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The Conflict over Artsakh – Nagorno-Karabakh

The conflict over the Republic of Artsakh (or the Nagorno-Karabakh Republic) comes out of centuries of shifting populations and disputed land ownership in the region. Russia conquered the area of Armenia beginning 1806, with a treaty confirming the boundary signed in 1821. The arrival of Soviet troops a century later brought an autonomous oblast (NKAO: Nagorno-Karabakh Autonomous Oblast) as part of the Azerbaijan Soviet Socialist Republic in 1923 in recognition of its largely Armenian population but separated from the Armenian SSR by the Republic of Kurdistan. On the collapse of the Soviet Union, NKAO declared itself independent on 6 January 1992, in the midst of attacks from both sides. The Minsk Group was appointed by the Organization of Security and Cooperation in Europe (OSCE) to handle the conflict and it mediated a ceasefire covering all of Nagorno-Karabakh plus the seven territories around it conquered by the Armenian forces of Artsakh (the name given to the larger territory) and doubling its territory giving it more defensible borders along mountain crests and a common border with Armenia. In 1997 and 1998 the Minsk Group discussed “package” and “phased” proposals. In 1999 the Goble Plan and in 2001 the Key West proposal were “unbelievably close” (according to the US Minsk co-chair) but the presidents pulled back for fear of popular reactions at home. The Madrid Principles presented to an OSCE summit included 1) interim security and autonomy for Nagorno-Karabakh; 2) eventual referendum; 3) Lachin corridor between Nagorno-Karabakh and Armenia; 4) return of the seven territories; 5) right of return; and 6) international security guarantees including peacekeeping forces, but the two presidents could not agree on the details.

It is hard to see how the current 10 November agreement can be the end of the conflict. This outcome is feeble, but sustainable like the previous one that lasted almost three decades, a military defeat ending with artificial—physically

or demographically—boundaries and an offensive “little Jerusalem” in Shushi/Shusha in Azeri hands. Indeed, it is remarkable that a Nagorno-Karabakh was retained at all, although reduced to a size and shape less than in Soviet times. The end result might be a kind of Karabakh Bantustan in Azerbaijan like the West Bank in Israel. There is already an ethnic cleansing of Armenians in the agreement and merely half of Artsakh (Nagorno-Karabakh and surrounding Armenian-occupied territories) is scarcely viable as an autonomous territory, several hundred thousand Artsakhis have fled their towns and torched their homes as they left. The agreement shows the strength of Azerbaijan and the weakness of Armenia: Who is now to defend the remnant of Nagorno-Karabakh? Certainly not the Russians, who played the clever balancing game of arming both sides that encouraged the military confrontation, a balance that Turkish rogue leader Recep Tayyip Erdogan tipped (the Russian security guarantee was for Armenia, not for Artsakh).

The result more broadly is that Armenia has once more been repressed by Turkey, and neglected by everyone else. The diaspora is one of the problems. As in many places it is more radical than the people living in the area. In return for their investments they want to hold out against any agreement with Azerbaijan. But they were unable to swing support from US, whose government was busy campaigning in their presidential elections at the moment and has bigger issues to face, or from France. The French diaspora invested in education, the American diaspora in infrastructure, with signs along the roads “Built by California Armenians.” The Armenian diaspora in Moscow is uninterested in saving Karabakh; like Russia, they are invested in Yerevan, where the whole center is theirs now. In the UN and in the international community in general, the sacred international law principle of territorial integrity trumps the sacred international law principle of national self-determination, because

the former is a status quo doctrine whereas the latter is revisionist; no one wants to support a principle by which a hunk of its territory can be wrenched away by a neighbor. The line-up is especially paradoxical when the external supporter of the integrity principle is itself a claimant on someone else's territory; Turkey's claim on Northern Cyprus should lead it logically to support Armenia, but hatred and ambition overwhelm logic.

The outcome was absolutely not pre-determined, although all saw it coming, for three decades. But for whatever reasons the Armenians did not move. They had the key in their hands. Azerbaijan was ready to concede a lot, even to allow the Karabakh government to hand-out passports (admittedly with an Azerbaijani cover). A missed opportunity for Armenia to develop is an important dimension of missed opportunity for power imbalance, although oil-soaked Azerbaijan has always been stronger. First and foremost, over three decades they passed on the opportunity to rebuild Armenia as an economically viable powerhouse in the region—despite the huge support from and wealth of the global diaspora. Even the more economically disadvantaged Georgia managed to do that 15 years ago. Then Armenia would have had armed forces of a wealthy developed state and could have held off Azerbaijan for indefinite time without any risk. But their leaders only used Karabakh as a rallying point and justification for conserving the old regime under (erroneously) assumed unconditional Russian protection. It is the old problem: “if you think you have the power you will not give an inch, consciously ignoring that you might lose everything.” As a result, they created a trap for themselves, where they could not accept any negotiated compromise with Azerbaijan for fear of the public reaction; in 1999, leading figures in parliament were assassinated lest they accept a compromise—and somewhat favorable—agreement mediated by US National Security Advisor Strobe Talbott, and Armenian Prime Minister Nikol Pashinyan currently faces a vocal public reaction for his signature.

At no time was the idea of an offer to Azerbaijan of an exchange of the occupied territories of Artsakh for recognition of Nagorno-Karabakh independence ever attractive to Azerbaijan. Only the idea of a guaranteed monitored Karabakh autonomy within Azerbaijan might have caught Baku's eye. And what Armenian would have faith in the guarantees

and monitors, even if Russian, as now exist? It would have taken an enormous, concerted pressure from the Minsk-group of Russia, France, and US on both sides to make both Azerbaijan and Armenia feel that the stalemate hurt. It simply did not matter enough to the Minskis to do that (and rogue Turkey was not a Minski). Note that the same, *mutatis mutandis*, can be said of conflicts in Western Sahara, Ethiopia, South China Sea, Kashmir, and Cyprus—in the present state of the world, any of these can blow up in our faces.

Time was on the side of the Azeri. For the Russians the result is satisfactory: the conflict is over, but not completely, which gives them a powerful position. Besides, Russia and Turkey are allies by now, notwithstanding some skirmishes in Syria and Libya. On strategies, Turkey and Russia are on the same wavelength, which does not mean that the Russians will give the Turks a free hand in the South-Caucasus... But still this outcome was not pre-determined. It resulted from the heavy backing of Azerbaijan by Turkey that acts in this way because of Erdogan's domestic predicament. Russia's “non-interference” was hard to predict too—especially given the influence of the Armenian diaspora. That said, unfortunately, what we have now seems to be just an intermittency, temporary truce, as from thirty years ago—mostly because of the refugee provision in the trilateral agreement. It is not certain how it can at all be implemented, so, tragically, it is hard to see how this outcome is going to be sustained.

P. Terrence Hopmann

The Nagorno-Karabakh Agreement of November 10, 2020 Was this a Missed Opportunity to Resolve the Conflict Before War?

The agreement signed on November 10, 2020, to end the war between Azerbaijan and Armenia over Nagorno-Karabakh creates many problems for the future. However, I argue in this brief note that a similar but more comprehensive agreement could have been negotiated many years ago that would have left the region better off. In the OSCE Yearbook 2014 I proposed a framework for an agreement to settle the conflict that I believed at the time would have provided, in William Zartman's terminology, a "way out" of the "mutually hurting stalemate" in which the parties found themselves, perhaps adding a few "sweeteners" that might have provided "mutual enticing opportunities" for all parties. It attempted to identify a formula for a "package" agreement based on cross-issue "trade-offs" in which each party would "win" on those issues of greatest value to it, while making concessions on other issues in order to gain the benefits on those most issues of greatest importance.

The situation in the region between 1994 and 2019 constituted what I would call a US⁴ (Unstable, Soft, Self-Serving Stalemate), a variant on Zartman's S⁵ situation (Stable, Soft, Self-Serving Stalemate). It was a stalemate in the sense that the "line of contact" between Armenian and Azerbaijani forces did not change significantly over 25 years, monitored by the Organization for Security and Cooperation in Europe (OSCE). It seemed to the leadership on both sides to be "self-serving" because it enabled Armenia to control not only Nagorno-Karabakh but most of seven rayons (districts) of Azerbaijan surrounding the region; it allowed the Armenian leadership to establish their self-proclaimed "Artsakh Republic" in Nagorno-Karabakh and receive extensive support mostly from the worldwide Armenian Diaspora; and it allowed Azerbaijan to exploit its fossil fuel resources, namely Caspian oil and natural gas on its territory, to buy military hardware in the hope of eventually reversing its military losses from the 1988-94 war. However, the 1994 cease-fire was soft and contingent on reaching a final settlement through negotiations in the OSCE's Minsk Process, co-chaired by the United States, France, and the Russian Federation. This also contributed to making the stalemate unstable, as it allowed the negotiators to "kick the can down the road," while the "Artsakh Republic" consolidated its control in Nagorno-Karabakh and Azerbaijan built up its military forces with a view to regaining the territories that it had lost in the war. As

I concluded in 2015, "this stalemated, though not 'frozen' conflict,...could escalate into a larger military confrontation, perhaps involving neighbouring states." Tragically, that warning became a reality in October-November 2020.

Therefore, it would have been helpful if the international actors and the parties on the ground had negotiated a meaningful agreement between 1994 and 2019, before "crossing the Rubicon" of renewed violence. Looking back, I argue here that a balanced agreement could have been negotiated with enough effort by international actors and the disputing parties at least up until the beginning of 2020, based on a framework similar to the one that I had proposed in 2015. Ironically, in many respects the settlement reached between Armenia and Azerbaijan on November 10, 2020, incorporates many of those features, albeit under different circumstances than I had envisioned. In short, the failure to have arrived at something approximating the present situation in a more carefully thought-out way, and without all of the death and destruction that have occurred in the weeks prior to the November 10 cease-fire agreement, illustrates why this was a classic "missed opportunity" to resolve a protracted conflict diplomatically rather than through force of arms.

The essence of my proposed framework was to address from the outset the international status of Nagorno-Karabakh, the "elephant in the room," rather than leaving it to the final stage of negotiations as had been the case throughout most of the long drawn-out negotiations; I argued that all other terms of an agreement would depend on the outcome on that issue, because in effect the "loser" on that issue would have to be well compensated on other issues for that loss in order to create a sufficiently balanced agreement that all parties could accept. So basically, I proposed in 2015 the following framework for an agreement:

- A referendum would be held in which all residents of Nagorno-Karabakh as of 1991 could participate to decide its status with the following options: autonomy within Azerbaijan, independence, or union with Armenia; I assumed that either of the latter two options would win given the makeup of the electorate, which would mean that Azerbaijan would have to be compensated for the loss of its previous territory. It is necessary to take into account that the constitution of Azerbaijan

states that a referendum of this nature would have to include participation by all citizens of Azerbaijan, so the proposed referendum including only residents of Nagorno-Karabakh would have required a constitutional change, since allowing all Azerbaijani citizens to vote would have clearly prevented any vote for independence for Nagorno-Karabakh. That said, it should have been evident to all observers of this conflict that ethnic Armenians, after some 25 years of *de facto* independence, would have found it virtually impossible for any residents of the region to return to Azerbaijan's control, especially considering both events in the region over 100 years ago as well as those surrounding the war in 1988-1994; Azerbaijan should have recognized that it had effectively lost Nagorno-Karabakh and that there was no way to keep it other than by oppression of the local Armenian population.

- In order to compensate for the loss of Nagorno-Karabakh, the proposed agreement would have included the return of all seven *rayons* of Azerbaijan outside NK that were occupied (or "liberated" according to many in Nagorno-Karabakh) to Azerbaijan, and the right of all Azerbaijani internally displaced persons (IDPs) to return to their former homes. International assistance would be required for them to rebuild all of the destroyed property and infrastructure in the region; whatever costs the government of Azerbaijan would have to assume would likely have been far less costly than the support they have provided since 1994 for the IDPs living elsewhere in Azerbaijan, to say nothing of the cost of the military buildup that preceded the recent war.
- An international peacekeeping force would have been deployed, either under UN or OSCE auspices, with limits on the percentage of troops provided by any one country in order to assure neutrality with a force that would be trusted by all parties. This force would have assured unfettered access between Nagorno-Karabakh and Armenia through Azerbaijan by both land and air, and between Azerbaijan and Nakhichevan through Armenia, as well as patrolling the borders between Azerbaijan and both Armenia and Nagorno-Karabakh.
- The agreement would have sought to develop an economic zone within the southern Caucasus region (pos-

sibly including Georgia) to aid in the development of the entire region in order to enhance mutual benefits to all parties from a resolution of the conflict.

The November 2020 Agreement

The agreement signed by Armenia and Azerbaijan in Moscow on November 10, 2020, responds to many of these points:

- Although the agreement does not address the international legal status of Nagorno-Karabakh, the fact that the vast majority of its previous territory is not being returned to Azerbaijan at this time appears to recognize implicitly the principle, if not the details, that it would remain autonomous, independent or attached to Armenia in this agreement. The one exception is that Azerbaijan has captured and controls the region around the city of Shusha(i) within Nagorno-Karabakh, giving it a strategic position along the Lachin corridor between Armenia and Stepanakert; Azerbaijan is unlikely to return this region, which is of special historic importance to Azerbaijan, to Nagorno-Karabakh.
- Armenia has recognized that Azerbaijan has effectively regained control of all territories outside of NK captured by Armenia in the war that ended in 1994 and that Azerbaijani IDPs will be allowed to return to their former homes with the assistance of UNHCR. This is appropriate, although the fact that it has occurred without any formal concessions by Azerbaijan entails a significant loss of bargaining power for Armenia/Nagorno-Karabakh going forward.
- A peacekeeping force has been created, but it will be provided only by one country, namely the Russian Federation, albeit with some UN role, although it would be hard to describe this as a real "international" peacekeeping operation.
- The agreement reopens transportation and transborder economic activity across the region, which could potentially be a first step towards enhanced economic cooperation in the region.

What are the Advantages and Disadvantages of the November 10 Agreement?

So, perhaps ironically, the actual outcome of the November 2020 agreement mirrors many of the terms in the framework

agreement that I proposed in 2015, building on the OSCE's Madrid principles. However, it falls short in several respects:

- It was negotiated following a very destructive war in which many lives were lost on all sides, including innocent civilians. A similar agreement could have been negotiated over the previous decade in the absence of violence and with considerably more attention to refining the details if it had not taken place in crisis circumstances of ongoing violence. That is not to deny the significance of Russia's role in bringing an end to the fighting before it escalated even further, with very destabilizing possible consequences. However, since the war dramatically increased the power symmetries between the parties, Armenia clearly feels that it got the short end of the deal, and its own internal political situation is likely to be seriously destabilized as a consequence. Its bargaining position in future negotiations on the final status of Nagorno-Karabakh has been seriously weakened, increasing the likelihood of an asymmetric agreement that largely undermines the interests of Armenians in the region.
- There still is no definitive resolution of the legal status of Nagorno-Karabakh itself (i.e., the self-proclaimed Artsakh Republic), and that still needs to be negotiated, but in a situation where the Armenians are negotiating from a weaker position. Even the process for deciding on the future status of the enclave remains in doubt in this agreement.
- The peacekeeping operation will essentially be conducted by Russian forces with only minimal international supervision; this is in no way an international peacekeeping force. The arrangement clearly strengthens Russian influence throughout the entire region, and the stability of the arrangements also depends on the complex Russian-Turkish relationship that essentially produced this outcome. It is clearly in Russia's interest to avoid an escalation of fighting near its southern border. It's alliance relationship with Armenia, which formally provides defense assurances only for the territory of Armenia itself and not specifically including Nagorno-Karabakh, gives it a strong incentive to prevent the violence from extending to Armenian territory; this could force it to choose between two unacceptable al-

ternatives: abandoning an ally or fighting a war against Azerbaijan, which is clearly not in its interest. Therefore, Russia does clearly have more concrete interests in preventing fighting in the region from spiraling out of control than any other country that might contribute to an international peacekeeping force. Although this provides Russia with an incentive to engage in peacekeeping in this region, its many concrete interests in the region could inhibit its capacity to act as a neutral peacekeeper.

- There are few, if any "carrots" in this deal for Armenia; it does not obtain any clear economic benefits, and it becomes increasingly dependent on its participation in the Russian-led Central States Treaty Organization (CSTO) for its security. Instead of the *status quo* being in some sense more favorable to Armenia, as would have been the case if an agreement had been negotiated earlier, it is now negotiating from a distinct position of weakness and with the *status quo* now working mostly against its long-term interests.

Why Did the Minsk Group-Led Negotiations Fail?

The influence of the Minsk group in this process has declined over the past decade, and especially over the past few years, for several reasons:

- The United States and to a lesser degree the European Union (specifically France) have invested little in the Minsk process in recent years. Although the conflict was followed in the US by some intelligent and knowledgeable junior State Department officers, it was essentially of little or no interest to anyone with access to senior State Department officials. Furthermore, the increasingly cozy relationship between the White House and the governments of Presidents Putin and Erdogan essentially relinquished the initiative to those two countries, and the US government ceased to exert significant influence on this issue.
- The Minsk Group itself failed to take any bold steps to try to resolve the fundamental issues in the conflict. After it failed to get agreement on "package deals" that might have provided comprehensive solutions to the conflict between 1994 and the adoption of the "Madrid principles" in 2007, the group adopted an incremental,

step-by-step approach that focused almost exclusively on trying to negotiate some minimal “confidence building measures” that have proven helpful in some other conflicts, but in this case “kicked the can down the road” while allowing the facts on the ground to change radically in favor of Azerbaijan. They essentially saw the conflict as intractable and assumed that the only option was to try to “manage” it until it somehow became “ripe” of its own accord. Thus, they failed to initiate bold efforts to try to resolve the conflict with proposals that might have identified critical tradeoffs and formulas for resolution based on mutual interests that might have broken the impasse. This left it to one of the co-chairs, namely Russia, to introduce at least some components of a “resolving formula,” but under crisis conditions that made that framework less than optimal.

- This approach of “waiting it out,” therefore, allowed the facts on the ground to change. Azerbaijan, with its access to fossil fuel energy resources including oil from the Caspian Sea and natural gas resources on land, was able to buy its way to military superiority in the region, also helped by Turkish arms (some of which are of US origin). This allowed them to get through force what they had not been able to obtain through negotiations, namely the return of the large territories occupied by Armenia since the end of the war in 1994. Having thereby won the war on the ground, they are in a much better position, along with their Turkish allies, to dictate the terms of agreement along their preferred line, with only Russia restraining them in some modest respects. At the same time, Armenia has also failed to be forthcoming in the negotiation process, pressured in large part by both the leadership in Stepanakert that has exerted significant influence over the government in Yerevan, as well as by pressure from the global Armenian Diaspora to hold out against any compromise solution. The delay on their part in moving forward with the Minsk negotiations allowed Azerbaijan to gain military superiority over time and thus regain most of the territory that they lost to Armenian/Nagorno-Karabakh control in the 1988-94 war. Not only has Armenia lost the November 2020 war, but their defeat by Azerbaijan with Turkish support will reinforce the Armenian narrative that Azerbaijanis are

“Turks” seeking to extend the genocide of Armenians. Opening this fissure even wider is likely to be one of the most dangerous consequences of the conflict over Nagorno-Karabakh as it played out in November 2020.

In conclusion, there were formulas for agreement that might have overcome the impasse in the Minsk Group negotiations. However, the refusal of either Azerbaijan or Armenia (the latter under great pressure from Stepanakert) to negotiate seriously, and the failure of the Minsk Group “troika” to push them to make the necessary trade-offs across the main issues to arrive at a “package” deal to de-escalate the conflict, have led to a significant change of the “facts on the ground” that may end the violence in the short-term but are likely to lead to even greater pain in the future. Intractable or “frozen” conflicts may appear to be stalemated, but as this case demonstrates, the failure by the international community to address the issues seriously and to push negotiations down the road in the hope that the conflict will eventually “ripen” in the future, may often lead, not to peace, but to a new round of violence. This case, therefore, clearly represents a “missed opportunity” to resolve the conflict in a timely fashion, allowing the situation to deteriorate on the ground, thereby making stable peace in the southern Caucasus even more difficult to realize in the foreseeable future.

ENDNOTES

- 1 Hopmann, P. Terrence (2015), *Minsk Group Mediation of the Nagorno-Karabakh Conflict: Confronting an ‘Intractable Conflict’*, in: *OSCE Yearbook 2014, Baden-Baden: Nomos Verlagsgesellschaft*, 167–179.
- 2 Zartman, I. William (2008), *Ripeness Revisited: The Push and Pull of Conflict Management*, in: I. William Zartman (ed.), *Negotiation and Conflict Management: Essays on Theory and Practice*, London and New York: Routledge, 232–244.
- 3 See Raiffa, Howard (1995), *Analytical Barriers*, in: Kenneth Arrow, Robert H. Mnookin, Lee Ross, Amos Tversky, and Robert Wilson (eds), *Barriers to Conflict Resolution*, New York: W. W. Norton.
- 4 Hopmann, P. Terrence (2017), *Negotiating the Ukraine/Crimea Crisis*, in: Fen Osler Hampson and Mikhail Troitskiy, *Tug of War: Negotiating Security in Eurasia*, Waterloo, ON: Queens-McGill CIGI Press, 101–116.
- 5 Zartman, op. cit., 238–239.
- 6 Hopmann, *OSCE Yearbook 2014*, op. cit., 178.



Shushi cathedral
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Shushi ruins
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Lachin corridor
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Stepanakert
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Shushi mosque (minarets topped)
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