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The main obstacles on the way of achieving peace in Nagorno-Karabakh conflict

The article analyzes the reasons preventing the settlement of Armenian-Azerbaijani Nagorno-Karabakh conflict. According to the author, there are 4 main factors hindering the achievement of an agreement between the parties: the differences in the legal approach, the legal status of Nagorno-Karabakh, the status of the territories surrounding Nagorno-Karabakh, the issue of internally displaced persons. The Azerbaijani side, based on international law, made a few suggestions with regard to these factors; however, non-constructive position of Armenia does not allow achieving progress in the negotiations.

Key words: Nagorno-Karabakh conflict, principle of territorial integrity, peoples' self-determination principle, IDPs occupied territories.

В статті аналізуються причини, препятствующіє урегулюванню Армяно-Азербайджанського Нагорно-Карабахського конфлікту. По мнению автора, существуют 4 основных фактора, мешающих достижению соглашения между сторонами: различия в правовом подходе, правовой статус Нагорного Карабаха, статус территорий вокруг Нагорного Карабаха, проблемы внутренне перемещенных лиц. Азербайджанская сторона, опираясь на нормы международного права, выступила

с несколькими предложениями касательно этих факторов, однако неконструктивная позиция Армении не позволяет добиться прогресса в ходе переговоров.

Ключевые слова: Нагорно-Карабахский конфликт, принцип территориальной целостности, принцип самоопределения народов, вынужденные переселенцы, оккупированные территории.

У статті аналізуються причини, що перешкоджають врегулюванню Вірмено-Азербайджанського Нагорно-Карабахського конфлікту. На думку автора, існують 4 основні чинники, які заважають досягненню угоди між сторонами: відмінності в правовому підході, правовий статус Нагорного Карабаха, статус територій навколо Нагорного Карабаха, проблеми внутрішньо переміщених осіб. Азербайджанська сторона, спираючись на норми міжнародного права, виступила з кількома пропозиціями щодо цих факторів, однак неконструктивна позиція Вірменії не дає змоги домогтися прогресу в ході переговорів.

Ключові слова: Нагорно-Карабахський конфлікт, принцип територіальної цілісності, принцип самовизначення народів, вимушені переселенці, окуповані території.

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The peace process characterizing the Nagorno-Karabakh conflict has been marred with selfish interest and opposing opinions, which have (over the years) stalled the peace process. Albeit the atrocities between the Armenians and the Azeri people were widespread, there was a time both communities helped one another, regardless of their nationalities. However, this neighborliness quickly died after skirmishes broke out between the two countries and after the cease-fire agreement was signed. In fact, after the cease-fire agreement, no serious efforts have been made to reconcile the two parties. The situation was exacerbated with the ongoing aggressive propaganda policy of Armenia. All the war commanders who led the assaults on civilians in Azerbaijan were never brought to justice for the crimes they committed. Instead, these commanders have been regarded as heroes of its country and they have been rewarded with political positions [12, p. 7].

Since then, both sides have developed deep resentments towards one another. Memories of atrocities are still present in minds of people (like the Armenian genocide in the town of Khojali, which left more than 600 people killed). The Khojali genocide is only one such example, because there were other indiscriminate aerial bombings in occupied territories of Azerbaijan which occurred during the war, thereby leading to more division between Armenian and Azerbaijan.

By the end of the war, the number of victims increased considerably especially after the skirmishes turned into an all-out war where Armenian side used heavy weapons against civilians. From 1992 to 1993, the Armenian forces were responsible for most of the atrocities committed because they staged a strong assault against their enemies (which saw them occupy the seven undisputed territories of Azerbaijan). By the start of the conflict about 1 000 000 Azeris were displaced from their lands [14, p. 155].

Different principles and models have been proposed by international peace negotiators as possible frameworks for the realization of peace but none of these frameworks have been adopted. The existence of insurmountable hurdles to the peace process has created deadlocks which have hampered peace efforts to end the conflict. Through the analysis of the peace process, it is correct to say that the status of Nagorno-Karabakh and the surrounding districts of Lachin and Keljibar have greatly impeded the peace talks. This article steps closer to our understanding of the research question which is to identify what impedes the process of finding a lasting solution to the Nagorno-Karabakh war. Indeed, after analyzing all the evidences gathered in this study, this paper proposes that legal obstacles, the status of Nagorno-Karabakh and the refugee question inform the main impediments of the peace process.

Legal Obstacles.

The legal concepts of self-determination and territorial integrity have surfaced as important legal problems for the Nagorno-Karabakh conflict [8, p. 22]. These legal jargons have complicated the realization of lasting peace for the two countries because Azerbaijan holds on to the principle of territorial integrity while Armenia stands by the principle of self-determination. In detail, Armenia believes that the Armenian majority which lives in Nagorno-Karabakh should be given the main "say" regarding the future status of the region. Divergent opinions in the international community regarding the principles of self-determination and territorial integrity have further worsened the conflict. Azerbaijanis believe that the principle of self-determination does not necessarily imply the right to secede. According to Azerbaijan, the Nagorno-Karabakh conflict should be honored within the context of respecting the country's territorial integrity. In Azerbaijan's view, Armenians want to occupy Nagorno-Karabakh with the aim of creating a wider Armenian territory in South Caucasus.

Referring to the Soviet law of secession, Azerbaijan demands that Armenia should follow the same laws that allowed for its secession from the Soviet Union. Comparatively, Armenia has repeatedly quoted article three of USSR law which stated that Nagorno-Karabakh had the right to secede through a referendum [8, p.

35]. However, Azerbaijanis have greatly contested this law and asserted that the law was specifically formulated to guide only secession claims of Soviet Republics from the former Soviet Union. They also claim that this law does not guide any secession demands for territories to secede from the Soviet Republics (like Azerbaijan) [7, p. 23]. Azerbaijan has also referred to Soviet law 1977 which states that Soviet territories should not be changed without their consent [9, p. 55]. Azerbaijan has also not hesitated to refer to the Supreme council of USSR decision of 1988 which declared that Nagorno-Karabakh should remain within Azerbaijan territory [9, p. 57]. Similarly, Baku has not hesitated to refer to Article two of the U.N charter which claims that countries should not infringe on the territorial integrity of other states [2]. Staging of an illegal referendum in the disputed region of Nagorno-Karabakh is therefore regarded as an encroachment of Azerbaijan's territorial integrity and according to the Azerbaijan administration, Armenian forces are wrong in this regard. Currently, Azerbaijan considers itself to be under Armenian aggression and it has consistently quoted Article 51 of the U.N which allows for the use of force to safeguard its territorial integrity [4].

Azerbaijanis have heavily contested the way Armenians want to impose self rule because they have pointed out that violence is an unacceptable way of demanding for secession. They also claim that

despite the fact that Armenians constitute the majority population in Nagorno-Karabakh; this numerical dominance does not essentially constitute the principle of self-determination. Legal citations have also been made to support Azerbaijan's position. For example, Azerbaijan scholars have referred to James Crawford assertion that partial (or full) secession should not be done as a privilege of those demanding independence but rather, by the discretion of the state concerned [13, p. 91]. The U.N argues that calls for secession should not infringe on national unity or the territorial integrity of the affected nations [3]. These legal arguments have prevented the two nations from cutting a compromise over Nagorno-Karabakh.

Nagorno-Karabakh Status.

For a long time, the status of Nagorno-Karabakh has been a stumbling block for the peace negotiations between Azerbaijan and Armenia. As observed in earlier sections of this study, Armenia and Azerbaijan have staked different interests on the disputed regions. It is therefore the belief of many scholars and analysts that the Nagorno-Karabakh status will be the solution to the entire conflict between Armenia and Azerbaijan (because it set-off the conflict in the first place) [17, p. 267]. However, Azerbaijan does not agree with these sentiments and claims that the solution to the conflict will only be realized when Armenian forces withdraw from the seven undisputed territories and allow Azeri refugees to settle back into Nagorno-Karabakh. Furthermore, Azerbaijan does not condone any status over Nagorno-Karabakh which would ultimately undermine its territorial integrity [6].

Over the years, several options have been advanced by Minsk group to solve the conflict but as was seen from the analysis of previous negotiations; none of the options have been completely accepted by the warring factions. The public opinion among the Azeri people has also been firmly opposed against the independence of Nagorno-Karabakh and the entrenchment of a new constitution which would favor Armenians living in the disputed land [11]. The Azerbaijan public also believes that Nagorno-Karabakh is a puppet state which is protected by Armenian forces so that they can increase their dominance in the region. Despite these claims, the Azerbaijan leadership has still expressed willingness to grant Nagorno-Karabakh the highest possible autonomy [10].

Armenians believe that the reunification of Karabakh with Azerbaijan is not an option because they have had a long history of so called discrimination and neglect by the Azerbaijan forces. They are therefore unwilling to (once again) live under Azerbaijan leadership (despite the continuous guarantees of security and equality). The Karabakh-Armenians therefore believe that if they develop an affiliation to Armenia, they would avoid the constitutional complications that may arise if they are under Azerbaijan leadership. It is however crucial to highlight the contribu-

tion of mediators in the conflict because they have been able to break the deadlock regarding the status of Nagorno-Karabakh especially by proposing the introduction of a referendum which will determine the future of the region. As seen from the negotiation process, both warring factions have been able to agree to this resolution [15, p. 149].

The current “no-win, no-loss” situation is not very beneficial to the negotiation process because the lull in negotiations potentially poses a threat of either (or both) parties widening their stance on the issue. Moreover, there is a possibility of a generational hate progress which is strongly harbored by young Armenians living in the disputed region of Nagorno-Karabakh and who have no interaction with Azerbaijanis at all. There is a wide sense of acknowledgement among politicians that every passing year complicates the realization of a peace deal between the warring factions [17, p. 2] Therefore, there is a strong need to ensure that a peaceful solution is found soon. However, there is still a big gap in the realization of a lasting solution because even if we narrow on the modalities of how to undertake a referendum, its success still lies on ironing the differences (modalities) on how the process should be undertaken. The absence of a consensus on how to undertake the referendum dents the prospect of having a referendum in the new future and ultimately, the prospects of finding a peaceful solution to the conflict in the near future.

Occupied Districts.

The seven occupied districts of Azerbaijan have been a great obstacle to the realization of lasting peace for Armenia and Azerbaijan. The continued occupation of the seven undisputed districts by Armenia has been justified by the Armenian forces as a “necessary evil” to protect Nagorno-Karabakh because they consider it a buffer zone between Azerbaijan and Nagorno-Karabakh [1, p. 28]. Armenia accepts that the seven districts are part of Azerbaijan. As observed in earlier sections of this report, Azerbaijan has demanded the liberation of the seven districts and Armenia has expressed the willingness to liberate five of these districts in exchange for the independence, political stability and military empowerment of Nagorno-Karabakh. Therefore, Armenia continues to use the seven occupied districts as a bargaining chip in the negotiation process.

The future of Kelbajar and Lachin also remain uncertain because Armenia continues to hold on to these territories because of their strategic importance in connecting Nagorno-Karabakh and Yerevan. The control of Lachin district is of special strategic importance to Armenia because it facilitates the independence of Nagorno-Karabakh as it ensures that it does not depend on Azerbaijan for contact with the outside world. Indeed, in the 1991–1992 war (when Lachin was under the control of Azerbaijan), Armenia had no physical border with Karabakh and therefore, it had to use warplanes to provide military support to Karabakh

Armenians. Politicians in Armenia perceive the control of Lachin to be a critical bargaining tool because if they allow it to slide back into the control of Azerbaijan, it would mark the start to the loss of all military gains made in the Nagorno-Karabakh war [18, p. 207].

Like Lachin, Kelbajara district is another contentious territory that Armenia refuses to let go. The region is of strategic geographic importance to Armenia because it provides an ideal location for launching military attacks on Nagorno-Karabakh and Lachin. It is believed that if Armenia loses control of this region and withdraws its 5 000 strong army from the region, it will become increasingly vulnerable to Azerbaijan attacks and it may require an additional 20 000 soldiers to protect itself in this regard [12, p. 203]. The Kelbajar district is also of high importance to Armenia and Nagorno-Karabakh because it is the major source of water. It is estimated that 85% of the total water used in Armenia and Nagorno-Karabakh originates from Kelbajar district [12, p. 203].

The continued occupation of Lachin and Kelbajar district by Armenians has become a constant headache for Azerbaijani negotiators because they perceive these regions to be firmly tucked within Azerbaijan territory. Their greatest outrage is that Armenians have never lived in these regions and therefore, they do not understand why Armenia still occupies them. In exchange for Armenian withdrawal of its troops from the disputed regions, Azerbaijan has assured Armenia that it will provide security to all Armenians who settled in the region after the war. In 2006, Armenia resolved to withdraw its troops from Kelbajar in exchange for the recognition that Nagorno-Karabakh is an independent state but Azerbaijan rejected this deal after protesting that it would mean the acknowledgement of Nagorno-Karabakh independence and the loss of Lachin district [15, p. 150].

The failure to arrive at a consensus for the occupied districts has therefore been a thorn in the flesh of both sides of the negotiating table. Notably, Armenia continues to use the seven occupied districts of Azerbaijan as bargain chips to guarantee the security of Nagorno-Karabakh and its independence. Comparatively, Azerbaijan continues to refer to UN Security Council resolutions to demand the immediate withdrawal of Armenian troops from its territories because the territories that Armenia continues to occupy are rightfully belongs to it.

The Refugee Question.

Like many other ethnic conflicts, the war between the Azerbaijani people and Armenians led to the forceful migration of thousands of people. Throughout the negotiation process, Azerbaijan has always demanded the resettlement of refugees. Armenia and Azerbaijan have both acknowledged that the resettlement of refugees is a key step towards realizing lasting peace in the conflict and both parties have always expressed their willingness to compromise in this

regard. Ironically, both countries have never agreed to any peace deal formulated by Minsk regarding the resettlement of refugees. The main stumbling block to solving the refugee issue has been Armenian's refusal to allow for the resettlement of Azeri refugees into Nagorno-Karabakh or the seven undisputed territories. Instead, Armenia proposes that the refugees should only be returned to five undisputed territories (but after the status of Nagorno-Karabakh and the districts of Lachin and Keljagara have been determined) [16, p. 446]. Armenia holds on to this demand because it believes that the security of Nagorno-Karabakh could eventually be compromised by the accommodation of Azeri refugees in the disputed lands (especially considering there is a lot of mistrust between the two communities). Azerbaijan refers to the UN Security Council resolutions (853 and 874) to demand the reinstatement of Azeri refugees to their original lands, failure to which, Armenia would be deemed to be contravening international law [5]. Moreover, Azerbaijan considers the construction of settlement structures over the disputed territories as illegal because it was excluded from the political makeup of Nagorno-Karabakh. The disagreement over the refugee question therefore stands as a strong stumbling block for the realization of peace within the wider Nagorno-Karabakh region.

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