



Study Group Information



Ernst M. Felberbauer,
Frederic Labarre (Eds.)

What Kind of Sovereignty? Examining Alternative Governance Methods in the South Caucasus

**8th Workshop of the Study Group
Regional Stability in the South Caucasus**

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Foreword

Ernst M. Felberbauer and Frederic Labarre

The 8th Regional Stability in the South Caucasus Study Group workshop was designed to test the boundaries of conflict resolution. Under the title “What Kind of Sovereignty? Examining Alternative Models of Governance in the South Caucasus”, it aimed at exploring the definition of terms and concepts surrounding governance, and to determine whether their application cannot be allocated among conflicting actors, or better yet, put in common.

The keynote and opening addresses, delivered by Chris Kendall of the European External Action Service (EEAS) and Dr. Nadia Arbatova respectively, have made two important cases. First, sovereignty (or governance) is no longer (if it ever was) an absolute in a globalizing world. Second, there are still powerful actors and forces who insist that it is, and anachronistically, are jealous of this prerogative, and fear for its erosion if influenced by certain normative processes, such as NATO and EU enlargement. The stalemate in the South Caucasus over the status of the breakaway regions, over the monopoly of authority over resources, functions and territories by central governments, the tensions between Russia and Georgia, Armenia and Azerbaijan and the overall dilemma about joining the European Union or the Russian Customs Union is a reflection of the tug-of-war between normative frameworks, between a “sovereign democracy” model and a “multilateral interdependence” model of international relations. This workshop is an attempt at finding a solution to those tensions at the South Caucasus level of analysis by challenging and compromising upon traditional concepts associated with statehood.

Governance here is taken in its widest sense. It can be understood as administrative governance (management), or the more traditional political governance. The meaning that we imparted to this concept had to be very wide indeed to encompass the various aspects of the conflicts under study. This is why governance came to be – for the purpose of this

workshop – nearly synonymous with “sovereignty”, itself often confused with “self-determination” and “independence.”

We are aware that painting these concepts with the same brush is semantically and academically risky. But it was necessary for two important reasons. The first is that the workshop organizers wanted to avoid debating matches over the accuracy of the terms, which would have driven discussions away from substance. After all, it would have been difficult indeed to extract workable policy recommendations from a set of academic definitions. More importantly, it was felt that leaving concepts of “governance”, “sovereignty”, or “management”, etc. to the fortunes of academic freedom would unfetter our participants’ minds and would enable the Study Group to carry the brainstorming process farther.

The first panel opened discussions on joint, shared or divided conceptions of sovereignty. Drs. Nation, Mandalenakis, and Novikova offered a variety of ideas and notions on which the Study Group to seize. Alternative models of governance, such as joint sovereignty, characterised by the distribution of administrative authority along jurisdictional (instead of strictly territorial) boundaries; joint management, which applies sovereignty over resources and responsibilities, and a typology of sovereignty, peculiar to the South Caucasus, and borne out of the conflict situation there.

The panel gave a broad impression of the avenues available for exploration. It aimed at communicating existing possibilities and experiences to the participants from the region, some of whom may not have been aware of them. Panels 2 and 3 had the same objective, but in reverse. Panels 2 and 3 sought to share with the general public (through this publication) and with experts from outside the region how sovereignty and governance was perceived and understood in the South Caucasus. As the reader will be able to determine from reading the contributions, the conclusions are surprising. The representation was divided according to sub-regions (Western South Caucasus, and Eastern South Caucasus), since no two conflicts are the same, and out of fairness to the parties represented. Also, this division was necessary because of the rich participa-

tion we enjoyed from representatives of Abkhazia, Armenia, Azerbaijan, Georgia, Nagorno-Karabakh, Russia and South Ossetia.

We learn through panels 2 and 3 that governance is sometimes linked to territory, sometimes to population, and even to identity. In other words, answers to “what kind of sovereignty” encompass issues of territorial control, (either at the community or central authority levels), self-determination (meaning ethnic and cultural protection), and population control (through the application of force, reminiscent of the old-fashioned Weberian definition of “statehood”). South Ossetia and Abkhazia, vis-à-vis Georgia, certainly fit the model of sovereignty as self-determination/cultural and ethnic protection. For Georgia and Azerbaijan, however, a Weberian understanding of sovereignty means that governance has to be heavily centralized.

In Nagorno-Karabakh more than anywhere else, however, the choices are clear, and driven by the arms race between Armenia and Azerbaijan. Hard security concerns are at the forefront, and the security deficit there is balanced by Russia and Armenia together. In all cases, the idea of sharing sovereignty through federal or confederative measures is met with lukewarm enthusiasm. Breakaway regions insist that only full independence is a guarantee of stability and safety. Whatever the level of detail of discussions on panels 2 and 3, the aim was reached and the Study Group is able to share with you the sophisticated regional understanding of sovereignty and governance in the South Caucasus.

Panel 4 was designed to elicit practical proposals and measures on how it would be possible to contemplate joint management, shared sovereignty and allocation of functional responsibilities across various levels of governance and government. The celebrated cases of joint management of the Inguri River hydroelectric power plant, of the Ergneti market were alluded to. But so were models of shared political governance (shared or divided sovereignty). In particular, allusions to the cases of South Tyrol, the Aland Islands were informative, but even more so were the ones from troubled regions, such as South Sudan, Papua New Guinea and Bougainville, which found workable solutions through shared sovereignty. This allowed the participants to tackle the issue of status in

new ways, and notably to propose a step-by-step approach towards an open-ended “transitional” or “interim” status (especially valuable in the case of Nagorno-Karabakh). In all cases however, it offers a way out of the all-or-nothing traditional way of perceiving sovereignty.

The organizers could have put a rigid definitional frame to direct discussions, and to offer closer scrutiny of the participants’ presentations in order to ensure a proper fit of the concepts of sovereignty and governance with accepted definitions. The result would have been more mainstream academically, and in view of the fact that nothing much is new in the details surrounding these frozen conflicts, would not have brought anything new to the discussion. More critically, original policy recommendations would have been even more difficult to come by. The result would have been less interesting, because less spontaneous, and less authentic.

Instead, the reader is put in contact with the variety of perceptions and solutions afforded in practice in attempting to craft new ways to distribute authority in the South Caucasus. Only through this can we appreciate the full complexity of the issues in that region. We learn, for instance, that Azerbaijan can discuss “anything” about Nagorno-Karabakh’s status with Armenia “except full independence.” In reverse, Nagorno-Karabakh representatives can discuss nothing but independence. Georgia’s many missed opportunities over the last decade means that federative schemes, which were proposed in the past, or offers of greater administrative autonomy, which the current government is considering, have to be considered in the shadow of Russia’s significant – and perplexing – presence.

If we had used the 1933 Montevideo Convention on the Rights and Duties of States, or the Badinter Commission conclusions for the former Yugoslavia as definitional starting points for sovereignty and governance, the representatives from Abkhazia, South Ossetia and Nagorno-Karabakh would have had nothing to talk about. This workshop was an attempt at building a solution from scratch focusing on the actual needs of all actors in presence. We are proud to have been able to have an inclusive workshop, rich in discussions and original in its solutions. We

thank all the participants who have contributed their thoughts and time, as well as our staff and partners, Mrs. Edona Wirth, and the Partnership for Peace Consortium for helping make the workshop happen seamlessly. We let the readers decide for themselves how successful we were in meeting our objectives in the substance.

As always, the ideas presented here are those of the authors themselves. They are reproduced here out of respect for the effort deployed by the participants in preparing their contributions, and are an essential part of developing common bases for understanding. They are the reflection of their perceptions and worldviews. The editors and publishers, as well as the sponsors of the RSSC SG (the Austrian Ministry of Defence and Sports and the PfP Consortium) do not necessarily share all the points of views presented in these pages. We understand that these are early days for the RSSC SG and that a lot of time has passed (without appreciable change in conflict positions) in the region, but we believe it is not too late to engage parties – no matter how conflicted – on the path to mutual understanding, no matter how difficult this can be. How conflicting views are resolved during our workshops is best reflected in our policy recommendations, which the reader can find at the end of this Study Group Information booklet. Our aim is to defend the consensus surrounding the positions expressed in those policy recommendations, and to protect the right of contributors' to their opinions. This does not mean that we agree in totality with those opinions.

Keynote Address

Chris Kendall

I thank the Austrian government and the PfP Consortium for their vision in organising and hosting this event. The subject matter of our workshop is challenging, to say the least. But creative thinking is needed. There is a great temptation to accept the status quo in the South Caucasus as the norm – this is reflected in the language we use: “protracted” or “frozen.” But this would be a serious mistake. Resolution must be found to these unsustainable situations if we are to mitigate genuine, ongoing suffering and avert greater instability.

Of course, this is ultimately the responsibility of the parties to these conflicts. Sustainable solutions cannot be imposed from outside; nor can they be implemented without the consent of all those directly involved. But we outsiders have an interest and also, I would argue, a moral responsibility to provide whatever assistance we can to help the parties resolve their differences. We owe our presence here this evening to the readiness of our hosts to take on that responsibility.

I am here this evening as a representative of the European Union’s institutions. Although I am responsible for coordinating EU policy towards the South Caucasus, I can’t claim to be an expert in conflict resolution, nor indeed in the history or politics of the conflicts in this region. So I thought I would talk about the European Union itself, and what its experience can tell us about governance and the thorny issue of sovereignty. I hope that these reflections will add value to your discussions in the coming days.

The EU: An experiment in conflict resolution

Let me start with two quotations: The first was made by Sir John Boyd Orr, a Scottish statesman of the mid-20th century who won the Nobel Peace Prize in 1949 for his work in setting up the institutions of the United Nations. He said: “We are now physically, politically, and economically one world and nations so interdependent that the absolute national sovereignty of nations is no longer possible.” The second quote comes from the current President of the European Commission, Jose Manuel Barroso. He said that: “In the age of globalisation, pooled sovereignty means more power, not less.”

Orr was of the generation of Europeans who saw that an alternative had to be found to the national rivalries which had diverted so much energy into warfare. Men such as Jean Monnet, Robert Schuman and Altiero Spinelli dreamed of, and then delivered, a new form of governance which pooled sovereignty in a way which made centuries of terrible European conflicts – which had become our *status quo* – a practical impossibility. They saw that a radical departure from the nation state was required. The result of their efforts was the establishment of the European Communities, which over the subsequent sixty years has evolved into the European Union. Not only did the EU’s new institutions put control of the machinery of total war beyond the control of any one member state; the architecture of this new concept in governance brought officials and politicians from former enemies together in a systematic way so that the notion of a new war between these ancient, traditional rivals became simply inconceivable. It was this pooling of sovereignty which changed the reality of life on the European continent; it was this which earned the European Union the Nobel Peace Prize in 2012. The Nobel Committee’s decision was controversial, also within Europe itself – but I firmly believe that it was deserved. When one looks at today’s European Union – at the daily rhythm of committees, working groups, Councils and subcommittees, bringing officials and politicians together from all across Europe and at all levels – it is hard to imagine the circumstances that allowed our parents’ and grandparents’ generations to launch wars of total annihilation against each other.

In our system, national officials are always meeting their counterparts in other nations, and at the European level. It is these daily contacts, these habits of collaboration, which in my view constitute the real strength of the EU as a force for peace in Europe.

It would be wrong of me to talk about this process of integration without also tackling the issue of consent. The degree to which the countries of the EU have pooled their sovereignty is not universally popular. Many of the EU's citizens still see the EU as an elite project which erodes their country's sovereignty. The EU's *raison d'être* – the sustainable resolution of Europe's conflicts – loses its potency over the generations, as our collective memory of the World Wars fades and as we grow to treat our peaceful coexistence as the natural order of things. In a way, we are a victim of our own success, and this in itself brings the risk of new instability. We must acknowledge this and bear it carefully in mind when we draw lessons from the EU's experience and seek to apply them to the South Caucasus.

The EU's experience in tackling regional conflicts

Turning then to the South Caucasus, what can the EU's experience over the last sixty years tell us about the role of sovereignty in tackling this region's conflicts?

One place to start is to look at the regional conflicts which exist within the EU's own territory. Two bitter and bloody conflicts with historical roots going back centuries are those in Northern Ireland and in the Basque region. In both cases, it looks as if we have witnessed a genuine end to violence and a move towards a sustainable, negotiated settlement. I will leave it to experts to draw detailed conclusions on why this has happened, and I don't want to overstate the influence of the European Union. But it does seem to me that the EU has had some role to play in creating the conditions which have allowed the parties to these conflicts to overcome their differences and choose the path of peace. The EU has helped to mitigate some of the factors which got in the way of conflict resolution. Communities in these regions felt that they were at risk of losing their unique identity. They felt disenfranchised, they felt that they

were unfairly treated, and they felt that they did not have a voice in government. There was distrust on all sides. In many ways, small and large, participation in the great experiment of pooling national sovereignty at the European level has helped to address these issues over time. Gradually, in addition to their regional or national identities, people have begun to identify themselves also as European citizens, with the same rights and freedoms under the Treaty. Many EU policies have contributed to this process. People have become accustomed to seeing decisions taken at various levels – regional, national, European – and subsidiarity has been established in the Treaty as a fundamental guiding principle.

The old logic of absolute national sovereignty no longer seems to hold, and this sheds a new light on the question of what constitutes a nation. At a practical level, if the same rules and the same values apply across the EU, the case for separatism becomes less urgent. Within the EU, people to people links are promoted. Students from one region or country spend time studying elsewhere; members of civil society meet their counterparts; cooperation at regional level is promoted. As I've already argued, the sheer bureaucratic process of running the EU itself contributes to a new reality: civil servants meet regularly; they get to know one another. Old animosities might not always die away completely, but they fade in the face of familiarity. Both in the case of Northern Ireland, and in the Basque region, I believe generational change has contributed to an altered perception of what constitutes normality, and that has in turn contributed to a shifting of red lines.

Of course, the process of European integration does not mean the homogenisation of the continent's cultural diversity, or an end to the desire for national self-expression - far from it. But it provides a context in which these natural desires can find more sustainable, less conflictual expressions. Next year, for example, we will watch as the people of Scotland vote whether or not to reassert their national independence after over 300 years of union with England and Wales. A vote for Scottish independence would be momentous, no doubt about it. But, within the EU, the practical implications would be less drastic than they might otherwise be. By contrast, in many ways, a decision by the UK (with or

without Scotland) to leave the European Union – also a real possibility – would have far more serious implications.

The EU as a model for the South Caucasus

So the EU's experience tells us that the pooling of sovereignty can offer a relatively safe way to address the concerns of minorities in conflict regions without necessarily crossing red lines – such as territorial integrity, or self-determination. But it has taken the countries of Europe a long time – and a great deal of suffering – to get to this point. And many continue to harbour doubts over this surrender of national sovereignty to a supranational organisation. Some of Europe's leaders are seriously advocating a repatriation of powers from the European to the national level. So why should the countries and regions of the South Caucasus copy the EU's model?

The South Caucasus was itself of course the scene of an earlier experimentation in the transfer of national sovereignty – as part of the Union of Soviet Socialist Republics. This experiment ultimately failed, and one might expect that those countries that went through the experience would have no appetite for further experimentation. But the story of the Baltic States which joined the EU in 2004 suggests otherwise. Some “Euro sceptics” in my home country call the European Union the “EUSSR” – but of course this is not a fair reflection of the reality. There are key differences which mean that the pooling of sovereignty – while not universally popular – has been able to deliver in crucial ways. The most fundamental of these is the rule of law: the Treaty clearly defines what the EU can and can't do, and provides mechanisms and institutions to ensure that the rules are applied fairly. The Treaty also sets out the EU's fundamental values, enshrining the rights of its citizens. Furthermore, the Treaty establishes a series of checks and balances to ensure that no one country becomes too dominant, and to deliver a high degree of democratic accountability. Of course, it is not perfect, but it does seek to tackle these key issues head on. The same issues would need to be addressed in the context of the South Caucasus. The rule of law, and due process, are essential for a successful conflict resolution process; so, too,

are fundamental freedoms. Steady implementation of reforms, including the building of democratic state institutions, must be a priority.

Which brings me to the role of the European Union itself in the process of conflict resolution in the South Caucasus. The EU and its member states have a clear interest in finding a sustainable solution to these regional conflicts. The Caucasus, where Europe meets Asia, is a region of immense geo-strategic significance. Instability in this region affects the stability, security and prosperity of the whole of Europe. Energy security is of course a major concern, but far from the only concern. Using the EU's instruments to promote the resolution of the South Caucasus' conflicts is a high priority for the European Union.

The Eastern Partnership

For a number of years, the EU has adopted a number of policy approaches to strengthen its links to the South Caucasus and to promote conflict resolution.

Some of these will be very familiar to you: for example, the appointment of an EU Special Representative for the South Caucasus and the Conflict in Georgia – a roving Ambassador dedicated to assisting the process of conflict resolution. I know that Ambassador Lefort has attended this event previously, and many of you will know him well.

Additionally, the EU deploys a civilian mission under its Common Security and Defence Policy – the EU Monitoring Mission – in Georgia, to help secure the ceasefire brokered by President Sarkozy after the 2008 conflict in Georgia. This, and the EU's ongoing co-chairmanship of the Geneva Talks, are a demonstration of the EU's commitment to resolving these regional conflicts.

The EU also deploys a host of other policies to deepen its relationship with the South Caucasus. They range from financial assistance to sectoral cooperation (transport, health, education, environment, energy, etc.) to mobility, and so on.

In the first half of the last decade, most of these were swept up into the new European Neighbourhood Policy, the umbrella policy which defines the way in which the EU interacts with its new neighbours to the East and South following the ‘big bang’ enlargement of 2004. Over the following few years, a consensus emerged that the EU should develop a more targeted policy towards its eastern neighbours. This was launched as the Eastern Partnership at a Summit in Prague in 2009. The six countries of the Eastern Partnership are Ukraine, Belarus and Moldova, and Georgia, Armenia and Azerbaijan.

The Eastern Partnership gives us a framework for our relations with these six countries. The aim is the political association and economic integration of the six Eastern Partnership countries with the EU. This allows us a higher degree of ambition, locking us into a regular rhythm of Summits – every two years, the next coming up in three weeks’ time in Vilnius – and a roadmap of concrete projects. Perhaps the most concrete of these is plan to replace the now ageing Partnership and Cooperation Agreements which currently give us the legal basis for our bilateral relations. Over the past four years, the EU has negotiated Association Agreements, including Deep and Comprehensive Free Trade Areas, with Moldova, Ukraine, Georgia, and Armenia. At Vilnius we hope to sign the agreements with Ukraine and initial the Agreements with Moldova and Georgia. We are also negotiating an Association Agreement with Azerbaijan. Additionally, we are pursuing visa facilitation and ultimately visa liberalisation within the Eastern Partnership with a view to improving mobility and building people to people contacts.

Since 2012, the Eastern Partnership has been founded firmly upon the objective of building deep democracy. It sees that the purpose of the Neighbourhood Policy – to build security, stability and prosperity in the EU’s Neighbourhood – can only be fulfilled sustainably within a context of respect for fundamental freedoms and core values. So EU assistance and cooperation is focused on building institutions which deliver the rule of law. Under the so-called “more for more” principle, partners who meet or exceed our agreed reform targets benefit from additional EU assistance.

So the same processes which have been at work within the EU over the past six decades are already at work in the South Caucasus. The progressive implementation of the Eastern Partnership will see the region increasingly integrate into European structures. These will alter existing governance models and change the context within which conflict resolution takes place. We will see this first of all in Georgia, as it finalises and then implements the new Association Agreement and Deep and Comprehensive Free Trade Area. The reforms required to deliver this will have far-reaching implications for Georgian society.

Let's be clear: we are not talking about membership of the European Union. While we acknowledge Georgia's desire for a future with the EU, there is still a long way to go before this can be contemplated. But the reality is that full implementation of these new agreements will effectively deliver many of the benefits of EU membership. There will indeed be some pooling of sovereignty; but, as President Barroso said, this can deliver more, not less, power. This changes the status quo and offers a real opportunity to break the stalemates which block progress in the resolution of the region's conflicts.

We must also acknowledge that not all our Eastern Partners are alike, and they don't all share the same vision. Azerbaijan does not seek a European perspective; and Armenia has decided to join the Moscow-led Customs Union. It may be that this correspondingly limits the potential of the EU to influence the conflict resolution process in these two countries. But there is still a great deal that we can accomplish together. The EU remains committed to supporting the reform process in both countries, and we will pursue our engagement with them. This includes enhanced mobility and other people-to-people links; a focus on institution building, regional cooperation, and support for reforms which underpin deep democracy. This engagement can itself deliver results in the field of conflict resolution, directly and indirectly.

Conclusion

Some people, when they look at the South Caucasus in 2013, see a stage for a geopolitical struggle between two great power blocs. I would argue

that this anachronistic thinking fundamentally misunderstands the nature of the European Union. The EU is itself a great experiment in delivering regional stability by redefining sovereignty. Sixty years of peace and stability on most of our continent are a testament to the power of this alternative governance model. While it is perhaps too much to expect that it can be lifted and transposed perfectly to the South Caucasus, it does nevertheless represent a model which might offer a way forward to tackle the long-term challenges facing the region. The EU's experiments in policy solutions could be emulated in the South Caucasus, building confidence and trust across national and regional boundaries, and establishing processes which gradually shift the entire context of the conflict resolution process. But, perhaps even more significantly, the EU's offer of political association and economic integration can fast track this process, creating new realities as our partners align themselves to the European Union. I think that Europe's history over the last half century gives us grounds for optimism.

Opening Address

Nadia Alexandrova-Arbatova

New concepts of sovereignty: Shared versus Westphalian sovereignty

With the end of the Cold War the old map of states was shaken at the roots – East and West Germany were reunited, after being separate states for forty years, the Yugoslav and Soviet empires fell to pieces, new independent states as well as new alliances and groupings – CIS, CSTO, SCO, G-8, G20 and etc. – emerged on the international scene. New global challenges to international security enhanced the debate on global governance and the role of the Westphalian concept of sovereignty in the world of globalization. Although much criticized, the concept of sovereignty is still central to most thinking about international relations and international law. However, the Westphalia concept of sovereignty in its traditional form does not exist in the modern world since the process restructuring the four century old Westphalia order is ongoing from mid-20th century.

The post-bipolar sovereignty is strongly influenced by the evolving balance between two trends – the trend towards multilateral cooperation on the most urgent issues – WMD proliferation, genocide, failed states and the trend towards renationalization of common strategies. The former demands action that no single state can satisfactorily carry out and thus requires some institutional mechanism based on shared sovereignty. The latter exemplifies the tension between multilateralism and national governments' desire to preserve sovereignty immunity in current global negative circumstances. The most telling example is the European Union affected by the economic crisis. The European Union concept of shared sovereignty is also somewhat contrary to historical views of Westphalian sovereignty. However, the growing insecurity of citizens in periods of crises gives nation-states greater legitimacy and autonomy, and puts the national interest at the forefront of every government's priorities. These sentiments often bring to power more nationalist and less pro-European

governments, a trend which can create obstacles to the deepening and widening of European integration. Populists say that the decision-making power, which in a sovereign state is in hands of citizens and their elected representatives, is constrained by the multinational bureaucracy in Brussels. So the crux of the problem is how to strike the right balance between usual and exceptional circumstances, provisional measures and strategic imperatives for integrationist project based on shared sovereignty.

In 1998, at a Symposium on the Continuing Political Relevance of the Peace of Westphalia, the then NATO Secretary-General Javier Solana said that “humanity and democracy were two principles essentially irrelevant to the original Westphalian order” and levied criticism that “the Westphalian system had its limits.”

But what is democracy? Is there any common definition applicable to all states, all regions in the world? The West applies its own vision of democracy to the rest of the world. The Arab Spring is widely presented as a regional, youth-led revolution on behalf of liberal democratic principles. Yet Libya is not ruled by such forces; it hardly continues as a state. Neither is Egypt, whose electoral majority (possibly permanent) is overwhelmingly Islamist. Nor do democrats seem to predominate in the Syrian opposition. Let us not forget about the consequences of the Islamic revolution of 1979 in Iran which in its substance does not differ very much from the Arab Spring and which spurred the rise of a totalitarian Islamic republic. So democracy in this part of the world is first and foremost about populist majoritarianism while in the West it is about protection of minorities’ rights that can be oppressed by the tyranny of majority. Russia has invented its own wording of democracy – sovereign democracy. This term “sovereign democracy” conveys that first Russia’s regime is democratic and, second, that this claim must be accepted without demanding any proof, period. Any attempt at verification will be regarded as unfriendly and as meddling in Russia’s domestic affairs.

Another paradoxical link exists between sovereignty and democracy in Syria. The West views regime change in Syria as the necessary precondition for democracy there. However it is impossible to change regime

and have Assad's cooperation in the elimination of chemical weapons. What is more important; elimination of weapons of mass destruction or regime change for the sake of democracy?

Why did it go wrong?

Usually all world wars end with peace conferences – be it Peace of Westphalia, the Vienna Congress, Versailles, or Yalta – that establish a new world order and new rules of behaviour in international relations. Unlike the past world wars the end of the Cold War did not result in a reconstruction of the international relations in the Euro-Atlantic space. The collapse of the Communist East created the impression in the West that everything in its policy had been right and there was no need to change anything. Moreover, in the more than two decades since the Paris Charter Summit, every one of the ten principles of the CSCE's Helsinki Final Act (1975), has been violated. Two conflicts after the end of bipolarity – the Kosovo crisis of 1999 and the Caucasus crisis of 2008 are the most telling evidence of this reality. The Helsinki principles were not legally binding rules but nobody could even think about violating them since the stakes in the bipolar world were so very high. In the post-bipolar era international actors started to apply these principles selectively according to their foreign policy interests and preferences. The West said that Kosovo cannot serve as an example for Russia to recognize South Ossetia or Abkhazia. “We have always stressed that Kosovo has special characteristics; that it is *sui generis* and it cannot be used as a precedent for other conflict zones, areas or regions.”

However, notwithstanding the economic, political, cultural and ethnic peculiarities of the frozen conflicts as well as their varying geopolitical locations and environments, they share some fundamental features; the bitterness of the dominant titular ethnic group about losing to the separatists as a result of the intervention of an external force, the factor of refugees (except, Transnistria), and the loss of the territorial integrity. Being the only pan-European security organization, the OSCE should initiate a process of revisiting the Helsinki principles and adjusting or amending them to the changing realities if it is needed. Otherwise double standards and vague interpretations of the Helsinki rules will remain a

source of infinite conflicts and mistrust in Europe. The 40th anniversary of the OSCE provides a unique opportunity to reflect on the work of the OSCE and the Helsinki Act's relevance in a post-bipolar world. It is also time to consider why, after the removal of all ideological barriers, relations between Russia and the West are so problematic and sometimes resemble the mistrust and profound misunderstandings of the Cold War era.

As for the relevance of the Helsinki principles it would be worthwhile to address three fundamental contradictions of our time. First, there is the contradiction between the principle of territorial integrity and the right of nations for self-determination. The Helsinki Final Act, recognizing in principle nations' right for self-determination, has given clear priority to the principle of territorial integrity, because in the bipolar world the risk of global confrontation was very high. Territorial integrity and inviolability of borders were perceived in the era of bipolarity exclusively through the prism of external aggression. What is the priority of these principles today? The disintegration of Yugoslavia and the USSR has shown that the most immediate threat to peace and stability is not so much external aggression, but rather secessionism of ethnic minorities, big enough to contemplate statehood, which in turn, can trigger conflicts and wars. And, the problem of the armed separatism is not limited today to only postcommunist space, it is topical for many countries of Western Europe. Some surveys estimate that today there are over 200 secessionist movements worldwide.

Second is the contradiction between the rights of nations for equal sovereignty (non-interference in the domestic affairs of the states) and the rights of nations for humanitarian intervention. When in 1999 the NATO states justified their military intervention against Yugoslavia with the humanitarian catastrophe in Kosovo, they could not even imagine that this principle could be applied by other nations. The conflict around South Ossetia has proved it is possible. In July 2009 The General Assembly debated the question on legitimacy of international humanitarian intervention in those countries where human rights are violated. It is telling that Russia, which qualified the conflict in South Ossetia as a humanitarian catastrophe, has opposed the discussed concept, seeing a

linkage between “humanitarian intervention” and the concept of “limited sovereignty”, assuming the possibility of an external intervention, including the use of force, in internal affairs of states under humanitarian pretexts.

Third, there is a contradiction between the right of nations to freely choose and join security alliances and the right of nations to oppose the expansion of the security alliances when they are perceived as a threat to national security. All these contradictions have been vividly represented by the Caucasus crisis of 2008.

As for the Russia-West relations another problem creating obstacles for cooperation between Russia and the West on the basis of shared sovereignty is that Russia has yet neither found, nor been proposed its proper place in the post-bipolar Europe. As long as Russia shares the continent with the EU and NATO, which possess huge economic, technological and military power, “without Russia” will be always interpreted by Moscow as “against Russia.” Being neither opponent, not ally of the West Russia will be always suspicious about the plans of the West to elbow it out of the CIS-space.

Neither Russia, nor the EU have been able to present a constructive agenda for the post-Soviet space. Instead of a differentiation of relations within the CIS and the identification of priority partners, Russia accepted a model that allowed close neighbours to be hangers-on and put on the Russian leadership the entire responsibility for arbitrary Soviet rule, partly on the grounds that the real government mechanisms of the USSR and the Russian Socialist Federated Soviet Republic (RSFSR) were fused together.

As for the European Union, Brussels, like the whole of the West, once the problem with the Soviet nuclear legacy was solved, it perceived the disintegration trends on the territory of the CIS as a key condition of democratization of these countries and a guarantee that the USSR would never be brought back to life, in whatever form, in the post-Soviet space. The Eastern Partnership initiative of EU was launched before the Caucasus crisis as a reaction to the deficits of the EU Neighbourhood Policy,

as a manifestation of the EU dissatisfaction at the orange revolutions in the CIS and tacit recognition of the Georgia-Uzbekistan-Azerbaijan-Armenia-Moldova (GUAM) inefficiency. However, the very idea to launch such an initiative without participation of the EU's biggest Eastern partner raised Russia's suspicions against its real goals. Had Russia been included in these negotiations from the very beginning, a critical position would never have developed. Whether the EU likes it or not, perception is everything in international politics. Russia's perception of the Eastern Partnership unavoidably rearranges the playing field – and the EU must adapt or risk seeing its outreach project perish. Moscow still possesses the potential to oppose those plans that are viewed as a threat to its national goals. Armenia's pivot to Russia and the EU-Russia tensions over Ukraine's Association Agreement are the most telling evidence to that fact.

A functional approach to cooperation with the CIS is badly needed to prevent further deterioration of the EU-Russia relations. The Eastern partnership should be reformatted into a New Cooperation Pact between the EU, Russia and other post-Soviet states – Eastern Europe, South Caucasus and Central Asia – in the most important areas of economics, internal and external security and science could provide such an approach. A functional approach of Russia and the EU to cooperate in the post-Soviet space could prevent the emergence of new dividing lines in that region. It does not contradict the existence of other regional institutions and structures, notably the Russia-NATO Council (although its prospects have paled), the Eurasian Economic Union (EurAsEC), the CSTO, and the SCO while offering a new format of cooperation for all interested states. The difference between this approach and the existing approaches to cooperation of Russia and other CIS countries with Euro-Atlantic institutions consists precisely in making the agenda as concrete as possible, concentrating resources on the main issues and conducting intensive negotiations with clearly set goals and deadlines. The range of participants in these projects should be determined by the principle of “flexible geometry”, that is, it should not assume automatic participation of all the states in these projects.

Shared sovereignty and protracted conflicts

There is no shortage of creative solutions and scenarios for the frozen or postponed conflicts in the CIS. Thus, the well-known expert on the Caucasus region Tom de Waal seeks creative solutions in the realm of quasi-sovereign status. For South Ossetia, he suggests “self-government with ties to both” Georgia and Russia; for Abkhazia, some kind of “asymmetric sovereignty” arrangement (citing Andorra, Liechtenstein, the Aland Islands, as well as Scotland and Northern Ireland). The Russian expert Dmitry Trenin calls for outright partition of Abkhazia, with its southern Gali region (populated mainly by ethnic Georgians) returning to Georgia and the rest receiving recognition as an independent state (think Kosovo without its northern Serb-populated region). For South Ossetia, he reserves something “along the lines of the Andorran model” which would involve the “formal trappings of independence” but with Georgia “legally present in South Ossetia as a guarantor of its remaining or returning Georgian population.”

There was also a proposal for Abkhazia to hold a referendum on independence, in which all those who fled Abkhazia during the 1992-93 war had the right to return and participate (i.e., mainly ethnic Georgians who made up almost half the population before that conflict).

We can continue such intellectual exercises. And the list of proposals can be extended further and further. However, the status problem of Abkhazia and South Ossetia can be resolved by Georgia itself if it becomes a prosperous democratic state attractive for its neighbours. But a great deal will depend on the future of the Russia-EU relations since neither Russia, nor the EU can stabilize the post-Soviet space on its own. Only together can they create a new multilateral format for further cooperation. And Russia’s closest neighbours have a vital stake in a breakthrough in the relations between Russia and the EU since they are confronted today with a difficult dilemma on how to ensure their security – through external security guarantees or through a new model of relationship with Russia.

Conclusion

Obviously the current tensions and differences between Russia and the West are not a conducive environment for further multilateral cooperation on the most urgent international challenges. Untangling this knot of contradictions would imply positive political changes in Russia and the EU economic recovery because the stronger the West is economically, the better Russia's relations with the West will be; the better Russia's relations with the West, the better Russia's domestic situation; the better Russia's domestic situation, the better international multilateral cooperation based on shared sovereignty.

PART I:

SOVEREIGNTY BY OTHER MEANS

What Kind of Sovereignty?

Craig Nation

The concept of sovereignty

The concept of sovereignty has traditionally been counted as a pillar of international society. According to the standard narrative familiar to generations of students of International Relations, the modern state system was created during the Peace of Westphalia in 1648, with sovereignty as a premise and the balance of power as its organizing principle. Leo Gross designates Westphalia as the “majestic portal” that leads into the modern world.¹ The accuracy of this generalizing assertion has been questioned. Stéphane Beaulac and Andreas Osiander speak of the “myth” of Westphalia, noting that the treaties of Münster and Osnabrück make no reference at all to territorial states with legal personality and full autonomy.² But viewed as a process or progression rather than an event the concept retains considerable relevance. Between the 16th and 18th centuries, from the work of Jean Bodin, to Hugo Grotius, to Emerich Vattel a traditional conception of sovereignty takes form in Europe that acknowledges the legitimacy of juridical independent territorial entities capable of developing and sustaining their own authority structures and asserting the principle of autonomy, or non-interference in internal affairs. In the Westphalian state system the modern state, endowed with sovereignty as a legal status, has been understood as the only truly functional source of political society and community.

For long relatively uncontested, the foundational nature of sovereignty as the basis of international order is now being called into question.

¹ Leo Gross, “The Peace of Westphalia, 1648-1948” *American Journal of International Law*, vol. 42, no. 1, 1948, 20-41.

² Stéphane Beaulac, *The Power of Language in the Making of International Law: The Word Sovereignty in Bodin and Vattel and the Myth of Westphalia*, Leiden: Martinus Nijhoff, 2004, and Andreas Osiander, “Sovereignty, International Relations, and the Westphalian Myth,” *International Organization*, vol. 55, no. 2, 2001, 251-287.

Globalization, it is argued, undermines the primacy of the sovereign state in international relations. Various kinds of non-state actors play a more significant role, centralized authority structures are less capable of controlling the territory over which they preside, and the institutions of the state itself are undergoing fundamental transformations. Against this background sovereignty has become a contested concept whose meaning, once apparently fixed and timeless, is now a subject of debate.³

Those who challenge a traditional conceptualization of sovereignty as an individual and discrete condition of statehood point to new patterns of authority and community that looks beyond the distinction between domestic and international society and calls into question the classic role of the territorial state. The centralized state is no longer in a position to dominate public life. Non-state actors, trans-national trends including new security challenges such as transnational organized crime or cyber warfare and “hacktivism,” and the dynamic of the global economy including impoverishment and the phenomenon of failed and failing states pose external challenges that reduce the effective capacity of the state to act on behalf of the best interests of its citizens. In the domain of strategy, classic interstate warfare is giving way to non-conventional and asymmetric armed conflict waged within rather than between states; nearly all military encounters in recent decades fit into the latter category. These trends are said to reflect the decline of the Westphalian state system and presage a crisis of world order that for some can only be resolved through the creation of instances of pooled sovereignty and global governance on a foundation of economic and democratic empowerment.⁴ Simultaneously, internal challenges are said to emerge from the heightened weight of identity politics and the increasing governmental dysfunction of centralized structures, creating a downward or multilayered diffusion of effective authority. In practice states seek to manage diversity with a wide range of creative and adaptive mechanisms that cede elements of political authority to regional and local levels.

³ David Collier, Fernando Daniel Hidalgo, and Andra Olivia Maciaceanu, “Essentially Contested Concepts: Debates and Applications,” *Journal of Political Ideologies*, vol. 11, no. 3, October 2006, 211-246.

⁴ David Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance*, London: Wiley, 1995.

Sceptics suggest that none of this is new. Sovereignty has never been absolute in an existential sense. States have always been constrained by external military threats, exposed to economic penetration, impacted by migration patterns, and imperilled by social unrest. The sovereign state is clearly still the most important locus of authority in the international system and the nature of emergent challenges to that authority only serve to make clear how robust it remains. For dyed in the wool traditionalists, and for many positioned in the halls of power, the concept of sovereignty, in its familiar outline including the realist constructs of anarchy, self-help and the security dilemma, retains much of its relevance and explanatory power. The conclusion is easy to reference on the basis of state practice. Consolidated states resist ceding authority to supranational bodies charged with managing transnational challenges such as climate change. Weak states cling to formal sovereignty as a form of defence against external threats. Many non-state territorial entities continue to aspire to sovereign status. “Sovereignty is said to be ebbing away,” in the words of Michael Keating, “but new sovereignty claims are being made all the time.”⁵ Traditionalists grant that it may be worth asking in what ways the condition of sovereignty is changing under 21st century conditions, but not at the expense of abandoning the concept altogether or ignoring its weight in the business of statecraft.

The debate over sovereignty is embedded in a philosophical clash between what have been characterized as realist and nominalist positions, the former embracing the common sense view of sovereignty as a necessary and really existing condition of national existence and the latter a constructivist perception of sovereignty as an attribute of statehood that is “what states make of it.”⁶ This is an abstract discussion but it speaks to a very practical question. The terms of the debate over the concept of sovereignty seems to have been set up as caricatures on either extreme. In the real world we are clearly experiencing a transition, incremental but not yet qualitative, away from the classic Westphalian system. The authoritarianism of Thomas Hobbes or Bodin, born of civil strife in 16th

⁵ Cited from Neil Walker, ed., *Sovereignty in Transition*, Oxford: Hart, 2004, 204.

⁶ Jens Bartelson, “The Concept of Sovereignty Revisited” *The European Journal of International Law*, vol. 17, no. 2, 2006.

century France or 17th century England, where the Leviathan or absolute ruler is taxed with unique responsibility for imposing order as an alternative to an anarchic state of nature, is no longer a relevant construct for contemporary governance. There is a transition underway – what are the political consequences likely to be?

Sovereignty diluted

Sovereignty is a political principle that has never been realized in pure form. Authority structures within states are always contested in one way or another. In international society, the traditions of international law, normative commitments, accepted state practice, and the realist premise of legitimacy place meaningful constraints upon conduct. The modern state, even in its Westphalian heyday, is best perceived as a hybrid, possessed of sovereignty of a specific kind determined by the circumstances of an international society in rapid evolution.

Limitations on sovereignty have always been part and parcel of traditional state practice. Diplomatic interaction unfolds between actors that are unequal in status. The hierarchical distribution of power has allowed some states to maintain dependencies, colonies, protectorates, unequal treaties, and spheres of influence, effectively imposing their will upon others in a world where “the strong do what they will.” Private authorities within the state often have the leverage to shape national agendas, and supranational institutions such as the United Nations also have their word to say. The power to coerce, hurt, intervene, occupy, impose economic and fiscal controls, assert conditionality in exchange for favours, demand transit privileges and so on, and the need to balance or defend against predation, still constitute meaningful limitations on national prerogative.

Current global trends add to and accentuate these limitations, and in many ways. Identity politics are certainly not new, but have arguably become more significant in the context of globalization as a result of enhanced access to information and expanded awareness. Ethnic mobilization can have a profoundly subversive effect upon the ability of sovereign authorities to sustain control. The increasingly interdependent na-

ture of the global economy makes it more difficult to direct economic activity within and across borders. States have a vested interest in affiliation with larger markets and are willing to part with elements of traditional sovereignty in pursuit of that end. In some cases, with the European Union as exhibit number one, functional cooperation within what began as regional economic blocs can spill over to more ambitious patterns of political cooperation involving a voluntary surrender of elements of control on behalf of pooled sovereignty arrangements. Information technology is perhaps the single most important driver of transition towards a new world order. The world-wide-web empowers citizens as well as states and threatens loss of control. Cyber security has become a huge area of concern including the implicit threat of super-empowered individuals with the power to impact the course of world affairs from their personal work station. The international human rights community has made progress in imposing new normative standards as well as creating institutions and a supranational legal order charged with monitoring and enforcement. The doctrine of Responsibility to Protect legitimizes intervention in the affairs of a sovereign state when basic human rights standards are being massively violated, a direct negation of traditional understanding.

These trends do not make the concept of sovereignty obsolete, but they do change its meaning. The effort to cling to a formal definition of legal sovereignty flies in the face of international processes that are diluting the ability of states to impose control. Sovereignty arrangements today are not absolute but malleable. They can be, in some cases should be, and in many cases are being adapted to local and regional circumstances. The context has changed to the point where we may be required to abandon the pursuit of sovereignty in the traditional sense viewed as coterminous with power, and therefore a source of conflict and disorder, and embrace shared sovereignty mechanisms as tools of proactive conflict management and conflict resolution that can be drawn upon to promote good governance, community, prosperity and reconciliation in an emerging global community.

Shared sovereignty

The 1933 Montevideo Convention included an assertion of the rights and duties of states.⁷ The list mentions maintaining a permanent population, fixed territory, legitimate governance, and ability to conduct formal relations with other states. In general, functional states must be able to provide for the security of their subjects, guarantee territorial integrity, ensure existential needs, oversee economic activity, and allow for an acceptable degree of political participation. If representation is adequate the fundamentals of good governance (policing, adjudication, punishment distribution of social goods, sustainability, and security) should be in place. Addressing these needs is the fundamental responsibility of sovereign authorities today.

Many states in the contemporary international system are not capable of fulfilling these requirements, and not likely to develop the capacity left to their own devices. Classic sovereignty, understood as a single locus of power within a territorial entity, has been diluted when not challenged or effaced. One result is a series of apparently intractable and costly dilemmas, from neo-imperialism and the resistance that it conjures to chronic civil unrest, ethnic separatism, unconventional armed conflict, and state failure. Such dilemmas, and the costs that they engender, are particularly acute in the South Caucasus area.

A classic case is conflict between two or more competing ethnic communities within the boundaries of a formally sovereign state—the context for the so-called “frozen” or protracted conflicts of the South Caucasus. The fact that contending groups have fairly stable and responsible political representation, and in some cases the support of external sponsors, makes sovereignty claims more robust and the challenge of coming to terms more difficult. In such cases innovative governing mechanisms may be required to facilitate settlement. Arrangements for shared sovereignty can be a tool for addressing such dilemmas, softening toxic conflicts and contributing to long-term conflict resolution.

⁷ Montevideo Convention on the Rights and Duties of States (Inter-American), 26 December 1933.

Such arrangements can take many forms, including joint management, regional autonomy, national cultural autonomy, partnership agreements, federative association, voluntary protectorates administered by outside authorities, joint sovereignty, and so on. The precise mix of alternatives must of course be tailored to the specifics of the conflict in question.

In all cases there will be prerequisites for success. Any variation on the theme of shared sovereignty arrangements will require strong support at the local level – popular acquiescence is essential. Effective communication strategies will be required to establish such support. In cases of separatist struggles and territorial disputes elites representing the parties to conflict will have to embrace cooperative solutions. This will require a voluntary surrender of some degree of theoretical autonomy, in principle in exchange for more effective real authority and legal status. International organizations and mediation forums can, and in most cases will be required to play a role as channels for communication and monitors. All parties involved in the dispute (supranational organizations, NGOs, officials, religious figures, business leaders, military specialists, citizens' organizations, etc.) should be given consideration as stakeholders. In the case of protracted conflicts with a military component where a legacy of hostility and resentment is in place it may be necessary to start with small steps. Functional cooperation in the spirit of joint management addressing issues where mutual interests are in play is a promising direction. At some points parties to conflict may work toward a framework agreement that specifies more ambitious mechanisms for conflict resolution. In all cases it is important to maintain the principle that agreements will not erode the sovereignty of one party or expand that of the other. Voluntary agreement concluded in a spirit of partnership should be the mantra. Special attention should be given to symbolic sites and holy places with affective significance, such as for example Serbian religious institutions in Kosovo.

The logic of shared sovereignty can only be helpful in reducing or eliminating conflict when the contending parties, including both the leadership and the people that they represent, buy-in to compromise arrangement that “split the difference” rather than pursuing an unrepentant commitment to ethno-nationalist agendas or the shibboleth of territorial

integrity. Demonstrated willingness to compromise is a crucial variable, and often the most difficult to obtain.

Stephen Krasner argues that classic tools of international management, such as the provision of foreign aid to troubled regions, alignment, military assistance, or transitional administration under the aegis of the international community (as in the cases of Cambodia, Kosovo, Bosnia and Herzegovina, East Timor), are no longer sufficient (if they ever were) to address and resolve such dilemmas. In practice, external assistance is often calibrated to protract rather than resolve differences, in the perceived interest of one or another international player. Krasner proposes shared sovereignty arrangements as a positive alternative, potentially facilitated by international mediation but controlled by the parties to conflict themselves. “Amid uncompromising conditions,” he writes, “and given the flaws of foreign aid and transitional stewardship, shared sovereignty can offer hope for moving countries closer to democracy and decent governance. Shared sovereignty involves the creation of institutions for governing specific issue areas within a state – areas over which ... actors voluntarily share authority.”⁸

The evocation of hope is important. Traditional Westphalian sovereignty is by definition exclusive and not amenable to compromise. Clinging to the premises of territoriality or self-determination often becomes a recipe for protracted stalemate that works in no one’s best interest. Clearly, under contemporary circumstances Westphalian premises need to be relativized. Modern sovereignty is essentially about jurisdiction, the power to regulate the affairs of a group of people living within a defined territory, and jurisdiction can be parsed and divided between sovereign actors by mutual agreement. Shared sovereignty arrangements offer a positive and hopeful alternative to intractable or wicked conflicts with real potential to gain results by bringing ethnic communities together to pursue useful policies to their mutual benefit. They could in principle, and with consideration of the special features that make every case to some extent unique, be applied to a wide range of open ended conflicts

⁸ Stephen D. Krasner, “The Case for Shared Sovereignty” *Journal of Democracy*, vol. 16, no. 1, 2005, 76.

in today's world – Cyprus, Kosovo, Northern Iraq, Northern Ireland, Palestine, Darfur, the Democratic Republic of the Congo, Somalia – and the South Caucasus to name just a few.

Joint Management: Peacemaking and Peacekeeping

Elena Mandalenakis

Joint management is a form of cooperation that results from bilateral or multilateral engagement of states and/or organizations. The logistics of the process of joint management are not of our concern as they fall under the expertise of managers and technocrats. We are more concerned in the political aspects of joint management or co-management and the incentives behind a state's decision to cooperate with other states to the degree of co-management of resources and issues of concern.

A brief explanation of the meaning of the term as well as a reference to the fields it may apply to will lay the ground for further discussion in terms of national sovereignty, conflict resolution and peacekeeping. This discussion will bring to the fore the possibility of its future application in the South Caucasus as a peacekeeping or peacemaking tool.

Although the main focus in joint management is state involvement, it must be recognized that to effectively manage global issues or natural resources, all interested parties, from the individual to the international community level, need to co-exist for sustainable development and conflict prevention and resolution.

Defining joint management

Joint management is a form of governance over resources or global issues. Its organization is flexible as it allows informality and loose adherence to hierarchical modalities as the actors concentrate their interactions and coordinate their activities for the sake of problem solving. This cooperation may be as informal as a mere exchange of information regarding the issue at stake or even merely a network relationship. In such cases, some scholars define joint management as a process by focusing

on the function rather than the structure of the system.¹ It is a process that evolves over time, based on actual needs without following a rigid pre-determined structure or without necessarily being a less efficient and effective management tool.

Joint management may also function as a formal system of governance based on enforceable rules agreed upon by the stakeholders with a clear hierarchy and clearly defined rights and responsibilities. The willingness or the need to cooperate as well as the agreed platform of cooperation may be laid down in Treaties, Agreements, Memoranda, etc., that may eventually establish international regimes based on widely accepted norms. Such international agreements are the ones on carbon emissions, the protection of the Commons, etc. Their reverence depends not only on the will of a state to abide by the rules but also on the existence of enforcing mechanisms supporting such regimes. In this case, an issue-specific international organization may already exist or could be created to enforce these norms. These organizational arrangements define the extent to which states share their sovereignty for the attainment of a common interest.

Joint management issues

Joint management can be applied over various issues. The most common ones relate to natural resources, environment, security and trade. The management of emergency situations from natural disasters where states offer human or material resources to the disaster stricken country is a loose form of joint management that is usually temporary. The focus of this joint management is humanitarian relief and provision of expertise in an effort to recover from a state of emergency. Environmental disasters such as deforestation, wildfires, and fisheries' depletion or water pollution from oil spills in the ocean/sea are issues or situations requiring multilateral joint management. Security concerns such as international terrorism and cyber security and radioactive contamination are issues that can only be tackled through international cooperation. The

¹ Lars Carlsson and Fikret Berkes, "Co-management: Concepts and Methodological Implications" *Journal of Environmental Management*, no. 75, 2005, 65-76.

management of disputed territories is a very sensitive issue that requires the cooperation of states in conflict and if not handled properly it can stimulate further conflict. The European Union (EU) is a good example of a supranational “manager” where sovereignty is shared leading the EU and its Members to “jointly” manage functions.

Identifying stakeholders

There are many relevant stakeholders in joint resource or issue management. These can be states (national and/or local governments), civil society (local and/or ethnic communities), private enterprises at the national or multinational level and of course, a combination of all of the above.² Joint management of global issues (environmental, governance of the Commons, security, human security, etc.) is the responsibility of national governments, the international community as a whole as well as international NGOs specializing on the issue. Thus, the magnitude of the problem and its effects determine the stakeholders and the level of cooperation.

For local environmental issues, national and local governments need to cooperate with local communities as these have a historical knowledge of the local ecosystem. Local communities provide an insight for the sustainable natural resource management (fisheries, forests, etc.) of their eco-region that is not apparent to outsiders. Private companies may provide the technology and the equipment required to confront and resolve the environmental problem.

Cooperation is the key to joint management

Joint management requires that a state be willing to share knowledge and material resources with another or more states in order to manage a resource or an issue that it would be incapable to do so on its own. In other words, a state must also be willing to share its sovereignty with

² What is commonly referred to as the “whole of government” or “comprehensive” approach (Editors’ note). See on this subject, *The Comprehensive Approach*, Vienna: National Defence Academy, 2013.

another political entity for the sake of cooperation. This implies of course that the sovereignty of all states is not questioned and that its boundaries are certain. The necessity of cooperation may rise from the cross-border nature of the resource or issue that requires the cooperation of two or more parties in order to yield the maximum expected outcome and provide the expected distribution of its gains to all parties involved. Nevertheless, in most cases, cooperation for the joint management of strategic issues arises from the need for a coordinated action, either due to a party's limited resources or knowledge that prohibits unilateral action or due to the nature of the issue that requires partnerships in order to be effectively tackled. In the case where stakeholders lack trust, it is possible that they may not have an alternative to cooperation but they may suffer significant losses in the case of non-cooperation.

States may also seek political, financial or scientific cooperation with neighbouring states, as they may not have exclusive rights upon the exploitation of the resource of interest. Sovereignty over the specific territory or resource is disputed or the specific resource spans beyond the national borders. Such disputes if not solved peacefully, may lead to outbreak of conflict. Joint management then means that serious disputes are kept at bay for the sake of maximum exploitation or resolution.

Joint management does not necessarily mean equal management with respect to the obligations and benefits. Usually, the allocation of benefits from this partnership depends on what each partner is capable of offering and it is not based on equality or necessity. When discussing the "fair" allocation of benefits, there may be frictions between the partners. Nevertheless, agreement upon these issues is essential for an unhindered joint management of resources.

Push factors for state cooperation and joint management

Mutual interest

Ideally, mutual interest would be the necessary pre-condition to cooperation and eventually to joint management of resources and global issues. However, national interest encourages, or in some cases dictates, states

to consider any type of cooperation. The mutual benefits of cooperation should outweigh the gains from unilateral action. Game theory determines the rationale behind mutual cooperation and mutual defection of states in an anarchical environment. However, research on international economy and security identify why states may prefer strategies of cooperation to unilateral action strategies on issues such as arms reduction and arms control or trade liberalization.³ Certain national issues may overflow their national boundaries and may be elevated to issues of global concern as a result of cooperation. Issues of terrorism, environmental pollution, ozone depletion, the desalinization of the seas from ice thaw, are likely to be managed jointly as a common threat.

To minimize the risk and maximize the cost of defection, states often establish international organizations governing their mutual agreement. These organizations or regimes codify the specific norms governing partner relations and institutionalize a standard procedure of conduct. Successful state cooperation around an issue creates expectations for the future behaviour of these states. This could encourage the deepening of state relations that may eventually lead to economic and political integration such as in the European Union. The outcomes of cooperation are subject to political will and the national significance of the issue or resource to be managed.

The prioritization of the functions or resources helps distinguish the fields within which cooperation and eventually joint management is possible. It has become widely accepted that financial transactions cannot be controlled by a single state. The markets interact and compete at the global level so that the state economy depends on these fluctuations. Tackling global economic and financial issues is best done collectively and not individually. The same applies to issues of global security and

³ See in this regard, works by Robert O. Keohane and Joseph Nye, *Of Power and Interdependence*, New York, 1977, John Gerard Ruggie, "The False Promise of Realism", *International Security*, 20:1, 1995, Peter J. Katzenstein, ed., *The Culture of National Security: Norms and Identity in World Politics*, New York: Columbia University Press, 1996, and Frederic Labarre, "Self-interest and Cooperation: The Emergence of Multilateral Interdependence in Post-Conflict Eras", *Connections*, Winter 2007.

environmental protection. Unilateral state actions can have global consequences and spill over effects that may eventually demand a coordinated action for their management. When Russia excluded Ukraine from the provision of natural gas in 2006, it was a decision based on strategic financial considerations and endangered the entire EU market economy. This was a case however, for resources that the state defines as vital and strategic for its existence nationally and internationally, because these resources guarantee its independence from fluctuating state relations. Self-sufficiency in oil, gas, rare earth materials, etc. minimizes reliance on other states. Russia is unlikely to consider joint-management of oil and gas. Only transportation rights are granted to states whose territory is used for the establishment of pipelines. Energy resources such as oil and gas are subject of high politics and thus, become strictly government business and its associates.

The way to safeguard these resources and regional stability is to ensure that they fall within the sovereign boundaries of a state – that they are undisputed. In certain cases, states may seek to expand their borders through sovereignty claims or through conquering new territories, although this is less of a norm than it used to be. In the case of outer space, participating states in the International Space Station (ISS) expect to benefit in the future from space tourism and from energy and minerals mined or harvested from space. States are interested in securing access to space resources and becoming leading powers when space exploitation is not as costly.

Legitimacy

The recognition of a state's legitimacy is also imperative for cooperation. This relates to the state's identity and position in the regional and international community. Disputed borders create an unstable environment hindering cooperation. This uncertainty can become a potential threat for the neighbouring states in the form of territorial disputes. Consequently, civil unrest in a neighbouring state may result in increased labour migration, influx of refugees, environmental degradation, and trade disruption.

Sovereignty

A state's legitimacy and sovereignty, ultimately, should be guaranteed for successful cooperation. Sovereignty refers to the state's right and obligation to control its territory, population and borders. It also refers to the state's independence from any external interference to its internal or external affairs from third parties or other states. From a restrictive definition of sovereignty, joint management of functions or resources that fall solely under the jurisdiction of the state can easily be disregarded as they pose a threat to state autonomy. For joint management the state gives up part of its sovereignty to either another state or to a supranational or an international entity. However, the state diminishes its sovereignty in favour of its enhancement in the future as a result of the joint management of resources or functions only to expand their interests in emerging fields.

There are multiple examples of territorial sovereignty expansion, some successful, others not so. The Arctic is claimed by states that share borders with the Commons such as Canada, Russia, Norway, Denmark and the United States.⁴ On the other hand the scientific stations in the Antarctic grant state responsibility of the area studied. Therefore, state jurisdiction and sovereignty are extended through science.⁵ This indirect method of asserting sovereignty was found to be quite dangerous and for this reason the Antarctic Treaty was negotiated. Article IV of the Treaty of 1959 and which entered into force in 1961, states

No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

⁴ Kathryn, Isted. "Sovereignty in the Arctic: An Analysis of Territorial Disputes and Environmental Policy Considerations" *Journal of Transnational Law and Policy*, Vol. 18.2, Spring 2009, 343-376.

⁵ See The Antarctic Treaty at <http://www.ats.aq/e/ats.htm>.

This Treaty was meant to prevent any hostilities deriving from such territorial claims over the Antarctic soil and recognized only establishment for scientific purposes.

The success story in territorial sovereignty expansion, although still in its infancy, is the exploration of space. The International Space Station (ISS) is a multinational co-operation initiative between Europe, the United States, Russia, Canada, and Japan to develop, operate and use on a joint basis the space station that is situated in low Earth orbit and which is permanently inhabited by a multinational crew. The presence of the states and their participation in the ISS, guarantee a position in the future exploitation of space. In the ISS, each state is responsible for parts and appliances it has provided to the station and thus, has ownership and unlimited user rights over them. Intergovernmental treaties and agreements define ownership, legal jurisdiction in civil and criminal matters as well as the user rights of the station and its components.⁶ It is interesting to note that although there are clearly defined levels of ownership; exclusivity of use is not an issue. All parts and appliances are used collectively and defined by individual user rights. For instance, the provider of a lab, although the natural owner, does not have exclusivity over the lab's use. Instead, it allocates user rights, which are freely interchangeable with the user rights of the other partners over equipment they have provided. The barter system extends to components used in the construction of the space station, which cannot by definition be used solely by a national crew. This system represents the pinnacle of Joint Management as the system is based on the intended function and focuses on the intended result. This is indicative of a way to extend sovereignty beyond territorial borders.

⁶ www.esa.int/Our_Activities/Human_Spaceflight/International_Space_Station/International_Space_Station_legal_framework

This also applies to the new Nuuk Treaty, signed in 2011, concerning the management of search and rescue operations in the Arctic region, where specific zones of responsibility have been assigned to all the signatories of the Treaty (all members of the Arctic Council, in this case). The Treaty is careful to stipulate that the assignment of search and rescue regions does not mean that the states are sovereign over these areas, owing to continuing border and delimitation disputes, or competing claims.

Trust

Trust between the parties would be expected to be a necessary condition for any cooperation to take place as it would guarantee a lengthy and healthy relationship. Trust that both parties want to equally benefit from this cooperation, that they will keep their part of the deal, that their partnership will remain as initially agreed. In this case, joint management becomes a potential peacemaking or peacekeeping instrument.

Once this cooperation leads to a win-win situation, the emergence of trust is possible as a result of working together and it may be safeguarded by institutional arrangements that enforce the rules governing the endeavour.

In cases where there is low mutual trust among the parties cooperation is hindered but not ruled out. In view of strategic interests and in the absence of threat, some states may pursue closer cooperation for the sake of exploitation of vital resources. Recently China and the U.S. attempted to approach each other despite their irregular relations. Although both powers state that their relations lack mutual trust, the Chinese leadership emphasizes the need to develop a healthy and peaceful competition between the two states. Trust, as Yan Xuetong says, “is the result rather than precondition of strategic cooperation between major powers.”⁷

The role of joint management as a peacekeeping and peacemaking mechanism

Does joint management of natural resources or global issues relate to the maintenance of stability? Joint management implies peaceful cooperation of the involved states but it does not necessarily mean that states with peaceful bilateral relations are able to proceed to joint management. As stated earlier, when certain conditions are present, states will be encouraged to cooperate and co-manage resources/issues of their interest.

⁷ Yan Xuetong, “Let’s not Be Friends,” *Foreign Policy*, 6 June 2013, in http://www.foreignpolicy.com/articles/2013/06/05/lets_not_be_friends_us_china_trust.

The perception of security due to the lack of any viable threat from a prospective state partner, as well as the highlight of the gains from cooperation, encourages joint management in fields of shared interests. Hence, peace provides an extra incentive to pursue national interests through cooperation and the normalization of state relations. Cooperation in strategic fields can function as a confidence-building measure to avoid war as well as to normalize or re-establish post-war state relations. They urge states to be acquainted with each other and as a result to acknowledge each other in the partnership. It may even be possible for states to develop a relation based on trust in shared values.

How sustainable is this function of joint management? How far can the benefits of such cooperation take the peaceful bilateral state relations? Once joint management is successful, no disputes can be allowed to escalate into a conflict. Research on the joint management of water in Asia provides evidence that water scarcity does not necessarily lead to interstate conflict. A good example is the post-Soviet central Asian states of Kazakhstan, Tajikistan, Uzbekistan, Turkmenistan and Kyrgyzstan. According to Erika Weinthal, water issues promoted cooperation rather than conflict.⁸ Also, the low level formal cooperation of Kazakhstan with Uzbekistan, regarding the exploitation of water and energy in the Aral Sea, has hindered the outbreak of interstate conflict. Nevertheless, evidence shows that this does not apply to intrastate conflicts arising from local water disputes.⁹ Among the main reasons are that foreign donor assistance excluded the participation of local stakeholders.

The history of the EU, has up to now proved that common interests (economic, security and political) can bring former enemies to the negotiating table leading not only to a long-lived cooperation and joint management of their affairs but also to regional integration. The creation of the European Coal and Steel Community (ECSC) in 1951 was intended to bring former enemies, France and Germany, closer by fostering common economic development. Robert Schuman proposed the interlocking

⁸ Erika Weinthal, "From Environmental Peacemaking to Environmental Peacekeeping", ECSP Report, no. 10, 2004, 19 at www.wilsoncenter.org.

⁹ *Ibid.*, 20.

of the main war resources of the two biggest states in Europe to guarantee a lengthy peace. This was the first attempt for states to willingly transfer part of their sovereignty to a supranational body with authority higher to the states. The ECSC is a joint management attempt of natural resources with a strong peacekeeping role that resulted into regional integration.

The peacemaking and peacekeeping power of joint management really depends on the nature of the issue managed, the experience gained from this cooperation and on the interests behind the dispute. In the South Caucasus, it would seem easier to sustain good relations around issues that are not categorized as strategic national interests and do not threaten the states' territorial integrity or their international status and legitimacy. Disputes on territory, borders and on strategic economic and military resources, which define state strength, cannot be solved through joint management mechanisms. They require a more comprehensive approach and the exercise of supreme political diplomacy to prevent them from escalating.

Joint management in cases of war or in disputed territories

In the case of war, the abovementioned conditions for joint management by definition do not exist. Borders are disputed and therefore, state legitimacy is questioned and the sovereignty of a state is diluted or disregarded by other states. In this case, the state's authority upon certain resources is questioned along with its territory.¹⁰ Unless the boundaries are established and recognized as borders by the international community, it is not feasible to consider joint management of any resources. This extends to other issues as well since there are no diplomatic relations between the enemy states.

Joint management in the South Caucasus

The territorial disputes that define to a large extent the bilateral relations of Russia with Georgia and Armenia with Azerbaijan make joint man-

¹⁰ This applies mainly to transborder natural resources.

agement almost impossible. Participation of a third neutral party at the negotiating table, that would only have to gain in regional stability, could provide an incentive to reaching a deal by emphasizing the positive outcomes of cooperation.

As a matter of fact, organizations like the Organization for Security and Cooperation in Europe (OSCE), the United Nations' Environmental Program (UNEP) and the UN Development Program (UNDP) created the ENVSEC (Environment and Security) Initiative in 2003 for implementation in the South Caucasus. These organizations were later joined by UNECE (United Nations Economic Commission for Europe), REC (Regional Environmental Center for the Caucasus) and the North Atlantic Treaty Organization (NATO). ENVSEC links the environmental and natural resources issues to security and seeks to help by offering expertise lacking in these countries, and by engaging Armenia, Azerbaijan and Georgia into solving these issues. Among the priorities identified in the region are environmental degradation, access to natural resources in conflict areas, the management of transboundary natural resources and participation in environmental decision-making. This program emphasizes the need for joint management of environmental and security risks and supports the engagement of multiple stakeholders at all levels of project design and implementation by safeguarding local ownership.¹¹

The transboundary natural resources identified by ENVSEC are the water basins shared by these states such as the Kura-Aras River Basin whose water quality had declined due to population growth, industrial output increases, energy consumption and agricultural practice. The success of this initiative is in its assistance in the drafting of water agreements between Armenia and Georgia (i.e. The Armenian-Georgian Joint Transboundary Monitoring Program of Water Quality in Ktsia-Debed River Basins) and between Georgia and Azerbaijan on the Kura River.¹²

¹¹ ENVSEC in the South Caucasus: An overview of Projects, OSCE and the ENVSEC Initiative at <http://www.osce.org/eea/89301>.

¹² *Ibid.*, 15.

These initiatives prove that cooperation among the South Caucasus states is possible for de-politicized issues such as environmental and water management. International organizations identify common interests and facilitate the cooperation of these states until the normalization of their bilateral relations. States involved in conflict, however, are not likely to cooperate even with international mediation.

It is possible that international involvement would have to continue to guarantee the active engagement of states leading to long-term confidence building. The fact that states accept the EU's involvement indicates their interest in multilateral cooperation when bilateralism is out of reach. They are more interested in creating a relationship with non-regional states and organizations rather than their neighbours. International brokers are not necessarily neutral either. Their main interest is regional stability coupled with interests in the field of energy, trade and others. Successful joint-management would involve the direct cooperation of the relevant states without mediators or guarantors. Confidence building is the key here that could ease the solution of other disputes on sensitive issues.

Conclusion

It is important to emphasize again that cooperation leading to joint-management cannot take place unless each state recognizes the legitimacy and sovereignty of the other political entity, meaning the equal status of its future partner. Hence, in the case of Georgia and Abkhazia this would not be possible, as Georgia does not recognize Abkhazia as sovereign. This is not an issue however for Russia and Georgia. In the cases of Armenia and Azerbaijan, such partnership would be more difficult as the conflict in Nagorno-Karabakh is still very much alive and the two states actively involved.

The creation of issue-specific regional institutions around possible shared regional interests, such as transnational crime, arms and narcotics illicit trade, promotes the creation of a regional identity. In this way, interest is not centred on the conflict states but on the wider region. It follows then, that it is in the interest of all members to facilitate interac-

tion and ease the tensions of certain states. Initially, these institutions or arrangements would deal with issues of regional interest other than the conflict and once a regional identity has emerged and confidence has been built, then regional institutions or arbitration committees responsible for the management of territorial disputes could be encouraged. The fact that the three states of the South Caucasus are far from similar should not discourage any closer relationship in the future, as there is already the example of the EU enlargement that includes states with quite different history and political systems.

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Models of Sovereignty in the South Caucasus

Gayane Novikova

Over the last five to six years we are witnessing years sharp changes in the international security environment, and these changes directly influence developments in the South Caucasus. the world economic crisis, the Arab awakening, and the turbulence and civil wars all over North Africa and the Middle East are among the most significant changes.

There are also growing numbers of secessionist movements, indeed even in the prosperous parts of Europe: Scotland and the Flemish region will hold referenda on independence from Great Britain and Belgium; separatist trends are steaming in Catalonia and in the Basque country in Spain, as well as in Quebec in Canada. It is not by chance that we are witnessing also the appearance of several internationally recognized, however mainly failed or very weak sovereign states. There is also a group of state entities that can be considered as conflict-ridden exceptions. Among them are semi-recognized Abkhazia and South Ossetia, as well as the unrecognized Nagorno-Karabakh Republic (NKR).

In many ways these developments are related to the issue of state sovereignty. The pillars of it are the sovereignty over a territory and a population, over decision-making, as well as over the interaction with other states and international organizations. The notion of sovereignty influences directly the degree of a state's security, stability, and prosperity. However, the sovereign state *per se* must meet two criteria: self-rule and self-protection. The second criterion is easier to implement, while the first is almost impossible to put into practice in a rapidly globalizing world. Another important measurement of sovereignty is a state's stage of democratization.

In regard to the developed democracies there are some aspects of shared sovereignty. In respect to the failed states, the leading international organizations sometimes consider the imposition of full control over economic and political resources of these states as a mean mainly to main-

tain security and to prevent the spread of terrorist activity. The latter has become more and more critical, especially in areas of overt religious conflict.

In the meantime, there are examples of the forcible introduction of democracy by European states and the U.S., coordinated with military operations against sovereign states (Iraq, Afghanistan, Serbia, etc.) The suspension of national sovereignty of internationally recognized UN-member states, which took place in all these cases, was implemented without the consent of the governments involved.

Another trend, related to the participation of sovereign states in international organizations, should also be mentioned. In a few days several sovereign states will sign at the Vilnius Summit¹ various Association Agreements with the European Union. This broader involvement in the Eastern Partnership Program is aimed to improve their relations with the EU, to speed their democratization and good governance processes, and to a certain extent to diminish Russia's influence and pressure upon the former Soviet Republics.

The above-mentioned developments and processes directly relate to definitions of sovereignty. Even more, they contribute to the 'mutation' and the 'melting' of sovereignty *per se*, which is still a key factor for any state and for nation-building processes, especially in regard to sovereignty over a territory and to relative decision-making freedom. The crucial questions to be answered are: how do sovereign states interact with each other in a rapidly changing and globalizing world? To what degree are the state entities prepared to delegate a part of their sovereignty to international organizations, or to share it with another state?

The state sovereignty in the vulnerable South Caucasus is directly linked to the given territory and to the security issue. I will focus upon the following questions:

¹ 28-29 November 2013. Eastern Partnership Summits are held every two years. see: www.eu2013.lt/en/vilnius-summit. Note of the Editor.

- What does sovereignty mean for each actor in the South Caucasus?
- Does each have enough manoeuvrability to implement and maintain its sovereignty?
- Under what circumstances, and to what extent, is the state entity prepared to share with, or delegate to, other actors a part of its sovereignty?
- Finally, what models of sovereignty are applicable for the South Caucasus?

Before answering these questions, I would like to emphasize the following: First: the South Caucasus state entities are neither developed democracies nor failed states. They are to varying degrees insecure economically, politically, and socially. There is also a diversity of achievements in regard to democratization: from non-free Azerbaijan and South Ossetia to partly free Armenia, Georgia, Abkhazia, and Nagorno-Karabakh.²

Second: owing to the long-standing internal problems and the interregional security trends, the South Caucasus state entities possess very limited manoeuvring space. The choice mainly is between an Associative Agreement with the EU and membership in Russia's Customs Union, and subsequently in the Eurasian Union. Both options are, on the one hand, very vague and, on the other hand, mutually exclusive. Thus, critical for all South Caucasus state entities is a capacity to balance between the EU and Russia. They do so, in the both cases, at the cost of their state sovereignty. Armenia's failed attempt to synchronize both directions is a vivid example of the unwillingness of the EU and Russia to share the areas of influence and strategic interest and to compromise.

In regard to this region, the degree of sovereignty, and the perception of it by all state entities and all external player involved, mirrors their dif-

² 2013 Freedom in the World, Freedom House Report, 2013.
<http://www.freedomhouse.org/report-types/freedom-world>.

ferent status in the international arena: Armenia, Azerbaijan, and Georgia are internationally recognized states, Abkhazia and South Ossetia are semi-recognized states; and the Nagorno-Karabakh Republic is an unrecognized but *de facto* state.

However, in spite of *de jure* differences in their international status, all state entities of the South Caucasus experience insecurity to approximately the same degree. Some of their immediate neighbours are threatening their territorial integrity and state sovereignty, as well as the security of their population. It is important to stress once again that the sovereignty of then (1991), newly-independent Armenia, Azerbaijan, and Georgia was internationally recognized within the borders of the former Soviet Socialist Republics (SSR). Nonetheless, their formal independence and international recognition was almost immediately violated in the course of internal ethno-political conflicts. Hence, as a consequence of these conflicts the Nagorno-Karabakh Republic, the Republic of Abkhazia and the Republic of South Ossetia emerged to claim sovereignty over their historic territories which were included in the former SSRs of Azerbaijan and Georgia, respectively. The further transformation of internal ethno-political conflicts into international territorial conflicts resulted in alterations of state borders and the suspension of the sovereignty of Azerbaijan over the territory of Nagorno-Karabakh (and the territories surrounding it) and of Georgia over Abkhazia and South Ossetia. Thus, in the South Caucasus we are dealing with three types of state entities and with a diversity of sovereignty models. We are also dealing with a spectrum of approaches toward possible ways to preserve sovereignty from “by any means” to “by no means.”

For the three types we can use the terms “sovereignty,” “shared sovereignty,” and “residual sovereignty.” The latter must be understood as the lowest level of state sovereignty. Another important issue related to the models of sovereignty in the South Caucasus is the complex and overlapping correlation between self-determination and sovereignty. The sovereignty of the internationally recognized states directly influences the right of self-determination; conversely, the claim for self-determination of the given state entity takes away part of the sovereignty of the ‘metropolitan’ state over its territory and population.

For sovereign Georgia and Azerbaijan, the restoration of their territorial integrity is a strategic goal with strong symbolic meaning. The unsuccessful attempt of the Georgian leadership in August 2008, to resolve this issue by military means changed the *status quo* in the “Georgian conflicts.” The recognition by Russia and a handful of sovereign states of the independence of Abkhazia and South Ossetia *de jure* confirmed and supported the latter’s sovereignty over the territories they claimed as their own. But it also put them into a situation of complete dependence upon Russia as their ‘suzerain’. This development therefore *de facto* sharply reduced their sovereignty over their territories and their populations, as well as over their independent decision-making. Any development in Abkhazia and South Ossetia depends to varying degrees upon Russia.

The critical difference between Abkhazia and South Ossetia is that the latter cannot preserve its sovereignty by any means. It retains very limited options, and oscillates between being on the verge of a failed state and simply Russia’s military base. To avoid these extremes, it must either share its sovereignty with Georgia (on the basis of a federal state) or delegate it completely to Russia on the basis of unification with North Ossetia. If South Ossetia would consider shared sovereignty, then Georgia’s move toward the EU (through an Associative Agreement to be signed at the Eastern Partnership Summit in Vilnius) will be very helpful indeed for a future Georgia-South Ossetia reconciliation. However, the South Ossetian population, as it exists now, and a dominant part of its leadership prefer Russia’s umbrella.

In regard to Georgia-Abkhazia relations the situation is more complicated. However, the complexity itself provides manoeuvring space for Abkhazia, which has enough resources and capacity to maintain its status as a semi-recognized state (in this regard, the best example is Northern Cyprus as recognized by Turkey). I would argue that the consideration of a model of shared sovereignty with Georgia is in the past. The relationship with Russia provides benefits for Abkhazia’s economy and for its defence, but it also reduces policy- and decision-making options. However, Abkhazia can benefit from the Russia-Georgia contradictions and gradually enlarge its sovereignty from residual to sharing

status through cooperation with Russia, Georgia, Turkey, and Armenia (as an example I would refer to the opening of a railroad through the Abkhazian territory).

The other side of this coin must be noted. The very existence of Abkhazia in its current semi-recognized status is a *de facto* and *de jure* reduction of Georgia's sovereignty over its internationally recognized territory. The willingness of Georgia to accept this reality and to search for ways toward cooperation will contribute to mutual understanding and trust between all societies concerned.

Owing to the perception that Russia poses a direct security threat to Georgia's sovereignty, Georgia is moving fast in the European direction. Any level of participation in European institutions and organizations is considered a guarantee along the pathway toward preservation of sovereignty over its territory and population. There is also a strong understanding in the Georgian political and business establishment, as well as in the society at large, that the country will benefit from further democratization.

In the meantime, diversified approaches to security and sovereignty in Abkhazia and Georgia reduce the possibility of reconciliation between these two state entities even in the midterm time frame. To differing degrees, Georgia and Abkhazia are sharing their sovereignty with the European Union and Russia, respectively, which compete in many spheres. The sharing sovereignty model – between Georgia and Abkhazia – can be considered only within a soft power framework, namely, in the humanitarian and, perhaps, environmental areas mainly.

Summing up the developments in this Georgia-Abkhazia-South Ossetia triangle, I would like to stress that while South Ossetia is ready to delegate sovereignty completely to Russia, Abkhazia is trying to preserve it by applying for Russian support – even through acknowledging the high price being paid. Georgia views itself as a “European state” in the South Caucasus. It hopes that the advantages of inclusion into the European security and economic systems will sooner or later assist reconciliation with Abkhazia and perhaps for reintegration with South Ossetia.

The developments in the triangle Armenia-NKR-Azerbaijan are different and more complicated.

Azerbaijan is the only state in the South Caucasus capable of maintaining its sovereignty over its economy and defence. It has no need to share sovereignty with, or to delegate a part of it to, any international organization. However, a dualism in respect to Azerbaijani perceptions is apparent: on the one hand this state claims a role as a regional power, and on the other hand it has lost its sovereignty over a section of its internationally recognized territory. Thus, a restoration of its territorial integrity is a strongly articulated priority and a precondition for fulfilment of its desire for a role as a regional power. Moreover, it should be stressed that, in comparison to Georgia, Azerbaijan does not rely directly on any international organization or state³ to assist restoration of its territorial integrity. Furthermore, as implied, neither Russia nor the EU possesses any real leverage to influence Azerbaijan's domestic or foreign policy. Armenia is another internationally recognized state in this triangle. Although it possesses limited (in comparison to Azerbaijan) economic resources to support maintenance of its sovereignty, it has enough military power to preserve its territorial integrity and to provide the necessary military support to the NKR.

In the meantime, its direct involvement in the NK conflict sharply reduces its manoeuvrability and renders it very sensitive to any changes around the Nagorno-Karabakh. On the one hand, the security of the two Armenian state entities is an absolute priority for any Armenian president and government. On the other hand, the prioritized security issue directly and indirectly limits Armenia's sovereignty. A very vivid example must be mentioned: the decision of the President of Armenia, Serzh Sargsyan, to apply for membership in the Customs Union despite the earlier discussed, agreed, and prepared documents to be signed at the Third Eastern Partnership Forum in Vilnius on November 28-29, 2013.

³ The Turkish-Armenian border was closed (and is still closed) by Turkey in 1993. The history of the signing and freezing of the Protocols "On the Establishment of Diplomatic Relations between the Republic of Turkey and the Republic of Armenia" and "On the Development of Relations" between the two states also constitutes evidence of Turkey's strong support of Azerbaijan.

Hence, in this matter Armenia has once again confirmed that Russia is a strong component of its defence and security policy. Armenia shares its sovereignty with Russia in these two areas. Another such area concerns the Armenian economy in particular its growing dependence upon Russian investments. I am concerned also about the shared sovereignty over the population of this state owing to changes in Russian migration policy and to emigration trends from Armenia in general.

Parts of the Armenian political establishment speculate that this recent U-turn was related directly, on the one hand, to the security threat posed to NKR and Armenia by Azerbaijan and, on the other hand, to cognizance that limited possibilities still exist for further improvement in Armenia-EU relations. Another group of Armenian analysts argues that Armenia is losing its sovereignty.

The third constituent part of the triangle is the Nagorno-Karabakh Republic. Its residual sovereignty is gradually enlarging owing to internal positive developments in this *de facto* state and a strong interdependence between Armenia and the NKR, especially in terms of security.

However, I would like to stress that there are several correlated questions: How does the sovereignty that Armenia shares with Russia, influence the Nagorno-Karabakh Republic's claim for self-determination and independence owing to the latter's complete dependence upon Armenia? How does the NKR's residual sovereignty contribute to – or conversely – damage Armenia's sovereignty and even force Armenia to delegate significant parts of its sovereignty to Russia? To what extent does Russia wish to play a role as security shield to Armenia (and would the NKR be included?) in the context of growing mutual strategic interests between Russia and Azerbaijan?

Clear answers to any of these questions are difficult to formulate. Also, I don't see any possible cooperation even linked to the soft power initiatives between Armenia and the NKR, and Azerbaijan. Seeking to play a role as regional power, Azerbaijan is not prepared to discuss the issue of sharing sovereignty with the Nagorno-Karabakh Republic. Indeed, in the given circumstances the Nagorno-Karabakh cannot exist without signifi-

cant and diversified support from Armenia. And Armenia – partly because of this complex situation – cannot allow itself to act without a very serious consideration of the NKR security.

Thus, in the Armenia-Nagorno-Karabakh- Azerbaijan triangle we are dealing with three models of sovereignty in an absolutely turbulent external environment. These overlapping models of sovereignty (and visions of security) produce high level of ambivalence and contribute to growing tensions between all three actors. I am looking forward to hearing the analyses of my colleagues in the hope of finding some answers to my questions.

Conflicts in Abkhazia and South Ossetia in the Light of Georgia's Democratization and Western Integration Process

Irakli Mshedlishvili

Introduction

Conflicts related with Abkhazia and South Ossetia regions represent a serious challenge for Georgia's stability, democratic development and western integration process. Hundreds of thousands IDPs and refugees from these regions are still attempting to return to their houses without any success, while movement nearby or through these regions for Georgian citizens is still a very big risk.

After the 2008 Russian invasion of Georgia and recognition of these regions as independent states by Russia, the situation over Abkhazia and South Ossetia became even more complicated. Deployment of Russian troops and restrictions in the work of the international organizations in Abkhazia and South Ossetia converted the issue of these regions into a much bigger problem than it was before 2008.

Nevertheless the international community is committed to seek approaches for the settlement of the problem related with these regions. Conflict involving the parties, international stakeholders, and various think tanks are looking for new concepts and approaches for a sustainable settlement of the problem of the Abkhazia and South Ossetia regions.

This contribution is an attempt to introduce the problem of Abkhazia and South Ossetia regions not so much as a community rooted conflict or ethnic conflict, but rather as a conflict of the post-Soviet society; a conflict which exists in post-soviet societies in transition from totalitarianism to democracy, conflict between Soviet structures inclined to secure *status quo* and people which are trying to democratize their societies (if

it could be said so as a conflict between Soviet and post-Soviet societies).

This contribution concludes, on the basis of the proposed concept, with a set of recommendations which might help the conflicting parties and international stakeholders to develop their activities for the sustainable and peaceful settlement of Abkhazia and South Ossetia problems which will coincide with Georgia's declared policy on democratization and Western integration of the country.

General background

The escalation of violence in Abkhazia and South Ossetia started at the end of 1980s, when liberalization ("Perestroika" and "Glasnost") was declared in the USSR, and when the movement for Georgia's independence (from the USSR) is took off.

Georgia is not an exception. Similar things had happened in other republics of the USSR; in parallel with movements for independence, clashes took place in Azerbaijan (Karabakh Region), Moldova (Trans-Dniester Region), Tajikistan (Kurganteppa Region), etc. The USSR fell apart in December 1991, though the already unleashed conflicts gave Moscow the possibility to keep Russian armed forces on what was now the former USSR perimeter; Georgia, Moldova, Armenia, Tajikistan, etc.

Soon it became obvious, that Russia was not (generally, antidemocratic forces are not) interested in resolution of conflicts on the former USSR territories. On the contrary, each attempt of mitigation of conflict severity, return of refugees to their homes, restoration of peaceful relationships, etc., ended up with a new escalation of violence, which interrupted the process of tension reduction.

For example, there are cases of periodic expulsions of population having returned to Abkhazia region, burning the houses of refugees constructed by international donors (e.g. in Gali in 1998), implementing measures to prevent the remaining population of South Ossetia from keeping trade

relations with Georgia (e.g. closing of the Georgian-Ossetian market in Ergneti in 2004), etc.

In 2008, after resolving the Kosovo crises there appeared to be a chance for full scale settlement of the conflicts in Abkhazia and South Ossetia with the assistance of international actors. Namely, the issue of replacing Russian peacekeeping troops with European police forces was being discussed. Russia responded to this possibility with direct aggression. It brought its armed forces into Georgia and declared the independence of Abkhazia and South Ossetia. As later Russian President Dmitry Medvedev declared: “By going to war with Georgia in 2008, Russia halted NATO’s expansion.”

Influence of Abkhazia and South Ossetia conflicts on Georgia, Caucasus and Central Asia

After the collapse of the Soviet Union former soviet republics started rebuilding traditional ties with neighbouring nations (diversification of communications). This supported the strengthening of former soviet republics’ independence and reduced their dependency on Russia. Namely, the implementation of such projects as Transport Corridor Europe – Caucasus – Asia (e.g. TRACECA), transportation of Caspian oil and gas to the West (e.g. Nabucco), had accelerated the involvement of Caucasus and Central Asia countries in international economic relations. In other words, it strengthened the independence of Central Asia and Caucasus states and decreased their dependency on Russia.

Keeping geographic and political factors into consideration, it is easy to see that western routes (TRACECA, Nabucco, etc.) are so far the only realistic possibility for Central Asia and the Caucasus regions to get to the international market bypassing Russia (there is currently no alternative route for Central Asia and Caucasus). Thus, the western route carries a strategic importance for the independence of countries of Central Asia and the Caucasus. At the same time, the western (strategic) communications of four countries of Central Asia and two countries of Caucasus pass through Georgia, which means that the proper functioning of western communications of Central Asian and Caucasus countries de-

depends on the situation in Georgia and particularly on the situation in Abkhazia and South Ossetia.



Figure 1: Russian military bases at the perimeter of the former USSR mainly coincide with the locations of the post-Soviet conflict zones.

During the 2008 invasion Russia conducted a partial blockage of western communications of Caucasus and Central Asian countries passing through Georgia. Taking into account the possibilities of Russian armed forces concentrating today on the territories of Abkhazia and South Ossetia, Russia currently has much more power for blocking the communications artery passing through Georgia.

Consequently, withdrawal of Russian armed forces from Abkhazia and South Ossetia and launching large-scale process for peaceful resolution of problems associated with these regions would raise the importance of Europe-Caucasus-Central Asia route, would support development of Central Asian and Caucasus countries, and would decrease their dependence on Russia. Thus, in total would strengthen the independence of Caucasus and Central Asian states.

Problem context

Strengthening the independence of Caucasus and Central Asian states is not acceptable for everyone. For example, the current leadership of Russia deems the break-down of the USSR as a geopolitical catastrophe. To the present day, Russia considers former USSR space as an exclusive area of Russian influence and openly declares that it will not allow former Soviet republics to promote their international relations ambitions (for example integrating into NATO).

Considering such views of the Russian leaders, it is not surprising that Russia refuses to withdraw its armed forces from Abkhazia and South Ossetia and to launch a large-scale, peaceful resolution of the problems in relation with Abkhazia and South Ossetia, such as allowing international observers on territories of Abkhazia and South Ossetia, return of refugees, etc.

Russian leadership is not alone. As it is in Russia, practically in all former USSR states (Baltic countries excepted) are functioning with state structures which mostly are inherited from former Soviet structures. In other words, in all former USSR states since the Soviet times state structures have functioned without any institutional interruption – without any deep democratic transformation (e.g. without any so called enlightenment, which was conducted in most central European, former Communist countries after the collapse of the system). These structures are very similar in their interests in securing the *status quo*. They resist democratization and Western integration processes and this resistance is quite serious.

Despite post-Soviet societies' and the international community's efforts for democratic reforms, the democratic indices of ex-USSR countries practically did not change for more than twenty years. According to various assessments, all former Soviet countries so far belong to not free or partly free states (or by another classification – to countries with authoritarian or hybrid regimes). Unfortunately Georgia, including its Abkhazia and South Ossetia regions is not an exception. In all former USSR space serious problems exist with basic human rights and democ-

racy. Like it was in Soviet Union, everywhere politics and ruling groups are very much dependent on internal security structures, etc.

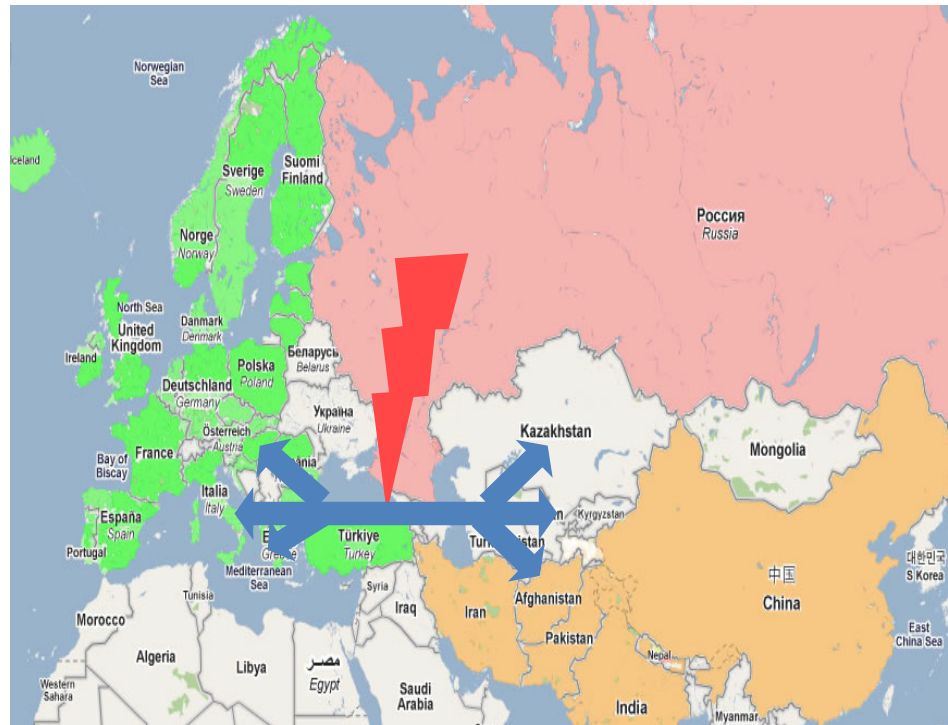


Figure 2: 2008 Russian invasion in Georgia threatened Caucasus and Central Asia countries' western routes

Thus, two ends – on the one hand Caucasus and Central Asian nations aspiration towards strengthening their international relations and their independence, and on the other hand Russia's and pro-USSR forces - attempt to keep Caucasus and Central Asia isolated from the outside world and prevent them from the strengthening their independence, creating the context of Abkhazia and South Ossetia problem.

Democracy as a key factor for the settlement of Abkhazia and South Ossetia problems

When various options for the settlement of the problem of Abkhazia and South Ossetia problems are considered – whether it be joint sovereignty, federative solutions, joint management or other possible models, it is as usually expected, that the proposed models should respond to the interests of inhabitants of Abkhazia and South Ossetia including IDPs and refugees from these regions, as well as to the expectations of Georgia and the international democratic community. In other words the accepted models should be in accordance with democratic standards. Otherwise, if the accepted system will not be democratic, regardless of what model will be proposed, the Abkhazia and South Ossetia regions will again become an object of the manipulation in the hands of pro-USSR forces in Russia, Georgia or in Abkhazia and South Ossetia regions. Such a system will not be able to guarantee the interests of the inhabitants of Abkhazia and South Ossetia including IDPs and refugees, and will not reduce the possibilities of new conflicts.

Summarizing the above mentioned, the model for sustainable settlement of Abkhazia and South Ossetia problems should only be a result of a wider democratic process – the result of the democratic reforms of Georgia including of the Abkhazia and South Ossetia regions.

Recommendations

Under the current situation, in regard to problems in Abkhazia and South Ossetia the International Community should still keep the same approaches what was established after the 2008 Russian invasion in Georgia and should search for additional mechanisms that would support large-scale, peaceful resolution of problem of Abkhazia and South Ossetia regions. Particularly:

Approaches established after 2008:

1. Continue to convince Russia, that for the resolution of problems in Abkhazia and South Ossetia it is important to strengthen the role of in-

ternational organizations. In particular, the International Community should continue its efforts to have Russia allow the EU Monitoring Mission (EUMM), Organization for Security and Cooperation in Europe (OSCE), United Nations (UN), and others on the territories of Abkhazia and South Ossetia. The presence of international organizations in Abkhazia and South Ossetia will increase the effectiveness of response to emergency humanitarian issues, will diminish tensions, the possibility of conflict re-escalation and will create a foundation for future international peacekeeping operations.

2. Continue to reassure Russia to withdraw its armed forces from Abkhazia and South Ossetia. In other words, claim fulfilment of obligations taken within the framework of the agreement between the President of Georgia and the President of Russia, mediated by the European Union in September 2008. Thus, continue to persuade Russia, that there are no legal bases for the presence of Russian armed forces on the territories of Abkhazia and South Ossetia.

3. Continue the “non-recognition policy” in regard to Abkhazia and South Ossetia. This policy is important in order to persuade Russia that the International Community will not be deceived and will not accept occupation of certain parts of Georgia’s territory as independence of Abkhazia and South Ossetia. Or, in other words, the international community will never tolerate and legitimize Russia’s expansion in South Caucasus.

Potential additional mechanism:

4. Strengthen the democratic transition of Georgia, including the Abkhazia and South Ossetia regions. Rooting of the democratic standards would reduce the possibility of manipulation of conflicts by anti-democratic forces as a shield, or a countermeasure against their independence and Western integration processes. At the same time, the democratic process should enable conflicting societies and parties to find common solutions, which would be a more durable guarantee for the long term and sustainable settlement of the problems of the Abkhazia and South Ossetia regions. In practical terms, support of democratization

for instance could mean: launching projects which would increase transparency and accountability of local authorities in the political sphere, security sector, or other spheres; such as education, etc.

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PART II:

**SOVEREIGNTY AS PERCEIVED IN THE
WESTERN PART OF THE SOUTH CAUCASUS**

Ways to Achieve Stability in the South Caucasus

*Dalila Pilia*¹

A world without wars and bloody conflicts has always been an ideal preached by the best minds of mankind. “A war of extermination, in which the destruction of both parties and of all justice can result, would result in perpetual peace only in the vast burial ground of the human race,” wrote Immanuel Kant. (Collected Works in 8 volumes, vol.7, 1994, p. 11). Fortunately, the countries of South Caucasus were able to avoid drawn out wars. But, at the same time, in these cruel wars there are neither winners, nor vanquished. Thousands and thousands of people are killed in them, without speaking of the material damage caused to the countries, the irreplaceable loss caused to science, education, culture.

There were a great number of causes and reasons for wars in the South Caucasus. However it should be noted that the countries of the South Caucasus in the recent past were in one social and economic, political and cultural space. Despite the ethno political armed conflicts which took place practically in all republics even today it is impossible to claim that communications are completely broken.

Is the South Caucasus a consistent region? Many researchers consider that the South Caucasus is a geographical region on a map, but in any other sense – political or economic it is not an integrated region.

Objectively speaking, we deal with a confused tangle of closed borders, deadlocks and check-points. Parts of this region don't support any contacts with others. For this reason it is impossible to call the South Caucasus a region as considered by famous researcher Tom de Waal.

¹ Associate professor of political science, Abkhaz State University. Text translated from Russian into English by Astanda Pataraya, Ministry of Foreign Affairs of the Republic of Abkhazia, edited with permission.

The security problem in the South Caucasus excites not only the people living in this region; in only two years more than five international meetings were held by the expert community, devoted to the problems of regional security and ethno political conflicts in the Caucasus. There was the international conference “Caucasus 2012” in Yerevan, a scientific and practical conference of the Program of Security of the Black Sea Region (Harvard University) in March, 2013 in Bucharest, in Ankara took place the Round Table on the subject of a “New Architecture of Security in the South Caucasus” and in June in Moscow took place the international conference “Crisis in the Middle East and Security Problems in the South Caucasus and in the Caspian Sea.” All these meetings were aimed at searching for ways to stabilize the situation in the South Caucasus. The same aim is pursued also by this meeting.² In the framework of the issues for discussion it would be desirable to focus on Georgian-Abkhazian relations. Abkhazia is not a big country. Situated in northwest part of the South Caucasus on the Black Sea coast, Abkhazia is the country of ancient Christianity (Gunba M. *Abkhazia in the first millennium*, Sukhum, 1989, Hrushkova L. *Lykhni – A medieval complex in Abkhazia*, 1998. Amichba G. *Abkhazia in the Middle Ages*, Sukhum, 2003). In 55 A.D. apostles Andrey Pervozvanny and Simon the Zealot spread here Jesus’ teachings. According to the legend, the latter is buried in New Athons (nowadays the church of Simon the Zealot).

Georgians and Abkhazians have been living in the neighbourhood for thousands of years. As famous Georgian scientist Simon Dganashia wrote, Abkhazians have been living in their land since Noah’s times. However good-neighbourly relations were quite often marred by armed conflicts. That is the way it was at the beginning and at the end of the twentieth century; there were Beria’s repressions, the Georgianization of Abkhazians when teaching of the native (Abkhaz) language was withdrawn from the program of instruction and was replaced by compulsory education in the Georgian language, when Abkhazian writing was transferred to the Georgian script. From the end of the 1930s began the organized resettlement policy. The head of specially created *Gruzpere-*

² The 8th Workshop of The Regional Stability in the South Caucasus Study Group – Note of the Editor.

selenstroy organization was Beria himself. As a result of the migration policy which proceeded almost up to the Georgian-Abkhazian war of the 1990s, the demographic situation in Abkhazia dramatically changed.

Perestroika and *Glasnost* especially their second phase, were apprehended by Georgia and some Soviet republics as an opportunity to solve ethno national problems which couldn't be solved in the days of the Soviet system. It was the time when Georgian nationalistic elite was convincing its society which was already nationalistic that Abkhazians were strangers and had appropriated primordially Georgian lands. Such a spirit led to the first Georgian-Abkhaz clashes. Blood was shed.

No matter how were relations with Georgia, Abkhazia always tried to find a political and legal decision to the emerging conflicts. By the beginning of the 1990s were prepared documents in which a federal state system was offered to Georgia. On August 14, 1993 when the war began, the Parliament of Abkhazia was to discuss the project of a general state with Georgia. After the Georgian-Abkhaz war, in which Abkhazia, against everyone's expectations, won a victory, a blockade was established against Abkhazia's intractability by a decision of the (Commonwealth of Independent States – CIS) countries. Representatives of political elite of Georgia quite often accuse Russia, that had she wanted, she could have nudged Abkhazia towards autonomy, thereby preserving the territorial integrity of Georgia.

Russia during the Yeltsin period tried to return Abkhazia to Georgia as autonomous region, prepared various documents and options, but Georgia didn't recognize them. Nearly fifteen years a blockade was applied concerning Abkhazia. The position of the Abkhaz nation was very hard: it was strangled by the blockade, and it had no exit. On one side there is the border with Georgia, on the other the border with Russia, and the sea lanes of communication with Turkey were shut. To find means of egress from this deadlock Abkhazian national elite were suggesting to Georgia various models of the conflict settlement.

Which models were offered by Abkhazians? How similar are they to models which are offered for discussion today?

The first Abkhaz project of a federative system of Georgia, prepared by the Abkhaz lawyer, Professor Taras Shamba, provided political equality of the Abkhaz and Georgian states within a united Georgia. The main sense of the project was that

“the Republic of Abkhazia voluntary unites with the Republic of Georgia and possesses in its Territory comprehensive Legislative, Executive and Judicial Authority, except Those Powers Which Are Referred by the Constitutions of Georgia and Abkhazia to the competence of the Republic of Georgia.”

However, not only was the project fated not to be realized, but it was not even discussed. The day when the Abkhazian parliament had to discuss the project, the Georgian forces entered into Abkhazia. The first air-strikes hit the very building where parliament was meeting on this matter.

There were offers both from Abkhaz and from Georgian side at different times which were directed on the settlement of the conflict. Let's focus on one of such documents which in our opinion could have a certain prospect. By the end of the 1990s, before carrying out the Referendum and adopting the Act of State Independence was published the fundamental research of famous Abkhaz scientist Vyacheslav Chirikba; “Georgia and Abkhazia: Offers for a Constitutional Model.”

As Chirikba points out

...all previous Abkhazian offers based on the union of the Georgian and Abkhazian states, were repeatedly rejected by the Georgian state as unacceptable. ... the Union State covering Georgia and Abkhazia as politically equal republics within the general state, is ... a reasonable alternative to the deadlocked political process. (Practice of Federalism, p. 416).

The model provided joint coexistence of the two states as politically equal, within the General state which Adjara and South Ossetia would also join. In the research the essence of the General state in political, economic and spiritual and cultural aspects is developed step by step. The problem of division of powers between the Republic of Abkhazia and the General state, the sphere of competence of the General state, etc., are stated in detail. Let's imagine that Georgia accepted the idea of the general state, and that the preparatory work over the new model

really began. Here an example for us could be Europe which suffered military, and financial, and ecological disasters, but created a United Europe in due time. On this model it would be possible to develop an all-Caucasian integration movement.

The Caucasian parliament, the Caucasian common market, the Caucasian court and other pan-Caucasian establishments can become instruments of the Caucasian regional integration and stability that would turn the Caucasus rather into independent self-regulating economic and geopolitical reality... (Ibid., p. 432).

Upon the positive experience of the development of the General state, could be developed the relations of Nagorno-Karabakh and Azerbaijan. Thus all subjects of the Caucasus could build bilateral ties without damage of the main states. It would allow having transparent borders, free development of cultures, languages and the most important – a solution to security problems. The idea of integration of the people of the Caucasus could come instead of ethnocentrism. But the history has no subjective attitude especially in view of the refusal of Georgia to any compromises, the Abkhaz side decided to adopt of the Act of State Independence in 1999, putting an end to discussions on the status of Abkhazia.

It is obvious that it is difficult to speak about peace initiatives when the policy of Georgia is built only on the desire to restore the territorial integrity of the state which was lost long ago at any cost. It is extremely difficult to speak about peace initiatives in such situation. But, despite difficulties, representatives of Abkhazia continued to search for such initiatives.

The idea of dual control was presented by the Abkhaz side in *Nezavisimaya Gazeta* (Moscow) on August 4, 2000 in an article by the author of these lines entitled “Model for hot spots: Condominium as possible option of settlement of the Georgian-Abkhaz conflict.” In the article the example of Andorra – a double protectorate of France and Spain – the model of a new type of the state was explained in detail.

As S. Baburin wrote, this method would resemble the situation of Transnistria, and of the Crimea. And famous Russian ethno political scientist Sergey Arutyunov also considered that this way was quite acceptable for

Abkhazia because in the destiny of Abkhazia the Black Sea states could play a big role. However, at that time and now in Georgia, no models of conflict settlement except that of territorial integrity can be discussed. And in Abkhazia the article was met by the general public extremely negatively.

Many concrete plans of settlement of the Georgian-Abkhaz conflict were offered the sides. The “Boden plan”, prepared by the Special Representative of the Secretary General of the UN Dieter Boden was the most debatable. As the Abkhaz political scientist, and nowadays deputy minister of foreign affairs of the Republic of Abkhazia Irakli Khintba points out, the main message of the document didn’t allow ambiguous interpretation and was clearly stated by Boden: “the future status of Abkhazia, has to be such that Abkhazia will be a part of the Georgian state.” (D. Boden’s plan “On the Basic Principles of Distribution of Powers between Tbilisi and Sukhumi”) The failure of the “Boden plan” as considered by an expert community, was explained by the belatedness and disconnection of the project from the limit of admissible concessions from Abkhazia.

After 2000, the European Union started showing interest in settling the conflicts on the South Caucasus, in particular the Georgian-Abkhaz conflict. In July, 2003 was created the position of the Special Representative of EU on the South Caucasus which was held initially by Peter Semneby. The European Union, unlike previous intermediaries (the USA, the Friends of the Secretary General of the UN in Georgia, etc.), at first sight, seemed less tendentious and generated big sympathy from the Abkhaz side.

In August 2008 the Russian Federation officially recognized the independence of the Republic of Abkhazia. The adoption by Georgia of the “Law on Occupied Territories of Georgia” was the answer to recognition. Tbilisi considered that the conflict parameters had changed, that part of the Georgian territory was supervised by Russia therefore the Abkhaz side could no longer be part in the discussions as it had been for nearly fifteen years after armed conflict. It was only a Russian-Georgian conflict. Realizing the error of such a policy, the Georgian leadership

acted with new approaches – the de-isolation of Abkhazia. This was the subject of the “State Strategy on Occupied Territories: Involvement through Cooperation.” Any document which is offered by Georgia having at first sight a rather positive character, is veiled and always has political character. Excessive politicization is the main key to mistrust the initiatives of Georgia. As Irakli Khintba suggests, “The “August events” triggered tectonic shifts which had consequences at local, regional, and partly at global scale... The main thing is the emergence of the South Caucasus of “new realities” considerably reformatting the geopolitical situation and connected with the recognition by the Russian Federation... of the independence of Abkhazia and South Ossetia.” (Transformation of the Georgian-Abkhazian conflict: Paradigm reconsideration. Sukhumi 2012, p. 27).

Today to resume dialogue, it is necessary to do it from a sheet already blank. The result of peace initiatives will depend from that; how constructive and realistic will be the position of the leadership of Georgia. We understand that only after recognition of Abkhazia by Georgia it is possible to speak about peace and stable development of Abkhazia, as well as Georgia. However there is less and less trust towards each other. All those documents which were accepted by Georgia in recent years, beginning from the Law on Occupied Territories and finishing with status neutral passports, increases the distance between Abkhazia and Georgia. Besides, Georgia in every possible way refuses signing of a peace treaty with Abkhazia which would provide non-aggression guarantees. All this leads to believe, that modern Georgia continues to imagine solving the Georgian-Abkhazian conflict through force.

Georgia continues to apply the whole complex of political and diplomatic, international legal and subversive and terrorist methods of influence on Abkhazia. We receive visas from European countries less often, a real information war is waged against Abkhazia, our diplomatic efforts in foreign countries are jealously traced and whenever possible blocked. Georgia refuses to sign with us an agreement on the non-use of force, actively interferes in the realization of our purpose of international recognition of Abkhazia, and also seeks to undermine internal development

of the country – it is in essence the continuation of the ethno political interstate Georgian-Abkhazian conflict.

Redefinition, reconsideration of the concept of “sovereignty” which is offered to be discussed as a possible peaceful manner in the settlement of the conflicts in the South Caucasus, in particular on the relation of the Georgian-Abkhazian conflict, in our opinion, remains at the level of theoretical, scientific discourses. In Abkhazia a very narrow circle of experts watch these discussions. Organizers of such an important forum as our meeting is, ask how the public, the elite, will react to such offer? I dare to suggest the possible reaction of the electorate very shortly. Abkhazia in 1999 fixed its sovereign, independent state by the referendum, and for more than five years it has been recognized as such by one of the leading countries of the world the Russian Federation (permanent member of the UN Security Council). The recognition of independence of Abkhazia by other countries members of the UN will fix the status of Abkhazia as a subject of international law. In our territory are deployed the Russian military bases which are the guarantee of our safety. The guarantee of safety gives the chance to work more actively over the formation of a new statehood, to develop political institutions. Today there is a construction boom in Abkhazia; schools, hospitals, kindergartens, roads, sports constructions, cultural centres are being built, new fruit and grape gardens are planted. It has environmentally clean water, fruits, citruses, beekeeping, fishing, etc. People gradually depart from the horrors of war and choose the path of development. How to explain to the people in that situation that it is necessary to rethink concepts “sovereignty and independence”? There is a question: what for? It doesn't mean that in Abkhazia there are no problems. We have problems, lots of them. However the state institutions, the public and civil society together conduct a lot of work to help Abkhazia, making the life of its citizens better, promoting the strengthening of democratic institutions, promoting to the international community the voice of Abkhazian authorities and citizens.

Post-military life in the South Caucasus, a political solution of the conflict constantly lies on a blank wall. Maybe it would be expedient to approach the solution of problems by another manner? Through questions

of scientific, creative, cultural, and sports ties. There has to be an imperious will of the national elite of the South Caucasus to prepare their societies for this idea. Start small: school, students, youth meetings; meetings of teachers of comprehensive schools and higher education institutions, writers, musicians, etc. Such meetings of people confidentially, without political agenda, undoubtedly, over time will remove aggression, hostility, fear, will pull together the vital interests of people. The formation of such an atmosphere among a wide range of people, in our opinion, is one of the main tasks of conflict settlement in the South Caucasus.

The Georgian-South Ossetian Conflict: Territorial Integrity or Reconciliation?

Nina Selwan

The aftermath of the August 2008 war has brought several observations to light: those few chances for returning to the peaceful coexistence of Georgian and South Ossetian communities no longer exist (at least not at the moment); existing conflict prevention and settlement mechanisms are either poorly designed or do not exist at all; the Georgian-South Ossetian conflict has escalated far beyond its original localized nature to such degree that it now overlaps with Georgian-Russian and Russian-Western tensions. Against this background Georgia insists on its territorial integrity, South Ossetia on its right to be independent from Georgia, Russia removing itself from Georgian-South Ossetian equation, and the West granting its unconditional support to Georgia. The difficult question of whether this puzzle can be solved anytime soon, if at all, leads to pessimistic prognoses, which does not come as a surprise, for, in my view, we have been asking the wrong question all along.

In his “Moral Imagination: The Art and Soul of Building Peace”¹, John Paul Lederach brings up a persistent feature of many conflicts: we are often so entrenched in familiar conflict narratives, that we forget to imagine the world we would like our grandchildren to live in. Such “moral imagination” – a creative act of transcending the reality and ugliness of conflicts, is precisely what has been missing in the South Caucasus, in general, and in the Georgian-South Ossetian relationship, in particular, for a very long time. What does the “moral imagination” demand of us in the case of Georgian-South Ossetian relationship? In my view, it necessitates changes on a paradigmatic scale, meaning that we have to revisit our system of values, analytical lenses, and conflict discourses – or ways we think and talk about this conflict. The clash between “territorial integrity” and “self-determination” frameworks has led to its logical

¹ John Paul Lederach, *The Moral Imagination: The Art and Soul of Building Peace*, Oxford: Oxford University Press, 2005.

culmination – a deadlock. In search for pragmatic ways out of it, both frameworks have to give way to “reconciliation” framework: it is only when emphasis is made on people (instead of ideas), we may see a transformation of the Georgian-South Ossetian relationship. Yet, given that the framework of “territorial integrity” enjoys wider international exposure, I would like to examine its impact on positions of all stakeholders and then envision a more pragmatic course of conflict engagement.

South Ossetia

The framework of “territorial integrity” is that trigger that ends a conversation with South Ossetians before it may begin. It is carefully avoided when, for example, members of Georgian civil society have opportunities for direct communication with their counterparts from South Ossetia.² When this example is not followed, a meaningful dialogue does not take place, with Geneva talks being an excellent example of that. Another indicator of bankruptcy of “territorial integrity” framework is its inability to reflect upon changes that have taken place in South Ossetia in the aftermath of 2008 war. For example, South Ossetia’s claims of independence have given way to claims for greater (if not complete) dependence on Russia.³ Certainly, as South Ossetia (akin to Georgia and Russia) undergoes processes of taming historical narratives, nation-building, and envisioning a new future for itself, there is no final consensus on the direction of these processes within South Ossetian community. Thus, according to some surveys, 85% of South Ossetians would like to unite with North Ossetia (and become a part of Russian Federation *de jure*), 10% would like for South Ossetia to become a state independent of Russia and Georgia, and only 5% would like to reunite with Georgia.⁴

² Personal observations during Georgian-South Ossetian civil society meetings.

³ “Президент Южной Осетии не исключает возможности объединения осетин” Кавказская Политика, 2013. Available at: <http://kavpolit.com/prezident-yuzhnoj-osetii-ne-isklyuchaet-vozmozhnosti-obedineniya-osetin/>.

⁴ Аршев, А. “Россия – Южная Осетия: на пути укрепления сотрудничества” Новое Восточное Обозрение, 2013. Available at: <http://ru.journal-neo.org/2013/07/26/rus-rossiya-yuzhnaya-oseitiya-na-puti-ukrepleniya-sotrudnichestva/>.

Why has the balance between those arguing for independence and those for becoming a part of Russia has shifted in such dramatic ways? Among obvious reasons are South Ossetia's lack of internal resources to revive its economy and infrastructure and lack of international support. But it would be a mistake to limit the explanation of South Ossetia's choice to those reasons only. The war highlighted important dynamics that gave birth to this conflict in the first place, namely, South Ossetians' security concerns as the result of Georgia relying for the most part on violence in resolving Georgian-South Ossetian conflict over the last two decades. Georgian nationalism, threatening the idea of ethnic and cultural diversity, gave birth to South Ossetians' fears, insecurities, and a sense of being stripped of voice and visibility. In fact, some South Ossetians, in assessing their relationship with Georgians, view the 2008 war as merely the "culmination" of a long and painful relationship with their neighbour.⁵

However, South Ossetians' distrust of the new Georgian position was expressed in the statement "we want the people, and not just the territories"⁶ has other explanations as well. The Georgian leadership has not assumed responsibility or apologized for the crimes against South Ossetian civilians during the 2008 war⁷ and violence before 2008.⁸ The Georgian-South Ossetian dimension of this conflict is invisible even now: Tbilisi's official rhetoric tends to subsume it into the Georgian-Russian dimension, which is certainly present, but not identical with the roots and nature of Georgian-South Ossetian conflict. While refusing to remain a voiceless, invisible, or inferior neighbour, South Ossetia may only further convince itself of the choice made after Georgia promoted

⁵ Вячеслав Гобозов: "Южную Осетию не пугает возможное сближение России и Грузии" Вестник Кавказа 2013.

Available at: <http://www.vestikavkaza.ru/video/Vyacheslav-Gobozov-YUzhnuyu-Osetiyu-ne-pugaet-vozmozhnoe-sblizhenie-Rossii-i-Gruzii.html>.

⁶ "Вопрос целостности Грузии зависит не только от РФ – Иванишвили" Новости – Грузия, 2013.

Available at: <http://newsgeorgia.ru/politics/20130703/215760683.html>.

⁷ Гацалов, Х., "Большой Кавказ после войны: реальность и перспективы" ИА "РЕГNUM", 2013. Available at: <http://regnum.ru/news/polit/1717307.html>.

⁸ "Зарская трагедия. Боль, неподвластная времени" ИА "РЕС", 2013. Available at: <http://cominf.org/node/1166498057>.

radical Georgian nationalists Gamsakhurdia and Kostava to the status of national heroes⁹ and turned down the majority of applications of Georgian Meskhetians seeking repatriation.¹⁰ Therefore, the still very popular nationalist rhetoric in Georgia feeds right into a very similar nationalist rhetoric in South Ossetia, thus, only intensifying the clash between nascent nation-building projects of both sides.

In short, there are plenty of reasons for Tskhinvali to be cautious and look in a different direction. Before offering any ideas of possible forms of legal cohabitation with Georgia, we have to face changes that took place in South Ossetian governing bodies, public life, history narratives, worldviews, etc. If before 2008 some form of *territorial self-governance*¹¹ looked at least vaguely possible,¹² after the war hopes for such arrangements seem quite unrealistic. Even in the scenario of a successful *reconquista* of South Ossetia (as the Georgian leadership hoped in 2008), it may bring about more problems than there are now in the form of more violence and resistance. To win South Ossetia back in the long run, Georgia needs to win its hearts and minds – a position voiced already by some moderate Georgian officials.¹³

⁹ “Саакашвили присвоил звание Национальных героев Звиადу Гамсахурдиа и Мерабу Костава”, *Эхо Кавказа*, 2013.

Available at: <http://www.ekhokavkaza.com/content/news/25148972.html>.

¹⁰ Бабицкий, А. “Теймураз Ломсадзе: ‘80-85% месхетинцев – фактически этнические грузины’” *Эхо Кавказа*, 2013.

Available at: <http://www.ekhokavkaza.com/content/article/25141402.html>.

¹¹ Wolff treats TSG as a tool of statecraft to the specific context of conflict management in divided societies that encompasses five distinct governance arrangements — confederation, federation, autonomy, devolution, and decentralization.

See: Wolff, S. “Conflict Management in Divided Societies: The Many Uses of Territorial Self-governance” *International Journal on Minority and Group Rights*, 20:1, 2013, 27-50.

Available at: <http://booksandjournals.brillonline.com/content/10.1163/15718115-02001003>.

¹² Yazkova, A. and Haindrava, I. “The Tagliavini Report: To Each His Own?” Khutsishvili, G. & Gogueliani, T. (eds.) *Russia and Georgia: The Ways Out of the Crisis*. ICCN, Tbilisi, 2013, 67.

¹³ “Georgian PM calls for Tolerance, Respect for Human Rights”, *Radio Free Europe/Radio Liberty*, 2013. Available at:

<http://www.refworld.org/docid/51b087e514.html>.

But even in the case of success of such campaign, it has to be taken into account that, by now, South Ossetian society has a dynamic political life and elites that perceive Georgian national project in direct contradiction to their own: what Georgia is demanding this time is to give up not an autonomous status, but a status of a *de facto* state. Whether this scenario will appear more appealing to South Ossetians is yet to be seen. For the moment, one thing is clear: the choice of “territorial integrity” framework is not only unrealistic, but is also counter-productive, especially in the case where the South Ossetian *people* (and not just the territory) are the priority, as Tbilisi now claims. As to the scenario of South Ossetia uniting with North Ossetia, it begs a serious re-examination for several reasons. For example, while South Ossetia (backed by Russia’s support) is in an advantageous position to negotiate with Georgia now, it may not claim as much voice and visibility within the borders of Russia, especially given the volatile context of the North Caucasus. By being open, on the other hand, to engage with diverse actors, South Ossetia may discover new alternatives and resources for development. For example, engaging with European partners may help South Ossetia to build a vibrant civil society – an opportunity that the republics of the North Caucasus do not have.

Georgia

Another indicator of ineffectiveness of the “territorial integrity” framework is Georgia’s inability to derive any benefits with its help. On the contrary, it harms Georgia’s chances for reconciliation with South Ossetia in significant ways, some of which were already mentioned. The more Georgia insists on its “territorial integrity” framework, the further it pushes Tskhinvali away (and, as of now, there is only one direction to move in). Yet, paradoxically, no meaningful action is taken. Georgia’s plans for a serious “constructive engagement” with South Ossetia never materialized. As some experts note, the Georgian leadership has done everything for it not to happen (at least in the past).¹⁴ Another question-

¹⁴ Khutsishvili, G., “Contemporary Russian-Georgian Relations: The Orwellian Power Phenomenon in the 21st Century” in Khutsishvili, G. and Gogueliani, T. (eds.), *Russia and Georgia: The Ways Out of the Crisis*. ICCN, Tbilisi, 2010, 99.

able tactic of Tbilisi is to appeal to Western partners to pressure Russia to “return” the separatist regions of Abkhazia and South Ossetia “while seeing that it does not work.”¹⁵ It does not work for several reasons. One of them is that Georgia should not overestimate the amount of influence the West has over Russia. Another one is the already mentioned reductionist tendency of Tbilisi to collapse the Georgian-South Ossetian conflict into the Georgian-Russian conflict. Denying agency and the grievances of the South Ossetian people is an ineffective strategy to win their hearts and minds. In order to illustrate that, we may imagine a scenario in which Georgia re-establishes warm ties with Moscow and the latter decides to withdraw its support of South Ossetia. In this case, it would be unrealistic to expect South Ossetians to welcome their Georgian neighbours back or to agree to give up their new national idea and political ambitions.¹⁶

Those who still hope for this in Tbilisi have to approach this task with great patience and caution, as some pragmatic Georgian experts suggest.¹⁷ Yet, caution and patience alone are not enough. The opinion that Tbilisi will establish influence over Tskhinvali only after it becomes a more appealing democratic centre is gaining visibility.¹⁸ However, a sober assessment of Georgia’s political path in the last two decades points out a more demanding task ahead, namely, not simply proclaiming a commitment to Western values, but actually practicing them.

The gap between the two is enormous. Georgia (along with Russia and South Ossetia) inherited not only Soviet institutions and practices, but also the type of mentality that did not favour the supremacy of law, human rights and freedoms, public dialogue, or soft power. Within this worldview, such values as individual dignity and well-being were subor-

¹⁵ Ibid.

¹⁶ Маркедонов, С., “Противопоставление Большинству” Эхо Кавказа, 2013. Available at: <http://www.ekhokavkaza.com/content/article/25150469.html>.

¹⁷ Abashidze, Z. “Russian-Georgian War: Twenty Months Later”, in Khutsishvili, G. and Gogueliani, T. (eds.) *Russia and Georgia: The Ways Out of the Crisis*. ICCN, Tbilisi, 2010, 62.

¹⁸ Алленова, О., “Грузия — Более Надежная Страна” Кавказская Политика, 2013 Available at: <http://kavpolit.com/gruziya-bolee-nadezhnaya-strana/>.

minated to the goal of building and maintaining a powerful state. Along with such worldview, Georgia has inherited a Soviet-era understanding of sovereignty as well, which can be summarized in the statement: “if we share it, we are weak.”¹⁹ In this sense, Georgia has followed the path of Russia, which relied on violence in quelling domestic unrest rather than on soft power. The emphasis was precisely on the territories and not the well-being of people. In fact, as some experts claim, states that act like “nations-empires” often choose to defend their territorial integrity at any cost, even permitting to clear territories of all rebels if needed, as it was the case in Chechnya, for example.²⁰ Yet, for Georgia, which did not have commensurate political-military means, its *reconquista* of South Ossetia spelled disaster. Not only did it create and intensify ethnic trauma, around which South Ossetians are now united, but it has also dramatically reduced the credibility of Tbilisi’s emphasis on the “people and not just the territories.”

Is this damage irreversible? If Georgia continues to insist on the framework of “territorial integrity”, then yes: most likely, no meaningful dialogue will take place between Tskhinvali and Tbilisi, with the former further integrating into Russia’s socio-cultural, economic, and political spaces. But if Tbilisi does not want to see that happen, it has a choice to follow an alternative path of rebuilding the relationship with South Ossetia from the bottom. What such bottom-up approach translates into is building the kind of society that favours the well-being and dignity of individuals over state borders, horizontal social arrangements over vertical ones, and a vibrant civil society and public dialogue over directives of national leaders. With Georgian political and socio-cultural climate becoming more attractive to its breakaway regions, it has a chance of rebuilding strong communal ties with South Ossetians once again. Certainly, more progressive Georgian leadership recognizes the importance of such paradigmatic shift, and yet it faces formidable difficulties: shifts

¹⁹ Захаров, А., “Федерализм как Инструмент Ограничения Власти” Московская Школа Гражданского Просвещения, 2013. Available at: <http://msps.ru/seminar/620/programm/684/video/420/>.

²⁰ Паин, Э., “Мультикультурное Общество в Условиях Кризиса Мультикультурализма” Московская Школа Гражданского Просвещения, 2013. Available at: <http://msps.ru/seminar/619/programm/637/video/382/>.

of such scale take much longer than a few years. With that in mind, there are immediate steps that can be made now, which carry the potential to minimize the distance between the two communities.

Among such steps are: altering Georgian nationalistic rhetoric, making it less aggressive and exclusive (something that the new Georgian government is doing already), distancing from the previous leadership and apologizing for its crimes (an important step that is being avoided even now), reforming (or abandoning) the Law on Occupied Territories (as of now, it stipulates that Russian troops were not welcomed by local *de facto* authorities), signing a non-use of force agreement with South Ossetia (even if through Russia), reaching out to the South Ossetian public and offering multiple programs in various sectors of public life, such as health, education, civil society, journalism, business, religion, etc., In addition to reconciliation efforts on the Georgian-South Ossetian front, Georgia would also benefit from a careful revision of its national interests and foreign policies thus, offering to activate *multi-track diplomacy* with South Ossetians,²¹ even if such efforts are not reciprocated. Since Georgia got caught up in the middle of a new Cold War between Russia and the West, it has positioned itself in such way that it felt the need to pick sides, while in the future it could reposition itself in such way that could benefit Tbilisi from being uniquely positioned geopolitically.²² Making unbalanced foreign policy choices may harm Georgia's own national interests, as the post-Soviet history has demonstrated. Moreover, avoiding diplomatic relations with Russia may only further harm the already fragile ties of Georgian people with Russian and potentially South Ossetian communities. As to the question of NATO membership, the post-war lessons are far from ambiguous: it has to be given secondary importance, while making emphasis on strengthening socio-cultural and economic ties with Western partners. Georgia's NATO membership plans do not have to be abandoned; they only have to be altered.

²¹ Diamond, L. and McDonald, J., *Multi-track diplomacy: A Systems Approach to Peace*, West Hartford: Kumarian Press, 1996, 15.

²² Леван Пирвели: “В Европе не знают, что мы так сильно туда хотим” *Кавказская Политика*, 2013. Available at: <http://kavpolit.com/v-evrope-ne-znayut-chto-my-tak-silno-tuda-xotim/>.

Russia

Insisting on the framework of “territorial integrity” has also proved ineffective, given the role Russia played in Georgian-South Ossetian relationship (which is a separate issue). As some experts note, South Ossetia was much more dependent on Russia before 2008 war than after. By recognizing South Ossetia as an independent state, Russia did not acquire anything that it did not already have, besides unnecessary additional political and financial burdens.²³ But the new *status quo* has its perks; having Russian troops crossing into Georgia in 2008 may now make the Georgian leadership think twice before rushing into NATO. The more pressing question now is: what will be the course of Kremlin’s engagement with the new Georgian leadership, striking a much more conciliatory tone with Kremlin? Will Russia reduce its commitment to South Ossetia, as many there fear? The fear is certainly legitimate; no matter how much one would want to hope that Russia has intervened in 2008 for humanitarian reasons, this intervention has to be treated in the context of Russia’s own record of human rights in the background of widespread racism and radical nationalism.²⁴ Yet, no matter how cold Georgian-Russian ties remain, Russia’s interest in expanding its borders *de jure* is highly unlikely. It is unlikely not only because it will draw unwanted international attention and possibly sanctions, but also because the scenario of South Ossetia uniting with North Ossetia may result in the birth of an independent state of Ossetia,²⁵ which, given the difficulties of Russia to control the North Caucasus, may trigger a chain reaction in the region, which may spread well beyond the North Caucasus.

In addition, Russia’s current position is a result of not so much of her affinity with South Ossetia as of steadily rising antagonism with the

²³ Pain, E., “Political and Psychological Aspects of the Georgian-Russian Conflict” in Khutsishvili, G. and Gogueliani, T. (eds.) *Russia and Georgia: The Ways Out of the Crisis*, ICCN, Tbilisi, 2010, 23.

²⁴ *Ibid.*, 20.

²⁵ Goble, P., “Thinking the Unthinkable: What if Georgia and the West Were to Recognize Abkhazia and South Ossetia?” *Abkhaz World*, 2010. Available at: <http://www.abkhazworld.com/headlines/535-thinking-the-unthinkable-by-paul-goble.html>.

post-Rose-Revolution Georgia. This dimension of the conflict is perhaps the most visible after 2008, given that Georgia favoured presenting the 2008 war as Russia's "punishment" for Georgia's Euro-Atlantic course.²⁶ Indeed, the war highlighted several observations, one of which is that echoes of the Cold War are still heard in the post-Soviet space (and there are no viable conflict prevention mechanisms at the moment). Another one is the fact that Russia is still unable to imagine former Soviet republics as foreign and independent from Russia. Russia's imposition of its influence upon them achieves precisely the opposite – their growing alienation, on one hand, and alternative power centres looking more and more attractive, on the other hand.²⁷ In fact, as some experts argue, the 2008 war not only did not change Georgia's political course, but only made it certain.²⁸ Russia's "geopolitical withdrawals" now are more painful than they were in 1991. Back then, the loss of influence over former Soviet republics seemed only temporary. Today it seems irreversible.²⁹ The "creeping Western menace"³⁰ is largely responsible for this loss of influence, according to the Kremlin, and contributes to the creation of a Russian enemy image under Saakashvili's leadership.³¹ Despite this strategy being effective in consolidating the Russian population around anti-Western ideas³² (and, thus, making it more manageable), it only furthers the perception of Russia's "geopolitical loneliness", which raises the need for alternative images to the Kremlin-proposed "multi-polar world."³³

²⁶ Hamilton, R., "Russia's Strategy in the War Against Georgia" Centre for Strategic and International Studies, 2008. Available at: <http://csis.org/publication/russias-strategy-war-against-georgia>.

²⁷ Piontkovsky, A., "Will the Russian Federation Survive Until 2014?" in Khutsishvili, G. and Gogueliani, T. (eds.) *Russia and Georgia: The Ways Out of the Crisis*, ICCN, Tbilisi, 2010, 118.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid., 114.

³¹ Ibid., 91.

³² "ВЦИОМ: Около Половины Россиян Ждут 'Холодной Войны' Между США и РФ", РИА Новости, 2013. Available at: <http://ria.ru/world/20131007/968256775.html>.

³³ Pain, E., "Political and Psychological Aspects of the Georgian-Russian Conflict", 24.

As we weigh in the benefits of recognizing the independence of South Ossetia for Russia, we have to take into account other factors as well. First of all, popular support for South Ossetia among Russians is dwindling. Although such support still exists, the percentage of those not in favour has grown from 6% in 2009 to 23% in 2013. The same goes for humanitarian assistance of Russia to South Ossetia (the support has lowered from 41% in 2009 to 29% in 2013), assistance in promoting South Ossetia's independence (it lowered from 27% in 2009 to 20% in 2013), assistance with rebuilding South Ossetian infrastructure (instead of 27% it is now 20%), military aid (lowered from 28% in 2009 to 16% in 2013), assistance with strengthening state institutions (lowered from 20% in 2009 to 14% in 2013), and financial support (dropped from 32% in 2009 to 13% in 2013).³⁴ Despite the facts that there is no public dialogue on foreign policy in Russia, public opinion is something that should be taken into account, given the inability of the Russian government to address growing internal public discontent,³⁵ which, in combination with the absence of governmental reforms to address it, permits stipulations of dramatic changes in Russian-Georgian and Russian-South Ossetian relations in case of internal political changes in Russia. The opinion that Georgia would have a breakthrough with Russia only after the change in Russia's leadership is reciprocated by some experts as well.³⁶ However, until such make-over in Russia's political elites becomes a reality, Georgia may benefit from a more pragmatic approach of "more USAID and less Pentagon",³⁷ while re-establishing diplomatic ties with Russia.

³⁴ ВЦИОМ (2013) Южная Осетия: Пять Лет После Войны.

Available at: <http://wciom.ru/index.php?id=459&uid=114342>.

³⁵ Рогов, К., "Механизм Сверхбольшинства как Институт Электорального Авторитаризма" Московская Школа Гражданского Просвещения, 2013. Available at: <http://msps.ru/seminar/619/programm/643/video/389/>.

³⁶ Кигурадзе, Т., "Грузия не теряет надежд на возврат Сухуми и Цхинвали" British Broadcasting Corporation, 2013. Available at: http://www.bbc.co.uk/russian/international/2013/08/130826_georgia_abkhazia_oss etia.shtml.

³⁷ de Waal, T., *The Caucasus: A New Book* by Thomas de Waal, Washington DC: , 2010. Available at: <http://carnegieendowment.org/2010/09/14/caucasus-new-book-by-thomas-de-waal/1m9n>.

The West

Besides the aforementioned reasons for re-evaluating the focus on the “territorial integrity” framework, the role of the West in doing so should not escape our attention. According to Moscow’s official rhetoric, some Western actors remain biased when it comes to the Georgian-South Ossetian conflict,³⁸ while speaking on behalf of those who live in South Ossetia and assuming the clarity of Georgian-South Ossetian conflict drivers. But before making any sweeping statements, a more balanced analysis of the conflict dynamics and actors is in order.

Georgia, much like Russia and South Ossetia, is a young post-Soviet political actor in search of itself, its political course, and national idea,³⁹ which has a centuries-long tradition of coexistence with Russia and South Ossetia. The importance of Georgia not having hostile relations with Russia should not be underestimated, especially now. Yet, supporting the myth of David and Goliath, with Georgia being the former,⁴⁰ does several things. On the one hand, it erases South Ossetia out of the conflict equation, only further alienating it – a process that leads to closer ties with Russia and strengthening of South Ossetia’s own myth of David and Goliath. On the other hand, supporting discourses of Georgia’s victimhood strengthens a belief that Tbilisi is powerless to change the course of the conflict, unless the West applies pressure on Russia. Perhaps that is necessary to a degree, but to rely only on this strategy will not bear the desired outcomes. In order to transform this conflict, Georgia has to engage directly with Russia and South Ossetia. Georgian-Russian and Georgian-South Ossetian conflicts are related and have significant overlaps, but they are not the same. Therefore, when speaking

³⁸ Lavrov: West Still ‘Biased’ Toward South Ossetia, Abkhazia, RIA Novosti, 2013. Available at: <http://en.ria.ru/world/20130825/182961786/West-Still-Biased-Toward-South-Ossetia-Abkhazia--Lavrov.html>.

³⁹ Markedonov, S., “Through Cooperation or without Recognition?” *Abkhaz World*, 2010. Available at: <http://www.abkhazworld.com/articles/analysis/585-through-cooperation-or-without-recognition-by-sergey-markedonov.html>.

⁴⁰ Sakvarelidze, R., “Russia and Georgia: Myths and Reality”, in Khutsishvili, G. & Gogueliani, T. (eds.) *Russia and Georgia: The Ways Out of the Crisis*. ICCN, Tbilisi, 2010. 8.

about the 2008 war, Western partners should acknowledge the responsibility of not only Russian soldiers and South Ossetian militiamen, but also of those who began the assault on Tskhinvali in the first place.⁴¹

Like Georgia, Russia has had a rich history of involvement in the South Caucasus for several centuries and its present security concerns and sensitivities have to be acknowledged: after all, it is very unlikely for any Western nation to be content with foreign military forces (perceived as hostile) located right next to its troubled region. In fact, Russia 's sensitivity, when it comes to any outside influence right next to the North Caucasus, points out several observations, one of which is that not only Russia does not have overwhelming influence in the South Caucasus, but it also has problems maintaining its own territorial integrity in the North Caucasus. Another observation raises a point of Russia's perception of being treated unequally when it comes to NATO membership. For example, when Foreign Minister Lavrov was asked about the influence of NATO factor on the future of Georgian-Russian relations, he raised a point that is at the heart of Russia's position: NATO offers security guarantees only to its members.⁴² Perhaps given that Russia is seeking a role of an alternative political pole, such selective approach to Russia is justified. Nonetheless, its strategy of balancing power is logical as well: on one hand, the US promise to Gorbachev not to expand NATO was never kept,⁴³ while, on the other hand, Moscow realized that NATO was never seriously planning to extend an invitation to join NATO. Thus, Russia's demand to be treated in the same way as Georgia in terms of NATO membership merits careful consideration. At least at the moment, in order to avoid further antagonisms, inviting Georgia to join NATO should be accompanied by a simultaneous invitation to Russia.

⁴¹ Yazkova, A. and Haindrava, I., "The Tagliavini Report: To Each His Own?", 72.

⁴² "Выступление и Ответы Министра Иностранных Дел РФ С.В.Лаврова на вопросы СМИ" Ministry of Foreign Affairs of the Russian Federation, 2013. Available at:
http://www.mid.ru/brp_4.nsf/0/06C5A380642316EC44257B560066DF6E.

⁴³ "Gorbachev Blasts NATO Eastward Expansion", RIA Novosti, 2009. Available at:
<http://en.ria.ru/russia/20090402/120879153.html>.

Yet, Russia's sensitivity to security threats is not the only factor complicating Western-Russian relations. As it was mentioned earlier, the sense of an on-going Cold War persists, not only in Russia, but in the West as well.⁴⁴ As some experts observe, too many people in the West "think too much and too negatively about Russia."⁴⁵ This approach often results in Russia being judged negatively *a priori*. The coverage of the August 2008 war is an excellent example of that: the opinion that Tbilisi could make an assault on civilians and peacekeepers was simply not palatable. Yet, while fitting Russia into a convenient role of a scape goat, responsible for everything that has ever gone wrong between Georgia and South Ossetia, Western partners lose sight of a point, aptly illustrated in an old Polish proverb, which reminds us that "even a broken clock is correct at least twice a day."

What does this imply for Western-Russian relations? Perhaps that for the most part they will remain somewhat unchanged while the current Russian leadership is in power. But it also implies that, before condemning Russia, Western partners of Georgia have to remind themselves of those "two times a day" when Russia could actually get it right. In fact, perceiving Georgian-South Ossetian conflicts through the prism of Georgian-Russian relations and looking for cooperation in the Caucasus with Georgia, while ignoring Russia, may not only cause hostility on the part of Russia, but also reduce chances of possible Western-Russian⁴⁶ and Western-Russian-Georgian partnership in the Caucasus. In fact, establishing such partnerships would be a test not only for Russia or Georgia. It would also test the viability of the proposed by the U.S. inclusive "multi-partner" approach⁴⁷ to replace the "multi-polar" vision of the

⁴⁴ Wollner, A., "Poll: Half of Americans See Russia As 'Unfriendly' Or Worse" National Public Radio, 2013.

Available at: <http://www.npr.org/blogs/itsallpolitics/2013/09/18/223833619/poll-half-of-americans-see-russia-as-unfriendly-or-worse>.

⁴⁵ de Waal, T., *The Caucasus: A New Book* by Thomas de Waal.

⁴⁶ *Ibid.*

⁴⁷ Kessler, G., "Clinton: U.S. Urges 'Multi-Partner World'" Washington Post, 16 July 2009. Available at: http://articles.washingtonpost.com/2009-07-16/politics/36774346_1_foreign-policy-state-hillary-rodham-clinton-ngos.

world – an approach that begs a serious re-examination of self-perceptions of superiority and “exceptionalism.”⁴⁸

When it comes to the West’s engagement in improving Georgian-South Ossetian relations, South Ossetian grievances and aspirations also have to be acknowledged. As some South Ossetians argue, there is a history of South Ossetia gravitating toward its northern neighbour, meaning that at times when ties with either Tsarist or Soviet Russia weakened, South Ossetian-Georgian antagonisms came to the fore.⁴⁹ Moreover, when Western partners imply that South Ossetia does not have the right to its own aspirations, the loss of neutrality leads to lower credibility and trust on the part of South Ossetia. Indeed, after the 2008 war, Georgia and its Western allies pressured South Ossetia into an “arranged marriage” with Tbilisi,⁵⁰ while it would be reasonable to ask South Ossetians themselves whether they would like to resume this marriage in the first place. What would be the prospects of such “arranged marriage”, if even the idea of forcing someone into co-existence with an abusive partner raises serious doubts about the longevity and legitimacy of such union? In fact, as some researchers claim, “even when federations or autonomies are negotiated, they are not as stable as separations of former states into different political entities.”⁵¹ Nonetheless, given Tbilisi’s concerns, what can be done?

Western actors are uniquely positioned to assist in reconciling Georgian and South Ossetian communities. Given that the issue of status has to be avoided in order to establish a presence in South Ossetia, Western actors would have to focus on expanding cultural, economic, business, education, and other ties with it. As some experts suggest, Western partners could offer projects to promote the local language and English language

⁴⁸ Suslov, D., “Can American Exceptionalism Adjust to a Multipolar World?” Valdai Discussion Club, 2013. Available at: <http://valdaiclub.com/usa/63660.html>.

⁴⁹ “Вячеслав Гобозов: ‘Южную Осетию не пугает возможное сближение России и Грузии.’”

⁵⁰ “Caucasus Times: Interview with Donnacha Ó Beacháin” Abkhaz World, 2013. Available at: <http://abkhazworld.com/news/interview/1030-caucasus-times-interview-with-donnacha-o-beachain.html>.

⁵¹ Wolff, S., “Conflict Management in Divided Societies...” 14.

programs as a starting point of collaboration. Promoting various tracks of public diplomacy could also intensify Western-South Ossetian engagement by granting visas to South Ossetians who wish to participate in such international programs.⁵² Greater access for South Ossetian civil society in such projects would mean that the European strategy of “engagement without recognition” would at last materialize.

When Western donors commit to building strong foundations of civil societies within and between Georgia and South Ossetia, it has the potential to activate ties between several layers of community representatives simultaneously,⁵³ meaning that in addition to building ties between grassroots organisations, Western partners could also facilitate an exchange between business, religious, academic, non-governmental, and other elite and community leaders representing Georgia and South Ossetia. Such direct engagement with the civil society of South Ossetia (mirroring efforts in Georgia) would signal a shift in the focus of Western partners from the framework of “territorial integrity” to the emphasis on people (instead of ideas), for, it is only after South Ossetians receive the long-sought compassion and understanding, that they may experience anything of that sort toward those who used to live among them – Georgians who were forced to leave South Ossetia. But in order for such a paradigmatic shift to take place, those who are interested in transforming this conflict, should ask themselves whether they are ready to recalibrate their own values and “moral imagination” – a task, which demands of us to redirect the focus of our attention from the framework of “territorial integrity” to the framework of “reconciliation”, while fostering Georgian-South Ossetian interdependence and respecting aspirations and grievances of both sides, no matter how naïve or idealistic it may sound.

⁵² “Caucasus Times: Interview with Donnacha Ó Beacháin.”

⁵³ Lederach, J. P., *Building Peace: Sustainable Reconciliation in Divided Societies*, Washington DC: USIP Press, 1997, 39.

Georgia's Sovereignty and Territorial Integrity: Is It Negotiable?

Medea Turashvili

Introduction

By 2006 there were 121 territorially concentrated ethnic groups worldwide who sought greater degree of autonomy from their host state, with demands ranging from cultural and territorial autonomy to secession.¹ 26 of them were violent, and two of them are being fought in Georgia for the past 20 years and the prospects for conflict-resolution seem rather grim.

Since the end of the war in 1992 in South Ossetia and 1993 in Abkhazia parties have gone through various stages of negotiations over the status which included federative and confederative solutions. Tbilisi wanted Georgia as a federal state with greater rights and powers for Abkhazians and South Ossetians. Breakaway regions insisted on the right to external self-determination and secession.

As time passed, compromise became increasingly difficult. In 1997, Abkhazians were ready to sign an agreement to create a “common state”, but Georgians refused as Russia was to act as a sole guarantor, while the Abkhazians were retaining the right to secession. In 1999, Abkhazians rejected the federal arrangement of what was known as Boden document, which offered Abkhaz sovereignty inside Georgia. In 2000 South Ossetians had almost agreed on the re-integration, but negotiations were stalled after the change of leadership in the entity.²

¹ Quinn, D., “Self-determination Movements and Their Outcomes” in J.J. Hewitt, J. Wilkenfeld, and T.R. Gurr (eds.), *Peace and Conflict 2008*, Boulder, CO: Paradigm Publishers, 2008, 33-38.

² For more information on status issues see Crisis Group Europe Report no.159, *Georgia: Avoiding War in South Ossetia*, 26 November 2004 and no.179, *Abkhazia: Ways Forward*, 18 January 2007.

The August 2008 war and the ensuing Russian recognition of Abkhazia and South Ossetia put an end to status talks. The Geneva discussions – the only format of negotiations – are now stalled, posing challenges to local security and stability. Russia’s unconditional support has hardened the negotiating position of *de facto* officials.

Against this background, this paper seeks to explore the Georgian perception of sovereignty and territorial integrity and examines whether or not it can be redefined, potentially creating better conditions for cooperation and increasing conflict resolution opportunities.

Perceptions of sovereignty and territorial integrity

Georgian perception of sovereignty and territorial integrity has two dimensions. The first one is related to Russia and its attempts to violate Georgian sovereignty and territorial integrity. The second one is related to breakaway territories and Georgia’s desire to preserve its territorial integrity. Although the two are closely interlinked, the Georgian political leadership and the public have different understanding, attitudes and approaches towards them.

With respect to Georgia-Russia relations, Georgia’s historical and political grievances towards Russia date back to the tsarist period, but, they became especially acute in the early 1990s, when Georgia gained independence. Georgians have been unanimous in accusing Russia of interference in its internal affairs, in South Ossetia and Abkhazia, in order to maintain leverage over the country. During the war with Abkhazia, then Georgian President Eduard Shevardnadze accused the Russian government of providing military assistance to the separatists. In fact, some of Russian troops who fought alongside the Abkhazians later swelled the ranks of Russian peacekeepers stationed within the conflict zones.³

³ The Russian 245th Airborne Regiment was employed during the war, which later became the part of the CIS Peacekeeping Forces (CISPKF) for an agreement with Moscow. McKinlay, J. and Sharov, S., “Peacekeeping Operations in Georgia” in *Regional Peacekeepers: The Paradox of Russian Peacekeeping*, MacKinlay, J. and Cross, P. (eds.), New York: United Nations University Press, 2003.

The situation was aggravated during the 2008 war and Russia's recognition of Abkhazia and South Ossetia as independent states. Georgia sees this as a violation of its sovereignty and territorial integrity. President Mikheil Saakashvili's remark at the UN General Assembly in September 2013 sums up the widespread sentiments about Russia's policies in its neighbourhood. According to him

We need to know our history to understand that the same old imperialistic principle – divide to rule – is applied today as it was two centuries ago... the Russian Federation has no interest in having stable states around it. Neighboring countries in constant turmoil is what the Kremlin is seeking. It rejects the very idea of strong governments in Georgia, Ukraine, or Moldova...the conflict itself is their [Russians'] objective, since it keeps...nations dependent.⁴

Regardless of the fierce antagonism between Saakashvili and the new Georgian government elected in October 2012, the latter acknowledged they also subscribe to the Presidents' UN speech.

Georgian official policy is constructed accordingly. The National Security Concept underlines that Russia is unwilling to accept Georgia's existence as an independent state, and that it desires to "turn Georgia into a failed state" to prevent it from pursuing its Euro-Atlantic destiny, and to "forcibly return Georgia into the Russian political orbit."⁵ Similarly, the Georgian Foreign Policy Strategy of 2012-2015 outlines that the "2008 Russian military aggression against Georgia demonstrated that the existence of a sovereign and independent Georgia is unacceptable for Russia... The Russian refusal to respect Georgia's sovereignty, independence and territorial integrity.... is the main barrier in Georgian-Russian relations."⁶

⁴ "Saakashvili's Speech at the UN General Assembly", Civil Georgia, 26 September 2013.

⁵ S. Neil MacFarlane, "Georgia: National Security Concept versus National Security" REP PP 2012/01, Chatham House. Available at: http://www.chathamhouse.org/sites/default/files/public/Research/Russia%20and%20Eurasia/0812pp_macfarlane.pdf.

⁶ Georgian Foreign Policy Strategy 2012-2015. Available (in Georgian) at: http://www.mfa.gov.ge/files/709_15575_959168_FPStrategy_FINAL-25.09.12.pdf.

Regardless of the intention to improve relations, the new Georgian government has no plans to establish diplomatic relations with Russia as long as it keeps embassies in Abkhazia and South Ossetia. In this respect, Georgia is not going to revisit its stance on its sovereignty. According to a newly elected member of parliament, “our sovereignty and territorial integrity cannot be a subject of discussion”, a remark made in response to the Russian demand to repeal the Georgian Law on Occupied Territories.⁷

One might wonder why Georgians are so fractious with a neighbour with whom they lived in “fraternity” and “peace” just 23 years ago. The main objective of Georgian persistence is to ensure that their young and fragile statehood survives amidst of geopolitical turbulences. Georgia’s aim vis-à-vis Russia since independence is survival; survival as a state within its internationally recognized borders.⁸ In this respect, any Russian decision or policy supporting Abkhazian and South Ossetian statehood is considered not only as interference in Georgia’s internal affairs and the violation of the sovereignty but as an attempt to destroy Georgian statehood. Polls show that the majority of the population views Russia as a threat to the country.⁹

When it comes to power sharing with breakaway territories, the Georgian position seems to be a little bit more flexible. For the past 15 years, official Georgian proposals to Abkhazians and South Ossetians included the “greatest possible autonomy”, “unlimited autonomy” and “asymmetrical federalisms” based on a “new, joint-state model of ethnic and civil cooperation”, but, without the right to secession.¹⁰ Although a series of

⁷ “Our Sovereignty, territorial integrity cannot be the subject of discussion”, Pirveli News Agency, 6 June 2013. <http://pirweli.com.ge/?menuid=8&id=34780>.

⁸ Toft, M. D., *The Geography of Ethnic Violence: Identity, Interests and the Indivisibility of Territory*, Princeton, NJ: Princeton University Press, 2003.

⁹ IRI’s Georgian Nationwide Survey, 8 February 2013. See at: <http://www.iri.org/news-events-press-center/news/iri-releases-first-georgian-national-survey-after-elections>.

¹⁰ “Saakashvili speaks of Kodori”, *Civil Georgia*, 28 July 2006; “Saakashvili Outlines Tbilisi’s Abkhaz Initiatives”, *Civil Georgia*, 28 March 2008; “Georgia: Saakashvili Offers To Open Reunification Talks With Abkhazia, South Ossetia”, *RFE/RL*, 28 May 2004.

status negotiations have been held, no substantive talks have ever taken place on the details and mechanism of power sharing, which would give an opportunity to understand the extent to which Georgians are willing to delegate powers.

The most comprehensive and liberal proposal was made in mid-2004 by Georgian experts, who are either in the government or opposition now. The concept paper proposed Abkhazia to be considered a “member state not subdivision of the federal state of Georgia.” Abkhazia would be recognized as an equal and independent partner, with a state’s qualities and characteristics, while Abkhazians were to be recognized as one of the founding nations of the federal state Georgia, and not as national minorities. In this context, the Abkhazian constitution was supposed to define its “domestic sovereignty” over standard areas of jurisdiction in welfare, culture, education, internal communication, transportation, tax collection tariffs etc. Abkhazians would also participate in foreign relations, concluding agreements with foreign states in the spheres of culture, trade, commerce, education, tourism and social issues. The paper also offered joint jurisdiction over the Georgian citizenship (while Abkhazian citizenship would fall under the exclusive competence of Abkhazia), banking, insurance and taxation, accreditation of educational institutions, land and natural resources, etc. But, only Georgia would be a subject of international law and the secession would be inadmissible. This proposal was never properly considered either by Georgian or by Abkhazian authorities and it was soon shelved.

Up until 1999, Abkhaz authorities were ready to contemplate an idea of confederation under the “common state”, with the right to secession, which was rejected by Georgian authorities. But, after the 1999 referendum on independence “discussing alternatives to independence involves the question of personal loyalty to the Abkhaz national community.”¹¹ Since then, they reject all Georgian and international options and refuse to consider anything short of international recognition. In 2006, after

¹¹ Coppieters, Bruno, Tamara Kovziridze, and Uwe Leonardy, “Federalization of Foreign Relations: Discussing Alternatives for the Georgian-Abkhaz Conflict” Working Paper, Caspian Studies Program, October 2003.

successful negotiations, the maximum that Abkhazians put forward was the “Key to the Future” document, proposing Georgia to recognize their independence as a necessary precondition for regional cooperation and security.¹²

There is one main reason why Georgian society is unable to reconcile with the separation of Abkhazia and South Ossetia. Abkhazians and South Ossetians are not the largest, territorially- concentrated ethnic groups in Georgia. There are more Armenians and Azeris who compactly settle in the regions of Javakheti and Kvemo Kartli by comparison. As Georgian analyst notes “if the Georgian state were to accept the legitimacy of Abkhazia’s secession on ethnic grounds the precedent might lead to further disintegration, jeopardizing the viability of the Georgian state.”¹³ According to a survey, majority of internally displaced populations (IDP) believes that “Georgia cannot exist without Abkhazia” and even more believe that “Abkhazia cannot exist without Georgia.”¹⁴ The same survey shows that only 3% of IDPs would support the recognition of Abkhazia as an independent state.

Conditions for cooperation?

Today, Abkhazia and South Ossetia are recognized by Russia, Venezuela, Nicaragua and Nauru (the Vanuatu case is disputed), yet Russia is their only real ally. *De facto* authorities concluded dozens of bilateral agreements with Moscow including on military cooperation, joint-border management, tax and customs regulations, resulting in overwhelming dependence on Russia in political, economic and military aspects.

Russia maintains up to 10,000 troops in Abkhazia and South Ossetia, placing well-developed military bases with heavy ammunition including strategic missiles, such as *Smerch* multiple rocket launchers, *Tochka-U*

¹² “Key to the Future”, <http://www.kapba.de/KeyToTheFuture.html>.

¹³ Ghia Nodia, “Georgian Perspectives in the Question of Sovereignty: The Georgia-Abkhazia Peace Process” ACCORD, Conciliation Resources, 1999. Available at: <http://www.c-r.org/accord-article/georgian-perspectives>.

¹⁴ Survey conducted by CRRC for Conciliation Resources, 2010. The survey is available at: <http://www.c-r.org/resources/displacement-georgia-slides-survey-results>.

tactical ballistic missiles and S-300 missile systems.¹⁵ On several occasions, Russia has sent in its own political appointees, including the former *de facto* prime minister of South Ossetia, a Russian citizen, with no prior links to South Ossetia. Financial aid from Russia constituted 98.4% and 75% of the South Ossetia and Abkhazian budgets respectively in 2011.¹⁶ This kind of omnipresence greatly limits room for manoeuvre for the *de facto* authorities and few, in and outside of Georgia have any doubts that the decision-making power is vested in the Kremlin.

Lack of genuine peace process further exacerbates the security situation in the region. In Geneva, official talks between the 2008 combatants, with the EU, UN and OSCE mediation, have mostly plodded along with scant success. The agenda is mainly hijacked by the agreement on non-use of force. Abkhazians and South Ossetians are willing to sign the document, but as independent states, which is a non-starter for Georgia, who argues that Russia should also sign the deal as a party to the conflict, while Russia says it is not going to do so, because it is actually the mediator. In this situation, there is no complex security architecture which would define parties' responsibilities, level of militarization, monitoring mechanisms, etc.

Russia's unconditional support to *de facto* authorities hardens their negotiating positions. This became very vivid after the power change in Tbilisi. Some Abkhazian officials, who had previously said they were ready to negotiate with any Georgian leader except Saakashvili, now say they refuse to negotiate with Tbilisi in a bilateral format unless Georgia recognizes them as independent.

In this hostile environment, it is premature and irrelevant to concentrate on solving the political status. Instead, more efforts should be devoted to

¹⁵ They have a range from 20 to 200 km and are capable of hitting the Georgian capital in a matter of minutes. Turashvili, M. Murtskhvaladze, I. Vardishvili, G. and Shaishmelashvili, G., *Georgian-Russian Relations: Old Difficulties and New Possibilities*, Tbilisi: Caucasian House, 2013.

¹⁶ See detailed accounts in Crisis Group Europe Report No 202, *Abkhazia: Deepening Dependence*, 26 February 2010 and Crisis Group Report No 205, *South Ossetia: The Burden of Recognition*, 7 June 2010.

addressing local security, human rights and livelihood needs of Georgian, Abkhazian and South Ossetian societies. This would make the confrontation more bearable for the people and less risky for regional stability.

Conclusion: Concrete Steps to De-escalation

The conflict resolution efforts reached deadlock. Abkhazia's and South Ossetia's conflict with Georgia, and Georgia's conflict with Russia over their status, continues to fuel insecurity and instability in the South Caucasus. While some Abkhazians and South Ossetians might still fear that Georgian armed forces will cross onto their territory, Georgians worry that Russian troops could easily move from the entities and take control of big cities and cut the main east-west highway as they did in August 2008.

Russia recognized Abkhazia and South Ossetia as "independent states" which have no viable economy or functioning institutions and which suffer from emigration and the lack of human and financial resources to govern themselves without Russian intervention. This recognition has for now put an end to any discussion on status and power sharing issues.

Nevertheless, normalization and stability is still possible if there is a political will to do so from all sides and primarily from Russia, which holds the decision making power over Abkhazia and South Ossetia. Political issues over status should be temporarily set aside and instead parties should create momentum whereby all sides are incentivized to seek resolution.

Today, the Georgian cabinet consists of personalities well-known and respected in Abkhazia and South Ossetia, who have earned a reputation as faithful negotiators and partners over the past 15 years. When it comes to conflict resolution they are among the most liberal-minded of the political elite and this opportunity should not be missed.

The new Georgian approach to conflict resolution has been formulated as "everything but recognition", which again follows the similar logic,

that Georgians can be flexible on several issues with regard to Abkhazia and South Ossetia, but not to secession. Today, Georgia is offering talks on confidence building, the rehabilitation of destroyed infrastructure and trade links, freedom of movement, gradual return of displaced people, which can at least bring back a sense of normality to the conflict affected communities. Some suggest that these talks should be “status neutral”, meaning “that we agree to disagree” that status and political issues should not hinder peace building projects, people to people contacts, trade link and other cross-boundary cooperation, including in security, law enforcement and human rights.¹⁷ Meanwhile, however, Russian troops speeded up the process of physical separation of Abkhazia and South Ossetia from the rest of Georgia, inflicting much damage to local residents.

Previously Abkhazians and South Ossetians could largely hide behind their criticism of Tbilisi, saying that Georgia was threatening their security and was not really interested in cooperating, but now that this criticism is less valid, they need to define a new strategy to respond to Georgia’s overtures. First and the foremost, they should agree on bilateral talks with Georgian counterparts. This would show that they have at least some decision making power over their fate.

There are two core issues that need to be addressed immediately. Firstly, parties should cooperate in order to ensure stability on the ground. A mechanism that will effectively address the human rights and security violations and an effective international monitoring presence in Abkhazia and South Ossetia is needed. In a fragile situation of this kind, where no real security regime is in place, even minor incidents can trigger mass human rights violations. A cool examination of facts by independent experts is thus vital to establish the truth and maintain stability. It is in the interest of all sides to ensure impartial reporting on human rights and security from Abkhazia and South Ossetia. Regular human rights monitoring visits, like those of the Council of Europe’s High Commissioner on Human Rights, who had been visiting South Ossetia,

¹⁷ Sergi Kapanadze, “On what can Russia and Georgia agree”, *Tabula*, 10 December 2012.

and the roving UN teams operating in Abkhazia, are good examples to be expanded upon.

And Secondly, the grievances and concerns of the local population need to be prioritized in order to ease the post-conflict stress and most importantly, avoid renewed violence and resentment between communities. In this context, securing freedom of movement across the administrative boundaries lines (ABL) for the local population is critical for their daily survival. No reconciliation between Georgians, South Ossetians and Abkhazians is possible while they are divided by a vigorously enforced “border” patrolled by Russian troops. Isolation is not in Abkhazians’ and South Ossetians’ interests because it is their populations that are most harmed.

The change of leadership in Tbilisi provides a unique chance to reinvigorate peace talks which Abkhazians and South Ossetians should not rebuff. All parties to the conflict should use the opportunities to reinvigorate the Geneva International Discussions that will make the constructive dialogue and cooperation a regular practice. There are no quick ways to resolve these conflicts, thus, more efforts should be made to initiate incremental, practical measures that would address local security and humanitarian needs, the major concerns of the conflict-affected population.

The Russian Factor: Perspectives on Stabilizing Georgia's Relations with Abkhazia and South Ossetia

Elizaveta Egorova

*"Democracy must be something more than two wolves and a sheep voting on what to have for dinner."
James Bovard (1994)¹*

Five years have passed already since the 2008 war in South Ossetia. Georgia's President Saakashvili initiated this war trying, among other things, to return the self-proclaimed republics of South Ossetia and Abkhazia to Georgia. Solving the conflict between Georgia and South Ossetia was a precondition for Georgia's joining NATO.

However, as a result of this war, about 1,000 people have been killed and at least 158, 000 people have been displaced,² and the independence of these two republics have been recognized by Russia and four other UN-member states.³ Georgia has broken off diplomatic relations with Russia. In order to further secure the region, Russia and the breakaway republics agreed to place military bases in South Ossetia and Abkhazia for 49 years, hosting about 7,000 troops.⁴

Russia has significantly reinforced its position in the region. The relations between Russia and Georgia as well as Russia's interests in the region have become dominant in its motivation to encourage or curb Tbilisi's potential attempts to interact with South Ossetia and Abkhazia. Moreover, Georgia's striving for Euro-Atlantic integration enhances the present status quo in the region even more. That suits the Russian leadership and corresponds to its geopolitical interests.

¹ Bovard, J., *Lost Rights: The Destruction of American Liberty*, New York: Palgrave Macmillan, 1994, 333.

² [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/C38CFB59E6593F79C12579C6006DCACC?OpenDocument#19.2.1](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/C38CFB59E6593F79C12579C6006DCACC?OpenDocument#19.2.1)

³ Russia, Nicaragua, Venezuela, Nauru, Tuvalu.

⁴ <http://www.eurasianet.org/node/64292>.

When Bidzina Ivanishvili became Prime Minister in October 2012, relations between Russia and Georgia thawed a little. The rapprochement began when Ivanishvili declared his determination to restore Georgian-Russian relations. His policy to concentrate on top priority problems rather than on complex ones proved fruitful immediately. Being aware of cooperating with Russia as one of the key factors to strengthen confidence with South Ossetia and Abkhazia, Bidzina Ivanishvili initiated a policy of “small steps.”⁵

His first step to normalize relations with Russia was to appoint Zurab Abashidze as the Prime Minister’s Special Representative for Relations with Russia, a post specially created for this. Thus, apart from the existing format of the Geneva talks over the security of the Caucasian region, another platform for confidential relations with Russia was created.

During this year, the negotiations between Abashidze with his Russian partner, Grigory Karasin, brought forth significant results. They reached agreements on questions of trade, economic development, transport, humanitarian and cultural relations. One of the key factors of the positive dynamics of this interaction is its independent character without touching the subjects of the Geneva talks. This approach of separating the subjects necessary for restoring relations between the two states from the most sensitive questions concerning the breakaway regions is productive and strategically sound.

The security in the region during the forthcoming Olympic Games is also the common interest of both countries. Irakli Alasania, Georgia’s Minister of Defence, repeatedly declared Georgia’s readiness to cooperate in this question.⁶ The interaction of law enforcement bodies of both countries may give an impetus to better develop Russian-Georgian relations. The creation of a special group initiated by Bidzina Ivanishvili to

⁵ Silaev, N. and Sushentsov, A., Georgia after the 2012 Elections and Prospects for Russo-Georgian Relations, Moscow State Institute (University) of International Relations the Russian Ministry of Foreign Affairs, Moscow, 2012, 57. See http://www.mgimo.ru/georgiareport/i/Silaev-Sushentsov_MGIMO-Georgia-Report_Eng.pdf.

⁶ <http://www.eurasianet.org/node/67335>.

investigate the circumstances of the five-day war is of no small importance and is another positive signal for the Kremlin.

Apart from the fruitfully developing Abashidze-Karasin talks and a relatively stable course of Ivanishvili's government toward Russia and the breakaway republics of Abkhazia and South Ossetia, the Russian and Georgian Orthodox churches are another powerful link between the two countries. They play a special role in the settlement of Russian-Georgian relations. Patriarch Ilia's unprecedented influence in Georgia cannot be overestimated. He is the most outstanding and popular figure in Georgia's religious, public, and political life. The Patriarch's recent visit to Moscow has become an important signal of the Russian-Georgian rapprochement.

The alleviation of the law on "the occupied territories" is among other positive steps made by the Georgian Government that is worth noting. Its amendments suggest introducing a fine for the first violation of the rules for entering Abkhazia and South Ossetia instead of a previous criminal persecution. Thus, this makes it easier for people to enter Georgia, including experts and organizations interested in improving Russian-Georgian relations and solving the existing territorial conflicts.⁷

However, there exist serious, unsolved questions unrelated to the territorial disputes but limiting the interaction between Russia and Georgia. First it concerns the unilateral visa regime which significantly complicates the process of entering Russia for Georgians, thus hindering the improvement of bilateral relations and normal communication. Nevertheless, there is a possibility of easing the regime by inviting business people and the relatives of Georgians living in Russia. The other important question for discussion is restoring regular flights between the two states.

⁷ Aleksandrov, M., Is there hope for Russian-Georgian relations? See <http://www.kavkazoved.info/news/2013/06/26/est-li-perspektivy-u-rossijsko-gruzinskih-otnoshenij.html>.

One of the key pillars in recovering bilateral relations is the clear understanding of the states' positions and their ideology. Unfortunately, Russia does not have a fully developed plan towards Georgia.⁸ It is determined by the Kremlin's uncertainty and the low level of trust in Tbilisi and its foreign policy orientation. At present, the negative past experience of interacting with Georgia is one of the factors of the Kremlin's distrust. From Moscow's point of view, among the reasons that destabilized Russian-Georgian relations was the unpredictability of Saakashvili and his government in domestic and foreign policy, his frequent violations of agreements with Russia and his belligerent rhetoric aimed especially at Russia.⁹

Russia's perception of Georgia slightly improved after the government of Georgia had changed. Moscow began to treat it as a stable, balanced, and mature partner having no intentions to complicate domestic and foreign policy situation for Russia. If further political processes in Georgia are not adverse and unstable, then future interaction, hypothetically, may facilitate the creation of a favourable soil for achieving a success and for getting the sensitive territorial question moving.

Both countries understand well that the dialog over the breakaway republics is a serious step that should be postponed until all four sides are psychologically and politically ready. It is clear that it is necessary to build up relations of confidence and political stability in Georgia, Abkhazia and South Ossetia and in their interactions.

⁸ Arbatov, A Interview with Interpressnews.ge, 16 August 2013. See <http://www.interpressnews.ge/en/exclusive/49516-if-georgia-continues-striving-towards-nato-russia-georgia-relations-wont-be-improved.html>.

⁹ Mamradze, P., "Georgia cannot improve its relations with Sukhumi and Tshinvali without Russia", Interview with the Voice of Russia in "A Talk with Konstantin Kosachev" 12 August 2013. See http://rus.ruvr.ru/2013_08_12/Petr-Mamradze-Bez-Rossii-Gruzii-ne-naladit-otnoshenija-s-Suhumom-i-Chinvalom-Razgovor-s-Konstantinom-Kosachevim-2697/.

Possible alternative statuses of South Ossetia and Abkhazia

At present, the problem of status of South Ossetia and Abkhazia remains unsolved. The international community does not recognize the independence of these republics and insists on Russia's renunciation of its recognition. Russia's official position in respect of recognizing the independence and sovereignty of these regions remains unchanged. In a recent interview, Russian Prime Minister Dmitry Medvedev said, "the decision about the recognition of Abkhazia and South Ossetia will not be revised."¹⁰ Grigory Karasin also emphasized that, although the decision to recognize the independence and sovereignty of Abkhazia and South Ossetia was difficult, it is now irrevocable.¹¹ Russian independent experts and specialists on Caucasian problems unanimously believe that the position of Russia's leadership in respect of recognizing the independence of South Ossetia and Abkhazia will not shift.¹²

In the opinion of Russian experts, the war situation as well as the denial of the Russian proposal to include the provisions about the ceasefire and the international discussion of security guarantees for Abkhazia and South Ossetia into the agreement forced Russia's leadership to make this hard decision.¹³ The motivation for recognizing the independence had been determined by Russia's foreign policy commitments to South Ossetia and Abkhazia, their population and Russian citizens living on these territories to guarantee their security.

Nevertheless, Russia's leadership has noted, "if, let us say, Georgia's leadership and the leaders of Abkhazia and South Ossetia sit at the negotiating table and think over their further co-existence, maintaining law and order in the region, their destiny as close nations and over what they

¹⁰ <http://www.rg.ru/2013/08/06/osetia-anons.html>, and http://russiancouncil.ru/en/inner/?id_4=2324#top.

¹¹ Karasin, G., "South Caucasus: History cannot be played backwards", Interview with Russia Direct, 3 September, 2013. See <http://russia-direct.org/content/south-caucasus-history-cannot-be-played-backwards>.

¹² While preparing this article, an expert survey of 10 independent specialists on Caucasus has been conducted.

¹³ Silaev and Sushentsov, *op. cit.*, 56.

can ever potentially create, it is their own business. And if it ever comes to this, Russia will never prevent that.”¹⁴ Taking into account such position, we may assume that if Abkhazia and South Ossetia speak out for a dialog with Georgia, Russia will not put obstacles in their way.

Although Georgian-Abkhazian and Georgian-Ossetia relations are at the very bottom and the solution of this conflict is not likely in the near future, it would be unreasonable to believe that there is no way out of the crisis in principle. Russian independent experts and specialists on Caucasian problems unanimously note that at the present stage of Russian-Georgian relations, it is too early to discuss any methods of solving the territorial problems. In the first place, Georgia, Russia, South Ossetia and Abkhazia should be aware of the impossibility to solve this question in the near future and at once. Sufficient time should pass before all sides are capable to analyse the situation clearly and pragmatically in order to come up with concrete proposals that may well satisfy them all. Constructive negotiations suggest avoiding obviously unacceptable proposals that would be turned down at once, thus undermining the confidence of all sides of the conflict.

The Russian expert community is convinced that there is no alternative status for South Ossetia and Abkhazia which may be agreed upon in the short and medium term perspective. And although there exists no way of reintegration of South Ossetia and Abkhazia in the near future, *a model of confederation*, the only one in the long run, may be acceptable for all parties concerned. It is an idea of confederation that has been put forward most often in the proposals of Abkhazia, Georgia and Russia as a means of solving the territorial problem and sovereignty.¹⁵

¹⁴ Medvedev, D., Interview for Russia Today, PIK, and Ekho Moskvi radio station, 5 August 2011. See <http://www.kremlin.ru/transcripts/12204>.

¹⁵ “Коммерсант: Москва прорабатывает план конфедерации Грузии, Южной Осетии и Абхазии” Kavkaz Uzel, 2006. See <http://www.kavkaz-uzel.ru/articles/105248/>; Coppieters, Bruno “Foreword : The Practice of Federalism”, in Coppieters, B., Darchiashvili, D. and Akaba N., (eds.), *Quest for Alternatives for Georgia and Abkhazia*, Moscow: The Whole World, 1999, 3-18. See poli.vub.ac.be/publi/orderbooks/federal_r/introduction.html;

However, because Russia provides South Ossetia and Abkhazia with significant economic support and military security, the dialog of Georgia with South Ossetia and Abkhazia without improving Russian-Georgian relations and restoring confidence between these states seems illusory. In order to take part in the process of rapprochement of South Ossetia, Abkhazia and Georgia, Russia should first be interested in this. The way out of this situation is a foreign policy choice by the Georgian leadership to join certain military-political alliances. If such decision could be postponed for the time being, Russia would hypothetically be more receptive. In the negotiating processes of Georgia with Russia, South Ossetia and Abkhazia, it is strategically important not to mix up the questions of improving cooperation with sensitive territorial subjects.

Therefore, such an illusory scenario may turn into reality, if the following important conditions are met:

- Georgia's signing of an agreement on the non-use of force against South Ossetia and Abkhazia which the leadership of these republics and Russia insist on.
- Georgia's recognizing the independence or political sovereignty of South Ossetia and Abkhazia. This may be a package decision together with the simultaneous signing an agreement on the creation of a confederative system.
- Providing South Ossetia and Abkhazia with a desired autonomy and sovereignty approved and accepted by consensus.
- Safeguarding equal protection, freedom and active participation rights in politics.
- Adopting a grassroots approach to the regional development, including the participation and empowerment of the local people in the de-

Chirikba, Vyacheslav, "Georgia and Abkhazia: Proposals for a Constitutional Model" in Coppieters, B., Darchiashvili, D. and Akaba, N. (eds.), *Quest for Alternatives for Georgia and Abkhazia*, Moscow: The Whole World, 1999, 387-441. See poli.vub.ac.be/publi/orderbooks/federal_r/17chirikba.pdf.

cision making process that will lead to the development of democratic principles in the communities.

- Creating common economic and social projects for developing and financing the regions of South Ossetia and Abkhazia supported by Georgia and Russia or under the umbrella of Russia.
- Developing an image of a common future for easing tensions in the region.
- Deepening the social, economic, and transport integration of the whole region.
- Opening the railway through Abkhazia that will enhance cooperation among Georgia, Abkhazia and Russia.
- Restoring the Ergneti market which used to stimulate contact between Georgians and South Ossetians.
- Safeguarding the security in the North Caucasus collectively.

Obstacles to achieving agreements:

- Mutual distrust of all sides with respect to long term intentions of other parties makes difficult both the process of negotiations and the creation of institutional and legal procedures.¹⁶
- The intensive process of Georgia's North-Atlantic integration lowers the confidence and interest of Russia to facilitate the reconciliation of Georgia with South Ossetia and Abkhazia and therefore the solution of territorial problems.
- The high level of nationalism in each country prevents restoring normal ties between them.

¹⁶ Coppieters, Bruno, op. cit.
http://poli.vub.ac.be/publi/orderbooks/federal_r/introduction.html.

- The problem of the return of internally-displaced persons (IDPs) that is difficult to solve.
- The lack of security guarantees and the threat of new clashes and violence.
- The reluctance of each party to take the first step with well thought out proposals.
- Incompatible needs of all sides in satisfying their desire to retain territorial integrity, the right to self-determination, and the principle of equality among national communities and of non-interference in internal affairs.
- Georgia's lack of powerful economic and social levers which could make South Ossetia and Abkhazia refuse from Russia's protection.
- The lack of adequate understanding the positions of all sides and their desire to start a serious negotiating process.
- The lack of a direct dialog between Russia and Georgia.
- Russia's diplomatic representation in South Ossetia and Abkhazia.

Apart from the above reasons, IDPs returning is another serious problem which makes difficult any negotiating process of a status of South Ossetia and Abkhazia. At present, this process seems to be next to impossible because of the threat of ulterior separatism in Abkhazia's regions populated by Georgians and of a flare-up of new trouble spots. In the words of Sergey Markedonov, "such a discussion subject is unacceptable for the leadership of Abkhazia. None of the Abkhazian politicians will agree to a full return of the Georgian population."¹⁷

¹⁷ http://www.bbc.co.uk/russian/international/2011/01/110114_georgia_abkhaz_reax.shtml.

The nature of this conflict may be characterized among other things as ethno-political, and the “ethnic property” problem makes it difficult its peaceful settlement. The safe IDPs’ homecoming requires solving certain problems:

- IDPs’ homecoming seems to be difficult because their homes are occupied by the local people.
- Ensuring refugees’ safe homecoming under the control of international police. The governments of South Ossetia and Abkhazia will hardly agree on this.
- Creating refugees’ local government which will hardly be greeted by other participants of the process.

In any case, the process of refugees’ homecoming remains the most difficult problem to solve in Georgia-Abkhazia and Georgia-Ossetia relations, and its solution requires careful thinking over all possible alternatives of soft and gradual reducing the confrontation among the peoples of the regions. Crossing the border should be simplified in the first place in order to increase and secure contacts. Creating common projects causing new working places and the atmosphere of cooperation among the people of these countries should also be taken into consideration. Restoring the Ergneti market and opening the railway through Abkhazia could stimulate Georgia-Ossetia and Georgia-Abkhazia interaction.

At present, the situation in the world undergoes serious transformation. Dangerous processes in North Africa as well as heightened tension and numerous clashes in the Middle East monopolize the attention of the international community, military-political blocs and alliances. Moreover, the financial crisis and economic instability in many countries require great efforts and transfer of all means to fight the decline which in its turn directly has an impact on NATO’s budget and capabilities.¹⁸ Apart from this, political players and leaders on the international arena

¹⁸ [http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2013/130453/LDM_BRI\(2013\)130453_REV1_EN.pdf](http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2013/130453/LDM_BRI(2013)130453_REV1_EN.pdf).

have also changed which brings about a shift in the focus of their attention and their choice of priorities.

NATO Secretary General Anders Fogh Rasmussen stated that in 2014 Georgia would not be accepted into the military-political bloc. However, Georgia still has a partnership action plan with the alliance that it has to follow. It is clear that the interests inside the Alliance have changed and its enthusiasm for Georgia has declined. Partly this happened because the operation in Afghanistan has come to an end and the geopolitical interest in Georgia has become somewhat weaker at present. Therefore, the question of Georgia's joining NATO has lost momentum for some time. However, nobody rules out that the situation in the world may change so that the *interest* in Georgia will be revived again and start gaining momentum.

Abkhazia and South Ossetia distrust the European Union and NATO and do not support the Georgian idea of Euro-Atlantic integration. Moreover, Ossetia and Abkhaz communities believe that it is Saakashvili's Euro-Atlantic course that led to the August 2008 tragic events. Therefore, a lesser degree of involvement of the European Union and NATO in the process of settling Georgia-Ossetia and Georgia-Abkhaz relations will ensure more confidence and peace inside the breakaway regions.¹⁹ Vyacheslav Chirikba, Minister for Foreign Affairs of Abkhazia, put it bluntly, "...the United States and the European Union put a great deal of pressure on the leadership of any state who sympathizes with an idea of Abkhaz independence. This is the main problem here."²⁰

As before, there still exist serious factors that have a negative impact on the possibility of reconciliation between South Ossetia, Abkhazia and Georgia. The European Union and NATO actively avoided and are avoiding taking part directly in the settlement of Georgia-Ossetia and Georgia-Abkhazia conflicts. Russia had no interest to help Georgia in

¹⁹ Areshev, A., "Russian-Georgian relations and the destructive foreign activity in the Caucasus." See <http://www.kavkazoved.info/news/2013/07/25/rossijsko-gruzinskie-otnoshenia-i-destruktivnaja-vneshnjaja-aktivnost-na-kavkaze.html>.

²⁰ Vyacheslav Chirikba, Interview to Apsny Press Information Agency. See <http://mfaapsny.org/news/?ID=1438>.

the conflict settlement during the rule of Saakashvili. The format of the Geneva talks has brought no significant results at the present time.

The situation in Georgia has somewhat changed with the new leadership. And although the Georgian government intends to continue the course of Euro-Atlantic integration, it also insists on improving its relations with Russia. Moscow welcomed such a development. Georgia's "new political leadership adopted much more pragmatic position according to the changes that had taken place in the political system and in the constitution of the country. We are glad about this,"²¹ Dmitry Medvedev underlined in his interview. It is also important to note his positive mood concerning bilateral relations. "You know I am an absolute optimist in this respect. I am sure everything will be fine,"²² he added.

Does it mean that after a full stop there is still a possibility to put a comma in Russian-Georgian relations, to correct "an annoying mistake" in the future perspective? It is important that such Russian-Georgian rhetoric about restoring relations should be followed with practical actions.

According to sociological surveys, 82 percent of Georgia's population firmly support the restoration of the dialog with Russia.²³ Nevertheless, the aspiration for Euro-Atlantic integration is also supported by 80 percent of the Georgian population.²⁴ The sensitive problem of settling the Abkhaz and Ossetia conflicts is still urgent for both the population and the government of Georgia. A certain part of Georgia's population believes that Russia could play an auxiliary role in settling this question. However, many Georgians are convinced that in the near future Georgia may become successful and attractive in terms of economic and social development at the expense of using modern Western models, and politically significant on the international arena. In this respect, it is hoped

²¹ Medvedev, D., Interview with Russia Today.
See <http://m.golos-ameriki.ru/a/1723370.html>.

²² Ibid.

²³ www.georgiatimes.info/interview/88046.html.

²⁴ www.georgianpress.ru/sociumm/20272-80-naseleniya-gruzii-odobryayut-zhelanie-strany-stat-chlenom-nato-i-es.html.

that the demonstration effect may influence the behaviour of Abkhazia and South Ossetia so that they will choose integration with Georgia.²⁵

Neither Abkhazia nor South Ossetia is self-sufficient in the economic development.²⁶ Annually, Russia allocates a lot of funds for the development of these regions and creates projects to renovate the infrastructure. However, this is not enough. In addition, neither Abkhazia nor South Ossetia has any other guarantor of their own security but Russian military bases. The demographic situation in Abkhazia is at risk while South Ossetia faces the threat of depopulation.²⁷ Thus, the territories of both republics are in need of serious socio-economic and demographic development which is unfortunately next to impossible without outside help at the present time. In this respect, Georgia should build up its policy taking into account these circumstances.

What should happen to make the idea of resuming relations with Georgia attractive for Abkhazia and South Ossetia? In this respect, Tbilisi is required to recognize them as political entities, to ensure political stability in Georgia itself, and to pursue a state ideology suggesting no threats to the security of South Ossetia and Abkhazia. Of great importance is also the economic independence of Georgia and its capability to ensure not only its own development, but also the development of these regions. And last, the neutrality of the Georgian government in respect of NATO is needed because otherwise Russia is likely to block the process of rapprochement of these countries with a perspective of their reunification.

²⁵ Ryabov, A., Interview with georgiamonitor.org. See <http://georgiamonitor.org/detail.php?ID=491>.

²⁶ Kirilenko, A., "Stadiums, Chess and Russian Subsidies" 8 August 2013. See <http://www.svoboda.org/content/article/25069741.html>.

²⁷ <http://www.kavkazoved.info/news/2013/08/08/religioznyj-oblik-abhazii-istoria-i-sovremennost-iii.html>.

PART III:

**SOVEREIGNTY AS PERCEIVED IN THE
EASTERN PART OF THE SOUTH CAUCASUS**

Armenian Statehood and Sovereignty Games

Hrachya Arzumanyan

Genesis of the notion of sovereignty: Juridical and political sovereignty

French lawyer Jean Bodin's interpretation of "souveraineté", which arose in the 17th century and which reflects the royal or suzerain power in the Middle Ages, initiated centuries-old discourse around two basic approaches. The first revolves around legal treatments and Bodin's notions, and the other – around the notion's projection on the political and geopolitical arenas. In the study "On the State" in French, Bodin defines "souveraineté" as "the power over the state, absolute and permanent." In the same study in Latin, Bodin declared the existence of the "supreme and free power over the citizens and subjects"¹ in the state.

All the following discourses of the European legal thought have been evolving for centuries around the interpretations of these notions. For example, what does absolute or permanent power mean? And what takes place when the power in the state passes to a dictator due to the state of emergency, but for a specified and limited period? Whom does the sovereignty belong to at that time and can we name a dictator a sovereign? Or "a power free from law" (law unbound power). And what can we do, for example, with the Divine Law, Tradition, and non-formalized, but very real and effective regulations? How do the notions take into account the international obligations constraining some aspects of sovereignty, which, consequently, cannot be considered as absolute power?

These kinds of questions are the result of the attempts to give the legal definition of sovereignty the character of regulation, which forms and defines the state and political reality. A lawyer's understanding of sovereignty takes as premise the fact that the political space is formed by the

¹ Bodin, Jean, *On Sovereignty: Four Chapters From Six Books of the Commonwealth*. Cambridge, UK: Cambridge University Press, 1992, 75.

interaction of ideal and equal in their absoluteness sovereigns, which inevitably brings to a fully twilight view. Nevertheless, jurists' discussions around sovereignty had important consequences for the political space. They allowed revealing the character and the nature of the notion of power and its recognition by the external world, which provided the basis for the political sovereignty's framework. While earlier, in the Middle Ages, the power based its legitimacy on the sacred right, the "Mandate of Heaven", in the post-Westphalian period, power became inseparable from the problem of its recognition by other states.

In the discussions around the political sovereignty, there were distinct followers (partisans) of the "sovereignty of recognition", which was considered as a function of international law and international relations' system when "the state is and becomes an international person only and exclusively thanks to recognition"². They were opposed by the followers of the "sovereignty of fact", which was considered as an attribute and function of the state itself, regardless of its recognition by the international community³, and "non-recognition cannot serve as a basis for breaching the territorial supremacy of the state."⁴ The presence or absence of sovereignty in this case is defined by the ability of the entity to realize the state power in its territory and to act as a state.

Vadim Tsymbursky proposes the following framework for the political aspects of sovereignty: "X exercises power over A (it is absolutely all the same what the basis of the power is - legal recognition of subjects or coercion), and Y, which exercises power over B, recognizes the power over A as the right of X". The predicate "AND" here represents a causal arrow directed on both side. The framework allows to bind and make a distinction between both approaches to sovereignty interpretation, when the "sovereignty of fact", real exercise of power, establishes a foundation for external recognition, is distinct from the "sovereignty of recog-

² Оппенгейм Л., Международное право: Мир. Перевод с английского. Т. 1: Полут. 1/Под ред.: Крылов С.Б. (Предисл.); Пер.: Лаутерпахт Г., Иностр. лит., 1948, 135-136.

³ Ibid., 137-138.

⁴ Дмитриев Ю.А., Магомедов Ш.Б., Понамарев А.Г., Суверенитет в науке конституционного права, 1998, 56.

nitioŃ”, when power becomes the consequence of recognition as such by the international institutions or states. Also frameworks recognize the movement from sovereignty of fact to sovereignty of recognition and vice versa as possible and legitimate. They also recognize the negative options when the inability to really exercise power terminates the external recognition or vice versa, the recall of recognition leads to the extermination of “unalienable” rights and so power *per se*.⁵

Actors of practical politics, who form the political arena and exercise power, quite consciously use ideal constructions of juridical sovereignty as a tool for achievement of political objectives. In the post-Westphalian world, juridical sovereignty’s reduction to a political tool seems acceptable and reasonable. As sovereignty gradually became a geopolitical notion, it starts to be interpreted as political ownership and “sovereignty above something or somebody.” These became metrics which allows evaluating the claims for the right to possession of territory, population and other resources.

The politicians realize two hypostases (aspects) of sovereignty (recognition and fact), which altogether form real sovereignty on the political arena. The history gave us examples of both how new state and correspondingly sovereignty emerged and how state lost sovereignty over part of its territory and in some cases state’s (and sovereignty’s) total annihilation. Moreover, in the latter cases the opinion of sovereigns, sovereignty bearer was not taken into consideration. Russia, Austria-Hungary and Prussia in the 18th century made a decision to annihilate Poland’s statehood by ultimately annexing Poland’s territory step by step. In the beginning of the 20th century, Bolshevik Russia and Kemalist Turkey came to an agreement to annex part of Armenia’s territory for the benefits of Turkey and the third parties/states – a process which ended with the disappearance of the First Republic of Armenia. In 1938, in the Munich Treaty three European states allowed to deprive the Czech Republic of sovereignty over a significant part of its territory - Sudetenland. Later in 1939, the Molotov-Ribbentrop Pact determined the fate of Poland, “in

⁵ Цымбурский В. Л., “Идея суверенитета в посттоталитарном контексте” Полис, no. 1, 1993, 18.

accordance with a friendly and mutual agreement” between the USSR and Germany, and destroyed the Baltic States.

One should realize that in all the cases when we consider the problems of recognition or non-recognition, emergence or annihilation of sovereignty, it is irrelevant to discuss legal argumentations. The steps on the terms and subjects of such agreements can lie beyond legal framework, ignore it and there is no meaning to speak about “sovereignty” as “absolute power and independency” in this context. Indeed, one took away Armenia’s, the Czech Republic’s, Poland’s, and the Baltic States’ sovereignty over part of their territory or entirely. Moreover, the division of the political property in all the above mentioned cases took place without their participation and was drawn by a correspondent legal procedure. But, a question arises; what is the price of the sovereignty, which can be taken away with a few signatures and agreements?

In the same way, one cannot require a priori to respect the sovereignty of a non-recognized state. The boundary, which separates “control over territory” of a part of a state by some actors claiming a status on the political arena from a new state is rather conditional and cannot be drawn only on the basis of legal norms. An actually functioning power must demonstrate its ability to achieve the status of a state, and state sovereignty and legal arguments in this process do not play a considerable role.

Obviously, jurists cannot agree with the notions like “non-recognized” sovereignty, “partially sovereign states” and rightly talk about methodological impossibilities of such definitions. But, for operating politicians the legal inconsistency in such cases does not play any serious role. According to political conjunctures, sovereignty for them is, first of all, constantly redistributed ownership, and legal definitions and regulations are tools, using which politicians accomplish the desired repartition or defend themselves from it. In the “constrained”, “halved”, “partial” sovereignty terms one can see a compromise between the diversity and variability of political reality and the abstraction of juridical sovereignty, which covers only a small part of political sovereignty.

For a jurist, the law is a regulation that must be complied with. In the political sphere, such an interpretation is also suitable, but regulation here comes forward as an established ideal or historic inertia, which correlates with political reality only to some extent. The political rights 'realization and implementation by a sovereign in reality takes place through mobilization and conjuncture, and the main issue is his ability to accomplish the re-division of political ownership. And in this process, any interests and arguments in the range from juridical to moral and religious can be recognized as adequate and fair. The question may be in the intentions of a sovereign to "round the boundaries" or to "expand the living space (Lebensraum)". On the political arena, any rights on sovereignty are realized and become political reality not because "this is as it should be (it's a must)", but as a result of political ownership's re-division, allowing to achieve the sovereignty of fact or recognition. And along with this it is quite possible and acceptable both to convert "fact" into "recognition" and the contrary. The assertion that sovereignty must emerge as a consequence of really implemented state authority or its reception in the international community of sovereigns is meaningless for a politician. He knows that in history and actual politics both take place. Here the decisive role is played by the circumstances of place and time and the pretender's ability to effectively use the mobilization and conjuncture mechanisms. In such cases the attempts to substitute the language of policy by juridical language are impossible and dangerous.

Quite juridical interpretations of political sovereignty turn the existence of such states as Switzerland or the US into an indeterminate problem, wherein is impossible to clearly distinct such notions as supremacy, total authority and independency. When the Bismarck united German principalities, preserving sovereigns and partly local law, many lawyers wrote that principalities, of course, are states, but somewhat not sovereign. Yet it was not a problem for Bismarck who dealt with the issue of building united Germany, taking into account and consideration the "inherent, sovereign rights" of certain Principalities and princes, who preserved "sovereign's" status. The remarkable example of compromises between regulations of juridical space and political reality is the political and administrative structure of the USSR where existed united and autonomous republics, autonomous provinces and regions, united in a single Imperial

form by the Centre as its paramount and backbone element. Obviously, the structure reflects the geopolitical realities of the 1920s years and it is hardly possible that the Soviet Union could be formed in any other form. When the political situation changed, the evolution of the system and revision of the structure took place, when entities emerged or disappeared as a result of redistribution of political ownership. It suffices to recall the transfer of Nagorno-Karabakh and Nakhichevan to Azerbaijan, the Crimea to Ukraine, the liquidation of the Transcaucasian Federal and the Karelian-Finnish Republics, etc.

Types and statuses of sovereigns, sovereignties and sovereignty users

Thus, the juridical abstractions, notions and regulations serve as tools by applying which a politician comprehends, interprets and acts on the political arena. Besides the discussed above “sovereignty”, basic is also the “sovereignty’s true holder” notion, around which centuries-old discussions have taken place. The “sovereignty’s true holder” agenda is absent in monarchy, when the owner of sovereignty and a sovereign also appears as its user. The matter in this case is an absolute monarchy where the Crown-sovereign is vested with overall authority and it isn’t important how it was achieved – whether God-given, given by the people (Grotius)⁶ or in virtue of concluding a treaty between the monarch and people who got tired of the infinite war between everybody and who refused to express political will in exchange to the sovereign’s protection (Thomas Hobbes).⁷

As soon as theorists and nations diverge from the paradigm of absolute monarchy, there arose discussions, which in the 20th century led to two doctrines bearing the names of Hans Kelsen and Hugo Crabbe. The doctrines assume the dissolution of Bodin’s “unbound by law” sovereignty in the Supreme law – Constitution. One of them presumes that the Su-

⁶ Grotius, Hugo, Jean Barbeyrac, *The Rights of War and Peace, in Three Books: Wherein Are Explained, the Law of Nature and Nations, and the Principal Points Relating to Government*, London: The Lawbook Exchange, Ltd., 2004.

⁷ Hobbes Thomas, *Leviathan*. J.C.A. Gaskin edited with an Introduction and Notes, Oxford: Oxford University Press, 1998. Гоббс Т., Соч.: в 2 т, М.: Мысль, 1989 Т. 1, 1989, М.: Мысль, Т. 2, 1991.

premacny of the Constitution in the state's live lifts from the agenda the sovereignty problem (Kelsen),⁸ and the other offers the Constitution itself as a sovereign (Crabbe).⁹ Such a defiance of geopolitical sensing of political sovereignty and the logic of political arena brings to an absurd. The Constitution of a state loses force beyond the boundaries where the supremacy of another Constitution begins. But a question rises - how does such a demarcation take place? Which tools were used and more essentially who marks the frontiers? Constitutions cannot dispute around territory, cannot declare war and sign peace, thus recognizing the right of each other to be the Supreme law on one territory or another. From a political point of view the question sounds like between whom are the lands, people and other sources divided, who accomplishes the delimitation of territory, where later in the juridical sense will predominate one or another Constitution?

Carl Schmitt realizes the criticism of such an attitude by proposing his famous formulation: Sovereign is "he who decides on the exception,"¹⁰ which evolves through the terms "state of emergency" and "decision". Sovereign is who undertakes the responsibility and makes a decision, when a danger, which is not foreseen by the law, is impending. Carl Schmitt shows that juridical space cannot contain a legal vacuum, which necessitates introducing the "exceptional case" notion:

"The exception, not described in the existing law, can at best be characterized as a case of extreme peril, a danger to the existence of the state, or the like, but cannot be described on their set of facts. Only this case make actual question about subject of sovereignty, i.e. question about sovereignty at all."¹¹

Is there an "exceptional case" issue that is not related to the legal norm and gaining solution through giving a "personally responsible" order. It means that both the decision and the order are absolutely personal and cannot be based on the reference to the right, any established authority,

⁸ Kelsen, Hans, *Das Problem der Souveränität und die Theorie des Völkerrechts. Beitrag zu einer Reinen Rechtslehre*, Aalen: Scientia Verlag, 1981.

⁹ Crabbe, Hugo, *The Modern Idea of the State*. George H. Sabine and Walter J. Shepard authorized translation with an introduction, New York: D. Appleton, 1922.

¹⁰ Шмитт, Карл, *Политическая теология. Сборник. Заключительная статья и составление А.Филиппова*, М.: КАНОН пресс Ц, 2000, 15.

¹¹ *Ibid.*, 16-17.

etc. Any grounds like that inevitably bring to the shifting of the issue about instance possessing the necessary authority, to the bad infinity. Thus, the sovereign “within competence of whom must be the case, which does not provide any competence”,¹² and the “premise (prerequisite) and substance of competence here are essentially unrestricted.”¹³ The sovereign makes a decision about an exceptional case and state of emergency implementation for the arrangement of some order and this authoritative burning of order from chaos becomes the decisive prerequisite for the action of law. “There are no rules that would be applicable to chaos. Order must be created, so that the rule of law will make a sense.”¹⁴

Obviously, Schmitt can be blamed for “illegal” mixing of “sovereignty” and “competence” notions, but it was a conscious step of a theorist and geopolitician who asserted that dispute about sovereignty itself does not make any sense. It is necessary to consider the sovereignty as predicate, function, feature, and the question is whom it must be attributed to. Moreover, in modern times and within the current system of international relations the distinction between sovereignty bearer – sovereign and those who make policy decisions – sovereignty users become crucial. In our modern age decision makers in very rare cases are also sovereigns – like in the case of Saudi Arabia. The distinctions between sovereigns and sovereignty users in modern time qualitatively expanded the space where policy evolves (unfold) “sovereignty’s games”.

The problem of distinction between sovereigns and sovereignty users who make decisions is not new and one can see traces of it in the monarchic paradigm too. One can mention the case of a regent for under age monarch, or, for example, Cardinal Richelieu, conducting an absolutist course on behalf of a weak Louis XIII. However, earlier, in all such cases, it was a question of exceptions, whereas in modern times such distinction becomes a norm. Currently, one takes a clear distinction between “sovereignty users” and “true sovereigns” and both statuses and positions mostly enshrine in the constitution.

¹² Ibid., 22.

¹³ Ibid., 17.

¹⁴ Ibid., 26.

The attempts to develop some typology of sovereigns, each of which corresponds to own comprehension of sovereignty, lead to the following results:¹⁵

- People as a community of citizens (“People-1”). It is the case when, as a sovereign, “civil society” stands out and one speaks about “people’s sovereignty”.
- The nation and its state (“Nation”). As a sovereign, the reality (nation) stands out, engaging into an organic whole the population, the state’s territory and the institutions of power, then one speaks about “state’s sovereignty.”
- The people, seeking the establishment of their own statehood appealing to the right of self-determination. (“People-2”). In this case, the sovereign inevitably lays claim to a territory which is under the sovereignty of another state.

Regardless of whether one considers sovereignty of fact or recognition the relationships between any sort of sovereigns and sovereignty’s users create the space where “sovereignty’s games” take place. One can distinguish the following types of relations.

- Games which are held by sovereignty users autonomously. In this case, one can speak about “sleeping sovereign”, which by no means interferes with sovereignty user’s disposes of political property.
- The periodical “awaking” of sovereign, settled by law. The question is about sovereign’s real “awakening” for a while or imitation of such an “awakening” in order to confirm the credentials of sovereignty’s user to play game or to redistribute the credentials of users. In this case one can speak about “dormant sovereign”.

¹⁵ Цымбурский В. Л., “Игры суверенитета: новый возраст России” Русский Журнал, no. 2, 2008.

- The real awakening of the sovereign, associated with an extraordinary situation and state of emergency when one speaks about “awaken sovereign”. Such awakening can be initiated by:
 - sovereignty’s users through corresponding mechanisms of referendum or mobilization;
 - social groups, political forces which have not previously been sovereignty’s users. In this case it is a question of the revolt, popular movements which lead to a revolutionary change of government and conquest of rights to speak on behalf of the sovereign.

Thus, the classification above allows talking about three states – sleeping, periodically awaking and awaken – which may be sovereign. The relationship between sovereigns with sovereignty’s user in one state or another can be developed also under scenarios of confrontation. The awakening sovereign in the name of civil society (“People-1”), appealing to “people’s sovereignty” can require to change the government, the sovereignty’s user, which has lost credibility. The government defending and fighting for the preservation of power can use the slogan of “protection of the constitutional order,” appealing to “state sovereignty”. People rising the slogan of “national self-determination” and own state-building (“People-2”), take up the struggle against government, which defends “the nation’s state sovereignty” over territory where secessionist movement takes place. In this case, “nation”, on behalf of the “whole people” and appealing to the “state’s sovereignty”, enters a struggle for the territorial integrity of the state. Obviously, the interpretation of “the right of nations to self-determination” from the point of view of the existing state (“nation”) and “People-2” are clearly antagonistic. For “nation” and “state’s sovereignty” the “self-determination right” is expressed in the struggle for the integrity of the state. And “People-2”, basing on the logic of the national-liberation movement, seeks to build its own state and withdraw from the existing state, basing wherein, if it is possible, on external recognition and foreign support. And the forming political reality becomes the result of the struggle of the two abovementioned approaches.

Internal and external sovereignty and post-totalitarian images of sovereignty

State (nation) sovereignty protects both against the threat of external incursions and internal rebellions. The distinction between sovereign and sovereignty, however, is considered to be less important. That is why it is highly popular among sovereignty users – i.e. governments, allowing them to speak and act on behalf of the people. For people's sovereignty the distinction between sovereign and sovereignty users is principal; it allows distinguishing between such modes as “usurpation”, “tyranny”, legitimizing the right and ability to change the user, which becomes inadequate for circumstances and historical time. Herewith a procedure is fixed in the legal sphere, which allows the user to update the issued mandate on the authority or invoke it. Formed in the modern age, practices and institutions – constitutions, delineating the rights of citizens and governmental institutions, parliamentary democracy, regular elections, separation of powers, etc. – turned the paradigm of people's (democratic) sovereignty and its users into a general trend. In the international arena, such users act as representatives, who have a mandate of “true sovereigns” on whose behalf they dispose the political ownerships – sovereignty. The fact that now we see a clear prevalence of sovereignty of recognition over sovereignty of fact and also the distinction between sovereign and sovereignty's users allows to develop technologies, which take away political ownership – or sovereignty from sovereign.

As the recognitions' sovereignty depends on its recognition by the international community, the latter obtains the right not only to shape it (and hence define the boundaries of some volume of political ownership in the form of independent political actor – sovereign), but also the ability to dispose the “new-forming” sovereignty, i.e. to become the sovereignty user to a certain extent. There appears an opportunity to manage both the volume of ownership and the legal right to dispose of it. If necessary, sovereignty can be taken away or “frozen” and the users can be deprived of the “label”, which replaces, in fact, the mandate of the sovereign on the disposal of the political ownership. The powers of the sovereign can be “revoked” or even the status of the sovereign can be called into ques-

tion and the “power” transferred to another. The results of certain elections or referendums organized by users of sovereignty may be declared invalid and illegal, in consequence of which the mandate of the sovereign is declared falsified. At the next stage, the mandate for the use of sovereignty may be awarded to another candidate for this role, whose powers will be confirmed by a corresponding procedure. The abovementioned, however, does not mean that the entire volume of sovereignty of the new states is lost and we need to talk about sovereignty’s absences as such. History is full of examples of such constrained sovereignty and clearly unequal relations between a young sovereign state and its patrons, which later converted into more stable sovereignty, finding support within the state and not outside and appealing for sovereignty of fact and not recognition. The boundary between the “puppet of external forces” and “Sovereign ruler” is flexible and determined by the balance of power, the rules of a particular game party, which is played in the arena.

Attempts of this kind of games can be seen within the discussion on the legitimacy of the status of Artsakh (Nagorno-Karabakh) Republic as sovereign. The international community is trying to revoke the “authority” of Artsakh as sovereign, recognizing invalid the results of the referendums conducted perfectly from the point of view of democratic procedures. The “doubtfulness” of sovereignty and Artsakh as a sovereign routinely leads to unsuccessful attempts to deny Artsakh authorities’ status as sovereignty users. Moreover, the inability to carry out this line to the end is explained not so much by the inconsistency of the international law, as the fact that the sovereignty of Artsakh is based, primarily, on the sovereignty of fact, its ability to achieve a military victory and engage in successful state-building. Currently, the geopolitical centres of power attempt to substitute the sovereignty of fact, which Artsakh possesses, by sovereignty of recognition. Herewith, the “authority” on sovereignty and sovereign’s “label” is transmitted at the first stage to the Republic of Armenia, trying to turn Artsakh into a “territory” and a subject of territorial dispute between Armenia and Azerbaijan which, in turn, makes inevitable the international arbitration, which would take a decision on belonging of Artsakh to one of these sovereigns.

Thus, the analysis of actual policy when considering the issues of sovereignty, one must assume a more complex picture emerging from the combination of – in one form or another – sovereignty of fact and sovereignty of recognition, which is applied to various types of sovereigns – dormant, drowsing or wakeful. The resulting picture must to be assessed within the broader context of international law and interests of actors and geopolitical centres of power.

If a simplified interpretation of sovereignty, appealing to the juridical sovereignty, may be used for a quiet, inertial period of development of the world political system, it becomes inadequate in the transition period of disappearance of old and appearance of new sovereigns. In this case, it is necessary to apply more complex technique of analysis combining the abovementioned types of sovereigns. This is especially fair, considering that the emerging age is characterized as an age of changes and “global political awakening”¹⁶ when the breaking of the existing world political order, for bringing it in accordance with the economic and social reality of the 21st century, should be regarded as inevitable.¹⁷

The collapse of the Soviet Union and the beginning of the post-Soviet period brought new interpretations of sovereignty, related primarily to the need to revise the totalitarian mode of sovereignty. In totalitarian societies, an original method was found for removing the contradictions between the two “true sovereigns” – “People” and “Nation” (state) through the creation of a single mass party, which had two hypostasis – nation-wide Communist Party of the Soviet Union (CPSU – the vanguard of the Revolution) and the cores of the political system of the state (CPSU – the core of the political system, government and community organizations). The party becomes the mechanism and environment, in which the sovereignty of the people is transformed into state sovereignty, the user of which is the highest party and economic nomenclature (governing establishment).¹⁸

¹⁶ Brzezinski, Zbigniew, “The Global Political Awakening” International Herald Tribune, December 16, 2008.

¹⁷ Kissinger, Henry, “The Chance for a New World Order,” International Herald Tribune, January 12, 2009.

¹⁸ Цымбурский В.Л., Идея суверенитета в посттоталитарном контексте.

Debates on how to characterize the post-Soviet period were long going on around the world. Ultimately, the notion of transitional period appeared and attempts were made to highlight different typologies in it. Thomas Carothers' classification became widely accepted; it outlines the following in the post-Soviet period:

- Authoritarian regimes;
- Regimes characterized by “dominant-power politics”, where “at least most of the basic institutional forms of democracy...one political grouping ... dominates the system in such a way that there appears to be little prospect of alternation of power in the foreseeable future”;
- “Reckless pluralism” regimes where basic institutional forms of democracy serve the interest of political elites. “Political elites from all the major parties or groupings are widely perceived as corrupt, self-interested, and ineffective. The alternation of power seems only to trade the country’s problems back and forth from one hapless side to the other. Political elites from all the major parties are widely perceived as corrupt, self-interested, dishonest, and not serious about working for their country.”¹⁹

Though the source of power in almost the entire post-Soviet area was declared the “people”, however, it is atomized and immersed in the struggle for survival. Herewith, in the state discourse, special importance is acquired by the issues of democracy, human rights, etc. However, while in the constitutions of Western democracies these concepts restrain the state’s full power and serve a basis for the formation of a civil society, in the post-totalitarian societies, it is only the power that becomes the institution, which provides the daily functioning of the society, allowing it to exist under acceptable conditions. In a society, all other social structures and mechanisms, which could undertake at least part of the load, are destroyed. Thereby, usurpation of sovereignty in the absolutist, Hobbesian sense, takes place, when the citizens, the people

¹⁹ Carothers, Thomas. “The End of the Transition Paradigm,” *Journal of Democracy*, 13:1, January 2002.

refuse their sovereign rights, the right to exercise political will in exchange for a relatively calm and stable life. Power exchanges, the right to be a sovereign as fee for the opportunity to avoid a “total war” of all against all, promptly cutting off all the possible and potential alternatives, which are quickly discredited or destroyed.

As examples of chaos and outrage – which are the result of the fracture of supreme power – groups’ and gangs’ terror, armed movements self-organized outside or over state institutions play an invaluable role in the field of propaganda. For the peoples of Central Asia, it is the lesson of Tajikistan in the 1990s, for the South Caucasus – the Elcibey’s era of strife and terror in Azerbaijan, Zviad Gamsakhurdia’s era in Georgia and Levon Ter-Petrossian’s era in Armenia. For Russia, it is the decade of Yeltsin’s rule. Under these conditions, any activity claiming to replace the people’s sovereignty is perceived by a person from the “crowd of solitary” as “extremist” agents of external or internal forces threatening sustainable existence. In post-totalitarian societies, the change of sovereignty users takes place situationally, and citing examples of successful change it is impossible to guarantee that the next time it will not end in a disaster. In other words, the post-Soviet space and its mechanisms of functioning and changing the political elites should be considered unstable and fraught with social chaos.

Conclusion

Analysis of the Armenian statehood and the region through the lens of sovereignty issues is a complex and non-trivial task. This is not the least conclusion of interdisciplinary nature of such a research requiring the use of research efforts in the field of law, political and military science, geopolitics, history and culture. The analysis of the Armenian reality requires involvement of, at least, the whole tools considered in this paper. In particular, we have two formed states, each of which, in a varying degree, appeals both to the sovereignty of recognition and sovereignty of fact. And while Armenia is largely based on the sovereignty of recognition, Artsakh currently appeals, surely, to the sovereignty of fact. This situation, on the one hand, expands the space, where Armenian statehood may look for a solution of its problems; on the other hand, it inevi-

tably increases the number of risks and threats, forcing to develop and implement into political practice more complex patterns of interaction, taking into account the strengths and weaknesses of the reality comprising the two Armenian states. Similar difficulties and problems can be observed in other recognized or unrecognized states in the region, which make more than actual the development of the issues of sovereignty in relation to the realities of the world political system of the 21st century on the whole and the Caucasus in particular.

The Nagorno-Karabakh Republic-Azerbaijani Conflict: Understanding the Past and Mapping the Future

Masis Mayilian

The Nagorno-Karabakh conflict is considered as one of the most protracted and complicated conflicts in the South Caucasus. The problem of security of the Nagorno-Karabakh Republic and its citizens is the key issue in the peaceful settlement of the conflict.

To understand the essence of the conflict and to try finding its solution, it is necessary to know the history of the confrontation. Just as in medicine: knowing the case history facilitates the correct diagnosis and prescription of the effective treatment of the disease.

Nagorno-Karabakh (the historical Armenian name is Artsakh) has been a part of Armenia throughout the entire period of its recorded history. The Armenian people of Karabakh are indigenous to this territory. All historical, archaeological, documentary, architectural monuments convincingly testify to it without any exception since ancient times to the present. On the small territory of historic Artsakh there are more than 3000 Armenian cultural and architectural monuments.

The first serious clashes between the local Christian Armenians and Muslim Turks started in the middle of 18th century, when the Turkic ethnos (Azerbaijanis are a part of it), started to penetrate into Karabakh. I have to stress that the Nagorno-Karabakh conflict is not an inter-religious dispute, but the peoples in conflict represent different ethnic and religious groups.

The Nagorno-Karabakh problem, as such, dates back to 1918, when after the collapse of the Russian Empire delimitation of the territories of the newly independent Armenia and Azerbaijan was required. That dispute, that was subject of consideration by the League of Nations, lasted until 1921, when, after the *Sovietization* of Armenia and Azerbaijan, the *Bol-*

shevik (Russian Communist) Party decided to hand over Nagorno-Karabakh as an autonomous region of Azerbaijan. That decision did not take into account the will of the Karabakh Armenians, at that time more than 90% of the population of that region.¹

It is necessary to note that even in the period of the Soviet totalitarianism, the Armenian population of the region, which suffered from discrimination by the Azerbaijani authorities for many years, and saw a series of attempts to change the demographic picture of the region in favour of its Azerbaijani minority, several times raised the Nagorno-Karabakh issue before the central government in Moscow. Armenians sought for secession of the Karabakh autonomy from Azerbaijan, because they considered it the only guarantee for their safe development and preservation of the territory of their historic residence. However, the central authorities did not settle the problem, aggravating it even more. The Communist leadership of the Soviet Union harshly punished those people, who raised the human and civil rights issues. And only in 1988, when the first signs of the political liberalizations showed up as a result of Mikhail Gorbachev's "*Perestroika*" policy, the Armenian population of Nagorno-Karabakh again raised the issue of its handover to Armenia.

I should stress here that the issue of unification of the region with Armenia was put forward exclusively democratically, with the use of norms and mechanisms of the people's free will. The very decision of February 20, 1988, on secession of Nagorno-Karabakh from Azerbaijan was made by the parliament, within a legal framework and universally recognized international norms of that time. The demand of the people that used its right to determine its own political future was fixed legally in the decision of the local parliamentary structure.

It is important to stress one basic feature of the political actions, taken by the Karabakh Armenians. At all stages of the struggle for reunification of Nagorno-Karabakh with Armenia, and then the process of formation of its own statehood, they acted fully in compliance with the Soviet Un-

¹ "Nagorny Karabakh" Yerevan: Armenian Academy of Sciences, 1988. See <http://www.karabah88.ru/history/karabah/34.html>.

ion's legislation of that time and the norms of international law. No wonder that the political opponents of Nagorno-Karabakh have been so far unable to present any strong argument undermining the legality or legitimacy of proclamation of the Nagorno-Karabakh Republic.

The next legal step on the way to the independent statehood was the independence referendum of the NKR on December 10, 1991, just two weeks before the official disintegration of the Soviet Union. That referendum based on the free will of the people set a juridical basis of the future of the republic as an independent state.

Thus, during disintegration of the Soviet Union on territory of former Azerbaijani Soviet Republic two states – the Republic of Azerbaijan and the Nagorno-Karabakh Republic (NKR) were established, both *de facto* and *de jure*. At the same time it is necessary to note that the legislative basis and the procedure of formation of the NKR appeared to be impeccable.

By the end of 1991 Azerbaijan launched a large-scale and brutal war against the sovereign NKR. By the summer of 1992 nearly half of the NKR territory was under the control of the Azerbaijani armed forces, as for the civil population of the occupied regions, it suffered either annihilation or ethnic cleansing.

In this respect a message from the chair of the CSCE (now OSCE) Minsk Group on NK, Mario Rafaelli, to CSCE chairman-in-office Josef Moravcik written in September 1992 is noteworthy:

“How can the Minsk Group indifferently continue the negotiations, whilst the subject of the negotiations (NK-author) is gradually disappearing? ...If Nagorno-Karabakh were again to fall under the control of [Azerbaijan] as a result of the offensive, what will remain of the subject of the negotiations?”²

At the expense of huge losses the people of Nagorno-Karabakh succeeded in not only defending the republic, repulsing the aggression, but also creating a security zone around it. The cease-fire that reached be-

² Archives of the NKR Foreign Ministry, MK-02, 1993.

tween Azerbaijan, Nagorno-Karabakh and Armenia in May 1994 has been in effect up to date.

The NKR citizens in the post-war period not only managed to defend their fundamental rights, but also substantially restore what was ruined by the hostilities, having achieved some success in the statehood building, social, economic and democratic development.

The war, which Azerbaijan unleashed against NKR, led to the death of tens of thousands of people and significantly damaged the economy of the region. As a result of the Azerbaijani armed aggression, hundreds of thousands of Armenians, Azerbaijanis and representatives of other ethnic groups became refugees or internally displaced persons.³

No matter how the core of the conflict would be interpreted, the undeniable fact is that the Republic of Azerbaijan is responsible for the blockade of Nagorno-Karabakh, armed attacks against the civil population, artillery and air bombardments of the towns and villages, occupation of a part of the NKR territory and ethnic cleansing of the population that lives there before the conflict and other committed war crimes. When the armed conflict had just started to escalate, against the indifference of international organizations, responsible for preservation of peace between peoples, the self-defence of the NKR was the only way to protect life and freedoms of the civil population of the country.

To overcome the blockade, prevent aggression and ensure the security of the population, the armed forces of the NKR had to establish control over the territories that the Azerbaijani troops used for military and hostile actions against NKR. The Republic of Azerbaijan, ignoring the norms of international law and demands of the UN Security Council, kept escalating the armed conflict. The joint efforts of the NKR, as the main party to the conflict, and the Republic of Armenia, as a party that was engaged into the conflict, forced the Republic of Azerbaijan to stop the aggression and sign the ceasefire agreement with NKR and Armenia in 1994.

³ Mayilian, M., "Reflections on Return and Its Alternatives in the Nagorno-Karabakh Republic-Azerbaijani Conflict", <http://theanalyticon.com/?p=87&lang=en>.

It is possible to state that along the whole history of their relations, Azerbaijan always, posed a real threat to the security of Karabakh Armenians. Ensuring NKR security and maintaining peace in the region remains a pressing task.

Any attempt to forecast the perspectives of the development of the political and legal processes in the Nagorno-Karabakh conflict zone can be successful if there is a clear picture of the regional and international parameters of the conflict situation. The characteristics of the potentials of all actors, engaged into the conflict, influencing the dynamic of the processes is extremely important in the given case. The regional parameters of the conflict situation have not been changed in the last 20 years, since the cease-fire agreement was achieved. What have significantly changed – is the military and political potentials of each party to the conflict. All this is just evidence that the notion of *status quo* has only relative meaning. As the world changes and not only the nature of the conflict, also the attitude toward the conflict is bound to change.⁴

The ascertainment of the regional and international parameters of the conflict situation, as well as the dynamic of the conflict situation related to Nagorno-Karabakh, can help the international actors concerned with the peaceful settlement of the conflict acquire not only a clear picture, but also recommendations for peace-making. A rational overview of the state of affairs and the denial of the existing biased conceptions of the entities and their inter-relations will also help.

The development of the conflict and establishment of the main parameters of the conflict situation was impacted by the following events and factors: the global centres of power ignored the new political and legal reality that emerged after the disintegration of the Soviet Union and selectively recognized the new state entities. The members of the European community declared in December 1991 that they were ready to recognize former Soviet republics “as soon as they guarantee the readiness to

⁴ Маилян, М и Саркисян, М., “Императивы пересмотра принципов мирного урегулирования нагорно-карабахского конфликта”, <http://theanalyticon.com/?p=682&lang=ru>.

fulfil the demands, stipulated in the document “On the criteria for recognition of the new states in the Eastern Europe and on the territory of the Soviet Union”, which was adopted by the Foreign Ministers of those countries on December 16, 1991. In particular, the ministers stressed that they would not recognize states created as a result of aggression. Even more, before Azerbaijan’s recognition, it already had unleashed aggression against the Nagorno-Karabakh autonomous region.

Azerbaijan ignored its responsibility for human rights violations committed against the Armenian population of the former Azerbaijani SSR, to deny the right for self-determination and development of the NKR people, to consider as legal the use of force against the NKR and occupation of its territory. Such a situation poses a serious obstacle on the way of the efforts made to settle the conflict under the OSCE aegis. That is why the established ceasefire is used by Azerbaijan for building up its military power, leading to the increased threat of the resumption of hostilities.

Actually, we have to admit that one of the stimulators of the military phase of the confrontation in 1992-1994 was the attitude of influential countries and organizations to the configuration of the state entities that emerged on the territory of the former USSR. The most important consequence of the decision made by the international community to recognize the independence of Azerbaijan and not the NKR independence was the Azerbaijani attempts to legalize its claims for Nagorno-Karabakh.

The subsequent developments showed that the decisive circumstance was Azerbaijan’s failure to use that chance to suppress NKR by force. The result of the war was the ethno-territorial division of the parties to the conflict. Armenia was engaged into the armed conflict, and to some extent Turkey and Russia: the conflict also got international parameters. As a result of the war, the NKR established borders with Armenia and Iran. International parameters were locked on the confrontation of interests of Turkey (member of NATO) and Russia (Armenia’s ally). The main specific feature of the conflict situation is the fact that there are no forces of any third country in the area of the conflict.

The phenomenon of competition for the mediator's role also impacted on the international relations concerning the conflict situation. From February to May 1992, Iran tried to mediate. When Armenia and Azerbaijan joined the CSCE, the international community created a diplomatic institute: the CSCE (now OSCE) Minsk Group to settle the conflict. In 1993 the UN Security Council (UNSC) adopted four resolutions related to the conflict. Based on the mentioned UNSC resolutions, the process of a compromise settlement of the conflict was launched. Russia and Turkey are among several other countries which became members of the Minsk Group. One can say that the Russian mediation started already in September 1991. Russia intensified its efforts from late 1993, thanks to which the unlimited cease-fire agreement was concluded on May 12, 1994, between Azerbaijan, NKR and Armenia. Afterwards, all attempts to settle the conflict by introducing changes exclusively into its regional parameters, at the same time preserving all international parameters, only displayed their lack of perspective.

In the past 20 years international mediators proposed many options to settle the conflict, but none such proposals have been accepted by all three parties. In 1997 the Minsk Group came, first with "step-by-step", and later with "package" proposals. In 1998 it presented a new peace plan for the conflicting parties to consider – one that promotes the notion of Nagorno-Karabakh and Azerbaijan existing in a "common state."

I would like to say that many elements of the alternative models of sovereignty mentioned in Topic Outline of our workshop, such as joint sovereignty, federative solutions, joint management were proposed by international mediators earlier.

Now the so-called "Madrid principles" are on the negotiating table, some elements of which were partly made public in the end of 2008. These approaches have been made up on the basis of an outdated methodology and do not reflect the contemporary realities of international law and well-known precedents in international relations. We mean the absolutely new situation which has started to emerge since the recognition of Kosovo under the patronage of the most Western countries and the subsequent recognition of Abkhazia and South Ossetia by Russia.

The lack of progress in the Karabakh conflict settlement has displayed the inadequacy of the currently available frameworks, in which the Minsk process is developing. Most of the proposals related to our problem miss or do not pay proper attention to such factor as the change in the spirit of the times. The attempts to ignore another factor, i.e. the Nagorno-Karabakh Republic or reduce it just to the Nagorno-Karabakh problem in order to achieve compliance with the outdated frameworks of the previous epoch are obviously mistaken. It resembles the attempt when the social and political reality are being complied some theoretical discourse or a concept, but not vice versa. In the reality of the 21st century, discussion of any aspect of the Nagorno-Karabakh issue without a direct and active participation of the representatives of the NKR, as a party to the conflict, is doomed in advance. Without the perception of the fact of the changed times, the realities of the 21st century, the inadequacy of the frames, in which the Minsk process is developing, and the necessity of elaborating some new approaches to the Karabakh settlement, the hopes for a positive dynamics are fruitless.⁵

Generally, strategies of isolation have not succeeded in reintegrating unrecognized or partly recognized states in the South Caucasus; these strategies have advanced their integration with outside parties and reinforced hard-line positions within their societies. More generally, isolation embeds inaccurate perceptions on each side, hardens hostile stereotypes sustaining conflict, and contributes to uninformed and ineffective policy by international actors.

Implementation of the “engagement without recognition” policy, elaborated by the EU, could change the situation.⁶ The approach of engagement without recognition, as outlined in the 48th point of the European Parliament resolution of 7 April 2011, holds out many positive opportu-

⁵ Арзуманян, Р., “О необходимости нового фрейма для нагорно-карабахской проблемы” <http://commonspace.eu/rus/news/6/id1149>.

⁶ Mayilian, M., “Recognized and unrecognized states: the formula of interrelations” <http://theanalyticon.com/?p=1489&lang=en>.

nities to counter the harmful effects of isolation.⁷ Engagement without recognition would allow for the EU to have a gently integrating influence in the spheres of civil society development and political cultures across societies in Armenia, Azerbaijan and Nagorno-Karabakh.⁸

During the last two years talks have remains stalled. The formal explanation was the electoral period of the mediating countries and the parties to the conflict. (In 2012, presidential elections took place in Russia and France, and parliamentary elections took place in Armenia. Presidential elections took place in NKR in the summer of 2012 and in the United States in the autumn of the same year, and presidential elections took place in Armenia and Azerbaijan in 2013.) Now, after all elections, the OSCE Minsk Group Co-Chairs intend to organize a meeting between the Armenian and Azerbaijani presidents. This is a hopeful development.

In recent years the peace process was marred by numerous violations of the ceasefire regime, causing military losses. The official Baku was guided by the formula: “Peace under Azerbaijani conditions or war.”

The continuation of the sniper war and Azerbaijan’s evasion from elaboration of an international mechanism for observation and control of the ceasefire regime are derivatives of the above-mentioned Azerbaijani formula. Appeals by the UN Secretary general, by the Chairman-in-Office of the OSCE and other international figures to withdraw the snipers from the frontline have been heard and implemented in case if Azerbaijan gives up its war blackmailing policy or war diplomacy. Armenia and NKR have already declared that they are ready to pull back the snipers, but the Armenian states are unable to take such a step unilaterally. In the current situation, while Azerbaijan openly prepares for war, denies the fundamental right of citizens of the NKR and the right of Nagorno-

⁷ European Parliament Resolution of 7 April 2011 on the Review of the European Neighbourhood Policy-Eastern Dimension, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2011-0153&language=EN>.

⁸ Beyond Exclusion: Rethinking Approaches to Status in the Nagorny Karabakh Peace Process http://www.c-r.org/sites/c-r.org/files/Status_Discussion_Paper_Web_English.pdf.

Karabakh Republic to exist, the priority objectives are now the prevention of a new regional war and consolidation of the ceasefire regime.⁹

Various scenarios of developments are possible in the near future. One is the preservation of the *status quo*. Unlike in other conflicts, there are no international peace-keeping forces in our region, so the ceasefire regime is based on the balance of forces of the parties. Azerbaijan purchases huge amounts of arms and makes other attempts to shift the established military balance in its favour.

It is necessary to note that maintaining the balance means maintaining stability, and if one of the parties is trying to break that balance, the other parties to the conflict should get an adequate political, military and technical assistance from those states which are really concerned with the regional stability. Russia, USA and European countries, with different motivations, have stated many times that the peaceful solution of the Karabakh conflict has no alternative.

Another scenario: the resumption of war by Azerbaijan. It is an obvious fact that the threat to peace and regional stability comes from Baku. We have to stress that it is not the possibility of the conflict is the source of the threat to the regional security, but the specific policy of the Azerbaijani leadership.

A military outcome can be prevented by the international recognition of NKR's independence. As the contemporary international experience shows it, the international recognitions of the new states is the most effective mechanism for the long-term stability in the conflict zones. In addition, the international recognition of the NKR and its invitation under one of the effective "security umbrellas" will change the international parameters of the settlement and create new equal conditions for all parties to the conflict. Here it is important that the OSCE member states change their attitude toward the rights and obligations of the par-

⁹ Mayilian, M., "Ways to Karabakh peace and what West can do"
<http://www.reporter.am/go/article/2011-06-20-ways-to-karabakh-peace-and-what-west-can-do>.

ties to the conflict. In this case Azerbaijan, NKR and Armenia will be able to reconcile other disputes.

Another resource, capable to stimulate transformation of the conflict relations is the scope of international integration processes. With an insignificant exception, in the South Caucasus, there are no efficient mechanisms to control or limit the main types of conventional arms. The accumulation of huge amounts of arms and armament in our region makes the problems of arms control and arms reduction more pressing.

Recommendation for transformation of the conflict and regional cooperation

To the national authorities:

- Not to exploit the Karabakh conflict in domestic politics;
- Give up the militarist rhetoric and tying up the issue of the conflict with other regional and international problems;
- Develop economic and cultural cooperation despite the fact that the conflict has not been settled.

To the regional elite:

- Stop duplicating official positions of the parties to the conflict during the contacts on the level of societies and elaborate alternative approaches to reconciliation of the societies;
- Prioritize human rights, not using the ethno-political argumentation in discussions.

To international actors:

- Pay particular attention to belligerent rhetoric. As long as the propaganda war continues, there are no serious prospects of a political settlement;

- Take serious steps to involve the societies of the conflicting sides in the process of conflict resolution. However, mediators generally avoid contact with the societies and restrict themselves to meetings at administration level;
- Peacebuilding would have greater potential if the European agencies had a well-defined position and strategy in relation to the non-recognized countries, particularly Nagorno-Karabakh. This would facilitate the inclusion of these communities into the orbit of European integration;¹⁰
- Stop ignoring the rights of the peoples and societies of the parties to the conflict for the sake of regional interests of their own countries or international organizations;
- Solve the issue of NKR international recognition. Supporters of positive change of the existing *status quo* should prefer this scenario if they want peace sincerely.

Peace resources

Regional resources

- An important regional resource is the realization of humanitarian confidence building measures and participation of the parties in the joint regional projects.
- Economic projects can be regional energy and communication projects. The selection of short, economically profitable routes to Europe via Azerbaijan, NKR and Armenia, will create economic inter-dependence and reduce war risks.

¹⁰ International Alert, Advancing the Prospects for Peace: 20 Years of Civil Peacebuilding in the Context of the Nagorny Karabakh Conflict, http://www.international-alert.org/sites/default/files/publications/NagornyKarabakh_CivilPeacebuilding20Years_EN_2013.pdf.

- The even development of democracy and civil society in all three parties to the conflict is of great importance, as far as the lack of balance in the development can become a new challenge, even if the current conflict is settled. According to democratic peace theory, “democracies don’t go to war with each other, instead they settle issues peacefully.” This means that democracy has geopolitical aspects as well.

International resources

- Encourage democratization within the societies;
- Engage Nagorno-Karabakh into the EU projects;
- Stimulate official peaceful talks and peace-building initiatives at civil-society level;
- Unequivocal and credible warnings that strict sanctions will be imposed on the party that violates the ceasefire regime;
- Arms control.

NKR has already many times displayed its intention and willingness to cooperate in security issues, demonstrated openness and put forward a number of initiatives to consolidate the ceasefire regime.

The situation in our region, where land borders are closed, where there are no diplomatic relations between some countries, where suspicion has been created and the threat of hostilities exists, cannot be considered as normal. That is why the parties engaged into the process and the non-regional actors should act cautiously, taking steps advantageous for all parties and provide guarantees that the tension will not escalate into violence once again.

In conclusion, I would like to stress that all signals from Karabakh that the peaceful solution is preferable than war, should not be treated as a

sign of weakness or fear that military action would resume. In case of a new aggression against Nagorno-Karabakh, the NKR regular armed forces (which are under civil control) will undoubtedly prove their unshakable status as the main guarantor of security of Nagorno-Karabakh and its citizens. A peace-loving policy is a sign of responsibility before its own people and the peoples of the region, it is not weakness.

Re-engaging Armenia and Azerbaijan in Reconciliation Process: Prospects and Incentives for Nagorno-Karabakh Breakthrough

*Elkhan Nuriyev*¹

Obviously, history is replete with conflicts over territorial jurisdiction. The twentieth century had been notable in several ways with regard to the concept of national sovereignty, and its offspring, the *nation state*. As British political theorist David Held has pointed out,

“the operation of states in an ever more complex international system both limits their autonomy... and impinges increasingly on their sovereignty. Sovereignty... is divided among a number of agencies – national, regional, and international – and limited by the very nature of this plurality.”²

Indeed, there are many external forces that challenge established models and practices of state sovereignty. More precisely, these include modern-day globalization and internationalization processes, the very worst elements of nationalism and extremism, and intolerance, the rise of ethnic separatism, and the resurgence of ethnic animosities. This is especially true for the South Caucasus that appears littered with either non-functioning “states,” or “states” that exist *de facto* but not *de jure*. These present a significant challenge to the international order and interplay of the rules of world diplomacy among traditionally defined nations and also threaten to create explosive tensions among interested parties.

In practice, globalization processes and the weakening of traditional sovereignty, as well as ethnic tension and cultural resurgence are the critical factors affecting state sovereignty in the twenty-first century. Evidently, the South Caucasus, one of the most ethnically and culturally diverse regions in the world, continues to be affected by the tide of national revival manifesting itself in demands for secession from recog-

¹ Dr Elkhan Nuriyev is a Counsellor and International Advisory Board Member at the Caucasus Institute for Democratic Integration in Tbilisi, Georgia.

² Held, David, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance*, Stanford University Press, 1995, 264.

nized countries, claims for autonomy, and actions aimed at establishing new political divisions. Throughout the region these competing claims have caused the eruption of armed conflicts in Nagorno-Karabakh, Abkhazia and South Ossetia, which are the by-products of the creation of spurious statehood as a result of the precipitate ending of the Soviet Union. These breakaway regions are becoming increasingly vulnerable to forces outside their control, resulting in their being manipulated by international business actors, being open to transnational crime such as flows of illegal flight capital and money laundering, and increasingly out-manoeuvred by powerful countries and aid agencies.

Certainly, the problem with the secessionist provinces is that their cause, especially in the largely unresolved political space in which they find themselves, has the potential to draw much wider forces into these conflicts. The aforementioned theory can particularly be applied to the Nagorno-Karabakh conflict, which spanned the end of the Soviet Union and was a symptom of its demise. The Armenian-Azerbaijani territorial dispute, which has already been around for almost twenty five years, is somehow proof that the dissolution of the Soviet Union is still going on. Regional leaders have changed over this long period, but their political rhetoric has been altered only very little, preferring a psychological *status quo* to any change that may undermine the basis of their power. Even though the self-proclaimed Nagorno-Karabakh Republic is recognized by no one, the secessionist regime continues to exist in the unacknowledged condition. While Azerbaijan claims Nagorno-Karabakh as part of its sovereign territory and insists on withdrawal of Armenian forces from the occupied territories, Armenia has responded by granting independence to the Armenian-majority breakaway region.

Unfulfilled expectations and current reality

Over the last twenty years intense international diplomatic activity aiming at resolving the Armenian-Azerbaijani conflict over Nagorno-Karabakh has failed to achieve a breakthrough despite numerous meetings between the leaders of the two countries. In other words, the past two decades of the officially designated mediation led by the Minsk Group of the Organization on Security and Cooperation in Europe

(OSCE) have brought few tangible results other than maintaining the *status quo* and preventing renewed hostilities. Since a shaky ceasefire in 1994 the situation on the front lines has not changed dramatically. There are a number of casualties each year as a result of frequent shootouts on the Line of Contact and the Armenian-Azerbaijani border. For this reason, Nagorno-Karabakh conflict certainly cannot be considered a *frozen conflict*. Rather, only the solution is actually frozen.

Still, the main difficulty which impedes conflict settlement in Nagorno-Karabakh is the failure of the elite in general and of leadership in particular, to develop and implement exit strategies from the protracted conflict. This problem is twofold; first, there is the trap of twentieth century nationalism – the elites are caught in outdated concepts of ethnocentrism (particularly self-determination within small states) which are failing their peoples and their societies. Second, there is the inability of local political leaderships to provide for economic development and global integration.

In point of fact, the most intensive phase of the negotiation process was largely seen in the period 2008-11, when both sides came close to agreeing a road-map that would see them gradually moving forward with a lasting solution. It is widely believed that the solution is to be found in the so-called Madrid Document containing Basic Principles for a conflict settlement in Nagorno-Karabakh. Since this peace proposal was presented by Russia, the United States (US) and France in Madrid in November 2007 and then updated in 2009, the conflict parties have been arguing that there are only a few obstacles to be overcome in the media-

tion process before a peace agreement can be signed.³ Yet once a solution was in sight, Baku and Yerevan started asking for more clarifications.

As a result, peace talks stalled in 2011, accelerating an arms race and intensifying strident rhetoric. It became clear that distance between the sides in the conflict was still very substantial. This means that there is arguably a tension between the principle of self-determination for Nagorno-Karabakh and the principle of territorial integrity of Azerbaijan. Both sides are in effect facing a tough challenge to find a balance between the various principles being discussed with the support of the Minsk Group mediators.

The current political reality, nevertheless, is that Armenian-Azerbaijani conflict is deadlocked and a promising momentum towards reaching a peaceful solution has been lost. A great deal of political will is required for the parties to be able to make the necessary concessions to achieve a lasting settlement. The absence of public debate on the substance of the negotiations risks fuelling rumours on both sides. The Minsk Group co-chairmen have on numerous occasions called upon the presidents of Armenia and Azerbaijan to do more to prepare their publics for the necessity of compromise. Baku and Yerevan accept that consensus is a necessary part of the Karabakh conflict resolution process. But public transparency will certainly be needed when the populations are asked to accept the results of the final negotiations. The leaderships in both Baku and Yerevan will have to convince their populations of this, in order to

³ The Madrid Document includes a set of Basic Principles which was presented to Armenia and Azerbaijan by the Minsk Group co-chairs during the OSCE Meeting in Madrid in 2007. The principles have since been fine-tuned in line with discussions held with the conflict parties. They aim to provide the sides with a framework within which they can then start negotiating a peace deal. They provide for a phased withdrawal of Armenian forces from Azerbaijani territory around Nagorno-Karabakh which they occupied during the conflict, opening up of communications, demining and demilitarization, the right of all internally displaced persons and refugees to return to their former places of residence, after which it is envisaged to deploy a peacekeeping force and the granting of an interim status to the territory. For details, see Statement by the OSCE Minsk Group Co-Chair Countries, July 10, 2009, available on the OSCE website at www.osce.org/mg/51152.

obtain the necessary support for the implementation of the measures to be undertaken.

So far, a key obstacle to progress, however, is the lack of trust between the leaders and the entrenched zero-sum mentality. They fear that a compromise solution could be depicted by domestic opponents as a defeat. There is merely the difficulty of developing a peace-favouring consensus, because the ruling elites on both sides have an interest in maintaining the *status quo*. A shift in thinking under the incumbent leadership is hence unlikely to happen soon.

Yet another impediment is the absence of a peace support movement, mainly due to the lack of a wider public participation in the democratic process. For this reason, the present stalemate exists not only because a solution cannot be found, but because established narratives, thought patterns and distrust have been deliberately nurtured, largely owing to the intentional, state-sanctioned demonization of the opposite side. It is therefore regrettable that current political reality is more likely to be a deepening of the Nagorno-Karabakh crisis.

Achievements and shortcomings of the OSCE Minsk Group

Generally, the OSCE is an international, neutral and major security organization regulating crisis situations since the end of the Cold War in 1989. In the contemporary period, the main advantages of the OSCE are considered to comprise the ability to deal with armed conflicts in Europe⁴ and to seek ways to peacefully resolve territorial disputes in particular in the post-Soviet space. Due to the impartiality, reputation and confidence in the OSCE, both Armenia and Azerbaijan regard the Minsk Group as the necessary and useful platform for peace talks over Nagorno-Karabakh conflict.⁵ Despite the ongoing impasse in the peace process, including the fragile situation of “no war, yet no peace,” the two

⁴ For more information on the vital role of the OSCE in ensuring European security, see P. Terrence Hopmann, “Managing Conflict in Post-Cold War Eurasia: The Role of the OSCE in Europe’s Security ‘Architecture,’” *International Politics*, Volume 40, Number 1, March 2003, 75-100.

⁵ *TurkishWeekly.Net*, June 22, 2010 and August 20, 2010.

sides continue to perceive the Minsk Group format as the only effective tool in solving the protracted conflict. Likewise, the OSCE member states in recent years have provided unconditional support to the efforts of the Minsk Group to direct negotiations in a constructive dialogue.

Moreover, special mention should be made of two important achievements of the Minsk Group. First, the very fact that no renewal of hostilities has taken place between Armenia and Azerbaijan over the last two decades is largely thanks to the active diplomatic efforts of the Minsk Group co-chairmen. Individual mediators representing the Minsk Group's three principal powers have been successful in establishing a mechanism to monitor the ceasefire along the Line of Contact, which has helped to decrease the number of casualties and fatalities on the front lines. Second, the co-chairmen have developed a workable peace proposal containing a set of the so-called 'Basic Principles' – a framework document, which has been under discussion with the conflict parties during the past five years. There were times when the intermediaries expressed optimism that Armenia and Azerbaijan were close to a possible solution, but it never happened. Yet the Minsk Group has managed to keep the two sides at the negotiating table, even in times of tension, though the situation in the conflict zone has become more difficult in the last two years.

Nonetheless, a close look at the state of affairs that has developed around the peace process provides an insight as to why the Minsk Group has failed to settle the conflict during the last twenty years. In actual fact, the diplomatic efforts of the mediators imply actions aimed at achieving "negative" peace: preventing, stopping, or not permitting a renewal of hostilities in the conflict zone. The intermediaries, acting in the name of their states, right from the outset, strove for "negative" peace, thus going for a standoff, which presumes there should be a winner or a loser.⁶ Instead of trying to eliminate the contradictions between the conflict parties, the mediating states are more frequently engaged in

⁶ Elkhan Nuriyev, "OSCE Minsk Group in Crisis: A New Look at Nagorno-Karabakh Impasse" International Strategic Research Organization, May 6, 2011, Ankara, 2-6.

sorting out their own relations in the geopolitical competition for influence in the entire South Caucasus region. In this respect, it is worth noting that the Minsk Group is not an independent institution because the actions of the mediators are sanctioned and carried out by the co-chairing states – Russia, France and the US. Essentially, since its foundation, the Minsk Group has become a platform on which political games are performed, which do not have any direct relation to Nagorno-Karabakh, but are related more to the current geopolitical situation in the Caucasus and Caspian Sea region.

By participating in the Karabakh peace process, the US hopes to expand the sphere of its political, economic, and, perhaps, military influence in the region. In turn, Russia, as always, wants to retain and strengthen its hegemony as one of the main regional players. France, on the hand, supported by the European Union (EU), tries to say, by its presence in the Minsk Group, that some kind of European intercession is required to resolve the major economic problems in the region. Each of these actors has its own conception of the system of national priorities and interests. Consequently, it is the co-chairing states, by directly forming the Minsk Group and trying to implement their own geopolitical tasks and goals, which determine the specific political solution to a particular question. And so the clash of strategic interests among Russia, the US, the EU, and North Atlantic Treaty Organization (NATO), in addition to regional controversies between Iran and Turkey, has led to the formation of such a complicated and multifaceted situation that the negotiation process surrounding Nagorno-Karabakh found itself in one great geopolitical impasse. As usual, it is advantageous for external actors to use international organizations, in this case the OSCE Minsk Group, since such joint measures lend to a distribution of overall responsibility, and do not make one state responsible for intercession, even if this state happens to be undertaking positive and effective measures.

However, there is also “positive” peace which implies eliminating the internal and structural reasons and conditions arousing a violent conflict, toward the curtailment of which “negative” peace processes are aimed.⁷

⁷ Ibid.

So far, the Minsk Group is doing little to achieve this kind of peace. No one has the intention of belittling the role of the mediators and reducing their efforts to naught. No one also denies the fact that the Minsk Group co-chairmen have made rather persistent attempt to resolve the conflict. But if Armenia and Azerbaijan are unable to reach “positive” peace under the auspices of the Minsk Group in the near future, “negative” peace will easily collapse and one way or another will lead to renewed hostilities it was aimed against. This process could go on forever, which is confirmed by the current impasse around Nagorno-Karabakh, where a fragile “negative” peace has been kept up for more than twenty years now.

In accordance with international practice, the results of crisis management largely depend on the efforts and standpoint of the mediators, on their own interests, and on the methods they use to prevent an escalation in the intractable conflict and its extremely negative consequences. There are at least two important circumstances that the Minsk Group should take into account in the current situation. First, it is the reaction which could be aroused by unsuccessful mediation efforts both in the direct participants in the conflict, and in the main external players showing a particular geopolitical and geo-economic interest in the development of the entire region. Second, these are the tenacious mores, mentality and culture motivating the conduct of the people in the conflict situation, not to mention the expediency of reckoning with the realistic possibilities, the specific situation, and public opinion.

Russian influence and other key international actors

In reality, external powers have always held a special place in the conflict settlement process. It is widely believed that there are external strategic concerns behind the Nagorno-Karabakh crisis. Clearly, an influential group of principal powers (in which Russia, the US and the EU dominate) plays a key role in the OSCE when it comes to the issue of conflict resolution. In recent years Russia has taken a proactive stance in the Armenian-Azerbaijani peace process, thus trying to convince the West that the Kremlin has quite a big potential to impose a diplomatic solution on the parties, or at least to be a credible mediator. Indeed Mos-

cow has succeeded in strengthening ties with both Yerevan and Baku, with the West progressively losing ground to increasing Russian economic, military and political advancement in the region, as reflected in Russia's military agreement with Armenia and growing energy ties with Azerbaijan. Moscow is trying to create a new balance of relations in the Armenia-Russia-Azerbaijan triangle, and all the latest diplomatic steps by the Kremlin have been aimed at maintaining a geopolitical equilibrium in the conflict-torn region. By doing so, Russia has enhanced its position in the South Caucasus.

Russia's successful foreign policy in the region also results from the failure of other international players, or at least the systemized weakening of their stances. The Obama administration's short-sighted policy has seriously weakened US strategic objectives in the South Caucasus. Washington's failure to craft any coherent vision as to how the region fits into broader US strategy has allowed America's role to be increasingly defined through the prism of Russia. The lack of a meaningful US response to the challenge presented by the protracted conflict in Nagorno-Karabakh not only highlights the low level of US engagement in this troubled region but also renders questionable America's ability to be an effective player in the OSCE Minsk Group.

Likewise, the EU lacks a visionary and principled approach in its policy toward resolving the conflict. Brussels has practically no role in the conflict settlement and therefore does not have the necessary tools to intervene in the peace process, offering only confidence-building activities. Such a situation strongly limits the influence of the EU in the region and dramatically hinders Brussels' capacity to formulate meaningful policy to deal with simmering secessionist conflicts. The resulting lack of a common and integrated strategy may lead in the near future to a withdrawal of the West from the South Caucasus and the loss of ground to Russia's more assertive foreign policy.

Consequently, Russia is seen as essentially having a monopoly over the peacemaking process between Armenia and Azerbaijan, a role which the OSCE has effectively forsaken. By orchestrating the negotiations, the Kremlin seeks to enhance Russia's "sphere of influence" and to cause

Euro-Atlantic security arrangements in the region to disintegrate. The failure of the OSCE not only shows the EU member states to be effectively lacking the ability to speak in the face of the South Caucasus crisis, but also demonstrates their inability to build international support around interests in competition with Russian ones.

On the other hand, Moscow's mediating mission has given rise to intensive speculation as to whether Russia is presently interested in a definitive solution to the Nagorno-Karabakh conflict. More precisely, the question that needs to be answered is: does Russia want a quick resolution of the conflict? It is very unlikely that Russian-led peace talks will effectively solve the crisis in the near future. Instead it is likely that Moscow will exploit the peace process to gain more economic, military and political power. In order to bring about a progressive shift of the region into its own orbit of influence, Russia needs only to keep things as they are in the South Caucasus. Given these circumstances, Russia is simply interested in "managing instability" in the region.

Nevertheless, Russia's role in finding an ultimate solution to the Nagorno-Karabakh crisis is very critical. Without doubt, Moscow's blessing will be a necessary precondition for any peace agreement because the Kremlin holds the key to the Armenian-Azerbaijani quandary. Russia does have a golden opportunity for ending this protracted territorial conflict and helping reconcile the two nations. Russia is not only the Minsk Group's co-chairing state, but also has major strategic interests in the region and supplies arms to both sides of the conflict. Russia is highly influential on all aspects of the conflict and Moscow could act more decisively to assist Baku and Yerevan in achieving a breakthrough agreement. Most particularly, the Kremlin could advance this by announcing a suspension of arms supplies to the conflicting parties. What is interesting in this context is that some Russian observers believe the most important factor for the Karabakh peace process is whether Baku and Yerevan are willing to listen to Moscow and follow the Kremlin-established rules, mainly indicating that the moment has not yet come for the two sides to take a decisive step towards a final solution.⁸

⁸ This point was made to the author by a high-ranking Russian official who requested anonymity, Moscow, October 2009.

However, Moscow seems to await a suitable period of time and favourable circumstances before putting Russia's weight behind the conflict resolution process: when a new, beneficial geopolitical situation that fits fully well into Russian strategic interests is finally formed in the post-Soviet Southern Tier. Until this happens, Russia, in the near term, appears to prefer "managed instability" to a breakthrough, or simply, a frozen solution to a lasting peace. In turn, the US and the EU calmly watch how Russian economic, military and political influence looms in the shadow of the Nagorno-Karabakh peace process.

In quest for an optimal governance model

At present, there is much talk about renewal of hostilities in the conflict zone. Moscow, Washington and Brussels all have called on Baku and Yerevan to search for peaceful solution to the long-lasting dispute. True, the regional powers such as Russia, Iran, Turkey, as well as the EU and the US, however, have done little to curb competition for influence and ameliorate conditions in the area. The parties involved in the conflict resolution process are still pursuing a geopolitical zero-sum game which cannot end in durable peace and stability. It is widely believed that the societies of both Armenia and Azerbaijan are tired of the conflict and do not see a way for an outright victory. In the coming years, a big challenge for Armenia and Azerbaijan will therefore be to resolve the conflict and to move on to economic integration. Cooperation in meeting this challenge must have national, regional, and broader international dimensions. It should focus on defusing the conflict and, if this is successful, on importing international legal and business models which may make the area attractive for inflow of capital. The alternative is depressing to contemplate: a renewal of hostilities, economic decline, and more conflict in the region.

Meanwhile, Azerbaijani authorities have repeatedly emphasized that they are ready to provide Nagorno-Karabakh with the highest degree of autonomy. While facing with secessionist conflict, the Azerbaijani leadership has displayed greater interest in autonomy problems worldwide. During recent years some European politicians and researchers have proposed different governance models for resolving the Nagorno-

Karabakh conflict. These are mainly the world's avowed autonomy exemplars that exist in Europe itself – for instance, South Tyrol in Italy, Russia's Tatarstan, and Finland's Aland Islands. Certainly, parallels may be drawn between the statuses of these functioning autonomous regions and Nagorno-Karabakh. Each of these examples might serve as a model for the Armenian-majority breakaway territory of Azerbaijan. It is, however, evident that the status to be eventually given to Nagorno-Karabakh cannot be higher than the one having been granted to autonomies worldwide.

Clearly, Italy's South Tyrol⁹ has especially been showcased as a model of shared sovereignty with the potential of being 'exported' to other parts of the world, including the post-Soviet territory. Indeed, the case study in South Tyrol illustrates some similarities with Nagorno-Karabakh and points to wider autonomy that needs no referendum.¹⁰ Following the official end of the Austro-Italian dispute over the autonomy issue in 1992,¹¹ both parties (German and Italian speakers) at present reside in one and the same political, economic and cultural expanse. Despite objective difficulties arising from Armenian-Azerbaijani co-

⁹ For detailed information on South Tyrol's autonomy and self-government status, see Danspeckgruber, Wolfgang F., *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World*, Lynne Rienner Publishers, 2002, 193.

¹⁰ Like Nagorno-Karabakh, South Tyrol consists of two communities. During the Austro-Italian dispute, the secessionist movement in South Tyrol was at first supported by Austria. The same is true for the Nagorno-Karabakh separatism backed by Armenia. Moreover, Austria initially demanded that South Tyrol be separated from Italy that sustained defeat in the war. It is just similar to Armenia that allegedly gained victory over Azerbaijan during the hostilities in 1992-94 war and demanded that "independence" of Nagorno-Karabakh be recognized by the international community. However, the stage-by-stage principle was applied in South Tyrol to resolve the problem and both parties agreed to grant broader autonomy to the region; whereas Armenia still hopes for a referendum in order to settle the Karabakh conflict.

¹¹ Both parties in South Tyrol seemed to realize that the region's independence would lead to the intractable conflict. For that reason, they rejected prospective dangers and simply habituated themselves to the idea that neither winners, nor losers would be in the dispute. See Steininger, R., *South Tyrol: A Minority Conflict of the Twentieth Century*, Transaction Publishers, 2003, 2.

existence in Nagorno-Karabakh, there are no serious obstacles for the two communities to peacefully live together in the autonomous region. Besides, a functioning mechanism used in South Tyrol – 90 percent of taxes levied are kept in the region in addition to funds received from the Italian budget, may also be well applied in Nagorno-Karabakh.

In addition, when it comes to discussing the Karabakh conflict resolution process, a special emphasis is occasionally laid on Tatarstan model. In effect, Tatarstan, rich in energy resources, enjoys wider economic independence in the Russian Federation. The very fact that Tatarstan keeps for its own needs a greater part of profits plays a significant role in the economic development of the republic. In actual fact, the status granted to Nagorno-Karabakh, similar to Tatarstan, implies independent economic policy, concluding of economic deals with foreign partners, as well as opening of enterprises ‘ branches abroad, formation of local governmental institutions and bringing local laws into conformity with Azerbaijani legislation. All these issues mean that local power disposes of much administrative authority. But unlike Tatarstan, which feels no need for outside financial aid, large-scale funds may be allocated from the Azerbaijani budget to find its similarity in the final status of the breakaway region.

Likewise, an alternative governance model for Nagorno-Karabakh is the Aland Islands pertaining to Finland and populated by Swedes. The Aland Islands’ status of autonomy¹² seems to be the most optimal solution and suitable for addressing the demands of Nagorno-Karabakh for self-governance and Azerbaijan’s precondition on preserving the country’s internationally recognized territorial integrity. In fact, one could see the surprising similarities in the histories and the conflict resolution processes of the Aland Islands and Nagorno-Karabakh. Therefore, it is no mere coincidence that some Western politicians in recent years have regarded the status of Azerbaijan’s breakaway region as consistent with the Aland Islands model. In 2005, the OSCE Parliamentary Assembly

¹² For an interesting and in-depth analysis on the structure of this model, see Barros, J., *The Aland Islands Question: Its Settlement by the League of Nations*, New Haven CT: Yale University Press, 1968.

Special Envoy on Nagorno-Karabakh Goran Lenmaker put forward an idea that the Aland Islands autonomy model could be useful in resolving the issue of political status of Nagorno-Karabakh,¹³ thereby disarming the region and delivering ultimate peace to both countries.

The Aland Islands model itself has been widely discussed in the Armenian and Azerbaijani societies. What is more important, previously it could have been supported by the population of both countries had the international mediators really examined it by undertaking proactive steps and offering more incentives to the conflict parties. It is also noteworthy that the nature of the power-sharing structure within the Aland Islands autonomy model could result in a preferred and mutually acceptable solution. This model, with some modifications,¹⁴ could indeed constitute a stable conflict settlement, as well as put an end to a gradually increasing threat of renewal of hostilities and allow the Armenian and Azerbaijani communities to co-exist peacefully in Nagorno-Karabakh region.

Time for reconciliation: Promoting mutual understanding through strategies for avoiding social prejudice and aversion

Discussions on mutual economic gains could help reshape mindsets which, at present, get in the way of tackling the most serious disagreements. It is strongly believed that such a discourse has the potential of building confidence and fostering mutual understanding between the parties. The initiation of a comprehensive dialogue on post-conflict scenarios involving joint economic, trade, energy and infrastructure projects among interested businesses and experts would be a step in the right direction and would also provide additional tools for the ongoing work of the OSCE Minsk Group. Thinking strategically about the future of Nagorno-Karabakh and focusing specifically on post-conflict scenarios, economic incentives could better work in case Armenia and Azerbaijan

¹³ Media Forum, News Line Report No. 28, July 11, 2005.

¹⁴ Constitutional amendments could be made in the Aland Islands model to provide necessary conditions for Armenian and Azerbaijani communities to co-exist peacefully in Nagorno-Karabakh. For example, it is vital to detail a mechanism of the Azerbaijani community's participation in the formation of the local parliament, government structures and political life of Nagorno-Karabakh region.

would establish a new state-funded institution, say, a Ministry for Reconciliation Affairs, with special responsibility for producing Karabakh peace process road map and with more productive activities of the Minsk Group in both countries. This in effect could be a concrete step in the framework of the newfound pragmatism. Such a situation may actually re-open the door to the possibility of new relations not only between Baku and Yerevan but also especially between Armenian and Azerbaijani communities in Nagorno-Karabakh.

Essentially, this is about a new concept of relations, which respects territorial integrity of both countries and ensures Nagorno-Karabakh development and safety. The idea of establishing a free economic zone in Nagorno-Karabakh could well emerge in future discussions between Baku and Yerevan and between Armenian and Azerbaijani communities of Nagorno-Karabakh. Azerbaijan, Armenia, and other international partners could invest large sums of money into the area which would be opened up so that the whole region might benefit from trade, economic relations and new transport routes. In future scenarios, one might imagine the concept of a Special Economic Zone (SEZ)¹⁵ becoming an essential element of the reconciliation plan for both parties working on such demanding project together under international auspices.

However, in order for any reconciliation to take place, both sides will need to demonstrate their political will and genuine desire to successfully rehabilitate the image of the two communities of Nagorno-Karabakh towards one another. In particular, intellectuals and scholars can make a valuable contribution to the process of confidence-building and reconciliation between Armenians and Azerbaijanis. A variety of new international programs should be developed to provide both parties with options for economic, commercial, scientific interaction and trust-

¹⁵ As a rule, a Special Economic Zone (SEZ) can be set up in a geographical region that is designed to export goods and provide employment. In the post-conflict scenario, SEZ may be well applied to Nagorno-Karabakh with the purpose of triggering a large flow of foreign and domestic investments in the region's infrastructure and productive capacity, leading to creation of wider economic activity and providing a competitive and free environment for export, trade and employment opportunities.

building through regional intercultural cooperation. These measures can take the form of educational and academic exchanges and also involve intra-national (Armenian-to-Armenian and Azerbaijani-to-Azerbaijani) and intraregional contacts aimed at redefining the conflict.

In other words, new initiatives should be designed to encourage young scholars and civil society activists to investigate creative ideas, fresh approaches and ways of generating mutual understanding, trust and confidence. These include specific programs that highlight the role of intellectuals in overcoming stereotypes and devising innovative approaches to reconciliation and peace that incorporate experiences from history and convey them to the younger generation. These programs could lead to changes in participants' vocabulary, concepts, perceptions, and provide greater understanding and instil empathy across these groups.

In this context, civil society actors seem to be most suitable to assist in establishing a common public space where compromise, common agreement, future co-existence and sustainable peace might be possible. Hence, civil society groups are critical to the success of efforts to restore security in the conflict-torn Nagorno-Karabakh and to create conditions for the development of a wider reconciliation process among and within both societies. Their understanding of local people's needs, the causes of conflict and local political dynamics means they are more able to exert influence and bring about long-term change.

Last but not least, the nature of the political process will also alter in one way or another if the agendas of the national leaderships change from the pursuit of politico-military goals to the pursuit of economic ones. After the political priorities are changed from warfare to economic development and global integration, business opportunities in agriculture, industry, and services will follow. After all, historically Armenia and Azerbaijan are nations which excel in trade, commerce and networking.

Conclusion

Beyond doubt, a Nagorno-Karabakh breakthrough is an essentially intractable issue in the Armenian-Azerbaijani peace process. Until now,

the good intentions expressed in the official documents of the OSCE summits have not been implemented and still remain on paper for many reasons including the sides' refusal to cooperate, the conflict resolution's objectively complex nature, etc. The main factor, however, is the OSCE Minsk Group's inability to put forward an efficient mechanism of ensuring peaceful co-existence of the two communities in Nagorno-Karabakh. Despite the failure of diplomatic efforts to bring the parties closer to a breakthrough agreement, the conflict settlement remains high on the agenda of the Minsk Group mediators, who are using all the resources at their disposal in their engagement in the negotiation process. Armenia and Azerbaijan will have to continue painstaking talks designed to stymie confrontation and achieve a comprehensive political agreement.

The OSCE Minsk Group should take practical steps to contribute to conflict settlement and encourage wider public dialogue in both Armenia and Azerbaijan. More particularly, the Minsk Group should examine the idea of establishing a Special Competence Network, for example, Armenian-Azerbaijani High-Level Study Group, aimed at developing intellectual cooperation between the two countries. With reconciliation and confidence-building at the forefront of its agenda, the activities of this Study Group could add unique value in preparing public opinion in both societies for the compromise solutions needed for an eventual peace settlement in Nagorno-Karabakh. Perhaps most importantly, the establishment of such a group would demonstrate a genuine commitment on the part of the OSCE Minsk Group co-chairpersons to contribute significantly towards conflict resolution.

In late September 2013, the Minsk Group co-chairpersons – Ambassadors Igor Popov of Russia, Jacques Faure of France, and James Warlick of the US – met with Armenian Foreign Minister Edward Nalbandian and Azerbaijani Foreign Minister Elmar Mammadyarov in New York to seek a restart of diplomatic talks aimed at developing further ideas for a peaceful resolution of the Nagorno-Karabakh conflict. They continued in-depth discussions on the substance of the peace process, focusing on means to reduce tensions between the sides and create conditions for a highest level meeting between Presidents Ilham Aliyev of Azerbaijan and Serzh Sargsyan of Armenia at the end of 2013. There is a very cau-

tious optimism about possible slight progress the parties may reach in the coming years. One thing, however, is already quite clear: the prolongation of the status quo is only favourable to destructive forces and those that provide support to them. But the longer it continues, the more embedded it will become, threatening the interests of all the parties involved and making peaceful solution much more difficult to achieve.

So far, the frustrations of the population in the conflict zone are rising, fuelling a new cycle of instability in the entire region. In that sense, failure to change perceptions among political elites and the general population may result in renewed conflict. Obviously, the Armenian-Azerbaijani conflict is not likely to be ended in the near future. However, the conflict will only be settled when both parties consider the Nagorno-Karabakh issue resolved. This will only happen when the primary needs of the two sides have been satisfied; physical security, human security, right of return for displaced persons. Status seems to be a secondary issue because Armenians and Azerbaijanis will look differently at the status issue once the primary needs have been satisfied. Subsequently, threat perceptions will begin to change on both sides, the enhanced contacts will grow into joint economic interests and genuine economic incentives and confidence-building measures will eventually succeed.

Main Obstacles to Perpetual Peace

Hikmet Hadjy-Zadeh

I am not an expert on International law and not attended your first Conference on this issue for that I cannot properly talk here about the legal aspects of the proposed concept of “Joint Sovereignty” and I ‘m not in a position to make any sensible suggestions on the implementation of this concept in the real life, let’s say, for Nagorno-Karabakh.

I just read that there are few examples of Joint Sovereignty (followed by the establishment of a Single Sovereignty) in modern history, such as Joint Sovereignty of the United Kingdom and the United States over Oregon (1818-1846), a triple sovereignty (the U.S., UK and Germany over Samoa (1889 -1899), France and the UK over the New Hebrides (1906-1980). Today joint sovereignty is never used, but the historical experience of it should be considered carefully.

So, I’m not an expert on international law, however, as a political analyst, I hope to review in my presentation the major political obstacles to the establishment, as Immanuel Kant wrote, of “Perpetual Peace” between Armenia and Azerbaijan. Because, I think that along with discussing the region’s post-war constitution, it would be useful to consider how we can end this war...

As Kant wrote in his essay – for perpetual peace each State should be a republic, which today is observed neither in Azerbaijan nor Armenia. And if we consider also external influences on the conflict, which Kant in his essay had not done, I would add that the external influence on the conflict should be democratic and focused on the common good (which is now not fully observed as well).

Therefore, I’ll try to identify the main conditions for the settlement of the conflict between Armenia and Azerbaijan that has lasted nearly 25 years.

So, for the establishment of perpetual peace:

- 1) Azerbaijan should be democratic and Armenia should be independent;
- 2) The peace process and the joint sovereignty of Azerbaijan and Armenia over Nagorno-Karabakh should be covered by the power of such international democratic organization as the European Union;
- 3) Two hundred thousand of Azerbaijani population expelled from Armenia should be allowed back to their places of legal residence and also enjoy the advantages of joint sovereignty;
- 4) NATO and Russia should come to a global solution on matters of war and peace and the future of the planet. Only then will regional conflicts lose meaning for Russia.

I would like to point out a common misconception among observers of the conflict in Nagorno-Karabakh who think that the nature of this long-lasting conflict derives from the lack of aspiration to peace or lack of conflict resolution skills of the parts of the conflict and, so, they should be taught the science of conflict resolution.

This is partly true, but a few people know that the Azerbaijan and Armenia have twice been very close to peace, and only the Russian intervention did not allow concluding a peace agreement. In 1993, a peace treaty was prepared between the governments of Levon Ter-Petrosyan and Abulfaz Elchibey, which was planned to be signed in the autumn of 1993. I, then Azerbaijani Ambassador to Russia, personally took part in the negotiations. However, the military coup in Azerbaijan, inspired and supported by Russia, destroyed those plans. President Elchibey was overthrown. Another attempt for a peace treaty was made between the governments of Levon Ter-Petrosyan and Heydar Aliyev, but a military coup in Armenia (1998), again supported by Russia destroyed the plan. President Levon Ter-Petrosyan was overthrown and since then a new party has come to power in Armenia, which, in my opinion, is more concerned about Russian than Armenian national interests. As one can see,

the problem of peace in Karabakh is not due to lack of conflict resolution skills.

Azerbaijan should be democratic

We have to admit that one of the main obstacles to peace in Karabakh is a fear of Armenians to fall under the power of a current corrupt and despotic regime in Azerbaijan. According to the Freedom House ranking Azerbaijan is Not a Free Country. How can Armenians go back under the regime which holds no elections and have no guarantees for civil and economic rights of the citizens? Is it possible to carry on with the negotiations with such a regime, they ask?

Furthermore, the current government of Azerbaijan does not want to cooperate with the European Union – it rejects EU calls for democratic reforms, has suspended its membership in Euronest, does not want to join the World Trade Organization (WTO) and wants to withdraw from the Helsinki process. Current Azerbaijani leaders are pretty sure that all the talks about human rights will remain on paper, serious sanctions will not apply, and the protests of the European foreign offices can be suppressed by caviar diplomacy and gas blackmailing.

Armenia should be independent

I apologize to the patriots of Armenia, but this country is not independent now, but is entirely dependent on Russia. Among many examples, it's enough to mention Armenia's recent and unexpected rejection of Association with the EU and its decision to join the "Customs Union" headed by Russia. According to Russian leaders, Armenia is an outpost or even a Russian enclave, and it means that negotiations on Karabakh must be conducted with Russia. But what is Russian desire – peace in its neighbouring countries or dominating the region by the way of regional conflicts? It is obvious that unless Armenia becomes independent, or Russia will change its nature, peace in Karabakh will hardly happen.

On Russia's position

I think that many in the West do not understand to the end the causes of Russia's destructive behaviour or do not openly talk about it. We can point two main reason of Moscow's destructiveness. First is the inability of the Kremlin to divert the country from extensive to intensive development and to start filling the world market with something else than weapons. As a result, the Kremlin is always looking for rent, new territories, and areas of special interest. Today's Russia needs Abkhazian land, its Black Sea coast...

The second reason is the paranoia that has gripped Russia from the constant movement of NATO to the East – to Russian borders. This is how Russia justifies its aggressive actions in the bordering regions. According to Russian leaders they cannot get from the western leaders a clear answer to the question as to why NATO moves closer and closer to the Russian borders. And if there no answer, then Russia decides to oppose this movement by all means at its disposal, namely, destabilizing the situation in the neighbouring countries, and wherever she can on the planet, selling arms and nuclear technology to outcast countries, etc.

In general, Russia is spreading instability across the World and this is, she feels, in her best interest. The confrontation between NATO and Russia can continue for a long time, and as a result we the inhabitants of neighbouring countries suffer. Thus, while no NATO-Russia global agreement is reached (let say agreement "on the common defence" against global threats) regional conflicts in the neighbouring countries will continue.

According to Russian leaders, after the collapse of the Soviet Union, the reformist Yeltsin government had requested to join NATO, but was refused. And even if Russia would have to be persistent and that NATO would have shown more understanding, since 1993 the reformists in the Russian government have been superseded by conservatives and negotiations on Russia's membership to NATO were suspended.

Why not resume the negotiations, because if the above-mentioned agreement between NATO and Russia will be reached, such problems as nuclear proliferation, international terrorism and regional conflicts will be resolved, and then peace dividends will be huge!

Zangazur, Armenia – Forgotten conflict territory

Nagorno-Karabakh and its suffering Azerbaijani population got enough attention of the observers from abroad. But Armenian Zangazur is completely forgotten. Since 1988, as a result of the ethnic cleansing two hundred thousand people were forced to leave the area. Of course, this population should be returned to their homes and land, and this territory should have joint Azerbaijani-Armenian sovereignty as well.

Otherwise, it turns out that Azerbaijan is losing its undisputed sovereignty over Nagorno-Karabakh, and the expelled Azerbaijani population of Armenia will be deprived of their lands and rights. If to speak about the joint sovereignty, then all conflict areas in Azerbaijan and Armenia should be intended under the same joint sovereignty.

International peace guarantee

Even if Azerbaijan undertakes democratic reforms and Armenia takes the path of true independence, the lack of trust towards each other can go on for a long time. In this case, the peace process should enjoy patronage of the international democratic organizations, such as the European Union, which could be the guarantor of any peace agreements reached. For a successful peace agreement and a stable postwar co-existence, Azerbaijan and Armenia should become a part of the European Union, which would greatly facilitate the establishment of the “Perpetual Peace”. That is, in my opinion, the major obstacles to peace in Nagorno-Karabakh.

PART IV:

**ALTERNATIVE MODELS OF SOVEREIGNTY
IN PRACTICE**

Sovereignities in a Vacuum

Rauf Rajabov

Today in the South Caucasus there is a vacuum of security and sustainable development at both the national and regional levels. In fact, the countries of the South Caucasus region are living in a state of continuous and sustained military and political instability that could lead to rapid escalation of conflict.

The geopolitical situation in the South Caucasus and around it is changing so rapidly, that gives rise to the following interim conclusions; first, the priorities of the foreign policy of the U.S. and NATO in the South Caucasus have changed significantly. Currently, the U.S., the EU and NATO want to complete the active phase of military operations in Afghanistan, and peacefully resolve the Iranian nuclear issue. Second, the Russian Federation and the Islamic Republic of Iran, on the one hand, competing, and on the other, working together, trying to fill the resulting vacuum in the region. And what happens in the region, is the *de facto* attempt to build a condominium between Russia and Iran in the South Caucasus, which can mean less political sovereignty of Armenia, Azerbaijan and Georgia. When two strong regional players come to a consensus, they have a strong impact on the countries of the region, which is what happens in the South Caucasus. This puts the country of the South Caucasus in a vulnerable position and improves the geostrategic and geo-economic position of Russia and Iran.

Therefore, we can state that in the medium term, the main line of geopolitical confrontation between the U.S., the EU, NATO and Russia passes through the South Caucasus, Ukraine and Moldova, and the outcome of the above “soft opposition” depends, firstly, on the vector of the long-term geopolitical development of Azerbaijan, Armenia, Georgia, Moldova and Ukraine, and secondly, on the resolution of ethnic conflicts in Moldova and the South Caucasus region, and thirdly, on the retention or loss of political sovereignty of the above states.

Geopolitical trends and sovereignty in the South Caucasus

Currently, Baku and Tehran no longer exchange harsh words. However, Azerbaijan, Iran firmly positioned on major international issues (the Syrian crisis, the Caspian problems, the problem of South Azerbaijan and Azerbaijanis in Iran, Iran's nuclear program, etc.). In addition, the Azerbaijan armed forces are developing rapidly with Israeli military-technical cooperation, which increases the divide between Azerbaijan and Iran.

In the case of a military outcome against Iran, this will increase the probability of resumption of the Karabakh conflict, leading to a political defeat, both of Azerbaijan and Armenia, with all the negative consequences for both countries in the framework of negotiations under the auspices of the OSCE Minsk Group.

After all, the Karabakh conflict will be resolved in accordance with Russian plans, which means the deployment of Russian troops in Nagorno-Karabakh. In other words, the Kremlin, on the one hand, takes control of Azerbaijan and Georgia (including the control of all the regional energy transport projects), and on the other, will reach the Azerbaijani-Iranian border. In other words, both Azerbaijan and Armenia, and Georgia completely lose their sovereignty.

Baku's regional foreign policy in recent years has sought to destroy the *status quo* in the Karabakh conflict zone, creating an explosive situation in the South Caucasus. But today we can say that Russia and Iran occupy an identical position relative to the Karabakh issue; the *status quo* cannot and should not be changed because of Azerbaijan's military supremacy over Armenia. Consequently, in the short term, Baku and Yerevan have had to continue the search for peaceful means in the settlement of their relations through the prism of Russian and Iranian interests.

Second, against the backdrop of the election of Iranian President Hassan Rouhani, and the escalation of the military-political situation around Syria, Russia gains from its political and military presence in the South Caucasus. In particular, the Kremlin keeps under control the domestic situation and foreign policy of official Yerevan, enjoys cooling of rela-

tions between Baku and the West, as well as the desire to manipulate Tbilisi to establish relations with Russia and peacefully resolve ethnic conflicts in South Ossetia and Abkhazia.

Third, Russia demonstrates how it intends to maintain the *status quo* in the balance of power between Azerbaijan and Armenia. Moscow, on the one hand, sells Azerbaijan some offensive weapons and military equipment, which increases its military potential, but, on the other hand, the Kremlin increases its military-technical assistance to Armenia and strengthens its military base in Gyumri. After all, the Kremlin is both *de jure* and *de facto* guarantor of the security of Armenia and of Nagorno-Karabakh.

Fourth, Moscow seeks to create a rail route from Russia to Armenia, which will strengthen the military-political presence of the Kremlin in the South Caucasus, up to the Armenian-Turkish border. However, officials in Tbilisi, despite the initiatives announced by Georgian minister Paata Zakareishvili, is in no hurry to actually participate in the implementation of the Russian project.

In turn, Tbilisi intends to actively promote the peace process settlement of the Georgian-Abkhaz and Georgian-South Ossetia conflict. In particular, the government of Prime Minister Bidzina Ivanishvili refuses previous position of Mikheil Saakashvili, which consists in not considering the Georgian-Abkhaz and Georgian-South Ossetia conflicts as separate processes, but only derivative elements of the Georgian-Russian conflict.

In addition, Tbilisi started work on mitigating the provisions of the “Law on Occupied Territories” and related by-laws, which will facilitate access to Abkhazia and South Ossetia, by international organizations and their representatives. Consequently, the Georgia State Strategy on Occupied Territories and its Action Plan can be modified. By the way, the planned legalization of the documents issued in Abkhazia and South Ossetia identity which will make it possible not only to free movement throughout the territory of Georgia for the carriers themselves, but that they receive state services, such as education and health care.

Fifth, the political events in Georgia following the parliamentary elections in 2012 and presidential elections in 2013 positively affected the Kremlin's foreign policy in the South Caucasus region, even if Georgia is not going to discontinue its relationship with the U.S. and NATO. However, on the one hand, official Tbilisi has softened its foreign policy toward Russia, and on the other, the reduced influence of the West on Tbilisi has a negative impact on Euro-Atlantic integration of the South Caucasus countries.

Sixth, in Azerbaijan Great Britain and France are the sole representatives of the EU, through their petroleum concerns British Petroleum and Total, respectively. These have already implemented oil and gas projects in Azerbaijan ("Baku-Tbilisi-Ceyhan oil pipeline", the "Baku-Tbilisi-Erzurum gas pipeline", the "Azeri-Chirag-Guneshli" and "Shah Deniz" projects) and are potential participants in energy transport projects in Azerbaijan ("Absherom" and a gas pipeline "TANAP"). The U.S. Department of Energy reports suggest that the proven oil reserves in Azerbaijan make up more than 7 billion barrels and proven natural gas reserves - 849.5 billion cubic meters. Furthermore, additional gas reserves were discovered in 2011 in the offshore "Umid" and "Absherom" fields. Clearly, such projects are essential for EU energy security and economic growth. For this, a continuation of the *status quo* in the South Caucasus is required at a minimum.

Some circles in Paris and London believe that the evolutionary change of the *status quo* in the South Caucasus cannot be achieved because the Kremlin is not going to satisfy the geo-economic interests of the above-mentioned European countries by abandoning the implementation of its own geopolitical and geostrategic priorities, And because France and the United Kingdom seek to prevent the resumption of hostilities in Nagorno-Karabakh conflict. After all, Yerevan has repeatedly stated that in the event of renewed hostilities by Baku, Armenia will target oil and gas infrastructure in Azerbaijan.

In recent years, Baku has been preparing for a "Karabakh blitzkrieg" with a military budget of 3.7 billion dollars (2013). This is how Russia helps Azerbaijan dispose of its significant financial resources. But, in

reality, the Kremlin will not allow the power of modern weapons and military equipment to resolve the Karabakh conflict, by having Azerbaijan overcome Armenia and lose a real opportunity to control the South Caucasus energy transport projects. The Kremlin could not allow Azerbaijan to substitute the Russian “South Stream” with its own supplies to Europe, as can be judged by how Moscow will not allow shipments of Turkmen gas to Europe.

It can be assumed that the Kremlin, pushing Baku to the “Karabakh blitzkrieg”, hopes to achieve three strategic objectives that could lead to the defeat of Azerbaijan; firstly, to prevent the supply of Azerbaijani gas to Europe, secondly, to make it impossible to implement the Nabucco project that would allow Turkmenistan to supply gas to the EU, and thirdly, to take control of financial flows within Azerbaijan and Turkmenistan, with all the negative consequences for the economies of both countries.

“Integration” by the Kremlin

The Kremlin demonstrated with Armenia’s adherence to the Customs Union that it intends to sell its geopolitical project of the former Soviet Union with the participation of most of the former Soviet republics, including the participants of the EU “Eastern Partnership” with all its negative consequences for Armenia, Azerbaijan, Ukraine and Moldova, as well as the U.S., the EU and NATO in their pursuit of strategic stability in the Black Sea-Caucasus-Caspian region. It can be argued that the well-known decision of Armenian President Serzh Sargsyan, Yerevan’s readiness to join the Customs Union has changed the balance of power in the South Caucasus, including on the line “Baku-Moscow” and “Baku-Yerevan.”

Moreover, Putin pointedly did not visit Yerevan, but invited Sargsyan in Moscow, where the latter declared Armenia’s joining the Customs Union, whereas Putin preferred to visit Baku to make a show of warm relations with Ilham Aliyev. This supposes that Russia may try to expand its regional advantage by involving Azerbaijan in the Customs Union against the backdrop of worsening relations with the EU and the U.S.

Although, after the famous statement of the President of Belarus, Armenia's joining the Customs Union is not a *fait accompli*, the *de facto* loss of Armenia's political and economic sovereignty in foreign policy has greatly increased the influence of the Kremlin in the South Caucasus, including the issue of a political settlement of the Karabakh conflict. One can assume that sooner or later, the Kremlin will apply political pressure on Baku for Azerbaijan's entry into the Customs Union and the Eurasian Economic Union. Baku, a key state in the South Caucasus, will not go against Russia.

At the present time there is no activation of the Minsk Group on the background of the Kremlin inspired "failure" of the Russian initiative to resolve the Karabakh conflict within the framework of the trilateral format of the Presidents of Azerbaijan, Armenia and Russia. Naturally, after numerous meetings the parties are further apart than ever on a peaceful settlement of the Karabakh conflict under the auspices of the Minsk Group, as the Russian form of conflict resolution leads to loss of sovereignty for the two South Caucasus countries. Therefore, the Kremlin decided to await the outcome of the Vilnius summit, and focused pressure on Ukraine and Moldova.

It is symbolic that during the election campaign, Azerbaijani member Parliament and presidential candidate Gudret Hasanguliev announced conditions for Azerbaijan's accession to the Customs Union and the Eurasian Economic Union. In particular, Hasanguliyev said that if Russia will resolve Karabakh conflict within the framework of the territorial integrity of Azerbaijan, Baku would positively consider Azerbaijan's accession to the two regimes. However, the Kremlin does not intend to carry out the above conditions, as official Moscow intends by the end of 2013 to engage Armenia, Azerbaijan, Kyrgyz Republic, Tajikistan, Ukraine, Georgia and Moldova in the Customs Union, and in 2014 initiate the establishment of the Eurasian Economic Union. In other words, the Russian policy is aimed at significantly reducing – not gaining – the sovereignty of former Soviet countries.

Moscow has used the "gas weapon" to keep Armenia within its sphere of geopolitical interest, issuing ultimatums of gas price fluctuation. The

political stagnation within Armenia and mass emigration will have negative consequences for president Sargsyan, and entering the Customs Union is not conducive to peace over Nagorno-Karabakh. In addition, the Kremlin has no real military, political and economic levers of influence on Baku. President Aliyev said during his recent inauguration that he did not take any steps contrary to the interests of the country. Also Baku will not enter into alliances that are contrary to the interests of the country.

The conflicts and ways to resolve them

The Geneva talks on security and stability in the Caucasus predictably ended with no results. For example, Russia and Georgia demonstrated diametrically opposed positions on the format of the document on the non-use of force. And it can be argued that, despite the warming in relations between Russia and Georgia, the Geneva talks are doomed to fail. Therefore, Tbilisi intends to independently initiate a dialogue process with Abkhazia and South Ossetia.

In particular, if the Kremlin demands that Tbilisi to sign an agreement on non-use of force with Abkhazia and South Ossetia, the Georgian leadership is convinced that neither Abkhazia nor South Ossetia are parties to the conflict, and therefore they cannot be signatories to the above agreement, as this could offer a back door to recognition.

Naturally, Georgia requires Russia to commit not to use force against it, especially since the Georgian parliament has already made such a commitment to restore its territorial integrity in its resolution “On the main directions of foreign policy” of March 7, 2013, in which it decided not to use force.

However, the Kremlin believes that Georgia is legally obliged to issue its rejection of the use of military force against Abkhazia and South Ossetia, and secondly, says it is not party to the conflict and so does not feel obligated towards any Russian-Georgian agreement. Against this background, Tbilisi secured the support of Turkey and Azerbaijan. For example, on March 28, 2013 in Batumi, the Foreign Minister of Azerbai-

jan, Georgia and Turkey signed the “Cross-sectoral programs of action for 2013-2015” forming the geopolitical axis “Ankara-Baku-Tbilisi”, which reinforces, in particular, the position of official Tbilisi in the Geneva talks and in the Georgian-Russian negotiations.

The Nagorno-Karabakh conflict must be made a subject of transformation. The signing of a Framework Agreement could be transformed into a political document which would be the first stage of conflict resolution. In this case it is necessary to initiate a direct dialogue between Baku-Stepanakert (Khankendi), and dialogue between the two nations in Karabakh.

There needs to be dialogue between the residents of Nagorno-Karabakh and Armenia. Yes, despite some opposition by radical compatriots, the Azerbaijani-Armenian dialogue within the emerging civil society continues, and it must expand, drawing into its orbit new members. The potential for the peaceful resolution of the Karabakh conflict exists in civil society. I am sure that Azerbaijan with the participation of the Armenian side will offer new approaches to the resolution of the Karabakh conflict. For example, I see a pragmatic approach to the economic side of the problem. In 2007, the president of Azerbaijan issued a decree on the establishment of free economic zones. I think it may make sense to start this work precisely with the Karabakh Azerbaijani community of IDPs, and the Armenian armed forces to create a free economic zone. This would be an interim status for Nagorno-Karabakh, which allows new economic conditions to establish relations between the two nations.

The full participation of the EU in the process of resolving the Karabakh conflict is also advisable. However, France is co-chair of OSCE Minsk Group and, as an important EU country, played a crucial role in creating and implementing of the “Eastern Partnership” program aimed at establishing a normal partnership with all countries in the region. Stability is a long-term and fundamental European process where “do no harm” is the main principle.

2011-2012 is often thought of as the “window of opportunity” in the settlement of the Nagorno-Karabakh conflict, and the more time passes,

the more remote become the chance for a solution. However, the time has come for Azerbaijan and Armenia to cease expecting proposals from the co-chairs of the OSCE Minsk Group, and to begin proposing their own vision of how to resolve the conflict. Otherwise, we'll be listening forever to conflicting statements of Azerbaijani and Armenian officials, as well as co-chairs of the OSCE Minsk Group.

My communications with Armenian analysts, experts, political scientists and scholars show that the representatives of civil society sincerely wish to resolve the Karabakh conflict. Moreover, in Armenia there are new forces that are aimed at European integration, professing universal values, and this factor should be used as a point of contact, a position that unites rather than divides Armenian and Azerbaijani peoples. As for Nagorno-Karabakh, a pragmatic approach to finding solutions and rely less on emotion is needed. Do not be afraid of the radicals. They do not care for resolving the conflict. Extremes are a dangerous thing.

European integration: Factor for enhancement of sovereignty

In November 2013 in Vilnius, Association Agreements have been signed by Moldova, Ukraine and Georgia “Eastern Partnership” summit. Baku, despite the lack of a coherent agreement with the EU, may sign an official agreement in the foreseeable future, as rapprochement of Azerbaijan and the EU is inevitable.

Mutually beneficial cooperation between the EU and the countries of the “Eastern Partnership” does not lead to a loss of sovereignty of Azerbaijan, Armenia, Ukraine and Moldova, and on the contrary strengthens the sovereignty of former Soviet states. However, the reluctance of the disparate elite of Azerbaijan to choose ways of development of the country, to fix on the conceptual and legislative level the range of national and regional interests of the Republic and finally embark on the path of democratic transformation has become a serious obstacle to the realization of the European aspirations of the people of Azerbaijan.

The fact is that the country still does not have a well-defined program on the approximation of the economies and political systems of Azerbaijan

and the EU. In turn, the EU outlined the conditions of accession within the framework of the “Eastern Partnership”, which today must be addressed for Azerbaijan’s possible membership of the EU. Therefore, the Azerbaijani society quite realistically perceives the process as time-consuming and extended in time.

Considering the prospects of European integration, it should be based not only on the available energy from Azerbaijan and transport capacity prevailing in today’s geopolitical environment, but also from a real vision of the problems that will face the European community in the coming decades. And most importantly it needs to take into account the degree of readiness of Azerbaijan to take part in their decision.

However, the “Eastern Partnership” program is not the key to the resolution of inter-ethnic and inter-religious conflicts. Yet, against the background of stagnation in the negotiations on a political settlement of the Karabakh conflict under the auspices of the OSCE Minsk Group, the “Eastern Partnership” is the only mechanism where the parties to the conflict can engage in dialogue to find a peaceful means of resolving the Karabakh conflict.

Four UNSC resolutions, the Madrid principles and countless meetings have failed to produce movement, or even a hint of a workable solution to the Nagorno-Karabakh conflict. The “Eastern Partnership” framework seems more promising in building confidence between the parties and in transforming the conflict by introducing new actors in the process than anything else in the last 20 years. The political and economic elites of the two countries must be aware of their responsibility for the productive operation of the three baskets of the “Eastern Partnership” (security, economic and humanitarian baskets). Otherwise, the two countries’ participation will be limited only to their formal presence.

In this sense, the significance of the “Eastern Partnership” is doubled, as it can and should very possibly minimize the loss of life in the area of the cease-fire, and most importantly, increase the pragmatism of the parties. I believe that dialogue should lead the parties to a viable platform,

which can be a playground of the “Eastern Partnership”, and not repeat all previous mistakes and lost opportunities.

A reasonable question arises: how these recommendations will be accepted by the conflicting parties? First, Azerbaijan and Armenia must be full participants in this program, without conditions. Second, the relationship between the civil societies of the two nations should not be opportunistic in nature in order to achieve immediate success. In the relationship between civil society representatives of the Azerbaijani and Armenian peoples pragmatism should prevail, which will develop a long-term relationship between the two countries. Now is the time when two people have to delegate representatives of independent civil society the search for mutually acceptable solutions that would bring the two countries to sign an interim agreement on the peaceful resolution of the Karabakh conflict.

Possible Initiatives for the Establishment of Stability and Peace in the South Caucasus

Stepan Grigorian

Currently the conflicts in the South Caucasus (SC) are in undergoing a complex stage of their development. Thus in the case of the South Ossetian (SO) and the Abkhazian conflicts after Russia recognized these entities and its troops were deployed there, it is difficult, if at all, to tell whether there exists a chance of resolution. In the Nagorno-Karabakh (NK) conflict the situation looks more optimistic as far as there is a general format for its resolution, the OSCE Minsk Group (OSCE MG) and the Madrid principles developed within its framework. However the situation there is also exceptionally complex with the armistice constantly broken on the contact line between the Azerbaijani army and the NK defence forces (not to mention most serious problems on Armenia's north-eastern border with Azerbaijan where truce breaches occur involving heavy weapons and equipment as well as snipers operating on the both sides of the border), ongoing aggressive rhetoric as well as a militarization of the region at full speed. A worrisome fact is that the negotiation process is suspended (as the last time the presidents of Armenia and Azerbaijan met was only in January 2012). Certainly it is to be considered as good news that against that backdrop both presidents agreed to meet in November 2013 within the framework of the OSCE MG's peace efforts, although everyone understands that no breakthrough decisions are to be expected from the meeting.

I would like also to note that Abkhazia, South Ossetia and Nagorno-Karabakh (and their *de facto* authorities) consider that they made a choice in favour of independence and therefore consider it pointless to discuss different options for their status. However, as we think for the peaceful settlement of those conflicts and ensuring an enduring stability in the South Caucasus it is of exceptional importance to scrutinize different options for the resolutions of the conflicts in the SC (including different levels of sovereignty for Abkhazia, SO and NK) as far as each

case can contain elements that may prove helpful to the final resolution of these problems.

I would like to name a few solutions that seem to me to be as the most important and relevant scenarios that might prove to be helpful in the negotiation process. Besides, the actions and steps that might be taken by the parties of the conflict for the improvement of the general environment in the South Caucasus and raising chances for a final peaceful settlement should be highlighted.

In the case of Nagorno-Karabakh for the time being it is perhaps more helpful for the parties to abandon defining the status of the unrecognized entity as it hardens the positions of the parties in the OSCE MG. Perhaps it might be more expedient to postpone discussing the status of NK in the current stage of negotiations (postponed status). It is necessary to start a dialogue and cooperation between the conflicting parties and only after that to start tackling issues concerning the status of NK.

Starting a direct dialogue between Azerbaijan and Nagorno-Karabakh is necessary. That dialogue should be organized either in the framework of the OSCE MG or outside of it.

A shift to a step-by-step policy may also bring benefits. The practice of the development of the conflicts in the South Caucasus shows that high expectations attached to one or two meetings between the conflicting parties that are unmet create serious disappointment and disillusion in the conflicting societies.

In the case of the Nagorno-Karabakh conflict abandonment of the “non-recognition” policy by Azerbaijan. Blocking all initiatives by Azerbaijan (even of a humanitarian nature) related to NK, declaring as *persona non grata* citizens and members of parliament of different countries only on grounds of their visits to NK does not contribute to the improvement of the negotiation environment and also deepens mutual distrust of the parties. In the case of the South Ossetian and Abkhazian conflicts the situation is no easier: Georgia, for instance, reacts very badly to the visits to those partially recognized entities by the citizens of European countries

and also refuses issuing Georgian passports to Abkhazians and South Ossetians. The single positive thing is that Georgia recognizes Abkhazia and SO as parties to the conflict as well as has implemented with them a number of joint projects (like, for instance Georgia has actively cooperated with Abkhazia in the issue of the Inguri hydro power station).

It is necessary to implement a number of projects of mutual interest. For instance the restoration of the Ergneti market (on the South Ossetia-Georgia contact line) and of the Sadakhlo market on the border junction between Georgia, Armenia and Azerbaijan would step up trade and economic cooperation as well as human contacts between the societies separated by conflict.

Applying methods of unilateral action could also prove helpful, when one of the conflicting parties unilaterally makes a positive step. Thus one of the parties to the conflict could unilaterally withdraw its snipers from the contact line.

The time is ripe to change our societies' attitude towards borders. All of the societies in the South Caucasus live behind "iron curtain" by a custom, shaped by the Soviet Union during the Cold War. It is necessary to revise the perception of the borders as "sacred zones" inaccessible to our citizens. Our borders carry a value only in the context of our citizens' right to security, free travel and cooperation with neighbouring peoples.

For the conflicts in the South Caucasus it would be possible to return to the idea of setting up federative or confederative states (of course, this involves serious constitutional amendments in Azerbaijan and Georgia). However this might possibly interest unrecognized (NK) and partially recognized (Abkhazia and SO) entities, if they acquire the right to freely enter or leave the federation or the confederation. Indeed if NK, Abkhazia and SO respectively were confident that in case of non-implementation of the provisions of the projected peace agreement by Azerbaijan or Georgia they would have the right to independently and unilaterally leave the federation or confederation, they would probably agree to negotiate in that direction. This idea highly relevant in regard to

the Abkhazian and South Ossetian breakaway regions until the Russian-Georgian war of 2008.

The idea of a “Caucasian House” also merits attention and reassessment as far as it supposes setting up a joint space including as full-fledged members fully recognized (Armenia, Azerbaijan, Georgia), non-recognized and/or partially recognized (Nagorno-Karabakh, Abkhazia, South Ossetia) as well as historically shaped ethnic, religious and territorial entities in the South Caucasus (such as, for instance, Ajaria and Nakhichevan). The idea of a Caucasian Home was quite popular in Georgia in 1990s, stirred interest in Azerbaijan, but however is not too popular in Armenia. Unfortunately Armenia is more inclined to address players from outside the region while settling its problems rather than to a dialogue with its neighbours in the South Caucasus region.

The South Caucasus countries need to continue active cooperation with European and Euro-Atlantic institutions (CE, EU and NATO). This cooperation namely will help to build democratic and free societies with elected and re-elected governments, with the rule of law, with respected and defended human rights. It is namely in free societies where their governments’ legitimacy is high and that means that they can afford taking unpopular decisions and make concessions and compromises while settling conflicts. It is in democratic societies namely that tolerance and respect towards political opponents as well as ethnic and religious minorities develops and gets stronger.

EU member states voluntarily transfer part of their sovereignty to Brussels and Strasbourg (EU institutions). On the other hand they have no worries of losing their sovereignty as far as the European value lay at the core of the European Union which guarantees the interests of all EU member states no matter their size. It would be appropriate here to compare with the integration processes that Russia attempts to initiate on the post-Soviet space (Customs Union, Collective Security Treaty Organization, Eurasian Union). On 3 September 2013 at a meeting between Presidents V. Putin and S. Sargsyan in Moscow, Armenia’s readiness for the Eurasian integration and joining the Customs Union was announced. This was a rather unexpected decision as Armenia during the last 3-4

years was actively engaged in talks with the EU on the Association Agreement including the Deep and Comprehensive Free Trade Agreement (DCFTA). In the issue of visa facilitation with the EU members Armenia's progress was so evident that the EU had signed with Armenia the Agreement on visa facilitation as early as December 2012 and the Agreement on readmission in April 2013.

In June-August 2013 the Armenian leadership repeatedly stated its readiness for initialling the Association Agreement with the EU and a special emphasis was made by Armenia on the Free Trade Zone with the EU (in July 2013 it was stated that the draft of the Association Agreement was ready and only minor textual modifications were left). Besides the Armenian leadership, via the Prime Minister of Armenia, has repeatedly stated that integration into the Customs Union is pointless to Armenia, since it shares no borders with the Custom Union's member states. It is evident that the abrupt and inexplicable turn of Armenia's position is connected to the pressure coming from the Kremlin. In the current situation a question arises: why did Russia decide at the last moment to exert hard pressure on Armenia and attempt to frustrate signing Association Agreement between Armenia and the EU?

Undoubtedly, the Kremlin could not be unaware of the difficult situation confronting Armenia and its leadership in the eyes of the international community. Thus it turns out that Armenia for four consecutive years has seriously and actively cooperated with the EU and later, three months before initialling of the Association Agreement, in fact without any apparent reason erased the previously reached arrangements (Yerevan had warned its European partners on its abrupt turn of its policy just three days before the above-mentioned Putin-Sargsyan meeting). This, of course gives rise to concerns regarding the predictability and reliability of Armenia as an international player. And this is something that Moscow could not fail to know. The answer, as it seems to me is quite clear: the integration processes in the post-Soviet space do not rely on a certain value system but on decisions taken opportunistically and reflecting Russia's short-term interests.

It is possible to involve the non-recognized and partially recognized entities (NK, Abkhazia, SO) into the framework of the Eastern Partnership programme which the EU has embarked upon with the SC countries as well as into various cooperation formats. We think that Azerbaijan and Georgia can come up with an initiative to involve these entities into joint humanitarian, cultural, educational and youth projects which in no case would mean a pre-determination of their statuses. Common action and cooperation are the possible keys to the solution of the South Caucasus conflicts.

In this paper we have named just a few of the possible initiatives and models of conflict resolution in the SC which might be useful to the conflicting societies. We do not at any rate argue to represent a full picture, however we are confident that the implementation of some of these recommendations might improve the environment in the South Caucasus region and therefore advance the time of the resolution of the regional conflicts and establishment of peace and stability in the South Caucasus.

Alternative Models of Sovereignty in Practice

*Ofelya Sargsyan*¹ and *Hans-Jürgen Zahorka*²

The challenges the world currently faces – terrorism, economic crises, poverty, unemployment, as well as various claims and requirements from the side of the governed – better living conditions, respect for rule of law, human rights, etc., trigger global governance³ and its development. A state can hardly afford isolation. The benefits of joining regional and international unions tend to become more and more indispensable and demanding for the survival of a state in a world which progressively gets more independent.⁴ To the point the dilemma is to what extent – if any – states should, could or are willing to relinquish their sovereignty and opt for integrations. In line with this, this paper aims at

¹ Ofelya Sargsyan has two M.A. degrees, one from the American University of Armenia in Yerevan (Political Science and International Relations) and one from the University of Flensburg/Germany (European Studies). She is Armenian and author of the book “Pleading for Armenia’s Accession to the European Union” and at present Junior Editor of “European Union Foreign Affairs Journal” (www.eufaj.eu) and with LIBERTAS – European Institute.

² Hans-Jürgen Zahorka is lawyer, a former Member of European Parliament and now heading LIBERTAS – European Institute, a think-tank in Germany. He is Chief Editor of “European Union Foreign Affairs Journal”. He teaches European Studies, law and business at various universities and is also member of TEAM EUROPE of the EU Commission/DG COMM. Since 1997 a Government Advisor, he works since January 2014 for the EU in an Eastern Partnership project in Ukraine, responsible for human rights, rule of law, approximation of legislation, but also youth and civil society. The e-mail address for both authors via: zahorka@libertas-institut.com.

³ “Global governance is ... any purposeful activity intended to “control” or influence someone else that either occurs in the arena occupied by nations or, occurring at other levels, projects influence into that arena” (Lawrence S. Finkelstein, “What Is Global Governance?” *Global Governance*, Vol. 1, No. 3, Sept.-Dec. 1995, 368, <http://maihold.org/mediapool/113/1132142/data/Finkelstein.pdf>. All access dates also of all following Internet sources have been effectuated between 2nd and 10th November, 2013.

⁴ Mwanawina, Ilyambwa, “Regional Integration versus National Sovereignty: A Southern African Perspective”, *Verfassung und Recht in Übersee VRÜ* 44, 2011, 464, www.vrue.nomos.de/fileadmin/vrue/doc/Aufsatz_VRUE_11_04.pdf.

presenting the conventional model of sovereignty, briefing the discrepancies of it with the actual systems, providing an alternative form of governance and projecting models for the South Caucasus.

As a model of alternative to the nation-state the experience of the European Union will be under discourse. Before the 20th century the unification of countries seemed unreal. Only after WWII the unification perspective became credible and obtainable. Nation-states started to be criticized and discredited, the main reason being the conflicts among the European states, particularly between Germany and France. Various amalgamation models were stipulated, the central objective being the prevention of another war.⁵ The establishment of a large political arena in which all member states seek to ensure peace and avoid the use of force against the other members was conceived as an effective solution. Meanwhile, a good integration could result in positive peace – encourage economic welfare, security and stability, increase the general social level of welfare, facilitate travel and trade, and raise the international position of the integrated region.⁶ In this vein, presently almost all parts of the world are engaged to promote partnerships and regional integration.⁷ The phenomenon could be efficient and beneficiary in political, security, economic and social terms for various parts of the world, among them in the three neighbouring countries of the South Caucasus, situated at the very edge of Europe. Yet, for the time being these countries – Armenia, Azerbaijan and Georgia – remain marginalized and knotted with their territorial conflicts and constant threats to their sovereignty. In this context the task is to look for ways out to mitigate the situation.

⁵ Derya Pinar, “Debates on European Single Currency and on European Integration Process”, Middle East Technical University, December, 2006, 8, <http://etd.lib.metu.edu.tr/upload/12608144/index.pdf>.

⁶ Ramy A. Lakkis, “Arab Regional Integration: A neo-functionalist and transactionalist analysis”, Durham University, UK, 2003, 8-10.

⁷ John MacCormick, *Why Europe Matter: The Case for the European Union*, London: Palgrave MacMillan, 2013, 107.

Classical sovereignty and its limit in the modern reality: the challenge of globalization

Conventionally, the 1648 Peace of Westphalia is associated with the new watershed of nationalism in Europe and redefinition of an independent nation-state.⁸ The “Westphalian sovereignty” model refers to the “non-intervention in the internal affairs of other states implying that the domestic authority structures of every state are autonomous or independent; they ought to be determined by indigenous actors within that state.”⁹ The system envisages sovereignty to be indivisible, one which acknowledges only a single sovereign, power or ultimate authority over a defined territory and people.¹⁰ More recently, in 1933, Article 1 of the Montevideo Convention on the Right and Duties of States reinforced that a sovereign state is to be comprised of a territory, population and legal infrastructures.¹¹ To this end, the double characteristic of a sovereign state is to be noted – it is in its domain of authorities to govern itself and set its own regulations and laws as well as act in accordance with its principles and without external interferences.¹² This kind of approach towards sovereignty is also enshrined in the UN Charter. Namely, Article 2 (4):

⁸ Kelly Gordon, “The Origins of Westphalian Sovereignty”, Western Oregon University, 6 June 2008, 2, http://www.wou.edu/las/socsci/history/senior_seminar_papers/2008/thesis%2008/Kelly%20Gordon.pdf.

⁹ Stephen D. Krasner, “The Exhaustion of Sovereignty: International Shaping of Domestic Authority Structures”, Institut du Développement, Paris, April 2003, 2, <http://www.iddri.org/Evenements/Conferences/krasner.pdf>.

¹⁰ David A. Lake, “Delegating Divisible Sovereignty: Some Conceptual Issues, Workshop on “Delegating Sovereignty: Constitutional and Political Perspectives”, Duke University Law School, 3 March 2006, 1, <http://law.duke.edu/publiclaw/pdf/workshop06sp/lake.pdf>.

¹¹ Montevideo Convention on the Right and Duties of States, Montevideo, 1933, 3, <http://www.idpsrilanka.lk/Doc/International%20Human%20Rights%20Instruments/Montevideo%20Convention%20on%20the%20Rights%20and%20Duties%20of%20States.pdf>.

¹² Renata Giannini, “The Rule of Law: State Sovereignty vs. International Obligations”, Issue Brief for the General Assembly’s Sixth Committee, ODUMUNC, 2010, 4, <http://al.odu.edu/mun/docs/Issue%20brief%202010,%20The%20rule%20of%20law.pdf>.

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state...”¹³

Meanwhile, it is to be acknowledged that the Charter also calls for human rights, respect for rule of law and protection of basic freedoms, thus enabling external interference and deployment of international machinery in the domestic affairs of a state.¹⁴ Moreover, with the international system being in constant evolution, the *understanding and perception of the concept of “sovereignty” has also undergone certain transformations. As such, nowadays, total sovereignty in many regards is an obsolete idea in modern international law.*¹⁵ Various factors have provoked its undermining, among them issues ranging from

“ecological problems to terrorism, including the commodification of weapons of mass destruction, highlights the apparent lack of control of the modern nation-state over its own territory, borders, and the dangers that its citizens face.”¹⁶

Hence, due to certain common interests, there is *an increasing level of interdependence and partnership in between the states.* “Globalization,¹⁷ deregulation, privatization, and related political-economic trends that have become more pronounced since the end of the Cold War are pro-

¹³ Charter of the United Nations and Statute of the International Court of Justice, San Francisco, 1945, 3, <http://treaties.un.org/doc/Publication/CTC/uncharter.pdf>.

¹⁴ Renata Giannini, “The Rule of Law: State Sovereignty vs. International Obligations”, Issue Brief for the General Assembly’s Sixth Committee, ODUMUNC, 2010, 4, <http://al.odu.edu/mun/docs/Issue%20brief%202010,%20The%20rule%20of%20law.pdf>.

¹⁵ Ferreira-Snyman, The Evolution of State Sovereignty: A Historical Overview, Fundamina, 2006, 1 <http://uir.unisa.ac.za/bitstream/handle/10500/3689/?sequence=1>.

¹⁶ Jean L. Cohen, Whose Sovereignty? Empire Versus International Law, Ethics & International Affairs 18, No.3, 2004, p. 1, https://www.carnegiecouncil.org/publications/journal/18_3/articles/5052.html/_res/id%3Dsa_File1/5052_Cohenforweb.pdf.

¹⁷ “Globalization is a phenomenon and a technological revolution. It is sweeping the world with increasing speed and changing the global landscape into something new and different... It is like an inevitable tide of human history, unfortunate for some but unyielding and impossible to change” (James E. Harf & Mark Owen Lombardi, Taking Sides: Clashing Views on Controversial Global Issues. USA: McGraw-Hill/Dushkin, 2001, pp.228-229).

foundly affecting contemporary nation-states and reshaping cooperation, rivalry and conflict among the various supranational actors.”¹⁸

Indeed, the globalized world has widely challenged the credibility of classical sovereignty. There has been a certain transition from the community of states and international law to global governance and cosmopolitan law. Transnational governance¹⁹ is getting more and more assertive, presupposing national and supranational governments to constitute the global governance and law-making machinery. More and more starting conditions for the international system are notions as connection, interaction, interpenetration, approximations rather than separations, autonomy, defined territories and jurisdictions. Hence, there being new sources of global law and system, sovereignty can no longer be perceived as autonomy and, at least, de facto the “principle of civilian inviolability” has replaced “Westphalian” system. Going further, it can be speculated that at present we are experiencing a post-sovereign world-order – one which entails cosmopolitan legal system and presupposes the emergence of a world society.²⁰

Once-distant regions are now increasingly linked together through commerce, advanced communication technologies and ease of travel. Globalization has resulted in the internationalization and integration of the

¹⁸ Michael R. Lucas, Nationalism, Sovereignty, and Supranational Organizations, Heft 114, Hamburg, April 1999, 8 <http://www.ifsh.de/pdf/publikationen/hb/hb114.pdf>.

¹⁹ “Transnational governance” refers to those governance arrangements beyond the nation-state in which private actors are systematically involved. Moreover, we should clearly distinguish between lobbying or influence-seeking activities of private actors – firms and non-governmental organizations ([I]NGOs) -, on the one hand, and their direct involvement in rule-setting, rule implementation and service providing activities, on the other. Only if and when non-state actors have a say in the decision-making bodies of global governance, should we speak of “transnational governance” See Thomas Risse, “Transnational Governance and Legitimacy”, 17 Febr. 2004, 3-4, http://userpage.fu-berlin.de/~atasp/texte/tn_governance_benz.pdf.

²⁰ Jean L. Cohen, “Whose Sovereignty? Empire Versus International Law”, *Ethics & International Affairs* 18, No.3, 2004, 5-9, https://www.carnegiecouncil.org/publications/journal/18_3/articles/5052.html/_res/id%3Dsa_File1/5052_Cohenforweb.pdf.

global community into a single society without barriers and national boundaries.²¹ As such, over time states evolve, adjusting and adopting new norms, systems and traditions defined and practiced by various international players. This phenomenon can be described as socially constituent comprising the internal legitimacy of a state as well as determining its predisposition to other actors. Additionally, it is to be noted that human security can be a decisive aspect in understanding the modern approach towards sovereignty. It implies that the state is obliged to ensure the security and safety of its people. Thus, in the modern approach towards sovereignty it is to be acknowledged that while, on the one hand, it is argued that classical understanding and acceptance of unlimited authority of sovereignty is eroded, on the other hand, it is associated with the responsibility of guaranteeing the survival of its population. This stance is particularly challenging from the internal sovereignty perspective, especially, in those nation-states which seek to practice popular sovereignty and democracy.

The rationale is that the electorate can rebel in case the government fails to meet their expectations. Hence, a unique case of checks and balances is formed. In this context, states are to maximize internal economic rise, ensure security, democratic system, respect for human rights, etc., so as to maintain their credibility; otherwise, they may run the risk of becoming collapsed or failed states. And as such, they can impose a threat not only to their population but also the whole international system, as well. With regard to the external sovereignty, viewing from the responsibility angle, it becomes critical for a state to demonstrate other states its capacity to provide safe and secure milieu for its population. Thus, considering sovereignty as a responsibility, it can be concluded that it envisages trust of its own population and respect by external actors.²²

²¹ Charles W. Jr. Kegley & Eugene R. Wittkopf, *World Politics: Trend and Transformation*, Boston, USA, 2001, 17-20.

²² Maria Teresa Aya Smitmans, "Sovereignty: The Key to Bridge the Gap between IR Practitioners and Academicians", Conference Presented at the Annual Meeting of the International Studies Association, South Miami, 3 Nov. 2005, 8-10, http://www6.miami.edu/maia/ISAS05/papers/Maria_Aya.pdf.

After all, *states are no longer “sovereign” in the traditional sense, but more and more in interactions with other states or their neighbours, or part of integration.* Of course, this does not replace the traditional system, but step by step by objective (technological, transportation facilities, etc.) reasons and by subjective ones (i.e. by the voluntary opening up of a state), a parallel system emerges.

In search of alternatives to the conventional model of sovereignty and nation-state: the European Union

Nowadays, states delegate various responsibilities to international entities, such as the EU and UN, agree that their citizens appeal to these bodies on human rights issues, as well as entitle these institutions with the power to intervene into their domestic affairs for the sake of the protection of human rights in case of grave violations (e.g. to the European Court of Justice, Luxemburg, or the European Court of Human Rights, Strasbourg). Thus, authorities which were once solely attributed to a State are now accorded with various modes of international partnership – international institutions, multilateral tools, integrations, etc.²³

The Westphalian model of sovereignty can hardly be considered as credible and applicable in modern times. Meanwhile, global governance is getting more and more impetus. The actors encouraging it have managed to gain their influential position in world politics. Among such forces are the European Union (EU) leadership, the elite of the UN, representatives of the American scholars, various US foundations – Ford, Rockefeller, Open Society, etc., major NGOs – Human Rights Watch, Amnesty International, leaders of key international organizations – World Trade Organization (WTO), International Monetary Fund (IMF), etc.²⁴ Moreover, international and regional entities and organizations such as the EU, the North Atlantic Treaty Organization (NATO), the

²³ Miyoshi Masahiro, “Sovereignty and International Law”, Aichi University, Japan, 4-5, https://www.dur.ac.uk/resources/ibru/conferences/sos/masahiro_miyoshi_paper.pdf.

²⁴ John Fonte, “Sovereignty or Submission: Liberal Democracy or Global Governance?”, Foreign Policy Research Institute, October 2011, 1-2, <http://www.hudson.org/files/publications/201110FonteSovereignty.pdf>.

African Union, the Arab League, etc. are persistently increasing their stance in international relations²⁵ and the vision that they can overtake the primacy of the nation-states in the international system can no longer be coined as erroneous or implausible – they aim at establishing a process of institution-building where they can have their say in the governance of their members. As for the non-member states they can find themselves isolated from cooperation and be treated as deviants.²⁶ The tendency is to enlarge the bases of the international system and provide a move away from State absolutism.²⁷

To this end, when pointing to the downfall of the nation state and its sovereignty as well as the significance allotted to integration, interactions, convergences and partnerships, the European Union, as a benchmark, is to be distinguished.²⁸ The *sovereignty model it offers to the member states can indeed be considered as innovative*. The contrast of this system with the classical model of sovereignty and nation-state is striking. To begin with, it acts within the framework of the authorities delegated to it by the members and is based on international agreements. The discrepancies between the two are also apparent in terms of human and financial resources, legal means, as well as law enforcement infrastructures. Thus, the sovereignty the EU can entail is to be of a different character (*sui generis*) that the conventional model suggests. And if there may rise a question whether there can be a discourse of an EU level sovereignty or not, the answer should definitely be positive, taking into account its legal norm-making capacity and the fact that these norms are superior to the domestic laws of the member states. Once the latter delegate certain fields to the Union, they cease to possess supremacy over those aspects. And *while the Union does not meet the criteria of*

²⁵ Masipula Sithole, National Sovereignty is a Dying Concept, Paper for presentation at MPOI Seminar, Bulawayo, 28 June 2002, 3.

²⁶ Elizabeth A. OJI & M.V.C Ozioko, Effect of Globalization on Sovereignty of States, 2011, p. 262.

²⁷ Winston P. Nagan & Craig Hammer, “The Changing Character of Sovereignty in International Law and International Relations”, Columbia Journal of Transnational Law, Vol. 43, No.1, 2004, 60, <http://milestonesforlife.com/thetaxistand/sov.pdf>.

²⁸ Ofra Badakhshani, “Globalization: The end of state Sovereignty?”, Free University of Amsterdam, 4-6, <http://www.khorasanzameen.net/rws/gb01e.pdf>.

a nation-state, in many ways it also stands apart from an international organization – the Union has its defined territory, monetary unit, assures free borders between the MS, provides Union citizenship phenomenon as well as provides the European Parliament direct elections. These aspects illustrate a new type of system.

Moreover, “with its highly integrated structure, the EU is often associated with a post-sovereign era that might represent the wave of the future.”²⁹ By far, it can be considered as a model of transnational governance, with its integration process having already resulted in a quasi-state and *partly genuine supranational competences (at EU level) instead of national ones*. Yet, the very structure of the Union can hardly be considered as defined – it can grow into a federal or confederal state (a status which can by no means be attributed to the Union at present, the reason being the mere fact that the Union is neither politically nor legally independent from its members³⁰) or may be coined as a unique institutional model, entailing both supranational and extra-national authorities. For the time being, it has already *succeeded in displacing the traditional model of sovereignty from Europe*. Both the Union and its members are recognized internationally. As for the aspect of juridical independence of the territorial entities, it can no longer be applicable in Europe – the Union’s territory is not separate from that of its members and they, in turn, are not juridical independent. Additionally, the Union has joined multiple international agreements and conventions that its members are also signatories. Moreover, like its members, the Union has diplomatic representation in a wide range of countries. Thus, while in the international arena the EU can be perceived as a political entity incorporating traditional sovereign states, within Europe it has altered the Westphalian

²⁹ Fassue Kelleh, *The Changing Paradigm of State Sovereignty in the International System*, Kansas City: University of Missouri, 2012, 18, <https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/14672/KellehChaParSta.pdf?sequence=1>.

³⁰ Neil MacCormick, “Sovereignty: Myth and Reality”, *Scottish Affairs*, no.11, Spring 1995, 10, http://www.scottishaffairs.org/backiss/pdfs/sa11/SA11_MacCormick.pdf.

model of sovereignty of its constituent states and modified the system of their internal political structures.³¹

It is the most successful example of a post-modern system.³² As such, what Europe has witnessed is a peaceful and voluntary integration. With the 1957 Rome Treaties, six of the Western European states, Netherlands, the Federal Republic of Germany, Luxemburg, Italy, France and Belgium, launched what has grown to become the European Union (EU). The Union has sought to promote economic welfare and ensure security as well as uphold its identity, international role and policy impact. As for the member states, for them EU membership presupposes economic, political as well as social benefits, among which the establishment of liberal democracies, border control, security, stability, free movement of goods, services, capital and people, agricultural subsidies, common market and tariff free area are to be underlined.³³

The Union is a telling case. It does not push its neighbouring states to join³⁴ the Union, supports the new members to improve their living standards, thus, motivating other non-EU member European states to revise their undemocratic laws and systems so as to get a membership perspective. Additionally, the Union seeks to reform itself and its deci-

³¹ Stephen D. Krasner, "Abiding Sovereignty", *International Political Science Review*, Vol. 22, No. 3, July 2001, 244-246, <http://maihold.org/mediapool/113/1132142/data/Krasner.pdf>.

³² "Post-modern international order is the post-modern state – more pluralist, more complex, less centralised than the bureaucratic modern state but not at all chaotic, unlike the pre-modern." See Robert Cooper, *The post-modern state and the world order*, Demos, 31, <http://www.demos.co.uk/files/postmodernstate.pdf>.

³³ Desmond Dinan, *Ever Closer Union: An Introduction to European Integration*, London: Palgrave Macmillan, 2010, 483-484.

³⁴ In 1993 the European Council codified the standards and rules for the EU accession. The following criteria were drawn for a European state to meet so as to be acceded to the EU: "stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; functioning market economy and the capacity to cope with competition and market forces in the EU; the ability to take on and implement effectively the obligations of membership, including adherence to the aims of political, economic and monetary union" (European Commission, *Conditions for Membership*, Retrieved: 2 November 2013, <http://ec.europa.eu/enlargement/policy/conditions-membership/>).

sion-making structures.³⁵ What is striking is that the member states may have disagreements or, even, simply dislike each other but they are constituent to the same Union and have to socialize and collaborate with each other as well as conclude deals on a wide range of issues and fields. The system implies openness and mutual intervention.³⁶

It is worthwhile to note that the case can become valid to other developing countries as well, namely, the South Caucasian states, both with regard to the EU and among them. Being sovereign states, these countries with the example of the EU can use their sovereignty as an integrative instrument so as to cope with interdependence and make it beneficial. The model of integration can widely vary, ranging from the EU membership to participation or creation of any other regional or international entity. And if the integration process deepens the traditional model of sovereignty will eventually be reshaped in these countries as was the case with the EU member states.³⁷ The underlying point is that *EU's success with pooled sovereignty can serve as a good example that absolute sovereignty is still not a necessary condition of successful states in the global political platform.*³⁸

After all, there may be a special South Caucasus integration thinkable. However, this is very unrealistic, in view of the centripetal powers and alliances of every South Caucasus actor. Finally, it would also require an extremely well-functioning administration to repeat the success of Benelux, the “integration within the integration” between Belgium, the Neth-

³⁵ Bengt Johansson, “The EU Two-Level Sovereignty System as Model for Taiwan and China”, Taiwan in Comparative Perspective, Vol. 1, November 2007, 71-72, <http://www.lse.ac.uk/asiaResearchCentre/countries/taiwan/TaiwanProgramme/Journal/JournalContents/TCP1Johansson.pdf>.

³⁶ Robert Cooper, The post-modern state and the world order, Demos, 26- 30, <http://www.demos.co.uk/files/postmodernstate.pdf>.

³⁷ Erwin van Veen, “The Valuable Tool of Sovereignty: Its Use in Situations of Competition and Interdependence”, Bruges Political Research Papers, No. 3, May 2007, 18-21, <http://aei.pitt.edu/10872/1/wp3%20VanVeen.pdf>.

³⁸ Robert O. Keohane, “Ironies of Sovereignty: The European Union and the United States”, Journal of Conflict Management Studies, Vol. 40, No. 4, 754-762 http://isites.harvard.edu/fs/docs/icb.topic162929.files/B_Political_Integration/KeohaneIroniesOfSovereignty.pdf.

erlands and Luxemburg. Rests only an integration with Russia or in the framework of the Eurasian Customs Union, which is not feasible in view that only one of the South Caucasus states has this tendency, and then only by its government and also against better perspectives for the economy in another direction. This other direction may be integration with the EU, i.e. a mid- to long-term full membership in the EU.³⁹ As in the EU, there would be a perception of a “*gain of sovereignty*” *instead of a loss, as in the EU a member state can articulate its problems better than from outside; within the EU it must be heard, and a reply must be made. Both are not applicable from outside of the EU.*

The European Union and sovereignty in the South Caucasus

The European Union has been engaged to promote state-building in the South Caucasus, due to its energy interests, security threats as well as the ambition to support the democratization of the region. However, “expecting the states of the South Caucasus to develop into full-fledged democracies overnight would be illusory.” The territorial conflicts it faces hamper the proliferation of sovereignty and good governance of the region as well as threaten the security and safety of the population.⁴⁰

In fact, the formation of regional policies there seems unrealistic, given the absence of regional identity and contrasting behaviours. While after the collapse of the Soviet Union, all of the states proclaimed independence, statehood and sovereignty issues are not yet accomplished. The states lack security, functioning democratic systems, adequate administrative and institutional capacities as well as genuine legitimacy. Under such circumstances the economy of the states also gets endangered as for the economic development and growth there should be fluent transport and communication networks. However, while the incorporation of all the three countries into a regional unit could be of double significance –

³⁹ See Ofelya Sargsyan, *Pleading For Armenia’s Accession To The European Union*, Rangendingen: LIBERTAS - European Institute (Press + Publications), 2013.

⁴⁰ Svante E. Cornell & S. Frederick Starr, “The Caucasus: A Challenge for Europe”, Central Asia-Caucasus Institute & Silk Road Studies Program, Washington: Johns Hopkins SAIS, June 2006, 15-16, <http://www.silkroadstudies.org/new/docs/Silkroadpapers/0606Caucasus.pdf>.

on the one hand it could contribute to the regional stability, on the other hand, in case there were such kind of economic entities, they could encourage the local actors to draft common strategies and seek models to ensure regional security and stability. The case seems especially complicated to manage, given the sealed borders between Turkey and Armenia, Armenia and Azerbaijan and Georgia and Russia. However, positive signs can still be spotted. All three states are involved in the European Neighbourhood Policy and in the Eastern Partnership of the EU. And in the long run even a European destiny can be envisaged for the South Caucasus.⁴¹

In this respect, it is worth mentioning that the EU leaders avoid defining the Union's eastern borders. Instead, the issue is kept uncertain, the reason being not inevitably the member states' crave for new members but, rather, as already stated above, the desire to have strong political and economic leverages on the potential candidates who can join the Union if meeting the Copenhagen criteria.⁴² In addition, as the Council of Europe (CoE) is the oldest European organisation, and Art. 220 of the EU Treaty stipulates far-reaching cooperation between the EU and the CoE, it can be assumed that every CoE Member State is also eligible for the EU, if the conditions are met.⁴³ Furthermore, the notion of a "European state" in Art. 49 of the EU Treaty should not be interpreted in a restricted geographical sense. It is not defined in a geographically-exact way. In the EU law literature a clear accent is given to the "political cohesion", i.e. to the society's and state's will for European integration.⁴⁴ Dinan argues that the logic is that in case a country has no chance for the

⁴¹ Michael Kambeck and Sargis Ghazaryan eds., *Europe's Next Avoidable War: Nagorno-Karabakh*, London: Palgrave Macmillan, 2013, 24-25.

⁴² Desmond Dinan, *Ever Closer Union: An Introduction to European Integration 2010*, 485.

⁴³ The previous Art. 302 Treaty of Nice requesting any useful cooperation with the CoE has been repeated, together with other organisations in the new Art. 220 TFEU. The content of the articles is the same; see also Grabitz/Hilf, *Das Recht der Europäischen Union (Kommentar)*, Art. 303 EGV, in connection with Grabitz/Hilf/Nettesheim, *Das Recht der Europäischen Union (Kommentar)*, Art. 49 EUV, Rn. 14.

⁴⁴ Grabitz/Hilf/Nettesheim, *Das Recht der Europäischen Union (Kommentar)*, Art. 49 EUV, Rn. 14.

membership, it will hardly be positive towards the EU's interference as well as influence on its performance and action. Having raised the argument, he goes further, denoting the prospective candidate countries as well as identifies the club of possible future member states, including in the list the South Caucasian countries, namely Armenia, Azerbaijan and Georgia.⁴⁵ In the same token, Kristin Archick, while on the one hand discussing the EU "enlargement fatigue", on the other hand does not exclude the EU enlargement towards "wider Europe", in case the countries meet the EU membership requirements and obligations.⁴⁶

Regarding the EU integration process in the South Caucasus, it is worth mentioning that Georgia is the forerunner in the region. Moreover, the country openly declares its aspirations for the EU and NATO membership.⁴⁷ It intends to initial the Association Agreement, along with the Deep and Comprehensive Free Trade Agreement (DCFTA), with the EU in November, 2013.⁴⁸ To the point, Georgian Foreign Affairs Minister Maia Panjikidze on September 4, 2013, stated that not once had the Prime Minister acknowledged the importance of the European and Euro-Atlantic integration for Georgia.⁴⁹ Concerning Armenia, it should be said that the Europeanization process of the country has stalled at present. The relations between the EU and Armenia evolved and deepened consistently, the culmination being the fact that the country managed to conclude the negotiations on the Association Agreement, including the DCFTA. Yet, the seminal role of the country's foreign policy orientation cannot be overlooked. To the surprise and annoyance of many local and European political officials and analysts, the President of the country, Serzh Sargsyan, announced on September 3, 2013 his intention to incor-

⁴⁵ Desmond Dinan, *Ever Closer Union: An Introduction to European Integration*, 2010, 486.

⁴⁶ Kristin Archick, "European Union Enlargement", 2013, 12-14.

⁴⁷ Kerry Longhurst & Susanne Nies, "Recasting Relations with the Neighbours: Prospects for the Eastern Partnership", *Europe Visions 4*, Paris, February 2009, 10, http://www.ifri.org/files/Europe_visions/Europe_Visions_4.pdf.

⁴⁸ Andrew Rettman, "Georgia PM says 'why not?' on Eurasian Union", *Euroobserver.com*, 4 Sept. 2013, <http://euobserver.com/foreign/121315>.

⁴⁹ "NSC Chief Condemns PM's Eurasian Union Remarks", *Civil Georgia*, 4 Sept. 2013, <http://www.civil.ge/eng/article.php?id=26416>.

porate the country into the Custom Union of Russia, Belarus and Kazakhstan and this after the intensive and positive negotiations with the EU on the AA, including the DCFTA, which started in 2010 and were completed in July, 2013. Hence, here it has to be said that the time will show the direction the country chooses to pursue. Azerbaijan, on the other hand, has never manifested its interest in membership, preferring small advantages (such as visa liberalization with the EU) to wider integration.

After all, any integration can only be held between free societies and public systems abiding to the rule of law and human rights. This is at present limited, but still a goal to be pursued.

Two of the possibilities which can immediately be tried, are 1) *a Caucasus-wide attempt for a regional permanent conference or congress for local and regional territorialities*, and 2) *a regional conference or congress for business and economy*. This should be open to all municipalities and regions in all three South Caucasus states, but also to Abkhazia, South Ossetia and Nagorno-Karabakh. As this could be a non-state initiative, the principle of “Wandel durch Annäherung” (change by *rap-prochement*) could be applied.⁵⁰

⁵⁰ Wandel durch Annäherung has been successfully applied by the (West) German government, being partly tolerated by the East German one. There have been many contacts between people of the two sides of the Iron Curtain, starting with contacts between retired people, etc. Essentially, we’re speaking of small steps.

Transitional Intervention Strategies for Conflict Transformation in the South Caucasus

*Tabib Huseynov*¹

Introduction

The South Caucasus today is a highly fragmented and conflict-ridden region. The internationally-mediated negotiations over Nagorno-Karabakh within the framework of the Minsk Group or the discussions on Abkhazia and South Ossetia within the Geneva format have so far produced little tangible results. The entrenched positions of the conflicting sides over sovereignty and ethnic ownership of contested territory leave little space for negotiated settlement.

Progress towards peace requires revisiting mental frameworks used to describe and analyse the regional conflicts and moving beyond confrontational thinking, which revolves around win-lose outlooks. As part of this reflection, it is necessary to develop a new vision of the future state organisation and regional cooperation in the South Caucasus. We need to ask ourselves: where do we strike the right balance between the concepts of sovereignty and self-determination, territorial integrity and secession, co-existence and partition, the democratic will of the majority and the rights of the minorities?

These questions are not unique to the conflicts in the South Caucasus. In fact, these are fundamental questions, which are common to most of the ethno-territorial conflicts around the world. But the answer to these questions may be different in different contexts, regions and conflicts. And in the South Caucasus, we similarly need to re-think these tradi-

¹ Tabib Huseynov is the Caucasus programme manager at Saferworld, a conflict-prevention and peace-building NGO headquartered in London (saferworld.org.uk). His areas of expertise include the conflicts and security issues in the Caucasus region. The views expressed in this paper are those of the author and do not represent the views of his organisation.

tional perceptions and based on this reassessment, establish new forms of governance in the region, which correspond to local needs and context.

The complexity of the questions raised above does not allow properly addressing them within a short paper. Therefore, the present paper attempts to outline the major policy and institutional interventions needed in future design of governance in the South Caucasus with a view of making it more conducive to peaceful resolution of the regional conflicts. The paper argues that rather than discussing the end-state solution to the regional conflicts or end-state models of governance, the parties need to focus on interim (transitional) policy and institutional arrangements that would allow them to normalise relations and would set a roadmap for cooperation and gradual reconciliation.

Determination of the form of government: a false choice between unitary state and federation

There have been a lot of discussions in academic and expert circles on the “federalisation” of Georgia and (to a lesser degree) of Azerbaijan, as a means of solving the conflicts in the South Caucasus.² It has been argued that federative or even confederative forms of government would strike a middle ground between the aspirations for independence/secession and preservation of territorial integrity in these multi-ethnic countries. Some even suggested that federalisation remains the

² The pioneers in advocating for applying principles of federalism to mitigate conflicts in the South Caucasus are, Sergiu Celac, Michael Emerson and Nathalie Tocci, as well as Bruno Coppieters, whose works have had strong and lasting effect on the subsequent academic and policy thinking on the Caucasus. See, Sergiu Celac, Michael Emerson, Nathalie Tocci, “A Stability Pact for the Caucasus”, Centre for European Policy Studies, January 2000, <http://www.ceps.be/book/stability-pact-caucasus>; and Bruno Coppieters, “Federalism and conflict in the Caucasus”, Royal Institute of International Affairs, 2001.

best way for Georgia to avoid outbreaks of further internal disputes.³ I have also advocated on the importance of applying principles of federalism (without necessarily forming a federation) as a means to solve the conflict in the region.⁴ However, without underestimating the role of federalism⁵ in conflict resolution in general and the usefulness of incorporating its elements in national governance in Georgia and Azerbaijan, I would like to challenge the extreme proposition that a federative or confederative form of government is the best, or even the only, effective state-building solution for Georgia or Azerbaijan.

When discussing the territorial form of government, it should be recalled that the division into unitary state, federation and confederation simply represents “ideal typologies”, which are used for simplified categorisa-

³ “Federalisation Remains the Best Way for Georgia to Avoid Outbreaks of Further Internal Disputes – Interview with Prof. George Hewitt”, http://www.cria-online.org/7_12.html; “Karapetyan: Armenians in the Samtskhe-Javakheti Region of Georgia Suffer from Economic Problems” (in Russian), *Kavkaz-uzel.ru*, 10 December 2007, cited in Sergey Markedonov, “The Big Caucasus: Consequences of the ‘Five Day War’, threats and political prospects”, ICBSS Xenophon Paper No. 7, May 2009.

⁴ See for example, Tabib Huseynov, “Mountainous Karabakh: New paradigms for peace and development in the 21st century”, *International Negotiation*, Vol. 15, Issue 1, 2010, 7-31; Tabib Huseynov, “South Caucasus: New Paradigms for Peace and Development in the 21st century”, *World of Diplomacy* (official journal of the MFA of Azerbaijan), No. 18-19, April 2008.

⁵ I define “federalism” here as “the constitutionally-guaranteed self-rule and shared rule”. See, Nicole Töpperwien, “Federalism and Peace Mediation”, *Mediation Support Project*, http://peacemediation.ch/wp-content/uploads/2012/11/federalism_mediation.pdf, 2; Federalism, under this definition, implies division of public authority between national centre and constituent subunits, which have exclusive and shared competencies and whose respective powers have been stipulated through a Constitution or another legal framework that the national centre cannot amend easily at the expense of the subunits. In this sense, “federalism”, as a principle of division of power territorially, is not identical with and is wider than the term “federation”, which refers only to a particular form of territorial-political structure of the state. Such a definition to the term ‘federalism’ and distinction of it from the term ‘federation’ is useful, because it allows understanding that even formally unitary states may have elements of federalism in the form of constitutionally guaranteed principles dividing competences between the national centre and regions.

tion of the wide variety of different forms of territorial-political organisation of a state. In this orthodox categorisation, which is still popular in the South Caucasus, it is usually thought that unitary forms of government have by default greater degree of power vested in the central authorities, while federation and confederations guarantee greater extent of self-rule to sub-national units. In reality, the degree of powers vested in national and sub-national levels does not necessarily depend on whether a country is a unitary state or a federation. Administrative and political decentralisation does not depend on such rigid classification of states.

For example, in Austria, the federal units (*Länder*) have insignificant powers and most of the powers are exercised by the federal government. Ethnic homogeneity and lack of territorially concentrated ethno-linguistic minorities, coupled with relatively weaker (than, for example, in Germany) traditions of regionalism, have contributed to a situation whereby most of the political deliberations take place on a national level, rather than between the national centre and regions.⁶ Similarly, Puerto-Rico formally has a status of “*Estado Libre Asociado*” (freely associated state or ‘Commonwealth’) within the federal structure of the US, but most of its laws are adopted by the US Congress and the island itself has lesser powers than the individual US states.

On the other hand, Hong-Kong and Macao enjoy nearly independent executive, legislative and fully independent judicial powers, within the constitutionally entrenched unitary structure of China. In Finland, which also has a unitary form of government, Finnish government cannot conclude international agreements on issues falling within the competence of the Åland Islands unless it secures explicit agreement from the Islands’ authorities. Åland Islands have a right of veto on any amendments to the division of powers between the Islands and the central government.⁷

⁶ For a critical assessment of Austrian federalism, see Jan Erk, “Austria: a federation without federalism” *Publius*, 34:1, 2004, <http://publius.oxfordjournals.org/content/34/1/1.full.pdf>.

⁷ Act on the Autonomy of Åland, Section 69; <http://www.finlex.fi/en/laki/kaannokset/1991/en19911144.pdf>.

Furthermore, the characterisation of many countries around the world as a unitary state or a federation (or even lack of such characterisation) often reflects a deliberate politically-motivated statement, rather than an objective reality. Thus, for example, Azerbaijan is declared a unitary state according to its Constitution (Art. 7), reflecting the strong desire of the political elite and society at large to emphasise on the territorial integrity and indivisibility of national borders. But interestingly, Azerbaijani Constitution also has some elements of federalism embedded in state governance: the Nakhichevan Autonomous Republic has its own constitutionally-provided set of competencies. Similarly, China, which according to its constitution “is a unitary multi-national State created jointly by the people of all its nationalities” (preamble), includes Special Administrative Regions (SARs) Hong-Kong and Macau.

In some other cases, the states, similarly driven by political considerations, prefer not to specify and retain constructive ambiguity over the definition of their territorial form of government. Thus, for example, Spain and Italy have many characteristics of a federation. However, the Constitutions of Spain and Italy do not specify whether these states have unitary or federative structure. This reflects the fact that making explicit references to a federative structure has always been a sensitive matter for the national-level political elites in both nations, who wanted to emphasise national unity in the context of historically present strong regional differences and presence of territorially concentrated ethno-linguistic groups.

Denmark and Finland, on the other hand, are rather unitary states. However, the Constitutions of Denmark and Finland similarly lack explicit reference to the territorial form of government, because both nations have territories with high level of self-government (Greenland and the Faeroe Islands, and Aland Islands, respectively), the powers of which go beyond the traditional unitary structures. Georgia is an interesting example too: the Constitution of Georgia, stipulates that Georgia is a “unified and indivisible state” (Art. 1), but unlike the Constitution of Azerbaijan, the Georgian constitution does not specify on the form of territorial structure and stipulates that it “shall be determined by a Constitutional Law on the basis of the principle of circumscription of authorisation

after the complete restoration of the jurisdiction of Georgia over the whole territory of the country” (Art. 2.3).

In the context of the South Caucasus, the analysis above suggests that a formal change in the Constitutions of Azerbaijan and Georgia and/or explicit references to federal form of government does not need to be a necessary precondition or an expected outcome of future peace agreements and reforms in governance in the region. Regardless the nature of future relations with their breakaway territories, Azerbaijan and Georgia may stick to their existing Constitutions, proclaiming them unitary (Azerbaijan) or ‘unified and indivisible’ (Georgia) states. Even if an agreement would be reached in the medium- to long-term on a “common state” or some form of high autonomy within the territorial boundaries of a single state, the relationships could be regulated based on the provisions of the internationally-guaranteed peace agreement. The concrete details can be further elaborated in a separate law, which would have a constitutional status and amendments to which could be reached only by mutual consent of the parties.⁸

Status determination: open-ended peace process vs. a fixed end-result

There can be no one-size-fits-all approach to the regional conflicts in the South Caucasus. In spite of similarities, the conflicts in Abkhazia, South

⁸ Examples of such arrangements include Aland Islands, South Tyrol, and to a lesser degree, Hong Kong and Macau. For example, the relations between Finland and the Aland Islands have been regulated based on “Autonomy Acts”, which could be amended only by mutual consent of Finland and Aland Islands. The lack of explicit reference to the Aland Islands in the Finnish Constitution was not an obstacle for effective implementation of the various mutually agreed modifications of the “Autonomy Act”. A reference to Aland Islands appeared in the Finnish Constitution only following amendments in 2000. Aland Islands is not the only example. Italy made explicit references to South Tyrol (as opposed to a broader autonomous region of Trentino-Alto Adige) in its Constitution only in 2001, i.e. 55 years after the establishment of the autonomy in 1946. The Constitutions of Denmark does not contain any explicit references to special status of Greenland. Similarly, the Constitution of China does not have explicit references to special arrangements with Hong-Kong or Macau.

Ossetia and Nagorno-Karabakh are quite different and require different strategies and approaches to solve them. But however dissimilar these conflicts are, when it comes to peace talks, they have an important similarity: the thinking of the parties to all of these conflicts is dominated by mutually exclusive positions on the final status of the contested territory. Armenia wants to negotiate only on the terms of Nagorno-Karabakh's secession from Azerbaijan. Azerbaijan wants to negotiate only on the terms of keeping Nagorno-Karabakh within its boundaries. The same can be said about talks between Georgians, Abkhaz and South Ossetians. In this context, various ideas and proposals are viewed and assessed solely based on whether they provide for restoration of territorial integrity or recognition of secession/independence.

The parties' mental fixation on the end-result renders negotiations ineffective. It does not allow them to make use of opportunities for gradual normalisation, which would mitigate tensions and would pave the way for subsequent addressing of the final status issue in a more constructive manner. Just like one cannot start building from the roof, final status cannot serve as a starting point of negotiations around Nagorno-Karabakh, Abkhazia or South Ossetia. The parties need to start laying the foundations for a future building of peace, while keeping in mind that they will need to eventually put a roof on their structure. This approach requires looking at the conflict resolution and status determination not as one-off events, but as long, incremental and orderly processes, which may have open-ended results. Bearing in mind that there is no copycat solution to the regional conflicts in the South Caucasus, each conflict should have its own long-term and open-ended strategy towards normalisation and peace-building. And in spite of the currently grim-looking prospects for progress in either the Geneva discussions or Minsk Group negotiations, the strategies for solving these conflicts – not in terms of agreeing on the outcomes, but rather, on agreeing on a process of transforming the conflict – are being shaped currently. These are:

- 1) The “engagement without recognition” approach proposed by the EU, which particularly applies to Abkhazia; and

- 2) An interim (or transitional) status approach for Nagorno-Karabakh, proposed by the Minsk Group as part of its peace proposal.

Both ideas are quite different. In fact, they have never been looked at in the same basket before. But what makes them similar is that they both provide long-term and open-ended strategies (even if still nascent ones) towards normalisation and peace-building in the South Caucasus.

Abkhazia: Emphasising engagement

The idea of “engagement without recognition” has been proposed soon after the August war and following recognition of Abkhazia and South Ossetia by Russia, as independent states.⁹ This approach envisages engaging more closely and giving the political elites, business community and civil society in Abkhazia and South Ossetia greater access to the outside world, particularly to the EU and the wider Black Sea region. In the words of Peter Semneby, the former EU Special Representative:

The EU’s Non-Recognition and Engagement Policy rests on two mutually supporting pillars: EU’s firm commitment to Georgia’s territorial integrity within its internationally recognised borders and the EU’s interest in engaging with Abkhazia and South Ossetia. One pillar is not thinkable without the other. Non-recognition without engagement is sterile and counterproductive; engagement without a firm line on non-recognition is a potential slippery slope... by engaging the entities [i.e. Abkhazia and South Ossetia], the EU can open up these territories, increase its footprint and leverage, provide an alternative perspective to

⁹ The idea became an official EU policy in December 2009, when the Political and Security Committee of the Council of the European Union endorsed a policy towards Abkhazia and South Ossetia which is based on two pillars: non-recognition and engagement. It was then quickly picked up by academic, expert and political circles dealing with the region. See, Alexander Cooley and Lincoln A. Mitchell, “Engagement without Recognition: A new strategy towards Abkhazia and Eurasia’s unrecognized states”, *The Washington Quarterly*, October 2010; Sabine Fischer, “The EU’s non-recognition and engagement policy towards Abkhazia and South Ossetia”, *EUISS Seminar Report*, December 2010.

the predominant Russian one, and, ultimately, move closer towards a resolution of the conflicts.¹⁰

Thus, it is believed that this approach would address the Abkhaz concerns related to de-isolation of Abkhazia, while assuring Georgia that it would not become a backdoor strategy for recognising Abkhaz independence. For some experts and policy-makers in the EU and the US, this strategy is also a means to reduce the Russian influence over Abkhazia by anchoring its interests more closely with those of the EU.¹¹

Although often referred to as a “strategy”, “engagement without recognition” can be more accurately termed as an “approach”, because there are still a lot of uncertainties around the concept. At present, there is no systematic understanding and comprehensive policy on what exactly will be included under the “engagement” umbrella, how exactly the EU would engage with Abkhazia and South Ossetia and what kind of role would the Abkhaz authorities and Georgian government play in shaping these policies. As Abkhaz authors emphasise, today, the uncertainty around the strategy of “engagement without recognition” is clearly a source of irritation to the Abkhaz authorities.¹² The only clear part of this “strategy” is “non-recognition”. The lack of clarity on “engagement” aspects represents both a challenge and an opportunity for the Georgian-Abkhaz (and potentially also, Georgian-South Ossetian) peace process. It represents a challenge, because the lack of clarity and failure to engage with

¹⁰ “Presentation by the EU Special Representative for the South Caucasus, Peter Semneby, to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe of the Parliamentary Assembly of the Council of Europe”, Paris, 17 January 2011. <https://www.consilium.europa.eu/media/1252985/speech-pace%20mc-paris-110117-final.pdf>.

¹¹ This latter point, while is justified, has been somewhat harmfully overstated. The portrayal of the “engagement without recognition” approach as an element of a geopolitical standoff between Russia and the West increases suspicions both in Abkhazia and in Russia against this idea, by making people think that this proposal is more about geopolitical standoff, rather than creating favourable grounds for future resolution of the conflict.

¹² Irakli Khintba, “De-isolation via the West: Opportunities and restrictions”, in *International Alert, De-isolation of Abkhazia*, April 2011, 24; <http://www.international-alert.org/sites/default/files/publications/1107Abkhazia.pdf>.

the Abkhaz in a meaningful way may discredit the idea of “engagement without recognition”. But it is also an opportunity for the Georgians, Abkhaz and the international community, particularly the EU, to work together to bring more clarity and substance to the “engagement” aspects of the strategy.¹³

A constructive and meaningful engagement strategy would allow de-linking more immediate and solvable issues relating to human rights, safety and well-being of people from more intractable political status considerations. Thus, for example, agreement on issues such as freedom of movement for all residents of Abkhazia regardless of their ethnicity and citizenship, opening of transit corridors, internationally-supported economic development, healthcare and education programmes in Abkhazia could help establish more constructive and meaningful cooperation between the Abkhaz, the Georgians and the EU. A closer EU and international engagement with Abkhazia could also help promote rule of law and democratic governance, leading to more transparent and accountable institutions, which would protect the rights of all citizens of Abkhazia, including the rights of ethnic Georgian minority. Such cooperation on concrete issues between the Abkhaz, Georgians and the EU would help diffuse tensions between the Georgians and the Abkhaz and would prepare the grounds for discussions on status issues at a certain point in the future.

Interim status approach for Nagorno-Karabakh: Lessons from afar

The idea of interim status was first presented to Armenia and Azerbaijan in 2005 as part of so-called “basic principles” proposal by the Minsk Group. The basic principles revolve around three fundamental elements: the non-use of force, territorial integrity and self-determination. More specifically, these principles envisage:

¹³ There is a growing civil society voice in Georgia advocating for the EU’s strengthening of its engagement with Abkhazia as part of its strategy. See, Open letter to EU foreign policy chief Catherine Ashton and EU Commission on Enlargement Stefan Fule, June 2013; http://abkhazski-meridian.com/index.php?option=com_content&view=article&id=77&Itemid=69.

- The return of occupied territories surrounding Nagorno-Karabakh;
- Interim status for Nagorno-Karabakh guaranteeing security and self-governance;
- A corridor linking Nagorno-Karabakh to Armenia;
- Eventual determination of Nagorno-Karabakh's final status by a legally-binding expression of will;
- The right of all IDPs and refugees to return; and
- International security guarantees, including a peacekeeping mission.¹⁴

Baku and Yerevan have failed to agree on the basic principles so far. Even though they both fundamentally subscribe to these principles, they have been unable to agree on the framework document in its comprehensiveness, both complaining that the “devil is in the details”. Failure to achieve an agreement is also due to high-level of mistrust towards each other and even, toward the mediators. In Azerbaijan the proposals are viewed as a plot to legitimise Nagorno-Karabakh's secession, while many Armenians believe these proposals would eventually force Nagorno-Karabakh's reintegration into Azerbaijan.

However, on a positive side, neither Armenia, nor Azerbaijan has rejected the proposals. In fact, no previous proposal by the mediators has had such a long lifetime and has drawn so much attention, discussions (and also speculations) from either side. This implies that both parties see potential benefits for themselves in considering an open-ended process, which does not guarantee, but may lead to their desired outcome

¹⁴ These points have been included in the Joint statement of the Minsk Group co-chair countries' (US, Russia and France) presidents made in L'Aquila, Italy in July 2009 (<http://www.osce.org/mg/51152>), Muskoka, Canada in June 2010 (<http://www.osce.org/mg/69515>) and are referred to in later statements by the three presidents, as well as other statements made by the OSCE and the Minsk Group.

through a negotiated settlement. The problem is that both Armenians and Azerbaijanis have been over-emphasising the end-game and tried to use the negotiations to bargain and outsmart each other on the conditions, which would pre-determine the final outcome on the status. To move forward, the parties need to stop arguing on the end-result, and instead, focus on transitional arrangements and long-term open-ended process of peace-building.

Transitional arrangements have been successfully used to transform conflict in a variety of cases, most of which have undeservedly received little attention from either Armenians or Azerbaijanis so far. When discussing the Nagorno-Karabakh conflict, Armenians and Azerbaijanis often talk about Kosovo, the Aland Islands, South Tyrol and other similar well-known European examples. But they paid little if any attention to conflicts in such “exotic” places like New Caledonia, Bougainville or South Sudan, in spite of the fact that these conflicts present interesting case studies for drawing lessons on territorial status determination. Even the peace proposals on better known conflicts in Israel/Palestine (the failed Oslo Accords) and in Northern Ireland (the successful Good Friday Agreements) have elements of deferred status determination, which have been largely overlooked by Armenian and Azerbaijani policymakers and expert community. There is a need to study these cases more closely and draw applicable lessons for the Nagorno-Karabakh peace process.

The concept of open-ended peace process in Nagorno-Karabakh, proposed by the Minsk Group, implies recognition by the sides that the outcome can range from autonomy within Azerbaijan to full independence and anything that goes in between. But at the same time, as international practice shows, the viability and efficiency of such arrangements depend on the level of consensus reached between the parties on the methods for determining the final status. In almost all cases involving interim arrangements and deferred status determination, the central governments recognised that independence may be one of the outcomes of the vote on

final status.¹⁵ Thus, for example, the Noumea Accord of 1998, which deferred vote on independence for a period of 15-20 years, states: “the [French] State acknowledges that it is appropriate that New Caledonia achieve complete emancipation at the end of this [interim] period”.¹⁶

In the Good Friday Agreement of 1998, the parties “acknowledge the substantial differences between [their] continuing, and equally legitimate, political aspirations” but at the same time express their determination to solve their differences exclusively by peaceful and democratic means.¹⁷ The parties also “recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland.”¹⁸ Currently, the numerical superiority of the unionists, including part of the catholic community, gives the UK a demographic and political advantage and defers the possible referendum to an indefinite date in the future. At the same time, the agreement recognises in principle that the status can be changed in line with the local expression of will.

In Bougainville, unlike in Northern Ireland and in New Caledonia, the supporters of secession from Papua New Guinea (PNG) are the majority, although there is a sizeable local ethnic minority, which actively opposes secession. This difference in demographic and political circumstances has prompted the central PNG government to adopt more meticulous criteria for determining the final status of the contested territory. Thus, according to the Bougainville peace agreement of 2001, the local population can vote in a plebiscite on future political status, which may include among other options, independence. The agreement stipulates that the voting would take place between 2015 and 2020, however the exact

¹⁵ Kosovo is a prominent exceptional case, since the modalities of the interim status, as well as conditions and timing under which Kosovo would decide on its final status were never agreed with Serbia.

¹⁶ Text of the Noumea Accord of 5 May 1998, Art. 5; <http://www.austlii.edu.au/au/journals/AILR/2002/17.html> (unofficial translation in English).

¹⁷ See “Northern Ireland Peace Agreement (The Good Friday Agreement)” <http://peacemaker.un.org/uk-ireland-good-friday98>.

¹⁸ Ibid. “Constitutional Issues.”

date of the vote will be decided by the central PNG government and will depend on achievement of certain good-governance standards and the implementation of a demilitarisation plan. The decision of a local referendum would require a qualified majority (two-thirds of the vote of the local residents) and is subject to ratification by the PNG parliament.¹⁹ The outcome of the local vote will not create a binding obligation by the PNG government to comply with its results, but it has a great political significance, as the central government will have to consider the outcome of the vote in its subsequent consultations.

The examples above closely resemble variations of the Minsk Group's proposals in recent years on Nagorno-Karabakh. These case studies should be approached with a critical view, keeping in mind that there can be no simple copycat solutions. None of the above examples guarantees a definitive and immediate solution to the question of the final status. However, these cases help understand that clear and predictable rules of the game, which are based on renunciation of the use of force, respect for human rights and even, agreement to respectfully and peacefully disagree on certain issues can help move the peace process forward.

**Determination of the timeframe for final status:
The importance of a phased approach**

International experience convincingly shows that the mere granting of wide-ranging powers or the legalisation of existing *de facto* powers in secessionist or self-determination conflicts does not guarantee mitigation of the conflict. This is because such technical transfer of power does not guarantee establishment of legitimate, sustainable and effective self-governing structures. In order for transfer of power to contribute to conflict resolution, the process needs to be seen as legitimate, be implemented in stages and consistent with a mutually agreed package. Under

¹⁹ See for details, Bougainville Peace Agreement, 2001, "C. Agreed Principles on Referendum", 58-60,
http://ips.cap.anu.edu.au/ssgm/resource_documents/bougainville/PDF/BougainvillePeaceAgreement29Aug01.pdf

these circumstances, the self-governing units acquire greater powers at predefined intervals. These intervals do not have to be time-bound, but can be certain conditions and standards that need to be met before a political decision is made about the readiness of the self-governing unit to assume new powers.

Today the Aland Islands and South Tyrol are often cited as examples of successful resolution of territorial conflicts through transfer of power from the centre to the regions. However, it should be recalled that these autonomies have gone through a long, and not always smooth, process of development. Thus, for example, Aland autonomy went through three major stages of development (in accordance with the adoption of Autonomy Acts in 1920, 1951 and in 1991) before it became the exemplary case it is today. Similarly, it took 53 years (1948-2001) and three stages of legislative reforms (in 1948, 1972 and 2001) before South Tyrol could develop into what it is now today.

The reform of self-government in South Tyrol, the so-called *Paket*, which was agreed between Italy and Austria in 1969, clearly outlined the list of actions to be taken by both governments to settle the dispute. No timeframe was given as to when the eventual settlement completed. The sequence of events, however, was explicitly stated as the settlement of the dispute required full implementation of the autonomy statute.²⁰ The dispute was declared over only in 1992, when Austria deposited a document with the United Nations in which it declared that its dispute with Italy over South Tyrol was over, following the implementation of the majority of measures agreed under the 1972 Autonomy Statute. But even this formal end to an inter-state dispute did not put an end to further development and expansion of South Tyrol autonomy, which received further powers following the reforms of 2001. Throughout the entire process of developing the South Tyrolean autonomy, adherence to democratic principles was the key for its success. As Stefan Wolff writes, “the

²⁰ For more details on the development of South Tyrol’s autonomy, see Stefan Wolff, “Cases of Asymmetrical Territorial Autonomy”, in Marc Weller and Katherine Nobbs (eds.), *Asymmetric Autonomy and the Settlement of Ethnic Conflicts*, University of Pennsylvania Press, 2010.

preservation of democratic procedures is a key factor for stabilising institutional structures created for the purpose of resolving self-determination conflicts, because it is through this longevity that institutions acquire their legitimacy.”²¹

During the negotiation phase, an agreement on the interim status of Nagorno-Karabakh may help the parties to the conflict to circumvent damaging discussions around intractable final status issue and focus instead on no lesser important, but more solvable issues related to security guarantees, territories and refugees. During the implementation phase, interim status can serve as a platform for establishing legitimate and inclusive institutions of power in Nagorno-Karabakh.

Like in South Tyrolean case, the parties to the conflict may work out a list and sequence of political, economic and institutional reforms. Interim status would evolve over time. Nagorno-Karabakh would receive greater powers, in accordance with its ability to effectively exercise these powers in line with good governance and human rights standards. As the institutions of governance of Nagorno-Karabakh become more inclusive and legitimate, composed of representatives of both local Armenian majority and Azerbaijani minority, they would be engaged more closely, receive greater legitimacy and international access to a degree, when the traditional boundaries between independence and autonomy would be erased.

Conclusion

The analysis above suggests that a peaceful and negotiated settlement of conflicts in the South Caucasus has to be a necessarily long incremental and open-ended process. A constructive peace process requires the parties’ acknowledgement of the differences between them and giving each other reassurances that once they agree on a process, they will solve all

²¹ Stefan Wolff, “Complex power sharing as conflict resolution: South Tyrol in comparative perspective” in Jens Woelk, Francesco Palermo, Joseph Marco, (eds.), *Tolerance through Law: Self-governance and group rights in South Tyrol*, Martinus Nijhoff Publishers, 2008, 368.

their future differences exclusively by peaceful means. The parties need to accept that the outcome of the peace process can be any, ranging from reintegration to independence (and everything else that goes in between). The analysis also suggests that addressing the issue of final status has to be carefully timed and should take place only when the conditions are ripe for constructively addressing it. In current circumstances, Armenians and Azerbaijanis, as well as Georgians, Abkhaz and South Ossetians, need to de-emphasise the final status. Instead, focus should be on more immediate and solvable issues relating to human rights, safety and well-being of people. This would allow reducing tensions and normalising relations between and among the conflicting parties and would prepare grounds for subsequent constructive dialogue on the final status issue. The discussion around standards, defined by fulfilment of certain human rights and governance criteria, need to be weaved into the regional peace processes also to ensure their legitimacy and acceptance by the wider public. A focus on standards underlines the importance of adhering to democratic principles and practices, as a necessary precondition for ensuring legitimacy of the peace process, which in turn would ensure that peace is durable and sustainable.

The ultimate purpose is to devise such forms of governance and to create such positive interdependencies in intra-state, inter-state and supra-state levels, so that the core issues of conflict, such as exclusive sovereignty and boundaries would become irrelevant. Shifting focus from political dimension to individual human rights is a shortcut for achieving that. The South Caucasus has a chance to become a sub-region of a wider Europe, where free movement of people, goods and services is ensured, and where sovereignty is not exclusively owned but shared at many levels.

Sovereignty Issues in the Post-Soviet Conflicts of the Caucasus: The Case of Abkhazia

David Matsaberidze

Introduction

This paper aims to reflect on the different visions of the concept of sovereignty in the post-Soviet Caucasus relative to the regional conflict over Abkhazia. Considering the limited space for discussion, the present study will draw on the case study of the post-August War scenarios. To this end, the paper offers analysis of peace plans of the Georgian authorities and explores reactions of the Abkhazian and Russian sides. In this respect, the possibility of emergence of *shared sovereignty* could be seen in the sphere of economy, as, at a glance, this does not lead to an urgent determination of political status; nevertheless, it will be also demonstrated that this is not such a simple problem and economic cooperation brings political aspects to the forefront, first and foremost in terms of border issues.

It should be mentioned from the very beginning that the main policies of the Rose Revolution government towards national minorities were based on the principles of building civil society and inclusive citizenship, with promises and guarantees of minority rights protection and integration into the Georgian society. The right to self-government, representation in the central governing structures of the country and the rights of maintenance of the minority languages and cultures were the central issues in the peace plans offered by Georgia to the Abkhazian and the South Ossetian communities. The elaboration of a new approach on the part of the Georgian authorities towards the occupied territories became the main concern for the Georgian government with the end of the hot phase of the August War of 2008. A new approach was necessary due to two interrelated aspects of the developments around the conflict zones: firstly, the August War was the first overt demonstration of the previously latent rivalry between Georgia and the Russian Federation, as up to August 2008 the northern neighbour pretended to be a peacekeeper. Secondly,

from the very beginning, the Rose Revolution government had not endorsed the idea of Georgian-Abkhazian and Georgian-South Ossetian “confrontation” and was vehemently striving to substitute them either with the neutral terms (e.g. using the “Tskhinvali Region” to denote the conflict in South Ossetia) or openly declaring the former separatist regions as occupied territories (after the August War 2008).

Political issues

The final initiative on the part of Saakashvili for the settlement of the conflict before the August War 2008 came in March of the same year. The initiative offered far-reaching autonomy through a federal arrangement, as well as guarantees of the rights of preservation of the culture, language and identity of the Abkhazians. Saakashvili, speaking at an international workshop entitled “*The Role of Non-Governmental Organizations in the Processes of Reintegration in Georgia*,” organized by the Office of the Georgian State Minister for Reintegration (SMR), unveiled a series of new proposals designed to resolve the Abkhazian conflict. A joint free economic zone, Abkhaz representation in the central government of Georgia with an Abkhaz vice-president, the right to veto all Abkhaz-related decisions, unlimited autonomy, and various security guarantees were among the newly proposed initiatives.¹

The new developments over the conflict regions as a result of the 2008 August War necessitate a re-consideration of Georgian relations with Abkhazia and South Ossetia. On August 26, 2008, according to the decree of President Dmitry Medvedev, Abkhazia and South Ossetia/Tskhinvali Region were unilaterally recognized by the Russian Federation as independent states, while they were declared as occupied territories by the Georgian central authorities. The promotion of international recognition of Abkhazia and the Tskhinvali Region/South Ossetia became a main concern for Russia, while containment of this process

¹ “State Strategy on Occupied Territories: Engagement through Cooperation,” <http://www.smr.gov.ge/uploads/file/SMR-Strategy-en.pdf> (Retrieved May, 2011) and “Action Plan for Engagement,” endorsed on July 6, 2010. http://www.smr.gov.ge/uploads/action_plan_en.pdf (Retrieved May, 2011).

was seen as the main task by the Georgian authorities. In this respect, the main Georgian efforts concentrated on promoting the concept of *Occupied Territories* as an appropriate term for the conflict regions on the international scene in the post-August War reality. Additionally, a great deal of effort was made to persuade the international community and different state alliances (mainly South America) not to follow suit.²

The policy of non-recognition on the part of the Georgian government was accompanied by specially tailored plans from Tbilisi, called the *State Strategy on Occupied Territories: Engagement through Cooperation*³ and *Action Plan for Engagement*⁴ both devised and elaborated by the Georgian State Ministry of Reintegration (SMR). These are complex documents that lay the ground for the development of new relations (political, economic, cultural) with the separatist regions, termed as occupied territories, while on the other hand looking for a favourable balance in the post-August War perception of the territorial conflicts of Georgia. The main aim is to change the image of these conflicts from intra-state to inter-state ones and to replace the label *ethnic conflict* with broader contextualization of the regional conflicts through post-Soviet Russia's geopolitical aspirations in the South Caucasus and Central Asia. The political elite of Abkhazia did not welcome the peace initiatives of Tbilisi, as they still promoted the idea of the vertical subjugation whereby peace projects give Georgia the leading position in future relations and Abkhazians are merely the recipients of the benefits of the peace plan. The unwillingness of the belligerent sides to compromise in their conflict resolution projects may become the main obstacle in future negotiations; even with the Russian "blessing" of the peace plan.

² The list of countries which acknowledged the independence of Abkhazia and South Ossetia includes Russia (26 August 2008), Nicaragua (5 September 2008), Venezuela (10 September 2009), and Nauru (Abkhazia - 15 December 2009; South Ossetia - 16 December 2009). It is important that in spite of heavy pressure from the Russian Federation on Belarus, this country refused to follow the Russian policy on the international recognition of the occupied territories of Georgia.

³ State Strategy on Occupied Territories: Engagement Through Cooperation," <http://www.smr.gov.ge/uploads/file/SMR-Strategy-en.pdf> (Retrieved May, 2011).

⁴ "Action Plan for Engagement," endorsed on July 6, 2010, http://www.smr.gov.ge/uploads/action_plan_en.pdf (Retrieved May 2011).

On January 27, 2010 a new *State Strategy on the Occupied Territories: Engagement through Cooperation*⁵ was approved by the Georgian government, followed by the *Action Plan for Engagement* in July 2010, which is the main policy document for the implementation of state strategy towards the occupied territories. *State Strategy on the Occupied Territories: Engagement through Cooperation* was elaborated to reach a breakthrough in the stalemate created in the relations between Tbilisi and Sokhumi after the August War 2008. The new peace plan is based on common principles and values shared by all European states, as reflected in the Helsinki Final Act. The document is aimed at full withdrawal of troops from Abkhazia and the Tskhinvali Region (South Ossetia). According to the state strategy, “the process of annexation of these territories should be reversed and they should be peacefully reintegrated into Georgia’s constitutional order.”⁶ Overall, the strategy seeks to counter the isolation and division resulting from occupation by creating frameworks, incentives and mechanisms for engagement.

The Georgian government believes that this should come through the promotion of economic interaction between the communities across the dividing line, rehabilitation and development of infrastructure, enhancement of the existing mechanisms and developing new means for the promotion of the basic human rights, improvement of the accessibil-

⁵ It should be mentioned that the State Strategy on Occupied Territories does not come on an empty basis and it builds on the previously signed agreements and resolutions of the International Organizations. It is based on the Law on Occupied Territories, endorsed in October 2008; Ceasefire Agreement of August 12, 2008; the Conclusions of the September 1, 2008 meeting of the EU Council; the August 28, 2009, United Nations General Assembly resolution on “Status of IDPs and Refugees;” Resolutions of the Parliamentary Assembly of the Council of Europe on “The Consequences of the War Between Georgia and Russia” (#1633 (2008), #1647 (2009), #1648 (2009), #1644 (2009), #1683 (2009), “Reports on the Human Rights Situation in the Areas Affected by the Conflict in Georgia (SG/Inf(2009)7, SG/Inf(2009)9, SG/Inf(2009)15); and the November 27, 2008 report of the OSCE Office of Democratic Institutions and Human Rights and High Commissioner for National Minorities on “Human Rights in the War-Affected Areas Following the Conflict in Georgia” (ODIHR/HCNM report). SOURCE: “State Strategy on Occupied Territories: Engagement through Cooperation,”

⁶ <http://www.smr.gov.ge/uploads/file/SMR-Strategy-en.pdf>.
Ibid.

ity of health care in Abkhazia and South Ossetia, and promotion of the freedom of movement. In addition, the engagement strategy aims to preserve cultural heritage and identity, promote the free flow of information and find a legal foundation for the implementation of the above-mentioned points.⁷ Naturally, all of these approaches set the territorial integrity of the Georgian state as the ultimate precondition, after troop withdrawal from these territories and complete return of IDPs through a peaceful and negotiated process. At the same time, these approaches contribute to the process of confidence building between the war-affected communities.

The *Action Plan for Engagement*, another official state document on the maintenance of relations between the sides, in its opening paragraph mentions: “Georgia seeks to engage with these populations, to reduce their isolation and to improve their welfare, in the interest of human and regional security.”⁸ This is a complex document, which is open for discussion by any interested party and subject to change according to the interests of national minorities (Abkhazians and South Ossetians), although simultaneously preserving the territorial integrity of the Georgian state. The document corresponds fully with the *Law on Occupied Territories*, adopted in October 2008 by the Georgian Parliament and amended in February 2010 in accordance with the recommendations of the Venice Commission. Engagement should come through close cooperation in the fields of economic relations, education, infrastructure and transportation, health care, people-to-people interaction, preservation of cultural heritage, identity and free flow of information, as well as through the mutual enhancement of legal and administrative measures and human rights. As engagement with the occupied territories requires close relations with the occupying power, the Georgian government “will continue to engage with the occupying force, within the framework of the Geneva process or other potential forums, to ensure the successful implementation of the Strategy and Action Plan,”⁹ the concluding para-

⁷ Ibid.

⁸ “Action Plan for Engagement,” endorsed on July 6, 2010, http://www.smr.gov.ge/uploads/action_plan_en.pdf Retrieved May, 2011.

⁹ Ibid.

graph of the document states. As will be demonstrated below, however, the fact that both documents stress the territorial integrity of Georgia might discourage the other side from cooperation and a more neutral formulation in this respect should be more feasible.

The project is based on four dimensions, which seek to create the pre-conditions for a breakthrough in the stalemate over the occupied territories. These four dimensions are humanitarian, human, social and economic. Interaction within these spheres will be facilitated by instruments of engagement which provide the new institutions – mainly social and political – to create new ways of interaction between Abkhazians and Georgians, as well as affecting all those individuals currently residing on the territory of Abkhazia. These instruments are:

- Status-Neutral Liaison Mechanism to facilitate communication between the Government of Georgia and the authorities in control in Abkhazia and Tskhinvali Region/South Ossetia through Liaison Officers appointed with consent of both parties; it will be operated under the umbrella of an international humanitarian organization for the implementation of mutually approved projects and their management;
- Neutral Identification Card and Travel Document to enable greater access to social services and freedom of movement, and assist in employment in private and public sectors. neutral here refers to citizenship status;
- Trust Fund to provide grants to implementing organizations operating in Abkhazia and Tskhinvali Region/South Ossetia and across division lines;
- Joint Investment Fund to support businesses that promote local economic development, generate employment and build commercial ties between communities on both sides of the division lines. The fund will be jointly supported by donors and businesses;

- Cooperation Agency to enable and facilitate interactions across the division lines. It will be established as a legal person of public law under the authority of State Ministry for Reintegration (SMR). It will act according to the policies of the government of Georgia in assisting state-funded programs;
- Integrated Social-Economic Zone to create a value chain across the division line, from the supply of raw materials to production, packaging, quality control and distribution.¹⁰

The document stresses that these aspects do not form a definitive list and the above-mentioned spheres are designated as possible areas of future cooperation. They interact with each-other, serving multiple goals and fitting within multiple programme areas. These instruments provide new opportunities of shared institutional interaction within the state. The new offer could be seen as an attempt by the Georgian authorities to break with the debates and contentions within the Soviet-inherited institutions and create new institutional areas for future collaboration. It is crucial that not state-level actors, but international agencies be designated as the supervisors of these institutional creations. They provide joint spheres of cooperation without reference to the political status of the occupied territories and political interaction with the Georgian authorities. The settling of political status should be postponed until the actual process of collaboration and cooperation are launched within the newly created institutions, and these institutions will work effectively by accommodating the interests of all sides.

On October 23, 2008, shortly after Russia's recognition of Abkhazia and South Ossetia as independent states, Georgia endorsed *The Law on Occupied Territories*, defining their status as *occupied* as a result of military aggression by the Russian Federation, and envisaging a *special legal regime* on these territories.¹¹ The main strategy document, "*Engagement through Cooperation*" refers not only to citizens, groups and communities but also to the *de facto* authorities of the conflict areas.

¹⁰ Ibid.

¹¹ Ibid.

Thus, “it was clear from the outset that the *de facto* authorities would oppose any Georgian state-sponsored initiative for engagement.”¹² In addition, as Abkhazians and Ossetians set the agreement not to use force as the main precondition for the negotiation, which the Georgians refused to sign, the prospects of the document remains very limited, not to say equal to zero. Gogi Khutsishvili claimed that time is on the side of Russia, and it will become increasingly harder to change the *status quo*, and that the “policies adopted on both sides paradoxically deepen isolation and increase security risks.”¹³

The main propositions of the peace plan devised by the Georgian authorities comply with the suggestions of Hansjörg Haber, head of the European Union Monitoring Mission to Georgia (EUMM). According to Haber, there is an urgent need for confidence-building and increase in the transparency of the military forces deployed on ground; this should be accompanied by freedom of movement across administrative boundary lines and the establishment of direct contacts between the parties. This will be an efficient tool to open trade contacts, which will improve the welfare of the civilian population and re-establish normal contacts between the divided communities.¹⁴ The actual implementation of the peace plan proposition and Haber’s recommendations are seriously hampered by the inability to “establish a robust, mutually agreed regime that would ease the delivery and distribution of humanitarian assistance helping improve human security.”¹⁵ Jamie McGoldrick, head of the

¹² Ibid.

¹³ Khutsishvili, G., “Words are not Enough – Georgia Must Remember the ‘Action’ in its Plan” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russiandialogue/caucasus-security-insight/george-khutsishvili/words-are-not-enough/> Retrieved May, 2011.

¹⁴ Haber, H., “Four Areas to Tackle - Today’s Relative Stability is no Cause for Complacency, Says Hansjörg Haber” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/hansjrg-haber/four-areas-to-tackle/> Retrieved May, 2011.

¹⁵ Markedonov, S., “Through Cooperation or Without Recognition – Georgia’s Approach is Paradoxical, Europe’s More Realistic” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/sergey-markedonov/through-cooperation-or-without-recognition/> Retrieved May, 2011.

UNDP Resident Representative in Georgia, mentions that peace proposals from the Georgian government and international engagement should reflect the need and approaches on the differences between South Ossetia and Abkhazia. That is, the same strategy cannot be applied to the both regions simultaneously.

The Abkhazian authorities might be discontented with the position of the EU as well. Irakli Khintba claims that the EU has a biased attitude to Abkhazia's sovereignty and "there is a clear unwillingness in Brussels to maintain neutrality in its approach to the status issue."¹⁶ In his assessment of the *Law on Occupied Territories*, Khintba believes the law depicts the conflict as a problem between Georgia and Russia, thus "Abkhazia is not considered a party to this confrontation, as has been continuously portrayed throughout the post-war decade."¹⁷ Khintba expresses concern that through this new law the Georgian authorities are trying to block the process of international recognition of Abkhazia. Hence, the law is perceived not as a Georgian attempt to counterbalance the Russian Federation, but rather to bring Abkhazia back under its subjugation. Similar to the *Law on Occupied Territories*, Khintba equally denounces the *State Strategy on Occupied Territories: Engagement through Cooperation*. He claims it is unacceptable due to at least the following two points: firstly, it bypasses the official Abkhaz authorities, while secondly it forbids any economic activity on the territory of Abkhazia which is not authorized by the Georgian authorities.¹⁸ Hence, it is clear that the problem of status relations and mutual subjugation is still central. The fact that the new law brings Abkhazia into vertical rather than horizontal relations with Tbilisi, even though monitored and implemented under the auspices of international organizations, is totally unacceptable for Sokhumi. In addition, Khintba see no connection be-

¹⁶ Khintba, I. "The Change in the Context of the Georgia-Abkhaz Conflict after August 2008", in Natela Akaba and Iraklii Khintba, (eds.), *Transformation of the Georgian-Abkhaz Conflict: Rethinking the Paradigm*, 2011, 35. See <http://www.c-r.org/our-work/caucasus/documents/2011/CR%20Ab-Ge%20ENG%20Web.pdf>.

¹⁷ Ibid., 32.

¹⁸ Ibid.

tween “the future of Abkhazia as an internationally recognized state and the resolution of the conflict with Georgia.”¹⁹

Although Abkhazians see no possibility of negotiations with Georgia and draw on the acknowledgement of their independence by Russia, they are not happy to bandwagon with their northern neighbour, as they realistically assess the serious constraints to their independence that come from the same power – Russia – that supported and still supports that independence. Hence, Khintba realistically assesses the deadlock Abkhazia is in after the August War and worries about the fact that the region is increasingly economically dependent on Russia. However, Khintba’s desires and recommendations for the future of Abkhazia seriously lead one to think that, periodically, Abkhazia still looks for independence, even after the acknowledgement of their independence from the side of Russia. Khintba argues the need for:

- Internal independence and the decision-making practice based on the declared national aspirations of Abkhazia;
- Transparency of funds allocated by Moscow and creation of the foundation for future financial independence;
- Flexibility and ability to manoeuvre in difficult conditions.²⁰

In their joint assessment of the post-August War reality, Akaba and Khintba mention that alternatives to independence are not considered in Abkhazia, and Abkhazians do not wish to join either Georgia or Russia. “The maximum is to establish associated relations [with Russia]...while the goals of the parties [Georgia and Abkhazia] remain irreconcilable and mutually exclusive.”²¹ Akaba and Khintba point to the problems

¹⁹ Markedonov, S., “Through Cooperation or Without Recognition ...” 34.

²⁰ Khintba, I., “The Change in the Context of the Georgia-Abkhaz Conflict ...” 41.

²¹ Akaba, N. and Khintba, I., “After August: Conflict Resolution or Conflict Transformation, in Natela Akaba and Iraklii Khintba, (eds.), Transformation of the Georgian-Abkhaz Conflict: Rethinking the Paradigm, 2011, 41. <http://www.c-r.org/our-work/caucasus/documents/2011/CR%20Ab-Ge%20ENG%20Web.pdf> Retrieved June, 2011.

which not only hamper the negotiations between Georgians and Abkhazians, but contribute to their further alienation, particularly: *mistrust, fear and the feeling of danger* and *lack of structures and mechanisms for managed engagement*.²² According to them, the implementation of the peace plan is made more difficult by two existing myths: first that Russia is the whole problem and there is no problem between Georgians and Abkhaz; and second that as Abkhazia realizes that Russia is the main danger, it will turn back to Georgia. For Akaba and Khintba these myths are nurtured in the rest of Georgia, but there is no link between them and the reality in Abkhazia.

All in all, the peace plans of the Georgian authorities are unacceptable for the Abkhazians as they do not acknowledge its independence and they push Sokhumi back under Tbilisi's control. Nevertheless, as Khintba mentions, based on the survey conducted in Abkhazia, Abkhazians are equally unhappy with their increasing dependence on Moscow. Thus, although the past does not push them to open links and launch collaboration with Tbilisi, future (evidently unequal) ties with Moscow seem totally unacceptable for them. Khintba and Akaba claim that the initiative of the EU office in the South Caucasus – *Engagement without Recognition* – was positively received in Abkhazia, although the main problem is the fact that the signals are coming from Tbilisi, as the EU office is located there.²³ Nevertheless, the fact that any sort of engagement requires cross border contacts and, according to Khintba, Abkhazians worry about the Georgian-Abkhazian engagement in the region of Gali; it is highly questionable if there are the prospects for the EU-brokered *Engagement without Recognition*, whether it comes from Tbilisi or from Brussels. This looks more like a matter of the EU vs. Russia in the conflict over Abkhazia than of Sukhumi's concerns about the balance of input from Tbilisi and Brussels in the peace initiatives coming from the regional EU office in the South Caucasus.

The following problems can be seen in the present light; firstly, the main problem is that international talks are heavily centred on political issues,

²² Ibid., 41.

²³ Ibid., 45.

whereas it would be desirable to set aside the irreconcilable legal status of these regions and “more focus on the provision of *soft security* to ensure stability.”²⁴ Indeed, the peace plans of the central authorities are aimed precisely at the provision of stability through soft measures and there is no contradiction between the peace-plan proposals and international recommendations in this respect. On the other hand, the main demands of the Georgian peace plans and the demands of the international society coincide; they let international organizations keep an eye on the real situation on the territories of Abkhazia and South Ossetia/Tskhinvali Region.

It looks as if the existing situation has led the parties to the deadlock and there is no prospect for a solution in the foreseeable future. This is due to the lack of trust between the parties themselves and towards the mediator that will bring them to the negotiating table. Khashig, founder and editor of *Chegemskaya Pravda*, an independent newspaper in Abkhazia, mentions that “the absence of mediators acceptable to both parties has inevitably had an impact on assessment of conditions in the conflict zones as well as on talks within the format of the Incident Prevention and Response Mechanism (IMRP), which is under the auspices of the Geneva Talks.”²⁵

Nevertheless, the solution to this particular situation is seen in the permission of the cross-border free movement of the local populations. Charap and Welt point out that the Georgian authorities allow any individuals to cross the lines of delimitation if they possess documents “that establish residency anywhere within Georgia (i.e. including Abkhazia

²⁴ Turashvili, M., “Restoring Freedom of Movement – Without Local Freedom of Movement, there Can be no Security Around the Abkhaz and South Ossetian Boundaries” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/medea-turashvili/restoring-freedom-of-movement/> Retrieved May, 2011.

²⁵ Inal Khashig, “Any Mediator Will be Hamstrung Unless it is Acceptable to All Parties” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/inal-khashig/bring-back-the-un/> Retrieved June, 2011.

and South Ossetia).”²⁶ These are the crossing points to and from Gali and Akhgori. Charap and Welt urge the parties to allow residents free movement and set duty-free regimes for agricultural foods and goods for personal consumption. In addition, they recommend these points should be codified in status neutral agreements between the Georgian authorities and local authorities in Abkhazia and South Ossetia/Tskhinvali Region.

While the vision of the Georgian authorities and international experts correspond closely to each-other, Paata Zakareishvili argues for the necessity of the international brokering of peace plans devised by the Georgian authorities. He claims that any program implemented solely by the Georgian government will not be accepted by the Abkhazian and South Ossetian authorities. “Western governments could propose creative forms of engagement with Abkhazia and South Ossetia and convince the Georgian government that such engagement was necessary for keeping the door open for a genuine conflict resolution in the longer term.”²⁷ Zakareishvili is right; Abkhazia and South Ossetia will not comply with the peace plans offered by the Georgian authorities; nevertheless, his insistence that a peace plan should be elaborated for the longer term is not a fair criticism, as the State Ministry of Reintegration (SMR) announced the peace plan for future discussion and correction on the basis of dialogue and negotiation between the involved parties for an undetermined period; no time frame for its discussion or actual implementation is set. Thus, the new government of Georgia could build on the existing peace plan formats.

Artur Tsutsiev is particularly sensitive regarding the formulations of the Georgian peace plans. He suggests that “the administrative boundary

²⁶ Samuel Charap and Cory Welt, “More Permits, Crossing Points and Clearer Rules are Needed” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/samuel-charrap-cory-welt/easing-the-crossing/> Retrieved June, 2011.

²⁷ Paata Zakareishvili, “Western Soft Power Needed – The Breakaway Republics should be Engaged, not Isolated,” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/paata-zakareishvili/western-soft-power-needed/> Retrieved June, 2011.

lines with South Ossetia and Abkhazia should instead be called *former administrative borders* to ensure political correctness and to reflect the real situation”²⁸ and points out that the former administrative borders and the lines where Russian troops stopped after the August War do not coincide. Here there might be a hidden attempt to institutionalize the former *de facto* secessionist lines and the occupied borderlands as the new lines of interaction between the conflicting parties, which will legitimize the advance of the Russian troops beyond the region (in the case of Tskhinvali Region in particular). This line of developments can be seen in Tsutsiev’s vision of the security mechanisms in the conflict zones. One strategy might be “expansion of the EUMM to include the territories of Abkhazia and South Ossetia. Yet the very politicization of the EUMM, which ignores the legal nature of the Abkhaz and South Ossetian authorities, stands in the way,”²⁹ Tsutsiev argues. This is testimony to the fact that the Russian side does not accept any peace plans or negotiations which endorse the territorial integrity of Georgia. Another alternative proposed by Tsutsiev aims at “placing its [EUMM] initial premise of the territorial integrity of Georgia in reserve, i.e. EUMM (like EU) could apply the principle of *conditional integrity*.”³⁰ This is another strategy to legalize Russia’s gains of the August War 2008, as this will entail conciliation procedures that will limit Tbilisi’s power on the former autonomous territories.

Criticism of the peace plan is centred on the formulation of the *occupied territories*. The phrases *puppet regimes* and *occupied territories* create obstacles in negotiations with the Abkhazians. Moreover, the Abkhazian side, in the form of Abkhazian Prime Minister Sergey Shamba, declared that Abkhazia was looking to engage with nations “all over the world.”³¹

²⁸ Artur Tsutsiev, “Time for Fence-Sitting is Over – No Amount of Incident Monitoring Can Ignore the Need for a More Dynamic Conflict-Resolution Model” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/arthur-tsutsiev/time-for-fence-sitting-is-over/> Retrieved May, 2011

²⁹ Ibid.

³⁰ Ibid.

³¹ Alla Yazkova, “From the Bottom Up? – Grassroots Forms of Engagement are Promising, but also depend on the Bigger Picture” IISS,

It should be noted, however that Georgia's approach replicates the EU formula *engagement without recognition*, which also looks for contacts between groups on the basis of shared interests, encouraging contacts between family members divided by conflict and youth exchange. Yazkova claims that calling these territories *occupied* blocks the implementation of the above propositions.³² According to Sergey Markedonov, a totally new approach is called for, one which will accommodate and not follow to the old mantra of *territorial integrity*. Meantime, Khintba does not see an Abkhazian presence in the peace plan of Tbilisi. He maintains that the Georgian document "replaces the concept of *lifting the isolation* with one of *de-occupation* and seeks to encourage Abkhazians to engage with Georgia without the involvement of the Abkhaz authorities."³³

The same argument is promoted by Inal-Ipa, who claims that the document has a clear political mission – to resolve the territorial issue – and terms like *occupied territories* and *puppet regimes* used by Georgia are totally unacceptable for Abkhazians and South Ossetians.³⁴ Inal-Ipa equally denounces the European strategy of engagement, as it "seeks for the overcoming of Abkhazia and South Ossetia's dependence upon Russia and is aimed at Georgia's regaining the control on occupied territories."³⁵ Inal-Ipa notes the close ties between the Georgian and EU strategy and sees no possibility for their implementation, as both ignore the interests of Abkhazian and add to its isolation and uneven development.

The peace plan is positively assessed by Antje Herrberg, who argues that the strategy and the Action Plan tackle aspects that go beyond the issues

<http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/alla-yazkova/from-the-bottom-up/> Retrieved May, 2011.

³² Ibid.

³³ Khintba, I., "The Change in the Context of the Georgia-Abkhaz Conflict ...".

³⁴ Arda Inal-Ipa, "Don't Call us Occupied – One thing that Cannot Go without Recognition is the View from Abkhazia and South Ossetia," IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/arda-inal-ipa/dont-call-us-occupied/> Retrieved May, 2011.

³⁵ Ibid.

dealt with at the Geneva Talks. “It has the potential to transform the conflict, as it seeks to engage with multiple levels of society – addressing both humanitarian issues and the fundamental sources of social inequality within the communities,”³⁶ she claims. According to Herrberg, the main deficiency of the document is the lack of involvement of the Abkhazian side in its elaboration process. Naturally, this had its objective reasons, although she mentions that “indirect talks and other means of consultation did indeed take place.”³⁷ More objective reasons blocking the implementation of the Georgian peace proposal are mentioned by Ghia Nodia, who argues that engagement will be quite difficult to achieve, as Russia and Abkhazia/South Ossetia are not interested in *engaging*. He identifies the major dilemma the present government of Georgia faces “how to extend the hand of engagement to communities in Abkhazia and South Ossetia without dealing with the *de facto* authorities who rule them.”³⁸ He concludes that engagement should be not with Abkhazian and South Ossetian authorities and communities, but rather between Georgia and the Russian Federation.

The critical comments and readings of the Georgian peace plans listed above demonstrate that there are no prospects so far to engage directly with the Abkhazian (and South Ossetian) communities. Arguably, accommodation of the Russian Federation is the crucial task in this respect; hence, given the existing zero-sum relations between the current authorities of Georgia and Russia, the prospects do not look promising. In the midst of the divergent opinions on the peace plan, one positive aspect remains that ultimately has some potential for the future. As Cooley and Mitchell argue, “the availability of pursuing a new international

³⁶ Antje Herrberg, “Talking Cooperation Seriously – Georgian Strategy towards Abkhazia and South Ossetia is not as Weak as Many Think” IISS, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/antje-herrberg/taking-cooperation-seriously/> Retrieved May, 2011.

³⁷ Ibid.

³⁸ Ghia Nodia, “Trying to Find Common Ground – Coming to Any Consensus in the Region will be Difficult, but a Policy of Engagement is Better than no Policy at All” IISS, 66, <http://www.iiss.org/programmes/russia-and-eurasia/about/georgian-russian-dialogue/caucasus-security-insight/ghia-nodia/trying-to-find-common-ground/> Retrieved June, 2011.

path will strengthen the hand of Abkhazian political leaders ... interested in crafting a *multi-vector* foreign policy, and offer Abkhaz decision makers ‘credible alternatives when negotiating with Russia on the management and governance of critical sovereignty issues.’³⁹ Ultimately, considering the existing heavy political and economic dependence of the Abkhazians on Russia and their already voiced grievances in this respect, the above opportunity might be exploited at some point in the future. This could serve as the starting point for rapprochement of the Georgian central authorities and Abkhazian governing elites. The need for direct negotiations between Abkhazian and Georgian communities is rightly stressed by various international experts. At the same time, it will be hard to change the position of the strongly independent minded Abkhazian community, although the equal high number of those who do not wish to be integrated into the Russian Federation might leave a window of opportunity for a trade-off between these two undesired outcomes for the Abkhazian community. At the same time, the willingness of the Georgian authorities to negotiate with the Abkhazians over their future status might bring some perspectives in this respect.

Economic issues

There is an urgent need to make economic contacts between Abkhazia and the rest of Georgia, but this is almost impossible from political and judicial point of view. How can the Inguri River be crossed in economic terms, without reference to the political and judicial issues? In addition, any business activity in the region ultimately entails legal issues. Any economic activity should be in correspondence with Georgian legislation. For some experts and politicians the existing collaboration on the Inguri Hydropower station could be used as a model for economic cooperation between the sides. In addition, the potential of development of tourism on the banks of the Inguri River is termed as a possible model of economic cooperation. But the customs relation is the number one problem in this respect: how the *de facto* trade relations can be accommo-

³⁹ Cooley, A. and Mitchell, L., “Engagement without Recognition: A New Strategy Toward Abkhazia and Eurasia's Unrecognized States” *The Washington Quarterly*, 33:4, 59-73.

dated with the *de jure* non-recognition of borders and territorial integrity of Georgia. And last, but not least, the primary problem for Abkhazians comes from the *Law on Occupied Territory*, as according to this law, any economic activity on Abkhazian territory is prohibited if not endorsed by the central Georgian authorities.

Abkhazians do think on the possibility of launching common economic projects with the central Georgian authorities. Probably this is motivated by the rise of the Russian influence in Abkhazia and its total economic reliance on the Russian Federation. Beslan Butba, a representative of the Abkhazian Party for Economic Development, warns the Abkhazian authorities that the increasing economic reliance of Abkhazia on the Russian Federation would undermine its political sovereignty and independence.⁴⁰ Although, it's highly unrealistic that Abkhazians will manage to achieve any breakthrough in this respect until the end of the Sochi Olympic Games of 2014. Martins argues that the upcoming Sochi Olympic Games served as the main driving force for the Russian Federation to take substantial control over Abkhazia during the August War of 2008. This move brought firstly the security mechanisms for the Sochi Olympic Games, and, secondly, it provided huge economic resources to the Russian Federation for the construction of the Sochi Olympic Complex.⁴¹

There are some joint economic projects which might lead to cooperation between Sukhumi and Tbilisi. This is the railway link between Armenia and Russia bypassing Georgia through Abkhazia, which is blocked since the early 1990s. Cargo transported between Armenia and Russia weighs around 14.5 million tons, whereas shifting a third of this cargo to the Abkhazian railway will bring 15 million USD profit to the region. But Georgia could not hope to gain any additional profit from this project, as the same cargo nowadays is transported via the port of Poti. The Karsi-Akhalkhalaki railway link could gain the same importance, as it might

⁴⁰ Ibid. 66.

⁴¹ Martins, V., "The Geopolitics of Abkhazia's Sovereignty" Portuguese Journal of International Affairs, No. 3, Spring/Summer 2011, www.ipris.org/php/download.php?fid=242 Retrieved June, 2011.

be linked with the railway of Abkhazia, thus cargos coming from Russia, Ukraine, China, Turkey and Eastern Europe will join this route. This will increase the Euro-Caucasian cargo transportation, whereas decrease the price around 30 per cent.⁴² Another line of cooperation might be development of tourism on the both banks of the Inguri River. Although there is no experience of tourism from the Abkhazian bank of the river, there are a great deal of experience in this respect on the other side – in Svaneti, Anaklia and Ganmukhuri. The future collaboration in touristic potential might add to the rise of trust between Abkhazians and Georgians.⁴³ Thus, it could be argued that some business projects might be profitable for the trans-Enguri economic relations, which will add to the build of trust between the sides and might lead to the transformation of the conflict.

Conclusion

All in all, it could be argued that the emergence of shared sovereignty could be seen in the sphere of economy, as, at a glance, this does not lead to an urgent determination of political status; nevertheless, the paper demonstrated that this is not a simple problem and economic cooperation brings political aspects to the forefront, first and foremost in terms of border issue. It could be argued that the main problem stems from the fact that international talks are heavily centred on political issues, whereas it would be desirable to set aside the irreconcilable legal status of these regions and focus on provision of soft security to ensure stability. In addition, criticism of the peace plan is centred on the new formulation of name of contested territories by the peace plans – *occupied territories*. The phrases *puppet regimes* and *occupied territories* create obstacles in negotiations with Abkhazians. Nevertheless, be it political or economic aspects of the future relations, i.e. political-economic status of Abkhazia and inter-relation with the central Georgian authorities, the issue of international guarantor still stands as a number one problem; the West is unacceptable for Abkhazians, whereas Russian Federation can no longer be seen as a peace-maker in the region. And

⁴² Sergey Markedonov, “Through Cooperation or Without Recognition ...” 31.

⁴³ *Ibid.*, 32.

last, but not least, the issue of contested sovereignty will stand as the primary obstacle for the rapprochement of the parties, as long as even simple joint economic projects between the Georgian central authorities and the local Abkhazian elites leads to the determination of the political-judicial issues, which is not an easy task to solve.

Epilogue

Frederic Labarre

The 8th RSSC SG workshop follows through the approach launched in 2012 whereby the workshop themes succeed, inform and reinforce each other from meeting to meeting. In Tbilisi, in March 2013, we had examined confidence-building measures in the EU and NATO frameworks and hits had given impetus to revisit an idea that had been proposed in Reichenau in 2012, that of joint sovereignty, by Dr. Craig Nation.

In effect the 8th workshop provided participants representative of every group in the South Caucasus the opportunity to tackle the thorny issue of status in a new way. The first measure of success of the 2013 Reichenau meeting was its representativeness; very rarely is it possible to accommodate Abkhazians, South Ossetians, and Nagorno-Karabakh constituents, together with Armenians, Azerbaijanis, Georgians and Russians. Also we also had a very rich Russian participation, probably the largest in years for a PfP Consortium workshop. Certainly the quality of the papers presented, the spontaneity in discussions are both the result of the expert organizational skills of the staff of the Austrian National Defence Academy, who have provided the Study Group with an idyllic setting, and of the professionalism of the participants.

The substance of the discussions is revealing. Federal or confederative arrangements are the governance solutions for any geopolitical actors whose constituent parts (either de jure or de facto) are characterized by distance; either physical or psychological/cultural. Canada and the United States are federations because they are large countries, and governing from the centre would inevitably clash (as they have in the American case in 1861-1865) with local particularities spread out over a vast territory. Other times, it is the variety of cultures within a small territory which requires representation. Here, the case of Switzerland and Belgium are patent cases. So too are the countries of the South Caucasus. Taken in isolation, the subject of federalization in the South Caucasus or of sharing sovereignty over resources and public service functions

should have yielded in-depth examination of how to make alternative governance models work. This is not exactly what happened. Instead, the discussions on sharing sovereignty or on joint management oscillated between two poles.

One of these poles saw the question of sovereignty (enhanced, shared, diluted, usurped or residual) as dependent upon whether the European Union or Eurasian Union model of integration would win out in the South Caucasus. Indications from our discussions suggest that there is significant disquiet as to how Russia is pushing its Customs Union and eventual Eurasian Union in the region. For the organizers, however, there is no either-or dilemma to the EU or Eurasian Union. There is no exclusivity to free trade at all. To wit, Canada, a founding member of the North American Free Trade Agreement (NAFTA) just entered into a free trade agreement with the European Union in October 2013. This should be an indication of the possibilities that exist for South Caucasus countries as well to enter both into agreement with the EU while being part of another formal structure. Unless of course one considers trade is only a veneer to hide ideological and normative motivations. Then the question of values comes to the fore, and that is subject for a workshop in itself! Suffice it to say that one of the alternative models of governance/sovereignty was considered at the macro-political level only.

The other pole of discussion did not focus on the details of how to make alternative governance models work at the regional level or between governments and breakaway regions, but on the *conditions* necessary for such ideas to even be considered. Namely, nearly all the participants at the workshop highlighted the issue of internally-displaced persons (IDPs) and of the commitment by the parties to the non-use of force. Certainly, this is hardly surprising, as these are two key bones of contention within the Minsk Group and Geneva format negotiations.

One cannot say categorically that the participants wanted to convey the message that security guarantees for refugees and non-use of force were *sine qua non* conditions for any ulterior discussion on status or even stabilization. Previous workshops had all argued that the necessity to focus on achievable goals and grass-roots level or non-political cooperation

initiatives could spill-over into other domains, and lead to a more stable South Caucasus by building confidence between parties. Such confidence building was then thought to be one of the essential keys to begin talking about refugee return and commitment to nonviolence. Rather, it seems more appropriate to say that in its own way, the Study Group examined the issue of alternative governance model in a deeper manner than expected. In this sense the discussions could not yield the policy recommendations that were anticipated. Instead we see continuity rather than variety.

This must be seen as an indication of the soundness of the Study Group's approach, and of the coherence of its participants. This gives enormous credibility to the recommendations that have been issued in the past. But there is also innovation. For example, the discussions on interim solutions rather than arguing *ad vitam aeternam* on national end states are an important step forward. We have also heard statements warranting optimism; Medea Turashvili hinted that Georgia, for its part, was demonstrating readiness to reconsider certain notions associated with Abkhazian and South Ossetian sovereignty, and to revisit federative options once again. But most evocatively, Stepan Grigorian let fly the remark that it's the whole idea of *borders* that had to be looked at in a critical manner, not merely issues of sovereignty or even territorial integrity. In that last regard, Nina Selwan argued that discussions about territorial integrity were positively harmful to making headway in negotiations. These observations should be heeded by Euro-Atlantic powers, who lobby so strongly for a "Europe at peace, whole and free."

In April 2013, the French daily *Le Monde diplomatique* released a special periodical asking whether "borders shouldn't be completely discarded." (Faut-il abolir les frontières?) This point is valid in view of the fact that borders carry double meanings. They represent barriers and filters – a potent image in the South Caucasus – but they also represent the "great beyond", aptly illustrated by the French-to-English false friend "frontier." The frontier is the place where anything is possible. It is the myth of the North American West, where individual (not national or collective) achievement is rewarded. The breakaway regions' independence drive is therefore not incompatible with the desire expressed

by their representatives (but also by Armenian, Azerbaijani and Georgian participants) for easier access to the European Union through visa liberalization. Indeed, it is the very manifestation of the double meaning of borders in the globalizing world.

All in all the discussions were rich and spontaneous. Perhaps too rich; topics for future workshops abounded and selecting a theme for the 9th RSSC SG workshop was difficult. The 9th workshop, which will be held in Istanbul 20-22 March 2014, will focus on the non-use of force through the prism of disarmament and military de-escalation. This topic will be explored at the individual, regional, national and international levels. To some extent, it offers the participants the chance to expand in greater detail on ideas that were put forward at the 7th RSSC SG, namely “cold cooperation.”

The aim will be to communicate to the South Caucasus stakeholders the risks associated with out-of-control military escalation, and how disproportionate military spending threatens socio-economic (and domestic) stability. It will also aim at determining the conditions whereby an effective arms control regime involving larger powers constructively can be established at least at the South Caucasus level. In the absence of an agreement on the non-use of force by the parties, raising awareness among adversaries of the objective justification for moderation will bring about the realization that the greater part of honour lies in a more discrete military footprint.

PART V:

POLICY RECOMMENDATIONS

Policy Recommendations

Current events in the South Caucasus

The South Caucasus is fresh from an election cycle in the three countries of the region. In 2012, the government of Serzh Sargsyan was re-elected in Armenia, increasing his majority from the previous election, ending up with 69 seats out of 131. The surprises were the Prosperous Armenia Party and the Armenian National Congress (ANC) coalition (the latter headed by former president Levon Ter-Petrosyan), each of which gained 37 seats and 7 seats respectively. The Prosperous Armenia Party won 12 more seats compared 2008, and the ANC – a new party – gained 7 seats. The platform of the Prosperous Armenia Party, headed by businessman Gagik Tsarukyan, could be considered the equivalent of Bidzina Ivanishvili's Georgian Dream in Georgia.

In Georgia, Georgi Margvelashvili, an ally of Prime Minister Ivanishvili, elected in October 2012, won some 62% of the popular vote to become president. This spells the end of polarization in Georgian politics, but despite outgoing president Saakashvili's unpopularity, does not spell the end of his party, the United National Movement (ENM/UNM), which retained 21% of voting intentions. Both the Armenian and Georgian elections were considered transparent, barring some minor irregularities.

The Azerbaijani elections returned President Ilham Aliyev to power in 2013. However, there are fears that the process was not free and fair, the alleged election results having been released the day before the official vote, ostensibly due to a malfunctioning mobile application. According to official statements, the 2008 results were released a day before official polling by mistake, but critics evidently seized on this as evidence of election tampering.

For the purpose of the following policy recommendations, one cannot neglect the elections that took place in the breakaway regions. This is essential because, at the very least, this is a demonstration of internal self-determination, and it a process that would have taken place anyway

in conditions of territorial integrity, provided that conditions of basic democracy are met within the regions. It is understood that not all actual residents of the breakaway regions were able to participate in the elections due to their being internally displaced persons. However, the process of determination has been acknowledged as legitimate, even if not totally representative. Elections results provide an essential background to the various conflicts in the South Caucasus, and, each in their own way, provide room for hope of resolution. In Georgia, the realization that Saakashvili's policies aimed at the reintegration of breakaway regions through the use of force or heavy-handed centralization have been discredited. There is a sense that society is ready to accommodate a more constructive dialogue with Russian authorities, and already, this approach has borne fruits under Mr. Ivanishvili's premiership. A peaceful, transparent and representative change of government there offers the hope that some headway can be made regarding the resolution of conflict with South Ossetia and Abkhazia.

However, it must be said that the Russian presence in either of the two breakaway regions, while ensuring the security of the constituents there, has not been conducive to reintegration in any form. Indeed, South Ossetians, with Russian troops, started erecting razor-wire and earthworks physically separating South Ossetia from Georgia. In Abkhazia, although there are still access corridors with Georgia proper, checkpoints are often manned by Russian servicemen. There is mounting evidence that Abkhaz residents are chafing at the Russian presence, but, as argued above, it is for the moment necessary for their security.

In the conflict opposing Armenia and Azerbaijan, the election results ensure continuity of the stalemate, which is always better than a worsening of the situation. So, regardless of how one may feel about the electoral process, stability in leadership is an important element of the future resolution of the conflict there, especially since Mr. Sargsyan and Mr. Aliyev could agree on the current compromise offered by the Minsk Group, should they so choose. In other words, electoral campaigns on either side of the divide could make Nagorno-Karabakh an issue, and poison the prospect of resolution.

Sovereignty by other means

In an area of the world affected by a political history where centralism and authoritarianism has too often been the norm, it is sometimes necessary to take the time to explore how the concept of sovereignty has changed, especially since the end of the Cold War, and is no more – if it has ever been – absolute. Self-determination and sovereignty, taken in the absolute, can never be reconciled. What is required is breaking down the elements of sovereignty – fragmenting its nature, rather than the territory over which it is supposed to operate.

Increasing regional autonomy relative to the centre would be preferable to centralism, especially for demands of cultural protection. Cooperative management, partnership agreements and federative solutions could offer the possibility of conflict resolution, de-politicizing administrative functions. In this area, concluding agreements on pooling sovereignty over non-strategic resources or non-political issues could be a step forward. By non-strategic resources, we mean those resources affecting the common good, such as water, energy, transport, and other services. Non-political issues may include, for example, the environment, tourism, culture, taxation as functions that can be distributed to sub-national agencies.

The function of administration and the nature of the resources that can be interlocked between the countries or communities are important aspects of joint management or sovereignty. Again, an emphasis on cooperation over issues of common concern and interest has been made; joint management in the sphere of emergency management and environment offer avenues of cooperation aiming at mutual benefits.¹

Otherwise, the regional understanding of shared sovereignty may continue to act as an impediment to stability. As has been noted, Armenia,

¹ This point has been raised in Pierre Jolicoeur, “Cold Cooperation: Opening the Way to Negotiation” in Ernst M. Felberbauer and Frederic Labarre, (eds.), *Building Confidence in the South Caucasus: Strengthening the EU and NATO’s Soft Security Initiatives*, Vienna: National Defence Academy, July 2013.

Abkhazia and South Ossetia share sovereignty with Russia (or otherwise depend on it) in the sphere of security, and this has consequences for the regional balance of power, as well as for the regional economy.

Sovereignty as perceived in the Western part of the South Caucasus

The Euro-Atlantic powers, keen on making Kosovo a case *sui generis*, insist upon the territorial integrity of Georgia and Azerbaijan in the face of *de facto* independence of Abkhazia, South Ossetia and Nagorno-Karabakh. A solution between territorial integrity and *de jure* independence would be the erection of a regional structure that would act as an integrator, and satisfy each actor's interests. An Assembly of Regions, Regional forums, or a Caucasus Economic Region, adapted in a confederative framework, could be an acceptable solution for most. Georgia has indicated that it would be ready to reconsider certain concepts associated with Abkhazia and South Ossetia's sovereignty.

A confederative political structure would permit integration at the regional level by disaggregating sovereignty according to specific jurisdictions. One mechanism to achieve this would be an agreement recognizing independence and simultaneously creating a regional confederation. During the workshop, much has been said about the possibility of confederative solutions, but we stress here that it does not matter whether a country is officially called unitary state, federacy or confederacy – the key is to ensure the right balance between self-rule and shared rule.

All this is predicated upon a radical departure from the tension-filled rhetoric of confrontation, and particularly upon the commitment from all sides to the non-use of force. Non-use of force has been demanded by all sides at various points during the negotiations and was never framed into a negotiated agreement by either the Minsk Group or the Geneva process, but there seems to be consensus on the issue. It would appear that another crucial step – the return of internally displaced persons (IDPs) – would not be possible unless the parties agree on international security guarantees, which would safeguard the interests of both the accepting party and the returnees. There, the threat of ulterior separation (partition)

would have to be mitigated by guarantees on cultural autonomy of the returnees.

Sovereignty as perceived in the Eastern part of the South Caucasus

The Armenia-Azerbaijan conflict over Nagorno-Karabakh is more intractable, but emphasises the necessity of non-use of force even more, in the context of Azerbaijan's and Armenia's military build-up. The cease-fire agreement has relative meaning as it is routinely violated through isolated shootings and sniper action. Stabilization here requires limited internationalization, where aggressive rhetoric would be monitored by Western powers, and Nagorno-Karabakh in particular would become the beneficiary of EU projects.

The threat of military action is nowhere more palpable than over Nagorno-Karabakh. The gulf separating Armenia from Azerbaijan effectively prohibits confederative schemes as suggested in the previous section. However, a "free economic zone" status would enable economic goals to supersede military goals. This would require massive investment in a region that is recognized for its poverty. Since both sovereignty and territory are disputed, a "reconciliation agency" could precede attempts at establishing a final status that would be acceptable to the Armenian, Azerbaijani and Nagorno-Karabakh sides.

Alternative models of sovereignty in practice

Small steps are needed to go forward, if not a general stepping back from angry rhetoric. Agreement of some sort must punctuate every negotiation attempt at the Minsk Group or Geneva, even if it is agreement to disagree. From that point on, focusing on the process and not the outcome would perhaps bring about agreement on an open-ended *transition* status rather than a final status.

Putting emphasis on past or existing cooperative ventures, either regional or under the aegis of the EU, would also rekindle the memory of a common destiny for the region. Examples of successful joint management or shared sovereignty projects include the Ergneti market (closed

in 2004) and the Inguri hydro-electric facility, but some also involve the EU, as the many water projects in the region testify. Transitional strategies would therefore need to start at the lowest level and focus on jurisdictional issues. For example, discussions about the responsibilities over certain services to the population could be a starting point. Deciding what function should be regional as opposed to national would have to focus on issues that are not likely to be politicized. Tourism boards, for example, could be regional, with the mission of promoting regional culture and attractions, whereas the national level's mission would be to support all regions equally, through funding and promotional support at the international level.

Too many normative, political and military issues pollute the narrative on ownership. South Caucasus societies must be integrated not necessarily in the EU and/or in the Eurasian Customs Union, but also within the overall contemporary globalized governance framework. An enlightened approach to governance emphasises not who owns what but who is responsible for what (in the collective good). As has been attempted in a previous RSSC SG workshop, societies in the region must gain awareness of the benefits of abandoning some part of their sovereignty. This point should be accentuated by Minsk Group and Geneva Talks mediators.

Summary of Recommendations

Commit to the non-use of force.

Demilitarization must be understood as a broad condition for moving forward on any issue. As long as the threat of violence will be manifest through aggressive rhetoric or disproportionate forces-in-being for a country's economy or the actual threat level, no easing of tensions can take place.

Measures must be put in place to remove the potential for a pre-emptive strike or surprise attack by any of the parties to conflict in the region, and this applies equally to Russia, Azerbaijan, and Georgia, Armenia as well as the security forces of the breakaway regions.

Focus on Process, not Status

This recommendation is not new.² Here, process means also the acceptance that there must be patience involved in status determination. An open-ended process, which could start by the recognition of *territory* (as opposed to recognition of independence) and political *authority* over an unrecognized territory (“internal” self-determination, which would occur anyway in the context of territorial integrity) would open the door to a transitional process. There are caveats to this approach; political authority would have to have been determined through legitimate means, and not military conquest, and the same goes for the recognition of territory, as the geographical area as it was before military operations changed the political landscape. Otherwise, this prospect would be problematic for the case of Nagorno-Karabakh.

Recognizing territory and political authority (as duly elected) would preempt future delimitation disputes that could emerge in the case of a mutually-agreed separation, or the creation of other power-sharing arrangements. For example, it would be easy to agree where the geographical and political delimitations of Abkhazia, South Ossetia and Nagorno-Karabakh lie. And since political authority upon these regions would not affect the remaining populations’ desire for autonomy-cum-independence, it would be pointless for Tbilisi or Baku to impose its preferred political representatives there.

Rather than trying to impose unilateral solutions involving the final status of the unrecognized political entities in the South Caucasus, regional states and relevant international actors should rather focus creative energies on setting up transitional processes aimed at achieving multilateral governance over the regional commons. Moreover, as suggested by lessons learned in the Western Balkans, region building strategies should effectively complement international efforts for conflict transformation. However, a champion for regional integration is still missing

² See “Building Confidence in the South Caucasus: Strengthening the EU’s and NATO’s Soft Security Initiatives – Policy Recommendations”, Vienna: Austrian National Defence Academy, 2013, 4.

in the South Caucasus. Potentially, the EU could revitalize its involvement in strengthening regionalism in the South Caucasus in strategic coordination with Russia and Turkey.

Start small

It is generally acknowledged that the current doctrine of “engagement without recognition”, adopted by the EU in its relations with the South Caucasus could also be applied by the central authorities in the region, especially in Tbilisi and Baku. Essentially, this involves leaving to later discussion the more contentious issues about status, and focusing on achievable goals in the public interest. In this view, the following avenues could be promising.

- A regional convention on the protection of human rights, freedom of movement, and human security would be to the credit of all the actors involved in the conflict, and to the benefit of their constituents, wherever they currently live.
- Raising awareness about common projects, such as the Inguri hydroelectric project, the revival of the Ergneti market and how they benefit divided communities would also be a step in the right direction, which may trigger positive spill-over into other professional or administrative functions.
- Prepare the respective constituencies to co-exist regardless of final status by raising awareness of the commercial and economic benefits of confederative solutions, especially with regards to interaction with the European Union.

List of Authors and Editors

ALEXANDROVA-ARBATOVA Nadia, Institute of World Economy and International Relations, Moscow

ARZUMANYAN Hrachya, Stepanakert

EGOROVA Elizaveta, Fund for Peace, Washington, DC

FELBERBAUER Ernst M., Austrian National Defence Academy, Vienna

GRIGORIAN Stepan, ACGRC, Yerevan

HADJY-ZADEH Hikmet, FAR Center, Baku

HUSEYNOV Tabib, SaferWorld, London

KENDALL Chris, EU Relations with South Caucasus Countries, European External Action Service (EEAS)

LABARRE Frederic, Security Governance Group, Ottawa

MANDALENAKIS Elena, McGill University, Montreal

MAYILIAN Masis, Public Council for Foreign and Security Policy, Stepanakert

MSHEDLISHVILI Irakli, Center for Civil Defence, Tbilisi

NATION Craig, Dickinson University, Dickinson, ND

NOVIKOVA Gayane, Center for Strategic Analysis, Yerevan

NURIYEV Elkhan, Caucasus Institute for Democratic Integration, Tbilisi

PILIA Dalila, Abkhaz State University, Sukhum,

RAJABOV Rauf, 3rd View, Baku

SARGSYAN Ofelya, EUFAJ, LIBERTAS, Yerevan

SELWAN Nina, George Mason University, Arlington, VA

TURASHVILI Medea, ARISC, Tbilisi

ZAHORKA Hans-Jürgen, Libertas Institut, Stuttgart