

Undeclared War: The Nagorno-Karabakh Conflict Reconsidered

Svante E. Cornell

Since the beginning of 1988, a conflict has endured between the Transcaucasian republics of Azerbaijan and Armenia over the disputed area of Nagorno Karabakh. This conflict has resulted to a considerable refugee crisis in Azerbaijan especially, with the number of displaced persons exceeding one million. Twenty percent of the territory of the Republic is occupied, and ethnic cleansing and massive human rights violations have been reported on the territories held by what the 'International Community' terms as 'Ethnic Armenian Forces'. The economic condition in both republics is disastrous; Armenia has suffered deeply from a blockade initiated by Azerbaijan and joined by Turkey, which led to a critical shortage of energy; and Azerbaijan has so far been unable to use its rich oil and natural gas resources to normalize the economy of the country.

The conflict in Nagorno Karabakh is regarded as an internal conflict by the major powers and International Organizations, and consequently the efforts of the international community to bring an end to the conflict have been half-hearted at best and exiguous at worst.

Nevertheless a detailed analysis of the conflict indicates that the definition of the conflict as internal is a fundamental misinterpretation, if not a distortion, of the actual situation. This misconstruction has allowed the major powers to keep from taking a stand on the issue, leading, once again, to the implicit recognition of ethnic cleansing and the use of force in the alteration of internationally recognized borders.

Svante Cornell is at the Department of International Relations, Middle East Technical University, Ankara, Turkey, and the author of *Small Nations and Great Powers — A Study of Ethnopolitical Conflict in the Caucasus*, forthcoming in Spring 1997.

In our analysis of the conflict, we will concentrate on the legal aspect of the conflict and on the attitudes of the ‘world community’ towards it. To base our analysis, it is nevertheless necessary to see the history of events and decisions relevant to our discussion.

Historical Background

When the Transcaucasus was incorporated into the Soviet Empire in 1920-21, the borders between the republics of Azerbaijan, Armenia and Georgia were not determined immediately. This was very much due to the problems of drawing the border between Armenia and Azerbaijan, notably the question of the status of the regions of Nagorno-Karabakh and Nakhichevan. This period was characterized by a political struggle for Karabakh between Armenia and Azerbaijan within the Soviet Union, which would last long, as it took the Soviet leadership three years to settle the issue. Initially the pendulum seemed to swing in favour of Armenia, as the revolutionary committee of Soviet Azerbaijan in December 1920 (under Soviet pressure) issued a statement that Karabakh, Zangezur and Nakhichevan were all transferred to be transferred to Armenian control. Stalin (then commissar for nationalities) made the decision public on December 2, but the Azerbaijani leader Narimanov later denied the transfer. Four months later, the pendulum swung back.

On March 16th, 1921, a treaty between republican Turkey and the Soviet Union determined that both regions were to be under the authority of the Azerbaijani Soviet Socialist Republic (Zangezur was left within Armenia). In 1924, Nakhichevan obtained the status of an autonomous republic (the NASSR) whereas Nagorno-Karabakh had been granted the status of an Autonomous Oblast only (the Nagorno-Karabakh Autonomous Oblast).¹ It seems as if this development was a concession on the part of Stalin (at the time Commissar for Nationalities) to the newly founded Turkish republic; the Bolsheviks were initially positively inclined to Kemal Atatürk, whom they saw as a potential ally at the time,

¹ In the regional hierarchy of the Soviet Union, the highest units were the 15 Republics of the Union, which had the theoretical right to withdraw from the union. Immediately under these were the Autonomous Republics, with a higher degree of autonomy than the autonomous Oblasts, or regions.

especially given the fact that both movements had certain common points; both were revolts against the *ancien régime* of their respective countries, and were involved in wars with the western powers, notably Britain.

Atatürk was hostile to any territorial arrangements favouring Soviet Armenia, since a strong Armenia could have potential territorial claims on Turkey, which strongly opposed the provisions of the Sèvres treaty aiming to establish both a Kurdish and an Armenian state on Turkish territory. Thus keeping Armenia weak was a way to guarantee the territorial integrity of the nascent Turkish republic.

Even given Stalin's tendency to divide the Caucasian peoples in order to prevent unified resistance,² the idea of separating the Armenians into two entities—the Armenian republic and Nagorno Karabakh—must have been welcome. Furthermore, Stalin managed not only to divide the Armenians but also the Azeri, into the Azerbaijani republic and Nakhichevan (although the latter remained administratively a part of the Azerbaijani SSR). Another reason for the Soviet government's favouring Azerbaijan may very well have been related to the way the Bolshevik ideology was received in the Caucasus. In fact, Armenia had shown no mentionable communist tendencies in the years of the revolution and civil war. In Armenia, the Dashnak party was the dominant political grouping during the entire period. The Dashnaks, far from being oriented towards socialist ideas, were a die-hard Armenian nationalist movement. This is clearly proved by the fact that the Dashnaks remained in power in Zangezur well into 1921, refusing the Bolshevik overlordship, whereas Yerevan had already fallen to communist rule. By contrast, there was a certain popular support for Bolshevik ideology in

² This policy of Stalin's is clear if one observes the national delimitations in the Caucasus. An example is the regions of Karachay-Cherkessia and Kabardino-Balkaria. It seems, indeed, as the delimitation is designed purely to cause dissent in the regions that would enable Russia to control the regions. Karachays and Balkars are in fact in most respects one people speaking the same Turkic language; similarly Kabardins and Cherkess are both Circassian peoples. Thus the result of the national delimitation is that both regions include two titular nationalities without ethno-linguistic affinities, which have mutual prejudices and historical antagonisms against each other. For an overview of the subject, see Pustilnik, Marina, "Caucasian Stresses", in *Transition*, 15 March 1995, pp. 16-18, or Smeets, Rieks, "Circassia", in *Central Asian Survey*, nr. 1, 1995.

Azerbaijan. Notably, the industrial workers in Baku were pulled towards the Bolsheviks, and as a result the short-lived Baku commune emerged, although short-lived. Thus in the eyes of the Soviet leadership, Azerbaijanis must have seemed more reliable and more close to the Bolshevik cause than the Armenians, who also had been the most loyal supporters of the Tsar.

However, the Karabakh issue was not completely settled even with the Turco-Russian friendship treaty. The precariousness of the situation is shown by the fact that even after this treaty, the issue was not solved immediately.

On 4 July, a meeting of the *Kavburo*, (Caucasian section of the Soviet communist party) voted in Stalin's presence to include Karabakh in the Armenian SSR.³ The very next day, Narimanov protested against this decision and the *Kavburo* once again reversed its decision, and agreed to Karabakh's remaining in the Azerbaijani SSR, although the region was to be granted substantial autonomy.

Thus the issue finally settled, during 1922 discussions took place as to what the status of Karabakh would be within the Azerbaijani SSR. In the end, a decision was taken to give the region the rank of an autonomous *Oblast*, (the *Oblast* was composed mainly by the mountainous part of Karabakh and consequently was called the *Nagorno* (mountainous) *Karabakh Autonomous Oblast*, hereafter the NKAO) and a decree from Baku on 7 July 1923 established this state of affairs. A month later, the capital of the NKAO was moved from Shusha to Khankendi, not ten kilometers to the East, and the city was renamed Stepanakert, after Stefan Schaumian, the 'great Armenian Bolshevik' of the Baku commune.

Ever since, Armenian forces have constantly attempted to reverse this situation, especially at times of change in Soviet rule or policy. The dormant Armenian claims surfaced once again in the late 1980s, with the Glasnost policy of Mikhail Gorbachev allowing for more openness in the political atmosphere of the Soviet Union. Thus the number of sporadic incidents between the two communities, having occurred even during the Brezhnev era, grew quickly from 1987 onwards; letters demanding

³ See Suzanne Goldenberg, *Pride of Small Nations*, p. 159, or Cullen, Robert, "A Reporter at Large", in *The New Yorker*, 15 April 1991.

reunification started flowing in to the Moscow authorities, Armenians refused to accept an Azeri Kolkhoz director, and numerous events of this kind started to increase and to appear in the lightened political and media atmosphere of the Soviet Union. In August of 1987, a petition prepared by the Armenian academy of sciences with hundreds of thousands of signatures (in Armenia) asked for the transfer of Nagorno Karabakh and Nakhichevan (where a 1979 census recorded a population consisting of over 97% Azeris) to the Armenian SSR.⁴ These events culminated in February of 1988, when the officials of the NKAO officially requested to the authorities in Moscow to be put under the jurisdiction of the Armenian SSR. In Armenia, huge demonstrations supported this bid for reunification by the Karabakh Armenians; one million people were reported on the streets of Yerevan demonstrating in favor of this claim—clearly an inflated number (especially by the Diaspora in the west) given the fact that the whole of Armenia totals less than three and a half million. Simultaneously, the Azeris in Armenia face increasing difficulties and harassment, and in the end of January of 1988 the first refugee wave reaches Baku, and most refugees are relocated in Sumgait, in Baku's industrial suburb. Before the end of February, two more waves of refugees were to reach Baku.

The conflict was to erupt wholeheartedly on 27 February, as violent riots erupted in Karabakh and Azerbaijani Radio reported two Azeri youths killed in Karabakh. Thus Azeris started retaliating against Armenians in Azerbaijan, and the ethnic conflict, as Yérasimos states, followed its own logic.⁵ For what could be a more logical place for retaliatory violence than Sumgait, Baku's dark industrial suburb, with a large Armenian minority, where on top of everything huge numbers of furious and frustrated Azeri refugees had been resettled? The official figures show 32 dead (26 Armenians and 6 Azeris) for the three days, 27-29 February, that the unrest went on, although Armenian sources multiply the numbers of (Armenian) casualties by a factor of at least ten. The fact that the Soviet army and Interior ministry troops were in the area did not change anything; in fact the army stood by and watched the

⁴ For an overview of the population distribution of Nagorno Karabakh and Nakhichevan between 1959 and 1979, see Alexandre Bennigsen and S. Enders Wimbush, *Muslims of the Soviet Empire*. London: Hurst & Co., 1985.

⁵ See Stéphane Yérasimos' excellent article "Caucase: Le Retour de la Russie", in *Politique Internationale*, nr. 1, 1994.

pogrom take place, and may even have initiated it, as is persistently argued by Igor Nolyain in his thought-provoking article.⁶ According to Nolyain, the Soviet forces did not stay at neglecting to prevent the bloodshed, but deliberately sought to *create* a conflict between the two communities, both in Armenia and in Azerbaijan. This was done through the control of the media, by spreading exaggeratedly provocative statements on both sides, and by deploying criminals from Soviet prisons in Sumgait to initiate the pogrom. Whatever the real level and nature of Russian involvement, it seems clear in retrospect that the Russians did not have to do much to set both Armenia and Azerbaijan on fire. If their aim was, as it seems, to destabilize the area by creating an inter-communal war which would weaken both governments and enable Moscow to reestablish control over the area, they were only wrong in the sense that they did not know what kind of a monster they were giving birth to. Just like the child who plays with fire soon loses control of what he started, with unknown consequences, the Azeri-Armenian conflict soon slipped out of the Russians' hands. In fact, the mutual hatred had escalated to such a point that any spark would initiate the conflict. And the spark which would make the process of escalation of the ethnic conflict irreversible, was indeed the Sumgait pogrom. After Sumgait, it seems as there was no way to bring about a de-escalation of the conflict, and in any case this was made impossible by the wobbling approach of the Soviet authorities.

To the Armenians, Sumgait was like a reminder of the massacres of the first world war and equated the Azeris with the Ottoman armies. It only made them more firm in their belief that there was no way they could live in any form of arrangement with the 'Barbarian Turks'. From this point onwards, the Armenians systematically chased all Azeris from Armenia, notably from the Ararat region where the latter lived in substantial numbers.

Subsequently, inter-communal violence escalated rapidly in both republics. Armenia was cleaned of everything Azeri or Muslim, whereas most Armenians were chased from Azerbaijan, notably the sizable Armenian population in Baku. One scholar has noted that the ethnic

⁶ Certain analysts have tried to prove that the Azeri-Armenian conflict was initiated by the authorities in Moscow in as a part of a policy of 'divide and rule' in the Transcaucasus, as they felt that the region was getting out of their control. Moscow's support for the Abkhazian separatists in Georgia is well documented. For an overview of the subject, see Igor Nolyain, "Moscow's Initiation of the Azeri-Armenian Conflict", in *Central Asian Survey*, v.4 n.13, 1994.

cleansing was carried out differently in the two republics: mainly by systematic and thorough action in Armenia, and primarily by sudden violent spontaneous actions in Azerbaijan.⁷ (such as the riots/pogroms of Sumgait in 1988 and of Baku in 1990) There were huge refugee flows crossing the Azeri-Armenian border in both directions during 1988 and 1989 ; notably, large numbers of Armenians were forced to leave Baku during this period, whereas Azeri villages in Armenia were evacuated and renamed.⁸

Having noted that inter-communal violence existed on both sides, our purpose here is not to present an account for the outbreak of the conflict or to compare the violence that occurred in the two republics—extensive accounts have already been carried out on that subject.⁹ What has been overlooked in the literature that the present author has come across is a comprehensive examination of the legal aspects of the conflict and of the way it has been treated by the world community.

From a legal point of view, important decisions were taken in December of 1989. On December 1st, the Supreme Soviet of the Republic of Armenia passed a resolution which incorporated the NKAO into the Republic of Armenia. Soon after, the NKAO Soviet of people's deputies voted in favor of secession from Azerbaijan. The Supreme Soviet of Azerbaijan quickly rejected the decision as illegal, and the Presidium of the Supreme Soviet of the Union declared it null and void.¹⁰

In January 1990, the main scene of action was moved to Baku. On the 13th and 14th, Azeri refugees from Armenia start a pogrom on Armenians, while the Soviet army, present *en masse* in Baku, repeated its actions in Sumgait and did what it would do in most cases of ethnic strife—nothing. The APF condemned the riots, denounced Moscow for

⁷ Quoted from Stéphane Yérasimos, “Caucase: Le Retour de la Russie”.

⁸ See Robert Cullen, “A Reporter at Large”, in *The New Yorker* (Magazine), 15 April 1991.1/1994.

⁹ For an account of the outbreak of the conflict, see Mark Saroyan, ‘The “Karabakh Syndrome” and Azerbaijani Politics’, in *Problems of Communism*, September/October 1990. For a more recent assessment, see also Arie Vaserman and Rami Ginat, “National, Territorial or Religious Conflict? The Case of Nagorno-Karabakh”, in *Studies in Conflict and Terrorism*, 4/1994.

¹⁰ The claim of the Karabakh Soviet was based upon Art. 70 of the Soviet constitution, which affirms the right of peoples to self-determination. However, the claim was rejected on the basis of Art. 78, which states that ‘territory may be altered only by mutual agreement of the concerned republics, and subject to the ratification by the USSR. The legal aspect of the issue is further discussed in the second part of the article.

not intervening and argued it did so to justify an invasion of Baku, as it was afraid of the APF coming to power in Azerbaijan.

These allegations were proven true less than a week later, as over 20'000 Soviet troops rolled into Baku on January 20. In the chaos that followed the intervention and in the brutal suppression of the resistance in the city, casualties rose to hundreds according to official sources, and to thousands according to the APF. Meanwhile a state of emergency was proclaimed in Karabakh, and thousands of troops dispatched there as well.

In this chaotic condition, the leaders of the popular fronts of the Baltic republics succeed in arranging a meeting between their Azerbaijani and Armenian counterparts, that is the Azerbaijani Popular Front (APF) and the Armenian National Movement (ANM), in Riga on 3 February. Although neither of the movements were in possession of political power at the moment, they would be the main actors in the domestic sphere of their respective republics before long. Thus the meeting taking place was by itself a success; however its outcome was less successful. In fact it set a precedent, in a way, for the attitude of the parties towards the conflict: The Armenians invoked the principle of peoples' right to self-determination, and the Azeris defended the principle of territorial integrity. The meeting ended there, with both parties only announcing their own point of view without leaving any room for compromise.

Simultaneously paramilitary formations grow in number and strength on both sides, as the parties seem to build up for a military solution of the conflict. Again the Armenians were more active than the Azeris (who seemed to rely more upon the Soviet central government for a solution) and a considerable flow of arms from mainland Armenia to Karabakh was reported. Observers have noted how planes loaded with military equipment, coming from Beirut, landed in Yerevan and how the materiel was subsequently transported to Karabakh.¹¹ In this environment of heavily armed paramilitary forces, the escalation of the conflict was irreversible. Sporadic clashes became frequent, and by June 1991, the casualties of the conflict were estimated at 816.

From this point onwards, Armenian militants started taking control of Nagorno Karabakh. As their uprising grew, the militants were supported by regular armed forces of the Republic of Armenia—a fact which Armenia still denies in spite of evidence of the contrary—and, what is more, by Russian “volunteers” (in some cases complete armed

¹¹ See Cullen, Robert, “A Reporter at Large”.

units with full equipment). The fact that most “volunteers” were regular soldiers of the Soviet armed forces indicates to which extent they were actually volunteers.

On 2 September, the resuscitated Karabakh Soviet, renamed the ‘Karabakh National Council’, proclaims the independent republic of Nagorno Karabakh over the territory of the Nagorno-Karabakh Autonomous Oblast and the Shaumianiovsk district of the Azerbaijani republic.

During Autumn, Azerbaijani forces move to counter Nagorno Karabakh’s declaration of independence, and Armenians respond by conquering or retaking villages.

As the Azerbaijani government realizes the military force behind the Karabakh Armenians, it proceeds to nationalize all military hardware in the republic and to recall all Azeri conscripts from the Soviet army. Furthermore, as a direct answer to the declaration of independence, the Azeri parliament on 26 November abolishes the autonomous status of Nagorno Karabakh and reduces it to a ‘region’, with the same status as any other district. Naturally, this move has more of a theoretical political importance than a real value, since the military control of the region was rapidly slipping out of Baku’s hands.

Faced with a powerful aggression, the ill-organized forces of the Azerbaijani republic were unable to protect their lands, and by 1992 the military situation for Azerbaijan was disastrous. Not only the territory of the NKAO was under the control of Armenian forces, but also neighbouring and surrounding regions, which were homogeneously Azeri-populated. Totally, over 20% of the territory of the Republic of Azerbaijan remains under occupation.

This led to a severe refugee crisis in Azerbaijan. In addition to the near 300’000 refugees that had arrived from Armenia from 1988 onwards, the internally displaced persons leaving their homes in Nagorno Karabakh and its surrounding areas amount to between 600’000 and 800’000 people, depending on the sources. Thus Azerbaijan had to provide shelter for between 1’000’000 and 1’200’000 people. In view of this massive refugee flow, the help efforts of the international community indeed seem passive and wobbling. The total population of Azerbaijan being less than seven and a half million, the impact on the country of such a refugee flow is easy to imagine. (10 to 15% of the population of the country consists of displaced persons, some of whom are still living without permanent housing or assistance).

During 1993, the United Nations High Commissioner for Refugees (UNHCR) provided assistance to a meager 53'000 people. Although the aid was increased to cover approximately 300'000 by the end of 1994, the UNHCR provides assistance only to refugees that crossed an international border, but not to internally displaced persons. The amount of foreign aid allocated to Azerbaijan remains grossly disproportionate to the condition of the country. This fact can be related to two main factors : First of all, the indifferent or even hostile attitude towards Azerbaijan in at least three of the major powers, where Armenian pressure groups are of considerable influence in the policy-making process. Second, the absence of the so-called 'CNN-effect', that is the effect of the presence of western media which has proven to be so crucially important in influencing western governments to take actions.

The Attitude of the Great and Regional Powers

The Armenian-Azerbaijani conflict is an interesting case in the study of international politics. Although it is an obvious fact that Azerbaijan has been subject to aggression and invasion, it has for a long time been under an embargo from the superpower which claims to be the prime upholder of moral values and human rights worldwide—the United States. As a matter of fact, the United States policy towards the conflict has been heavily influenced by its domestic politics and notably the powerful Armenian lobby in the congress.

In October 1992, the Freedom Supports Act 907a was passed by the United States congress. With this act, Azerbaijan was denied all forms of governmental U.S. aid unless it “respects international human rights standards, abandons its blockade of Armenia, ceases its use of force against Armenia and Nagorno Karabakh, and searches a peaceful solution to the conflict.” - such is the text of the act.

Azerbaijan is the only former Soviet republic that is denied U.S. aid, whereas Armenia is the highest per capita recipient among these states. To this day, Armenia has received a total of between 300 and 350 million US\$ in aid. By contrast, the aid that has reached Azerbaijan through non-governmental U.S. organizations in spite of the act amount to less than 25 million US\$.

Nevertheless, the Clinton administration and the state department have tried to pursue a more balanced policy. In March 1994, the chairman of the House Foreign Affairs committee, upon the request of the Clinton administration, proposed the H.R. 3765 bill, which included the lifting of aid restrictions to Azerbaijan. However this bill faced

strong opposition from pro-Armenian representatives. An example of the ignorance and misconception on the issue reigning in the U.S. congress is illuminating :

I strongly argue that you [Rep. Hamilton, chairman of the House committee on Foreign affairs] retain the prohibition on American assistance to Azerbaijan until Azerbaijani troops cease their occupation of Nagorno Karabakh and stop their aggressive actions against the Republic of Armenia (Statement by Rep. Dick Swett, (D) New Hampshire).¹²

However, a closer look at facts would have shown that at that date, Azerbaijan was not occupying Nagorno Karabakh—it was not even in control of the territory. Quite to the contrary, *Armenian* forces were occupying Nagorno Karabakh and its surrounding, homogeneously Azeri areas.

As far as Azerbaijan's blockade against Armenia is concerned, independent observers have concluded that it is not a breach of international law. As a matter of fact, Azerbaijan has the right to protect itself against a country with which it considers itself in war. Whether Armenia accepts this claim is irrelevant. Thus the U.S. argument is invalid, based upon a misconstruction of the conflict.¹³ A highly esteemed independent observer, Human Rights Watch / Helsinki states that it :

... does not consider either blockade to be a violation of the prohibition on using starvation of the civilian population as means of warfare or combat. In neither case is the requisite intention to starve civilians as a method of warfare evident.¹⁴

The Russian Federation, on the other hand, pursues its own interests in the Caucasus — a part of what it terms the 'Near Abroad'. As noted above, there have been lingering allegations that Moscow in fact was active in speeding up, if not creating, the conflict in the first place. Russia's interest lies in two main factors.

¹² Armenian National Committee of America press release, March 31, 1994, as quoted in Human Rights Watch / Helsinki, *Azerbaijan : Seven Years of Conflict in Nagorno-Karabakh*, New York : Human rights Watch, 1994.

¹³ For further information and a complete and impartial assessment of the conflict, see Human Rights Watch/ Helsinki, *Azerbaijan : Seven Years of Conflict in Nagorno-Karabakh*.

¹⁴ *ibid.*, p. 77

First, Russia wants to reestablish control over the borders of the CIS (the Commonwealth of Independent States) with Turkey and Iran, and thus wants to have troops posted in Azerbaijan, as it does in Armenia and Georgia. Georgia was brought back into the fold mainly by quite overt Russian support for the Abkhazian separatists but also by Russia's stirrings in South Ossetia;¹⁵ in a similar way, Russia plays the card of stepping up its military support for Armenia to force Azerbaijan to make concessions and return to Moscow's economic and security sphere of influence. Thus Russia is pursuing a classic policy of *divide et impera* - divide and rule.

Secondly Russia tries to gain control over Azerbaijan's oil riches. This was made very clear by Russia's vehement rejection of the Azerbaijani Caspian oil consortium, (the so-called 'Deal of the Century') signed in Baku in 1994. Andrej Kozyrev personally declared that Moscow does not recognize Azerbaijan's right to exploitation of the Caspian shelf oil fields until a conclusive resolution of the debate about the status of the shelf is reached.¹⁶

With respect to the Nagorno Karabakh conflict, Russia prefers a Russian-only mediation to the Minsk process of the Organization for Security and Cooperation in Europe. Armenia favors this solution, whereas Azerbaijan refuses to accept a peace-keeping mission including only Russian forces, fearing that the international control of the peace-keepers would be made impossible.

The policies of the two main regional actors south of the Caucasus, Turkey and Iran, towards the Nagorno Karabakh conflict have also been to the disappointment of Baku. The Azeris being of Oghuz Turkic origin but of Twelver Shi'i Islamic confession, they possess strong ethnic and linguistic ties with the Turks, and are the only people of the former Soviet Union to share the same religion with the Iranians; Thus initially, Azerbaijan hoped to be able to exert support from at least one of these powers. The two states were perceived by many observers as pursuing a

¹⁵ For Abkhazia, see John Colarusso, "Abkhazia", in *Central Asian Survey*, nr. 1, 1995; for South Ossetia, see Birch, Julian, "Ossetia : A Caucasian Bosnia in Microcosm", in *Central Asian Survey*, nr. 1, 1995. For a general overview of Russia's divide and rule policy in the Caucasus, see Svante E. Cornell, *Small Nations and Great Powers—A Study of Ethnopolitical Conflict in the Caucasus*, to be published in 1999.

¹⁶ See the magazine *Neft Rossii* (oil of Russia), 1(4), 1995 ; and Salih Aliev, *Oil and Independence*, paper presented at the international conference on the Caucasus and Central Asia, Bilkent university, Ankara, May 1995.

struggle for influence in the Muslim republics of the Caucasus and Central Asia. *À priori*, this may have led to a belief in Baku that Turkey and Iran would both take this opportunity to show their solidarity with their Turkic/Muslim kin.

Unfortunately for the Azerbaijanis, nothing of this kind happened. While both Iran and Turkey announced their willingness to mediate in the conflict, neither was ready to officially support Baku unconditionally.

This development was due to different causes in the two countries. In Iran, it seems that the regime's fear of irredentism among Iran's numerous Azeri minority incited Tehran to prefer a weakened Azerbaijani republic on its Northern flank, rather than an affluent, oil-rich state. In fact, the Azeri minority in Iran (estimated to consist of between 8 and 15 million people (10-20% of Iran's population, in any case more numerous than the entire population of the republic of Azerbaijan) could have been seen as a factor which would have led Tehran to *support* Baku rather than to work against it, in order to keep its Azeri minority calm. However, the rulers in Tehran did not reason along these lines. Rather, they believed that it would be safe in the short term to pursue an indifferent, or even hostile, policy towards Azerbaijan, as they saw their own Azeris as well-integrated into Iranian society and having a weak Azeri identity. Hence what they feared was not an immediate upheaval but long-term complications which would arise if the Azerbaijani republic would emerge as a rich oil-producing state while Iran's economic condition would continue to decline.¹⁷

In fact, the Iranian leader Ali Akbar Hashemi Rafsanjani recognized this problem. As Hiro states,

*Rafsanjani realized that in the long run, Azeri nationalism would prove as problematic for the Islamic regime in Tehran as it was proving then for the Communist administration in Moscow ... The emergence of a strong, independent Azerbaijani republic—whether Islamic or not—would fan the flames of Azeri Nationalism within Iran.*¹⁸

¹⁷ Few works have been written on Iran's policy; nevertheless, see Ahmed Hashim, *The Crisis of the Iranian State*, Adelphi paper no. 296, p. 41-43.

¹⁸ See Dilip Hiro, *Between Marx and Muhammad—The Changing Face of Central Asia*, London: Harper-Collins, 1994, p. 293.

This fear was probably worsened by the very tactless announcements of the short-lived, very secular and anti-Iranian APF government in 1992-1993. President Elçibey on certain occasions stated that they Iranian state was doomed and that within a five-year period Azerbaijan would be united.¹⁹

In the end, the result was a paradoxical situation where the Islamic fundamentalist regime in Iran ended up supporting Christian Armenia against Shi'i Muslim Azerbaijan. Furthermore, Azerbaijan's attempts to a rapprochement with the United States led to the exclusion of Iran from the oil consortium, which the United States had set as a condition for the fulfillment of the consortium. This move only served to worsen Baku's already strained relations with Tehran. Within Iran, the calculations of the regime proved right; there was no strong irredentist Azeri movement. In 1995-96, rumours emerged about unrest among the Azeris; however these were reportedly easily squelched by intervention of Iranian security forces. In the case of Turkey, the attitude of the government has consistently been more pro-Azerbaijani, at least in rhetoric. The late president Özal, particularly, in 1992 (after the February massacre on Azeri civilians in Khojaly) talked about 'giving the Armenians a lesson'.²⁰ Foreign minister Çetin travelled extensively around Europe and to the United States to try to gain support for a peace-keeping operation, without success.²¹ Furthermore, the Turkish opposition, including the main opposition Motherland Party and, quite naturally, the Nationalist Movement Party of Alparslan Türkeş, have criticized the government harshly for allowing 'Armenian genocide on Azeris' and of leaving Azerbaijan alone.²² The constraints on Turkey seem to have come from two factors: First of all, the strong Turkish Alliance with the United States, and second, the legacy of the Armenian genocide of 1915 (although Turkey still refuses to acknowledge the existence of a genocide). This last factor has been aptly used by Armenians, both in the republic's government and in the Diaspora, so that in the end any

¹⁹ See Dilip Hiro, "The Azerbaijan Question", in *The Nation*, 14 September 1992.

²⁰ See Foreign Broadcast Information Service, Western Europe series (Hereafter FBIS-WE), 5 March 1992, p. 43, quoting news agency Anatolia.

²¹ FBIS-WE, 16 March p. 2, quoting Ankara TRT television network.

²² FBIS-WE, 13 March 1992, p. 14, quoting Türkiye Radyoları

Turkish action against Armenia would result in an outcry against a renewed genocide on Armenians.

The Atlantic connection also proved instrumental in reducing Turkey's freedom of action in the Nagorno Karabakh conflict. Turkey being dependent on U.S. aid, especially in the military sphere, and already under hard pressure for its Human Rights record, was forced not to distance itself too much from the European and American policies. Prime Minister Süleyman Demirel nevertheless tried to appeal to President Bush to intervene and mediate in the conflict, ordered the inspection of aircraft en route to Armenia over Turkish airspace to search for weapons,²³ and even threatened to mobilize the Turkish army on the Armenian border. Nevertheless, the Turkish actions amounted to nothing more than declamations, and did not have any significant impact on the course of events.

In general, Turkey has been very careful not to endanger its relations with Russia, where Turkey has important commercial interests. Thus besides the euphoric pan-Turkic rhetoric of 1992-93, Turkey soon realized that it could not simultaneously safeguard its interest in Russia and assert its influence in the post-Soviet area. Thus Turkey's 'leading role' in the Muslim republics of the Caucasus and Central Asia has amounted to virtually nothing in the political sphere, whereas important economic, cultural, educational and scientific agreements have been reached with these republics, which doubtlessly will have an important impact on Turkey's role in the area in the long term. However, the fact remains that Azerbaijan did not get the support it expected from Turkey. Azerbaijani dissatisfaction was especially strong when Turkey, after American pressure, lifted the total embargo on Armenia that it held together with Azerbaijan, which prevented even humanitarian assistance to Armenia to pass through Turkey. The Azeri reaction was commonly voiced in terms such as 'They claim to be our brothers but give bread to our enemies'. In the final analysis, Turkey did not do much in concrete terms to support Azerbaijan. However, Turkey retained its friendly attitude, as a contrast to Iran, and lobbied internationally for the Azeri cause—an act in which Turkey was largely alone in the world community.

²³ FBIS-WE, 3 March 1992 p. 39, quoting Ankara TRT television network.

As far as the United Nations is concerned, it is clear that the attitude of the two main world powers can not be other than mirrored in the actions - or rather inaction of the organization.

The United Nations has not been a direct mediator in the conflict, as it delegated this mission to the OSCE. In spite of this delegation, the United Nations Security Council and General Assembly have passed several resolutions on the issue.²⁴ These resolutions have stayed at demanding the cessation of all hostilities and affirming the inviolability of internationally recognized borders and the territorial integrity of ‘the Republic of Azerbaijan and all states in the region’. It has stayed short of denouncing any particular aggressor. The resolutions all condemn the taking of Azerbaijani lands, but fail to state whom they condemn. Concerning Armenia, it is clear that it is not seen as an aggressor :

*Noting with alarm the escalation in armed hostilities ... Reaffirming the territorial integrity of the Azerbaijani Republic and all other states in the region ... and the inadmissibility of use of force for the acquisition of territory ... Expressing grave concern at the latest displacement of a large number of civilians ... the General Assembly condemns the recent violations of the cease-fire ... and particularly condemns the occupation of the Zangilan district and the city of Goradiz, attacks on civilians and bombardments of the territory of the Azerbaijani Republic ; ... calls upon the government of Armenia to use its influence to achieve compliance by the Armenians of the Karabakh region of the Azerbaijani Republic of the resolutions 822, 853 and 874.*²⁵

This passage makes it clear that Armenia is seen as equivalent to a neutral state in the region, despite the fact that legally, Armenia considers the NKAO as an integral part of its territory following the December 1, 1989 resolution of the Supreme Soviet of the Armenian SSR, and despite its well-known and overt support, both political and military, for the Karabakh Armenians.

²⁴ See U.N. General Assembly Resolution on “Emergency International Assistance to Refugees and Displaced Persons in Azerbaijan”, November 19, 1993.

²⁵ U.N. Security Council, Resolution 884 of November 11th, 1993.

To sum up, Azerbaijan has received actual support from no state in the region. The only country to verbally defend and support the Azeris was Turkey, as due to a variety of internal and external reasons of the other involved states, these tended to either support the Armenians or to remain silent on the issue.

The Legal Aspect of the Conflict

As far as this decision of December 1st, 1989 to incorporate Nagorno Karabakh into Armenia is concerned, the present Armenian position is that it is not liable for decisions taken in the Soviet times. Vahan Papazyan, then Armenian foreign minister, speaking at a conference in Stockholm and as a direct answer to a question, dismissed it by repeatedly claiming that “It is not an important issue for the resolution of the conflict” and that it is a decision made obsolete since it was taken by the Armenian SSR, and not the Republic of Armenia.²⁶

By this argument, a basic principle of International Law is being ignored : That whenever a state succeeds another, it is liable for the decisions taken by the former state *unless* it declares the invalidity of these decisions at the transition of power. Since Armenia has made no such declaration, it can not claim the invalidity of this decision. Quite to the contrary, the deputies from Karabakh are still members of the Armenian parliament. An even more blatant fact is that Serzhik Sarkissian, formerly defense minister of Nagorno Karabakh, was appointed defense minister of the *Republic of Armenia* in August 1993.

Nevertheless, there seems to be a change in Armenian rhetoric on the status of Nagorno Karabakh. Rather than to openly seek a union of the two entities, Armenia now tries to distance itself from the Karabakh Armenians, which, even in Yerevan’s eyes, have gotten out of hand and have turned into a liability to the regime, which is difficult to control and which has dragged Armenia into a serious economic condition and which goes against any move from Yerevan’s side to seek compromise with the Azeris to reach a solution to the conflict. This is the reason why Yerevan claims that Nagorno Karabakh is a separate entity, despite the fact that

²⁶ Conference held by Papazyan at the Foreign Policy institute in Stockholm, in February 1996. The question was asked by the author, following Papazyan’s claim that Armenia considers Nagorno Karabakh a separate territorial entity.

the two entities are for every practical purpose functioning as one state. Recent reports show that Armenia is intensively trying to establish a *Fait Accompli* by integrating Karabakh into Armenia,²⁷ so that Nagorno Karabakh can practically never become a part of Azerbaijan again.

The Armenian-Azeri conflict can be analyzed from three distinct legal frameworks. First of all, the constitution of the former Union of Soviet Socialist Republics. Second, from the treaty of the Commonwealth of Independent States ; and Third, based on International legal principles.

- When the Supreme Soviet of the NKAO demanded to be joined to Armenia on February 20, 1988, the demand was rejected by the Supreme Soviet of Azerbaijan on the basis of Article 78 of the USSR constitution of 1977. Whereas the demand from Nagorno Karabakh was based on Article 70, which affirms the rights of peoples to self-determination (the distinctions between peoples and minorities will be treated below), Art. 78 states that territory may be altered only by mutual agreement of the concerned republics and subject to ratification by the USSR. On July 18th, 1988, the Presidium of the Supreme Soviet of the USSR - that is the highest existing instance in the Union - confirmed the status of Nagorno Karabakh as an autonomous region within Azerbaijan.

This led to the resolution of the Armenian Supreme Soviet cited above, where a decision is taken to incorporate Nagorno Karabakh as an integral part of the Republic of Armenia. This resolution violates the territorial integrity of Azerbaijan, and what is more, it makes the territorial claim official.

According to the Soviet constitution, Union Republics had the theoretical right to secede from the USSR. Autonomous republics had constitutions, which autonomous regions (Oblasty) did not. Neither had the right to secession. Thus, the claims and decisions of the Nagorno Karabakh Autonomous Oblast had no legal basis.

However, the decision of Armenia to unite with Nagorno Karabakh binds it as a legal party to the conflict. Although Armenia, faced with

²⁷ See *International Herald Tribune*, 20 September 1996, "Enclave Builds a Lifeline Out of Azerbaijan".

U.N. resolutions, claims that Nagorno Karabakh is a separate entity over which it has no jurisdiction or control other than ‘friendly advice’, the decision of December 1, 1989 has never been abrogated or otherwise suspended and deputies from Nagorno Karabakh are still members of the Armenian parliament. Consequently, the Republic of Armenia can not argue that it is not responsible for the actions of what it, legally speaking, considers the citizens of its Republic in Karabakh.

- As far as the treaty of the Commonwealth of Independent States (CIS) is concerned, Azerbaijan and Armenia are (presently, although Azerbaijan entered only after Russian pressures) both members of the CIS. One of the major principles of the treaty of the CIS is the inviolability of the borders of the constituent states. Nevertheless, the Armenian population in Nagorno Karabakh held a referendum, declared independence, and applied to the Commonwealth for membership as an ‘independent state’. As this act is against the principles of the treaty of the CIS, no member state recognized the entity - not even Armenia.

- From the point of view of International law, our first concern is with the distinction between refugees and internally displaced persons. This difference is important, since in the case of a refugee crisis the international community is more or less bound to intervene with humanitarian aid. However if one talks about internally displaced persons, then the whole issue can be referred to as the internal matter of a state, thus allowing other states and international organizations to exempt themselves from the ‘duty’ of providing humanitarian aid. From a moral point of view the distinction is preposterous - treating human beings who have been uprooted from their homes differently according to their crossing or not of international borders - and seems more motivated by an intention to limit the scope of the term refugee than any logical, humanitarian concerns.

However, the Azerbaijanis leaving Armenia in 1988 and 1989 have been termed refugees. This does not necessarily make sense if one is to apply the ‘logic’ of the definition. In 1988, Armenia and Azerbaijan belonged to the same state—the USSR. The fact that they were different republics is irrelevant since the border between the republics was not an internationally recognized border between sovereign states. Logically, these people were internally displaced persons, in any case until the

independence of both republics in 1991. Thus they were turned into refugees long after they left Armenia ; however one may wonder if it is logical to change the denomination of a person according to events occurring after the exodus?

And, if Nagorno Karabakh was to be accepted as a territory apart from Azerbaijan, will the 630'000 internally displaced suddenly be termed as refugees? It is clear that in this conflict, the definition of refugee has been applied arbitrarily. The reasons for this are unclear. It may be due to simple incompetence of international and western authorities, but it may also be related to the interests of western governments in neglecting the conflict, legitimizing their indifferent attitude by referring to the conflict as internal.

The claim of the Armenians of Nagorno Karabakh is based upon 'the rights of people's to self-determination', as confirmed by Article One of the International Covenant on Civil and Political Rights (ICCPR). However it is crucial here to recall the difference between peoples and minorities. Armenians in Azerbaijan can not be termed a 'people', given the fact that they have a motherland in Armenia. Thus they are in legal terms a national minority. As such, they enjoy the rights given to them by article 27 of the same covenant, stating that "...minorities ... shall not be denied the right ... to enjoy their common culture, to profess their own religion, or to use their common language." As far as self-determination is concerned, the Armenians of the NKAO have the right to internal self-determination which enables their free participation in the political life of Azerbaijan, pursue their economic, social and cultural development. Self-determination does not necessarily mean secession. As confirmed by the U.N. Security Council,

*Nothing in the foregoing paragraphs concerning the principle of equal rights and self-determination of peoples shall be construed as authorizing or encouraging any action which would dismember or impair ... the territorial integrity of sovereign and independent states.*²⁸

The strictly legal arguments against secession have been summarized as follows:

²⁸ U.N. General Assembly, resolution 2625 adopted on October 24, 1970.

- *The right of self-determination can only be exercised on the basis of the maxim Pacta Sunt Servanda ;*
- *International Law is the law of states ; states are the subjects of international law and peoples, minorities or majorities, are the objects of that law ;*
- *A state cannot oust one of its provinces, neither can a province secede.*

The Azerbaijani-Armenian conflict illustrates the inherent contradiction between two important principles of international law. This is the question of peoples' self-determination versus a state's territorial integrity. This issue is heavily debated, but it is important to note that nothing in the assertion of peoples' right to self-determination allows for the use of force to alter internationally recognized borders or to apply ethnic cleansing. Thus the Karabakh Armenians' struggle for self-determination or unification with Armenia must be conducted in a democratic form. The struggle for self-determination, in itself, clearly reflects the desire of the Armenian population of Karabakh. This is not illegitimate, nor is it contrary to International Law. What *is* illegitimate and illegal is the practices of scorched earth and brutal attacks on civilian population, notably in areas that had a homogeneous Azerbaijani population, in the intention to militarily acquire as much territory as possible.

The violations of International Law by the Republic Armenia have been remarked in one international forum : The Charter of Paris for a new Europe completed in 1990. In this charter it was recognized that "Armenia violates the territorial integrity of Azerbaijan by sending armed forces into Nagorno Karabakh. Such use of force is illegal unless authorized by the U.N. Security Council."²⁹ Although Armenia denies the presence of its troops in Karabakh, it has been well documented. For example, the conclusion of Human Rights Watch / Helsinki can be taken as an example of the observations of impartial observers :

As a matter of law, Armenian troop involvement in Azerbaijan makes Armenia a party to the conflict and makes the war an

²⁹ Conference on Security and Cooperation in Europe, Charter of Paris for a New Europe : Paris, 1990.

*international armed conflict, as between the government of Armenia and Azerbaijan.*³⁰

Thus, it becomes clear that the conflict between Armenia and Azerbaijan is nothing else than Undeclared War.

Conclusions

Although our brief analysis of the conflict is not extensive enough to show the whole scope of the situation, a few conclusions are evident.

The definition of the conflict as an internal conflict by the major powers and by International Organizations is clearly uncertified. A closer examination of the history of the conflict, and the legally binding decisions taken, clearly demonstrates that the Republic of Armenia repeatedly has violated the territorial integrity of Azerbaijan and has been waging a war, though undeclared, of aggression against Azerbaijan.

This aggression has remained unnoted by the major International institutions charged with upholding International Law; all important institutions and major governments have failed to observe the true nature of the conflict.

The aggression has led to a massive flow of refugees which has caused great damage to the economic, political and social structure of Azerbaijan. Mass human rights violations have remained unpunished ; the policies of ethnic cleansing and use of brute force for the acquisition of territory have once again been implicitly recognized by the International community.

The failure of the International community to correctly evaluate the nature of the conflict is so flagrant that it can not easily be explained as simple incompetence or even irresponsibility.

It does indeed seem that the definition of the conflict as internal rather was intentional ; it served the interests of certain important forces.

The Russian Federation. Ever since the break-up of the Soviet Union, the intentions of Russia in what it has termed its 'near abroad' have become clearer and clearer. Russia intends to reestablish its sphere of influence within the borders of the former Soviet Union. With respect

³⁰ See Human Rights Watch / Helsinki, *Azerbaijan : Seven Years of Conflict in Nagorno-Karabakh.*

to Azerbaijan, this policy was unveiled when the nationalist Government of Abülfez Elçibey refused to enter the CIS in 1992. This resulted in a ill concealed support by Russian troops to Armenian forces in their war against Azerbaijan. The government was forced to resign and Azerbaijan reentered the CIS four months late. Russia is still pressing for the right to post troops on the Azeri/Iranian border, claiming that Azerbaijan is unable to control the ‘common CIS - border with Iran’.

Thus the Russian policy towards the Caucasus has been coherently determined by a policy of *divide et impera*. This policy has been successful in bringing back Georgia and Armenia under Russian de facto control, as well as to bring Azerbaijan down to its knees.

As for the *United States of America*, its policy towards the conflict has been characterized by two main factors : First of all, the recognition of the Transcaucasus as being the ‘backyard’ of Russia. Russian officials have openly stated that since Russia does not mix into the activities of the U.S. in Central America, the U.S. should not interfere in Russia’s policy in the Caucasus. Accepting this argument, the Bush and Clinton administrations have put priority to their ‘partnership ‘with Russia rather than to pursue an active policy in the Caucasus.

As far as the U.S. have had a policy in the region, it has been effectively influenced by Armenian pressure groups in the U.S. Congress. The enactment of the Freedom’s Support Act’s section 907a is only the most blatant example of this.

As a result, three of the permanent members of the U.N. Security Council are more or less biased towards Armenia in the conflict (including France, where a substantial Armenian minority exists, which has always been politically active.) This is the only possible explanation to the formulation of the relevant Security Council resolutions and their implications - or rather absence of implications- for the conflict.

Still, it is astonishing to what an extent the attitude of the major powers is able to influence the actions of the international community even in the Humanitarian field - not to speak of the general perceptions reigning about the conflict. The quasi-absence of foreign aid to Azerbaijan is inexplicable by logical grounds ; It is an area which is close to Europe, which should be a factor to increase its noticeability; it is easily accessible by the territories of either Turkey (through

Nakhichevan) or Russia. The only explanation is that the will to provide relief to Azerbaijani refugees was absent.

As of today, there seems to be no change in the position of the international community on the conflict in Nagorno Karabakh. Generally speaking, the lack of interest of the world community for the Caucasus in general was further clarified with the bloody Russian invasion of Chechnya in the first months of 1995. The human rights violations committed there are not the subject for our discussion; however the mute response of the western world to that event as well only confirms the negligent attitude of the “World Community”.

The only conclusion that can be drawn from our analysis is that it is a sad truth that legal principles, especially in the International arena, are pursued by considerations of power and necessity rather than principles of equality and justice.