietization, which ended in 1991. Due to the Sovietization the North and South Caucasus spaces were integrated into the Transcaucasia Soviet Socialist Federation Republic which became one of the founding member of the USSR on 30th December 1922. In Stalin’s period the Caucasus integration model was mitigated by more direct subservience to Moscow.⁶

⁶ See Amy Knight, Beria, San Francisco: Presidio, 1993.

The sixth and final stage of integration began with the fall of the USSR, and pursues an independent path to regional peace. In the post-Soviet period, some ideas and project were put forward to create a stable and joint geopolitical Caucasus; for example Zviad Gamsakhurdia's "Caucasus United House", Eduard Shevardnadze's "Peaceful Caucasus", etc. Lately, Austria has created the Regional Stability in the South Caucasus Study Group, part of the Austrian National Defence Academy's "Stability Track" series of conferences, which it hosts with the participation of the Partnership for Peace Consortium of Defense Academies and Security Studies Institutes.

"Caucasus" Regional Realpolitik

After the EU Vilnius Summit of November 2013 which granted Association status to Georgia, Russian authorities reinforced their competing Eurasian integration project more enthusiastically and more vigorously. It was a really surprise to attempt to incorporate Turkey into the Eurasian Economic Union. The idea has been proposed all of sudden by the President of Kazakhstan Nursultan Nazarbaev who is used to be very long proponent of the Eurasian integration similar to the European Union.

Summits were held to demonstrate how the Eurasian integration structures can counter balance against the EU. In that stance, the CIS Summit was very interesting premise to retake Georgia into the organization – how Belarus president Alexander Lukashenka declared a special gesture to invite Georgia back to the ex-Soviet Union space in aegis of the CIS.

The Kremlin will be reinforcing its pressure over Georgia to get it back into the Eurasian community. Armenia and Kyrgyzstan have been invited to join the Custom Union and the process is being torpedoed radically. Ukraine's decision to join the EU Association Agreement process has been violently overturned by the Russians, and now chaos reigns in the country. Turkey is a special case. Straddling the two civilizations, it can afford to choose and balance on its own terms the advantages of each side. Yet it is strong enough by itself to impose its agenda on the region, if it so wishes. Here we see Mackinder's theories at work.⁷ That is why it is important to

⁷ Halford J. Mackinder, *Democratic Ideals and Reality: A Study of the Politics of Reconstruction*, London: Constable, 1919, p. 113.

consider how seriously the Russian incumbent plans to realize the project and by doing so on how it prolongs the Kremlin regime. More generally the model of the modern Eurasian geopolitical integration space is to be based on four main pillars; a) a Eurasian economic component backed by the CIS, the Customs Union and the Eurasian Economic Union; b) a Eurasian security component, based on the Shanghai Cooperation Organization and the Collective Security Treaty Organization (CSTO); c) a Eurasian political component, which is basically the Eurasian Union plus Turkey and China and d) a redefinition of the global international financial system, to stop dependence on the U.S. dollar's dominance, and to replace the International Monetary Fund and the World Bank.

This is echelon system is developed from Moscow currently. Recently due to geopolitical developments (military instability at the Korean peninsula, Syrian civil war continuation, USA declaration on tighter embargo on Iran, etc.), the Russian military-political authority has demonstrated a tendency toward reinforcement of its current military might. There are several concrete examples of such policy implications that indicate the “unhealthy” perceptions of the current Kremlin administration.

At the end of March 2013 the Russian Far Eastern Military District together with the Supreme Command of the Strategic Air Force have conducted military exercises involving TU-22M strategic bombers on air-strike simulations against American military installations in Japan. It was the first time since the Soviet Union dissolution that targeting objects were so openly defined in exercises.⁸

In early April 2013 based on a presidential decree the Russian Defence Minister and Head of the General Staff of the Russian Armed Forces joined as full-fledged members of the Anti-Terrorist National Committee chaired by the Director of the Federal Security Service (FSB). The committee's main activities are focused on North Caucasus regional affairs and one of its key missions is to monitor the situation in Georgia. In addition to this fact the Russian Ministry of Defence has been elaborating a draft strategy on how to use combat tanks and armoured vehicles for urban (city) war-

⁸ Konstantin Sivkov, “Kak sorvat' blitzkrieg Alliantsa” Voennyi Promishlennyi Kurier, 2013, www.vpk-news.ru.

fare. This has quite serious implications for the military preparations of the Russian side toward Georgia.

The NATO Wales Summit decision to set up a second NATO/PfP Training Centre in Georgia caused serious protests from the Russian Federation. On October 8, 2014, in Geneva, after a discussion about stability and security in the South Caucasus, the Ministry of Foreign Affairs of the Russian Federation came out with a special statement to the effect that any plans of deployment of NATO infrastructure in Georgia would endanger stability in the South Caucasus. The mythical “NATO Base or infrastructure deployment” thesis only serves to distract from the goings-on in Ukraine. As a result, Georgia’s policy of integrating NATO and the EU remains the same, with the consequence that the U.S.-Russia “reset” is stalled.

The Russian side is seeking to prevent any possible engagement of the USA military in regional affairs. The Kremlin believes that Georgia could be used as a staging ground for a campaign against Iran or in conjunction with the situation in Syria. That is why during the Russo-Georgian war of August 2008 Russian jets bombed the Vaziani, Marneuli and Bolnisi military airfields ; as some kind of pre-emptive strikes in order to prevent usage of the military installations by the U.S. or NATO.⁹ Hence, the Russian military preparations aim at getting ready to counter any type of Syrian-, North Korean- or Iranian-inspired crisis situations.

Georgia’s Geopolitics at Verge: Decline of Regional Status-quo?

The Georgian society is being swept with internal political problems. It has been downplaying foreign policy issues that only recently were ever-present and vital. Only two real issues from this substance really matter; NATO integration policy and EU membership strategy. This could harm the concrete national interests of Georgia.

⁹ It could also be said that this was done to prevent NATO or the U.S. from coming to the aid of Georgia in the August war. On the other hand, there may be other reasons as well, such as Russian doctrinal “improvements”. See in this view, Frederic Labarre, “The Battle of Tskhinvali Revisited”, Small Wars Journal (online), www.swj.org, October 2014.

In that regard, at least, the issue of territorial integrity and international recognition process of Abkhazia and South Ossetia will need an appropriate solution. The foreign policy orientation is still irreversible and depends on NATO and EU membership. But there are other important priorities to meet. First, Georgia needs a viable geo-economic project. Before the “Rose Revolution” Georgia used to be a prominent energy gateway. The realization of the oil and gas pipelines, for instance, helped Georgia’s influence and supported the status quo. However, despite Saakashvili’s pro-western foreign policy orientation, these geopolitical projects have been suspended. On the contrary, mostly after the 2008 August war between Russia and Georgia, the geopolitical landscape changed in favour of the Kremlin. The development of the geo-economic projects has fallen under Russia’s influence and Moscow wishes to promote its own geo-economic projects. Even Turkey expressed the desire to join the Eurasian Custom Union as observer. The Kremlin geopolitical project aims to set up a “Soviet type” Eurasian Community led by the Putin regime. Yet, Georgia remains clueless about its objectives and national interests because of the toxic domestic political climate. The problem requires a comprehensive approach aimed a permanent and peaceful resolution of tensions and conflicts at all levels.

A Geopolitical Conception leading to Peace: The “Caucasus Geostrata”

The “Caucasus Geostrata” is a non-confrontational geopolitical concept. It is a product of the Georgian geopolitical school. It aims at the transformation of confrontational relations by applying the principles of peaceful coexistence.¹⁰ The perfect example of this type of Geostrata is Switzerland, during the system of the balance of power, during the 18th and 19th centuries. During that period Switzerland was not only a neutral state, situated between France and Germany; it was also the area of guarantee of the peaceful development for the entire Europe. It was the “Swiss Geostrata” that made it possible for countries to have secret or open negotiations in peacetime as well as in wartime. The Georgian school of geopolitics preaches that the “Caucasus Geostrata” should guarantee a) the security

¹⁰ Scientific Research: “Caucasian Geostrata – Perspectives of Geopolitical Development of the Caucasus Area: Global, Regional and Local Views” by Globalization International Research Institute, in English/Russian, Tbilisi, 2003, p. 20.

and inviolability of territorial integrity; b) protect human rights; c) secure commerce routes; d) cooperate for the sake of the environment and in case of natural disasters; e) promote diversity and tolerance, f) support international investment projects in the region.

This hypothetical scenario could transform the Caucasus into a space of peaceful coexistence. However, this is likely to take quite a while.

Conclusion

In conclusion is very relevant to work out concrete policy recommendations on how to bring about this Caucasus Geostrata and promote a common vision that would help shape a constructive “Caucasian” identity. Here are some considerations on how to proceed in that direction.

The first order of business is to call up a Summit of the Caucasus Leaders and Create a Council of Caucasus Nations (Elder’s Council) as coordination body. Next, create a Caucasus Parliamentary Assembly for the purpose of regional legislative harmonization. The composition would be from the countries’ parliaments, and of duration of no more than three years.

Another idea would be to create a Regional Strategic Studies Center in the South Caucasus to monitor asymmetric threats with the assistance of the PFP Consortium. Alternatively, or in addition, create an Inter-Regional Information Center to facilitate the exchange of information among the Caucasus national actors on the basis of mass-media aiming at joint venture and business development. Finally, a Caucasus Civil Chamber for the regional nations would be needed. Essentially this would be an informal Public Parliament involving civil society; NGOs, Experts, Scholars and public figures to coordinate peaceful processes in the region.

Status Quo for the Breakaway Regions

Asbot Margaryan

I would like to begin with the basic explanation of how important are the implications of the war in Ukraine on the security situation in the Caucasus. Ukraine today is of a paramount importance for Nagorno-Karabakh (NK) and for the whole South Caucasus. The future of our region is decided in the Ukraine. The tragic events in Ukraine once again revealed Russia's tendency to use existing conflicts (as well as creating new ones) as policy instruments in the post-Soviet space, aimed at increasing Moscow's influence.

Moscow has a fundamental interest in keeping the Nagorno-Karabakh conflict frozen. It claims to act as a peacemaker within the Minsk Group while simultaneously arming both sides of the conflict. For Russia, the Karabakh conflict is used as a disciplinary mechanism over both Yerevan and Baku. For example, Russia's pressure made Armenia take a u-turn in its foreign policy and join the Russian-created Customs Union. Armenia entered the Customs Union not for enhancing its security, but rather so as not to jeopardize it. Russia needs neither peace, nor war, but to control both. It acts as a facilitator of peace processes, but only when things come to skirmishes, which actually happened in 2008. This meeting was Putin's own initiative and appeared to be a departure from the OSCE negotiations.

Thus, Russia simply used this to bolster its international image after the Georgian war. The first aim is to provide a reminder of Moscow's role in the Nagorno-Karabakh conflict resolution process. By taking the initiative, Russia has demonstrated its predominant role in the peace process. Moscow's other goal is to show Baku the limits of cooperation with the West, if Baku's policy aims to limit Russia's influence in the EU energy market.

Today in all of the post-Soviet frozen conflicts with dangerous implications we have Russia's presence. Therefore, its sincerity in relation to its Near-Abroad and particularly Russia's South Caucasus policy should be seriously questioned.

Though the OSCE Minsk Group has been assisting the peace process since 1992, efforts have failed to bring the parties closer to a negotiated solution. Whether we like it or not, the Minsk group format has had a virtual monopoly and been the main avenue for the continuing talks in this conflict.

Today, Russia, the United States and France, who are acting as co-chairs over the NK conflict do not share any common perception. Especially now, when Russia has lost the trust of its Western partners, the consensus on the negotiations process between Russia, the US and France has become more difficult.

Therefore, the OSCE Minsk Group alone is not able to deal with this conflict. The only way of changing the Minsk Group format is Nagorno-Karabakh's involvement in the negotiations. There should be a direct dialogue between Azerbaijan and the Nagorno-Karabakh Republic (NKR) first: later on Armenia and the mediators can join. We have gone far from the real problem, which is between Azerbaijan and the people of NK – and here is where we should return. Unlike many other similar cases, Nagorno-Karabakh is the most direct key party to the conflict, yet it is excluded from the negotiation process.

Armenia is negotiating on behalf of Nagorno-Karabakh. Azerbaijan in its turn does not recognize the very existence of NKR. The regional reality should be acknowledged for having a constructive dialogue. Nagorno-Karabakh today has democratically elected authorities and, according to the indexes provided by Freedom House, more democratic credentials than Armenia or Azerbaijan. This, of course, has to be rewarded.

Nagorno-Karabakh Conflict: the Security Dimensions

Today, Nagorno-Karabakh is no longer a frozen conflict. In many ways it is an ongoing hot conflict with daily tensions between the conflicting sides. Indeed, regional security has been replaced with regional insecurity. The peace process is neither about peace, nor about a process. Today, they are larger regional and global interests at stake between the major powers. Many scholars today draw parallels between Karabakh, Crimea, Kosovo and other breakaway or partially-recognized territories. Let me share with you my own perceptions; there are huge differences between Crimea and

Nagorno-Karabakh. In Crimea there was no ethnic cleansing and security threat. Besides, there was no intent or desire to exercise the right of the national self-determination. Actually, before the Ukrainian crisis Putin never talked about the self-determination of Crimea. In contrast, NK was very clear about where it wanted to go and even during the Soviet years, as an Autonomous Region inside Azerbaijan, the people of Karabakh raised this issue several times. In Crimea we have a regional self-determination rather than a national determination. While NK acted within the Soviet legality as an ethno-territorial unit.

What Happened in Nagorno-Karabakh?

The Nagorno-Karabakh case is a clear case of remedial succession from Azerbaijan. It was the remedial succession that allowed international community to recognize Kosovo, in order to save Kosovars from physical extermination. These grounds were absent from the Crimean case handing it to another state. The referendum in Crimea was diametrically different from the referendum in Nagorno-Karabakh. In the case of Nagorno-Karabakh the matter was self-determination, not unification with another state. In Crimea everything was so hasty, that the West cast the legality of the referendum in doubt. Crimea never fought for its independence; it just got it. 50-60 percent of the whole population of Crimean peninsula participated in elections, out of which 96 percent voted for reunification with Russia. Do you think that these results illustrate the reality? These elections were taking place under the presence of Russian forces and Special Forces.

The Azeri side recalls that today nobody in the world at the state-level, including the Republic of Armenia, has recognized Nagorno-Karabakh as an independent state, whereas the territorial integrity of the Azerbaijani Republic is recognized by all international documents. The fact is that nobody puts the territorial integrity of Azerbaijan under doubt, but Nagorno-Karabakh has never been a part of this territorial integrity - either in 1918-1920 or after the disintegration of the USSR. (Nagorno-Karabakh declared independence in September 1991, three months before the collapse of the USSR).

So, why hasn't Armenia Recognized the Nagorno-Karabakh Region so far?

Armenia does not want to predetermine the status quo of NK before the final talks under the auspices of the OSCE Minsk Group, which is a good gesture. However, there are circumstances under which Armenia can recognize the Republic of Nagorno-Karabakh.

Two events that happened within the recent years permit the remedial recognition of Nagorno-Karabakh.

- 1) The first one was the Safarov case, where Azerbaijan played very badly by accepting the murderer of an Armenian soldier in Baku as a national hero. This provided grounds for Armenia to consider the recognition of NK's independence.
- 2) The second case was the civilian airport in Nagorno-Karabakh. Azerbaijani authorities made a statement that the aircrafts would be shot down. When you have such hostility, you have the probable right to consider the recognition of NK's independence.

Coming close to the end, I would like to touch upon the issue of confidence and security building measures (CSBMs). Without political will on both sides the conflict has no chance to be resolved. Armenia has no partner for peace in this conflict. In some sense, it resembles a small country in a very bad neighbourhood. One of the main hindrances for achieving peace is the reluctance by the fully authoritarian political regime in Azerbaijan to reach a peaceful settlement of the conflict, which would require a significant amount of political will and sacrifice.

Azerbaijan holds the view that confidence-building measures should only come after substantive progress has been made in negotiations. However, this does not make sense, since if there is progress, if we reach some decisions, then there will be no need for confidence building measures. Today the Nagorno-Karabakh conflict has become a tool of manipulation by both sides in their domestic policies, an old ploy of distracting from domestic problems by focusing on a foreign adversary. There is clear evidence of how the authorities in Baku behave with people who want to make a dialogue with Armenia. In other words, we see a promotion of 'Armenophobia' in Azerbaijan on a state-level. President Aliyev declared all Armenians of the world the enemies of Azerbaijan.

Just over a month ago the world was shocked watching a video of ISIS barbarians destroying the Mosul museum. Not many are aware that same kind of a vandalism took place in January 2005 in the Medieval Armenian cemetery of Jougha (or Julfa), Nakhichevan (AZ), where 2,000 stone-crosses were demolished. Alongside, the entire invaluable heritage that Armenians had created for centuries in that region (now an autonomous republic within Azerbaijan) was blown up, bulldozed and wiped away.

Do you think that this is the country where the Karabakh Armenians could ever be safe? Let's be realistic.

Lack of trust and confidence-building measures only deepens hatred among people significantly endangering any form of future coexistence even if a peace agreement is signed. The change must come from the official rhetoric of the leadership. President Sargsyan speaks about human lives, dialogue and security of the region. Instead, today, Baku keeps on expanding its list of Karabakh visitors by declaring “personae non grata” foreign celebrities, state figures, journalists and politicians. President Aliyev speaks about hatred and territories all the time and threatens with a new war against Karabakh even through his Twitter account.

Years of negotiations have achieved little because the two sides are so far apart in their visions of Karabakh's future – independence versus reintegration – that it is hard to discuss even preliminary steps like refugee return. We speak about the refugee issues, which is one of the most controversial and challenging issues among many others in the conflict resolution over Nagorno-Karabakh. In the current framework one should be an idealist to think that either Armenians will go back to Baku, Sumgait and Kirovabad OR the Azerbaijanis will come to live in Shoushi. For too long the possibility for the coexistence of these nations has been excluded.

I think that the consequences (such as internal displacement) should not be addressed before the causes (such as security and identity), otherwise we will have the same cycle of conflict repeated. Permanent tensions and shootings on the borders, daily casualties on the line of contact caused by snipers only minimize the relative trust that can be achieved and exclude all the possibilities of coexistence. How can one trust a border violator?

Suggestions and Conclusion

At this stage, there are several scenarios for the resolution of the Nagorno-Karabakh conflict: preservation of the status quo, resumption of war and a negotiated settlement based on compromises.

The most probable scenario is the preservation of the status quo, which unfortunately will continue claiming lives and provoking violence among civilians and the military. The no-war-no-peace situation is still far from being transformed toward a more peaceful state.

I think that an urgent reset is needed in these talks; negotiations should be started from zero, on reducing tensions on the line of contact between armed forces and creating confidence-building measures. New approaches, Free Trade Zone (FTZ) or Qualified Industrial Zone (QIZ) ideas, can open doors to peace between Armenia and its neighbours Turkey and Azerbaijan opening the last closed borders in Europe and establishing stability in a new geopolitical region.

Why Status Quo Ante for Nagorno Karabakh?

Elchin Karimov

The only option for Nagorno-Karabakh can be possible in future is a status quo ante which underlines returning seven occupied districts including Nagorno-Karabakh.

I refer to new proposals from the REAL movement for Nagorno-Karabakh conflict resolution. I am not representative of this political movement however; I find this model quite reasonable to open new windows, new realities in the negotiation process. According to them, the context and also format of the negotiation for Peace Agreement should be changed. New negotiation principles should be consisted of 3 separate steps: firstly Baku should discuss with Yerevan only about the withdrawal of Armenian troops from occupied regions, including Nagorno-Karabakh. Secondly, Baku should negotiate separately with the OSCE Minsk Group only about regional stability in Nagorno-Karabakh. Foreign peacekeeping forces for Nagorno-Karabakh (Russian or Western) cannot be accepted. A peacekeeping mission can be realized by some sort of civil policy sanctioned by the EU who are provided with light weapons. This is very important point to take into consideration during negotiation process. Whoever proposes us helping for conflict resolution in favour of Azerbaijan, and if Azerbaijan accepts this, we will be dependent on that country. There were speculations that Russia could solve the conflict in favour of Azerbaijan if Azerbaijan joined the Eurasian Union. Fortunately, this did not happen. Azerbaijan has to be very careful on this issue so that we do not miss our strategic target.

Finally, Baku should set up discussions separately with the Azeri and Armenian communities living in Nagorno-Karabakh about future status of the Nagorno-Karabakh. Negotiation with Yerevan about future status of Nagorno-Karabakh within the Madrid Principles is wrong; Nagorno-Karabakh is the legal territory of the Republic of Azerbaijan, and this is not the business of Yerevan to interfere in our internal issue. And, any kind of referendum in Nagorno-Karabakh will not be a subject for negotiation in the future; this is opposite to our constitution.

After a peace agreement is reached, heavy weapons should be excluded from Nagorno-Karabakh, IDPs will be returned to their home. The rights and security of Armenians living in Nagorno-Karabakh will be provided. Besides, a free economic zone will be established in the region, which would get high governmental support for reconstruction of infrastructure; from a governance point of view, Karabakh would get a higher level of autonomy within the constitution of the Republic of Azerbaijan.

What is necessary to make the status quo ante possible? I would like to underline the importance of some points that from my perspective will lead to lasting peace in the future. The picture is clear for us: Nagorno-Karabakh and surrounding occupied districts must be returned to Azerbaijan. To make it possible, Azerbaijan should make the current status quo unbearable for Armenia by achieving economic sanctions imposed by the international players. At the same time, we need a strong Army ready for the worse situation which means in case again Armenia can launch a war supported by Russia against Azerbaijan.

We are in a very critical geography. Our neighbours are dangerous, and we must be strong not only to achieve our territorial integrity and prosperity but also to defend ourselves. So, *realpolitik* matters much to reach this target. We need to build a stronger foreign policy, choose appropriate allies for security and economic cooperation, and this is one of main problem of the regime today. The regime is not able to realise this; it cannot choose an appropriate ally to meet its strategic targets. Another problem of course is the Russian attitude towards conflicts in South Caucasus which is clear for everybody.

I would like to stress another important point for us which is the building of a democratic image of the country around the world. So, this should happen simultaneously. Integration with NATO and the EU requires reforms in the political system, economic and juridical reforms, so strategic targets depend strictly on internal processes.

However in general, Azerbaijan has got lots of advantages to achieve her strategic target. Azerbaijan is an economically-independent country and this is the only country in the post-Soviet region that has energy independence which enables her to make independent decisions in the region. We have

got enough resources to invest to Nagorno-Karabakh, and we have capacity to build stability and prosperity in the region including a new government there from scratch. But what has Armenia done for Nagorno-Karabakh? Azerbaijan is ready to have economic, cultural-educational cooperation with Armenia after a peace agreement is settled and the territorial integrity of Azerbaijan is restored. But because of Armenia's territorial claims against Azerbaijan, the development of the region lags behind, unfortunately.

However, today's regime in Azerbaijan has already damaged the reputation of the country internationally. It should be mentioned that this regime is not able to use the opportunities that we have. The regime is irresponsible in general including toward the Nagorno-Karabakh problem, misses historical opportunities, wastes the huge financial resources of the country, cannot provide for a transition to democracy, and finally cannot find a suitable ally for the security and prosperity of the country. There should be changes. This is very important. If we have got reforms, positive changes in political system, peacefully, by reconciliation with society etc., then we will come up with new realities in the region to achieve a peace agreement, but we have to be prepared very carefully for historical opportunities.

Another concern of mine is about the stereotype that we are historical enemies and cannot live together afterward. This is not true at all. The conflict between Azerbaijan and Armenia is a political and military conflict. As two nations, we never had special hatred for each other during the years we lived together. We are not concerned about common living conditions with Armenians. Nowadays, Azerbaijani and Armenians live peacefully together in Georgia, Russia, and other places, have successful gone into business together, etc. Also, more than 7 000 Armenians live peacefully in Azerbaijan today. This relationship has deteriorated only after Armenia made territorial claims against Azerbaijan, unfortunately.

An Argument to Revise the Principles Governing the Nagorno-Karabakh Conflict Resolution

Hratchya Arzumanyan

The Madrid Principles developed in the 1990s to resolve the conflict on Nagorno-Karabakh (Artsakh) do not correspond anymore to the realities of the security environment in the 21st century. The Madrid Principles reflected the military-political balance in the region established immediately after the victory of the Armenian side in the Azerbaijani-Artsakh war in 1991-1994. As a result, a cease-fire agreement was signed at the request of the Azerbaijani side, through the mediation of Russia, which had a monopoly on security issues in the post-Soviet space in that period. However, the security environment for the last decades has radically changed, compelling the parties to think about developing new principles and a new approach to conflict resolution. This article aims to look at some elements of such a new perspective.

First of all, it is necessary to note that the meaning and the value of “conflict resolution” are changing in the security environment of the 21st century. The traditional linear model of conflict resolution aimed at achieving peace between the conflicting sides. An appropriate legal basis was developed, clear timelines for the transition of relations between the states from peace to war were available and supported by corresponding procedures of the international law, while all participants to the conflict followed more or less “the rules of the game”. There were in history numerous exceptions from this traditional model, such as, for example, the colonial wars or the wars with non-European states. However, this model allowed to define what was acceptable and to assess the behaviour of the parties against the objectives of an agreed peace.

Although this traditional model continues to dominate the current military and political thinking, ever since the 20th century, war frequently developed within another framework, which conditionally corresponded to the legal requirements of the traditional model. The separation of various stages of the conflict and, particularly the transitions between them became prob-

lematic. Conflicts and their resolution in the 21st century are rather described by a nonlinear model in which a continuation of competition and conflict is assumed. This continuation includes all the efforts of the nation and all the tools for deterrence and intimidation of the opponent. The transitions from peace to crisis or from crisis to war are not accurate; moreover, they represent a separate niche of a “transient condition” having its own logic.

Within the framework of this new model, the operations of post-conflict stabilization have turned into a number of cycles, the completion of which can be defined conditionally and often only in retrospective. In these conditions, it became incorrect to speak about the return to the status quo, as the start of a new cycle inevitably changed the initial parameters of the conflict. The metaphor of the crisis and of the conflict became the spiral of interactions with the cycles changing both in amplitude and step, according to the scale, speed and nature of interactions.¹

In the 21st century, a considerable number of conflicts do not come to an end with signing a peace agreement, and they rest in a state of “neither war nor peace” or as “frozen conflicts”. The third “hybrid” state of conflict and the relations between actors form a separate conceptual type, under which the challenges and threats of the security environment of the 21st century are described.²

In the 1990s, the ceasefire agreement reached in the framework of the Artsakh settlement was considered a “temporary solution”, which should

¹ The consideration of traditional and nonlinear models of conflict see appropriate chapter in Арзумян, Рачья В. Кромка хаоса. Парадигма нелинейности и среда безопасности 21 века. Издательский дом «Регнум», Серия Selecta XIX, Москва, 2012.

² Gray, Colin S. Perspectives on Strategy. Oxford: Oxford University Press, May 2013; Gray, Colin S. Categorical Confusion? The Strategic Implications of Recognizing Challenges either as Irregular or Traditional. Carlisle, PA: United States Army War College Strategic Studies Institute, February 24, 2012; Арзумян, Рачья В. Стратегия иррегулярной войны: теория и практика применения. Теоретические и стратегические проблемы концептуализации, религиозные и военно-политические отношения в операционной среде иррегулярных военных действий / под общей ред. А.Б. Михайловского. – М.: АНОЦСОиП, 2015. (Новая стратегия, 4).

be replaced by a peace agreement or a new war. Such a vision of the situation and expectations were, in many respects, a consequence of the narrowness of the methodological basis built upon the traditional model of conflict. The stability and durability of the ceasefire and the status quo, were basically supported by the military balance between the conflicting sides, and were perceived as a deviation from the norm. Echoes of such an outdated understanding of the conflict could be found in a number of statements on the Artsakh settlement.

However, in the current security environment, the state of “neither war, nor peace” is considered the norm, while the “frozen conflicts” and “grey zones” are recognized forms of the current military-political realities. The consequences of this revision of the typology of conflicts and the state of the current security environment require changes in the meaning of the term “resolution”, which, in turn, demands reconsideration of the aims of conflict resolution. In the new conditions, conflict resolution should be perceived not only as the achievement of peace under an appropriate agreement, based on the international law. Such goals are unachievable for the majority of conflicts in the Wider Near East, as the international community and the regional power centres do not have effective mechanisms which would allow to reach final peace, and to compel the parties to the conflict to carry out the assumed commitments during a long period.

In the security environment of the 21st century, we don't speak in terms of final, but acceptable options for conflict resolution, where the possibility to manage the conflict is maintained. In these new conditions, the regional actors and international institutions are forced to avoid the emergence of “black zones” in the international system. In such zones, the governing capacity was lost; there were no efficient authorities and actors, which would be able to assume the responsibility for providing an order and the basic needs of the population in the security and life-support sphere on the governed territory.³

In other words, the international community appears to be interested in the existence of actors, which would be ready to assume the responsibility and provide the basic functions of government and public administration. Even

³ Арзуманян, Стратегия иррегулярной войны.

though the issues of international legitimacy and recognition continue to play an important role, they ceased to be seen as determinant principles. In the security environment of the 21st century, the aim is to exclude the transformation of territories where conflict is developing into chaos, where radical religious and extremist groups, denying the bases of the existing international order, come to power.

A look at the South Caucasus and the Artsakh problem through these methodological lenses demands to reevaluate both the problem and the solutions within the existing regional security system. The changed security environment requires developing a new conflict resolution approach as well as new principles and strategies for conflict resolution in Arstakh. All the components of the strategic triad need to be revised as it is necessary to formulate new ends, to define the methods and means for their achievement, as well as the resources which could be used in the conflict resolution process. The experience of the last decades demonstrated that regional powers disposed of limited resources, methods and means for conflict resolution.

It is enough to remember the Syrian or the Ukrainian crisis, where the world powers were not able to carry out their role as guarantors of international law. In the 21st century, the world powers repeatedly lost control over the initiated processes, while the implementation of the decisions and action plans became impossible. They were unable to compel the parties to carry out the commitments undertaken in the framework of the agreements. The limitations of the regional powers are objective, considering the increase of the number of conflicts and the necessity to revise the existing international order.⁴ Today, none of the regional centres of power can give exhaustive security guarantees to the conflicting sides or compel them to carry out their commitments.

When developing a new approach for conflict resolution, it is important to realize that not all conflicts can be resolved in the framework of the current security environment. This notion should be regarded as positive knowledge. If the existence of “knots” which cannot be untied in the international system is accepted, then the rejection of attempts at untying them

⁴ Kissinger, Henry. *World Order*. New York: Penguin, 2014.

may actually reduce the risks to create new problems. It is therefore necessary to regard such rejections as positive results in cases where a loss of control over the escalation of tensions is possible. The system of regional security in the South Caucasus (and the Caucasus as a whole), where Artsakh does belong, should be regarded as such a “knot”.

In the conditions of a turbulent security environment and narrow horizons of strategic prediction, the attempts at long-term planning are groundless.⁵ Consequently, the Madrid Principles, assuming full resolution of the Artsakh conflict within the framework of a multi-stage plan, appear to be inadequate. In this context, it might be rather worth considering applying the “small steps” approach built upon the implementation of appropriate principles and strategies. The aim of conflict resolution in this case would be to move towards solving local and particular problems by small steps and to avoid any actions and initiatives which can destabilize the situation.

In the framework of such an approach, the strategy based on confidence building measures at local level (micro-level) may be considered. To a certain extent, we may also speak of a new interpretation of the concept “step-by-step approach” used by the Madrid Principles. However, in this case, the concept is applied not in the framework of the strategy assuming a comprehensive resolution, but locally through the realization of micro-steps, each of which, at least, does not worsen the existing balance of forces. This new approach should favour activities at micro-level, with the involvement of the regional actors. In this case, the guarantors of security and the regional centres of power should solve simpler and less-costly problems: to monitor and implement the agreed processes, and to promote the realization of the steps and initiatives demanding no cardinal revision of the existing regional security system. In other words, preference should be given to short term, locally developed evolutions rather than to processes of major transformation.

Such an interpretation of the “step-by-step” approach to the resolution of the Artsakh issue is deemed as the only feasible to date, as it offers the opportunity to avoid involuntary escalations of the conflict. In this case, the final decisions on the international recognition and on other elements of

⁵ See Арзуманян, *Кромка хаоса*.

the final status of Artsakh should be moved to a distant future where the societal changes and the security environment would enable reaching a final agreement. The basic attention and the resources of the international community should be focused on supporting the next «small step», and on the prevention of actions and initiatives which might break the existing military balance.

It is important to understand that the matter here is not the conservation of the Armenian-Azerbaijan confrontation that is fraught with the increase of internal tensions, but it increasingly translates itself into performing small changes, balancing on the edge, which are possible and acceptable to the societies. Thereby, both the societies and the regional security system are pushed towards evolutionary rather than revolutionary developments. In this case, we could speak of an ecological approach to the development of the regional security system in the South Caucasus.

Small steps can be supported and strengthened by initiatives at the macro-level. For example, if the centres of power reach a consensus, they can raise and solve the issues related to the prohibition of providing the region with new weapons systems, the termination or the decrease of the level of the arms race and so forth. In this case, we can speak about two parallel processes. The first process develops at the micro-level, in the framework of confidence building measures between the conflicting parties. The second process – at macro-level – is implemented by the regional centres of power in order to create conditions that would reduce the probability of escalation of tension and the resumption of large-scale military actions.

Certainly, both the overall resolution of the conflict and the above mentioned processes can be successful if there is political will to avoid a new war. The latter is crucial, as any conflict management approach makes sense and is constructive if all the actors and centres of power have the political will to move towards conflict resolution rather than to further confrontation. The lack of political will for pursuing the peace and the attempts at pursuing military solutions make meaningless any initiatives aimed at the achievement of peace. If there is will for peace, priority should be given to the ability of the states from the region to set up a security system in the South Caucasus without the direct participation of the regional power centres. Initiatives assuming direct external intrusion, in particular

the deployment of peace-making forces, should be considered as unachievable due to limited resources and a growing number of conflicts.

Currently, the South Caucasus states are able to ensure the balance of forces in the region. The discretionary intervention by the international community and the regional power centres to perform some regional security functions will inevitably turn the states of the region from security providers into net security consumers, which could become indeed very costly. The negative experiences in Afghanistan and in the Middle East unambiguously showed how costly and counterproductive could be the direct intervention in a regional security system by the regional centres of power. Such attitudes and the ensuing strategies might rather create new problems than solving the existing ones. It is also necessary to honestly assess the existing alternatives and possible scenarios for the future of the region. New initiatives can aspire to keep the existing balance and the status quo or become a trigger for escalating tensions. Until an appropriate level of confidence is achieved in the region, that would allow conflicting parties to think at reducing their level of mutual hostility, consideration of any other alternatives should be recognized as out of touch with the reality. The attempts to artificially accelerate the processes and achieve an agreement, which the societies will not be ready to accept, may lead to the escalation of tension and a large-scale war, which will have an existential character for the Armenian side.

Thus, the arguments considered in this article are meant to show that the existing approach to conflict resolution under the Madrid Principles should be replaced by a new one. The development of such a case is a complex problem and a challenge requiring correct formulation. In particular, we can speak of an approach that would not assume a comprehensive and final resolution of the conflict, but “small steps” and context-dependent initiatives. In the current security environment, we should rather talk of finding a working strategy to keep the existing balance of forces and a security level that allows the regional security system to move towards a more stable status, including by effectively using the salami-slicing strategy and confidence building measures at the micro-level.

Epilogue

Frederic Labarre

The Regional Stability in the South Caucasus Study Group has, with this Study Group Information Booklet, completed the sixth workshop of its re-birth, sponsored by the Austrian National Defence Academy. Now is as good a time as any for a bit of stock-taking. The workshop dealt with the issue of “strategic patience” yet, the interventions and the contributions to come of it demonstrate that there is still much angst and discomfort at tackling the difficult issues of status, non-use of force, and treatment of internally-displaced persons (IDPs), not to mention justice.

So far, the RSSC SG has tackled these issues at the strategic and conceptual level, and has managed to produce actionable policy recommendations. Such policy recommendations can be found in the following section. Mostly, the recommendations from the 11th RSSC SG workshop have been the fruit of the negotiation simulations that were held for the first time in Kiev. The co-chairs of the RSSC SG are very proud to have achieved such an effective and inclusive process so quickly in the Study Group. But much remains to be done.

In looking back at past interaction and recommendations, the co-chairs noted one recurrent feature; the need to distinguish between elite-driven and grass-roots (bottom up) driven conflict resolution and stability processes. Many within the Study Group have argued that the Minsk Process is ineffective. At the same time, few are willing to part with this peacemaking platform for fear of cutting off critical communications links between the conflicting parties. By the same token, it was also acknowledged that regional elites are perhaps not to be counted on to initiate meaningful headway for conflict resolution. At the same time, it is also acknowledged that these same elites are also cornered by their own positions on the conflicts.

The grass-roots (including civil society organizations) are also facing a dilemma. On the one hand, they are keener to seek long-lasting solutions, because the consequences of conflict directly affect the respective constitu-

ents of the conflicting sides. On the other hand, the context of perpetual conflict and tension demands an authoritarian response from the elite, which tend to curtail the freedom of manoeuvre of civil society organizations, and therefore the latter's effectiveness becomes limited.

It would seem (and this is a conclusion that came already in the 6th RSSC SG workshop), that there needs to be a way to enable the elite to become comfortable with change. Comfortable in the sense that whatever change they promote will be welcomed by the respective constituencies. For this to happen, the constituencies need to be "prepared" for change. Based on the discussions over the last six RSSC SG workshops, and especially during the 11th workshop, the co-chairs have decided that the next meeting should focus on the role of the media (cum civil society) in shaping expectations for peace. That is, it is understood that the elite will not be able to move on a program of change lest they have "buy-in" from their populations. It would seem, therefore that this "buy-in" needs to be articulated so that public opinion is informed of the negative consequences of conflict on the economy, social development, and political integration (the latter term understood in all its meanings; acceptance of norms, membership in international organizations, as well as internal socio-political solidarity).

The 12th RSSC SG workshop, in Reichenau, Austria, considers how the media works, and how it can be leveraged to the benefit of South Caucasus societies. The aim should be to develop a "campaign plan" that would at once objectively inform the public, as well as having non-political actors provide solutions for effective (and eventual) conflict resolution. These actions would help prepare public opinion for departures from expected elite positions. That is, the elite would thereby be enabled to entertain that departure based on the potential acceptance of new priorities by the public.

In view of the propaganda war between the Russian and Ukrainian media (and here we are not excluding the Western media), it becomes crucial for the continued development of the South Caucasus countries, to consider the role of the media in society, and how that role can have positive outcomes. Falling into the same trap that Russia and Ukraine have now fallen into with their media can only make the South Caucasus regress in its development. This is why it is vital to have a workshop on "The Media is the Message: Shaping Compromise in the South Caucasus."

PART IV:

POLICY RECOMMENDATIONS

Policy Recommendations

Current Events in the South Caucasus

Situation Analysis

The ripples from the Ukrainian crisis continue to reach the South Caucasus. In early March, 2015, NATO Secretary General Jens Stoltenberg announced that the Alliance was considering the creation of a joint training centre in Georgia. The announcement elicited a vocal reaction from the Russian representation at NATO, and it is not impossible that the decision to create such a joint training centre may have been made in the wake of further “creeping annexation” moves by Russia. Indeed, Russia has further deepened its “ties” with Abkhazia and engaged South Ossetia in a security alliance in recent months. Interestingly, members of the Regional Stability in the South Caucasus Study Group residing in Abkhazia and South Ossetia have manifested their disquiet on the one hand at the loss of sovereignty this could entail for Abkhazia, and on the loss of security that may be created by the merging of the South Ossetian militia within the Russian army structure on the other hand.

Sanctions against Russia are also having an impact on the Georgian domestic political and economic scene, as the Georgian Lari has plunged to “politically dangerous levels”. Decreasing confidence in the national currency may help the fortunes of the new political party of the “Free Democrats” founded by Irakli Alasania, Georgia’s ousted defence minister. It may perhaps be for this reason that several of Mr. Alasania’s former colleagues were put behind bars on charges of corruption, and that pressure on the new political grouping has steadily been mounting. Be that as it may, that level of infighting distracts attention from the business of enacting and implementing critical reforms.

On 1st January 2015, Armenia officially joined the Eurasian Economic Union (EEU) - the Moscow-led regional integration project in the European Eastern Neighbourhood. This potential game-changer shift in the geopolitical and geo-economic dynamics of the South Caucasus followed upon an October 2014 EEU internal agreement on the main controversy concern-

ing Armenia's admission— the likely establishment of customs controls on the border with Nagorno-Karabakh. The decision to join the EEU instead of signing an Association Agreement and a Deep and Comprehensive Free Trade Agreement with the EU was publicly explained by Yerevan by invoking an imperative need for Russian economic and security guarantees, in the context of the Nagorno-Karabakh conflict with Azerbaijan. However, Armenian authorities seem also willing to set up a new and more flexible cooperation framework for Armenia's relations with the EU at the upcoming Eastern Partnership (EaP) summit in Riga. Indeed, according to the current Latvian rotating presidency of the EU Council of Ministers (January–June 2015), this May 2015 summit will aim at further developing the EaP with greater consideration given to partner countries' individual preferences, possibly including discussions on establishing a united European economic area.

Meanwhile, the economic situation of Azerbaijan has seriously deteriorated mainly because of the downward trend in global oil prices, and of the indirect impact of Western economic sanctions against Russia. On February 21, the Central Bank of Azerbaijan (CBA) devalued the country's currency, the Manat, by 33.5 percent against the US dollar, and 30 percent against the euro. According to the CBA the decision to devalue the Manat was made in order to boost the development of the country's economy, increase its international competitiveness and to improve its export potential. Years of high levels of economic growth and an unshakable stability of the national currency have, until now, helped to support the credibility of the Azerbaijani government in the eyes of its constituency. However, as the country's economy and financial system begins to suffer an acute reversal, the government in Baku may likely find itself under growing popular pressure. It is unclear though to what extent this prospective economic downturn would affect the Azerbaijani defence budget and plans to regain control over Nagorno-Karabakh and the seven districts around it.

Over the last months, military clashes resulting in casualties on both sides continued along the Line of Contact around Nagorno-Karabakh and the Armenian-Azerbaijani border. They highlight the obvious discontent of Baku with the continued lack of progress in settling this more than 25 years old conflict. Apparently, Azerbaijan started to use grenade launchers and other new weapons, which had not been employed in the border areas

since the 1994 ceasefire. Similarly, the downing of an Armenian Mi-24 helicopter in November 2014 was the first case of military activity being carried out in the airspace of Nagorno-Karabakh since 1994. At present, significant progress in the political settlement of the conflict seems rather unlikely, despite the fact that three meetings took place between Armenian and Azerbaijani presidents in the second half of 2014. An increasing number of international experts have started to relate the current political stalemate over the status of Nagorno-Karabakh to the uncertainties dominating the current European security order, in the context of the annexation of Crimea and of continued Russian support to Ukrainian separatists in Donbas.

1. Historical Examples of Conflict Resolution through the Passage of Time

The speakers focused their presentation of the methods used by opponents in the South Tirol, Czech-Slovak and Quebec separatism cases. As is known, not all cases of separatism were successful but nevertheless, the pertinence of the panel was still manifest because of how the lengthy process of accommodation/reintegration took place in the case of the Quebec-Canada dispute.

Dr. Michael Gehler of Hildesheim University, argued that South Tirol had a functional autonomy as part of the Italian state, and that this consideration, without forgetting the Maastricht Treaty and the establishment of the Schengen area, made the separatist idea lose much of its value. The inclusiveness (not to mention the economic advantages) provided by the EU was conducive to the shaping of a new identity. Also, the constant and positive economic growth at the regional level, thanks to the EU's now open borders, convinced the constituents that any political change was now unwanted as it might upset growth in the future. The economic argument became, over time, the basis on which a broad consensus could emerge on the way ahead for the South Tirol within Italy.

By contrast, Dr. Mary Heimann showed that the seemingly peaceful separation of the Czech and Slovak Republics was in fact accomplished on the back of a dark common history. Nevertheless, the two republics endured together throughout the Cold War, and came to separation by mutual

agreement in 1992. The conditions that made this possible were due to the fact that separation had been achieved in fact already. This observation did not go unnoticed among our South Caucasus participants. To those who fear the separation of their breakaway regions, the de facto “separate” character of the relationship of the centre with the periphery is a constant reminder that the Czecho-Slovak scenario could legitimize separation in their case too. Another observation made by Dr. Heimann is that the decision to “let go” by the two sides was based on the idea that progress towards higher forms of integration, i.e. NATO and EU membership, would be easier to achieve alone than together. That is, both sides chose to forego a conventional form of territorial integrity in favour of a pan-European role. While the Czech Republic was the more immediate winner of this gamble, Slovakia followed with NATO and EU membership five years after the Czech Republic, in 2004. Moreover, the decision to separate was not left for the people to decide. Instead, leaders seized the opportunity for radical change provided by exceptional times.

Frederic Labarre treated the case of Quebec separatism as a successful drawn-out mixture of compromise and branding strategy by the Canadian Federal government towards the Province of Quebec. This patient strategy was aimed at forcing a reduction of the narrative to the point that the message of separation would be attractive only to the smallest minority, while at the same time conceding on key points to force this change of narrative. Canada’s increasing economic prosperity provided the grounds whereby a favourable branding strategy putting forward the most positive Canadian symbolism was used to create an attractive identity. Canada used concessions to gain time, to allow structural change to take hold in Quebec society, the sort of structural change that would guarantee that any future referendum on the question of separation would be unsuccessful. Labarre argued that Canada’s international reputation, developed during world class sports events such as the Olympics, as well as its positive participation in peace support operations during the 1990s and also in combat operations in Afghanistan have galvanized Canadian identity to the point that the language or culture issues have become less relevant.

2. Current Examples of Status Shifts – or Status Permanence

The aim of this panel was to debate the argument that under certain conditions, lasting stability could be obtained at the price of sovereignty and/or territory. The panelists looked at the examples of Ukraine and Crimea, and Moldova and Transnistria respectively, which are thematically or geopolitically reminiscent of the situations faced in the South Caucasus. Unsurprisingly, given the composition of the panel, all speakers contested the main argument of this debate from both the Realpolitik and human security perspectives. Neither the members of the Group brought up strong arguments in favour of it, leaving the overall impression that the argument of this panel was, at present, “a bridge too far”.

The Ukrainian speaker, representing a Crimean non-governmental think tank, focused on the de-occupation and re-integration of Crimea with both the Ukrainian mainland and with the wider community of the European countries. His main concern was “how to win Crimea back”? While re-establishing control over the territory annexed by a neighbouring country was deemed as a matter with historical, normative and wider Realpolitik underpinnings, he thought that focusing on preserving the societal ties of Crimeans with the mainland Ukraine, and on winning hearts and minds on the side of Ukraine might yield, over time, some positive results. Obviously, he perceived the integration with neighbouring Russia and the ensuing de-Europeanization of Crimea as processes with negative repercussions at all levels over the Crimean polity, the most affected being the Ukrainian and the Crimean Tatar minorities. Therefore, Crimea’s status shift was totally unacceptable from his perspective, while a Ukrainian strategy for de-occupation and re-integration was more necessary than ever.

The next speaker thought that neither the separation of Transnistria from Moldova, nor the federalization of this country were possible at present. He took a critical approach to both Transnistrianization (creation of unrecognized enclaves on the territory of a state) and Finlandization (the process whereby one powerful country strongly influences the policies of a smaller neighbouring country, while allowing it to keep its independence and its own political system) as valid methods for conflict resolution on the territory of the former Soviet Union, including in Donbas/Ukraine and in the South Caucasus. He thought that perceiving strategic patience as a deci-

sive factor in conflict resolution was flawed since this concept couldn't actually work in practice. In exchange, he argued for keeping the existing negotiation mechanisms, starting the actual negotiation processes, and for a bolder role of the EU in conflict settlement. As an example of the latter, he alluded to the inclusion of Transnistria under the DCFTA, signed by the Republic of Moldova with the EU, as a potential solution to the current de facto economic blockade of Transnistria due to the war in Ukraine, and Tiraspol's non-recognition of Moldova's trade regime with the EU. He also suggested the inclusion of the re-integration process under the umbrella of the Eastern Partnership, since internal re-integration should rather precede European integration than the other way around.

The last speaker in this panel, Dr. Cornelius Friesendorf, took human security as the key criteria for evaluating the effects of status shifts - in contrast to Realpolitik and related notions such as 'stability'. His paper, although focussed on the impact on human security of the war in Ukraine and of the annexation of Crimea, drew several conclusions that might be relevant for the South Caucasus as well. He argued that the view that violent status shifts can become acceptable over time, evolving into stable new territorial and political orders, neglected how violence committed against civilians would affect the acceptance of status shift. War-related violence would create powerful historical narratives that could undermine the sustainability of status shifts, with victims of violence or their descendants contesting such shifts even decades later. He further argued that actors who worked towards status shifts – whether internal or external to a conflict – should have to reckon with the power of justice claims resulting from harming civilians. This would make for an imperative to reign in those pushing for war and to find peaceful ways to resolve status issues.

It might be also worth noting as a conclusion of this panel the controversial relevance of post-conflict justice for dealing with the consequences of attempts at status shifts. This is particularly true in case a reversal of a status shift had been chosen as political solution to a conflict. For example, in practice, one can't envisage a return of territory to a state by peaceful means without providing guarantees to the former fighters for independence/autonomy that they won't be convicted for the "collateral damages" of their fight. This is where possibly the time elapsed and the concept of

strategic patience might have a role in sweetening the historical narratives claiming justice for lost civilian life.

3. Status Quo, or Status Quo Ante, for the Unrecognized Regions?

The group mostly agreed that status resolution was premature at this stage, and it was best left alone. The presentations made during this session shed new light on the perception of the outside world in South Ossetia. For example, the transfer of authority of the South Ossetian militia to Russian control is seen as disquieting for Tskhinval residents, and so is the news of the creation of a new NATO training centre in Georgia. Presenters argued that dialogue processes should be transferred to the civil society level to offset the information pressure they were subjected to. The problem of “polluted” or biased information is a great hindrance to the establishment of dialogue platforms. The Georgian representative also agreed that further dialogue was needed to seize upon various methods and opportunities for “integration”. Integration here seems not to have been meant in a manner pejorative to South Ossetian or Abkhaz aspirations. Integration here was meant as opportunities for cooperation that obviate or surpass status issues, such as a Caucasus Common Economic Market.

In the Nagorno-Karabakh dispute, Azerbaijani participants predictably suggested that the status quo ante was the only solution. However, a caveat was introduced when it was suggested that the Armenian and Azerbaijani communities of Nagorno-Karabakh should be invited to jointly decide about the future of their region, rather than make that decision hostage to the negotiations between Baku and Yerevan within the Minsk process. The rights and security of Armenians living in Nagorno-Karabakh would be assured as a progressive return of Azerbaijani IDPs would take place. The Armenian participants agreed in principle that confidence and security-building measures (CSBMs) were a critical component, but depended on political willingness, substantive progress, the abandonment of enemy images spun by the media, among other. While Armenians preferred the status quo, a reduction of tensions along the line of contact in Nagorno-Karabakh should nevertheless be possible.

Simulated Negotiation

Based on a joint Azeri-Armenian suggestion made during the 10th RSSC SG meeting in Reichenau, Austria, it was decided to engage in two simultaneous negotiation simulations in lieu of the usual fourth panel. One group focusing on the Eastern South Caucasus, handled by George Niculescu, while the other focused on the Western South Caucasus, led by Frederic Labarre. The aim of this exercise was to create workable solutions for each of the conflict sets (Armenia-Azerbaijan-Nagorno-Karabakh, and Georgia-Russia-South Ossetia-Abkhazia). The exercise shows promise in bringing greater depth and precision to policy recommendations, provided below.

Summary of policy recommendations

Policy recommendations extended beyond the issue of status shifts. As in the previous RSSC SG workshop, recommendations were formulated against several “levels” – general to specific. It must be noted that the negotiation simulation led by Mr. Niculescu yielded many recommendations addressed in past RSSC SG workshops. For example, the need to maintain formal and informal communication links open between adversaries, as well as the need to foster cross-border (however defined) trade and commercial exchanges. More specifically, the need was expressed to withdraw heavy weaponry from the line of contact in Nagorno-Karabakh, as well as to regulate the issue of snipers as part of the cease-fire agreed in 1994.

1. General policy recommendations

A new “Grand Design” or “Grand Bargain” has to be struck between Russia, Turkey, the EU and the United States with regards to European security. New security architectures usually follow violent clashes between great powers. A major powers’ summit should be convened to resolve remaining frozen conflict issues, including that of Ukraine and achieve a new “Power consensus”. Such a summit could consider the following:

- a. Open/soften the borders or the facilitation of trade is an integral component of regional (including South Caucasus) security.
- b. Strengthen the regional ownership of the peace processes through developing and implementing a joint post-conflict vision for regional integration and economic development.

- c. Create mechanisms that give a say to local players in discussions on status.

2. Use history as inspiration

Historical examples presented offer certain ways to move forward, if not resolve issues entirely. Among others;

- a. Focus on internal self-determination to pave the way to future re-integration in larger structures (i.e. EU or Eurasian Union).
- b. Focusing on internal self-determination can also be made more acceptable if certain socio-political concepts do not become loaded. For example, elite and the public must be informed of the real meaning and content of terms such as “sovereignty”. With this in mind, it should be possible for South Caucasus countries to recognize certain geographic boundaries (as opposed to recognizing full sovereignty), and recognize the right of self-determination (as opposed to independence) of unrecognized regions.
- c. A general process of humanization of the “other” needs to take place, alongside new narratives conducive to the acceptance of alternative political solutions or realities.

3. Create South Caucasus-wide institutions

Many novel solutions were proposed during the 11th RSSC SG, which could propel thinking forward on a number of frozen issues:

- a. A “condominium” solution for Karabakh, where public administration would be mixed. The intent of this recommendation is to share authority, if not sovereignty, and jointly administer the area with the interests of both communities in mind. For example, Joint Commissions might be tasked to develop and publish a concrete program for bilateral reconciliation and reconstruction in Karabakh, as well as joint policies and a bilateral program dealing with the resettlement and re-integration of all refugees and IDPs.
- b. A South Caucasus Regional Arbitration Court, established in the region, with authority to consider certain legal cases over the whole area, and irrespective of nationality. Such a suggestion came out of the Eastern South Caucasus negotiation simulation with a Higher International Court for Karabakh aiming to settle all disputed issues relat-

ed to property rights, displacement of people, and administrative conflicts, etc.

- c. A South Caucasus “welfare zone”, where public health services could be dispensed region-wide, without regard to nationality. This would necessitate certain border passage facilitation which could offer ulterior spill-over opportunities.
- d. A broad-based dialogue on the goals, aims, priorities, and the ways and means for promoting economic integration in the South Caucasus as a conflict resolution tool aiming to ease tension and help all parties to look into the future. This may include developing Free Trade Zones and Qualified Industrial Zones, and other economic and infrastructure multilateral projects, involving interested business groups and civil society from Armenia, Azerbaijan, Nagorno-Karabakh, and from Western and neighbouring states.

4. Focus on positive Confidence Building Measures that reward human security

The negotiation simulation produced an impressive array of CSBMs aimed at reducing media war-propaganda, increasing people-to-people contacts, involving civil society in setting up inter-community dialogue on ways and means for reconciliation, thereby reducing mutual hatred, and strengthening democratic governance. In particular, the following ideas were discussed;

- a. Make borders less important;
- b. Engage in student exchanges, summer schools, and promote multilingual education;
- c. Support track II diplomacy from the bottom up;
- d. Reward local actors who favour a free, unbiased, and responsible media.

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The creation of the Russian Customs Union and the Eurasian Union has created new power paradigms between Russia and her neighbours. Given Russia's new political self-confidence, questions arise on the nature and purpose of these unions as non-military tools of persuasion. Which implications for Georgia, Armenia and Azerbaijan might an expanding Eurasian Union have versus the – currently stalling – enlargement of the EU? Does joining the Eurasian Union automatically mean re-attachment to Russia (or Armenia, as the case may be) for breakaway regions? Is the South Caucasus at a new fault line separating two civilizations, is it merely located in a difficult geopolitical area and can these fault lines be erased to enhance reaching a minimal level of stability?

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