

Conflict over Nagorno-Karabakh: how to deal with Armenia's impunity syndrome

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The July escalation along the Armenian-Azerbaijani international border as well as a recent counter-offensive operation conducted by the Azerbaijani army due to large-scale provocation initiated by Armenian's armed forces along the Line of Contact (LoC) on September 27, 2020 has drawn international spotlight to the long-standing confrontation between Armenia and Azerbaijan over Nagorno-Karabakh and the surrounding territories, which has been occupied by the Armenian military forces since the early 1990s. The conflict zone covers nearly all the territory of the former Nagorno-Karabakh Autonomous Oblast (NKAO)¹ and an additional seven adjacent administrative districts (Lachin, Kalbajar, Agdam, Fizuly, Jabrail, Gubatli, and Zangilan) surrounding NKAO. These vast, occupied territories have been outside Azerbaijani government control for more than a quarter of a century. Over 20,000 Azerbaijanis were killed and around one million were displaced² in the course of this armed conflict. In its leading judgment of 16 June 2015 in the case of "Chiragov and Others v. Armenia", the Grand Chamber of the European Court of Human Rights established that from the early days of the Nagorno-Karabakh conflict Armenia has had a significant and decisive influence over the separatist regime created in the occupied Azerbaijani territories, that survives by virtue of the military, political, financial and other support given to it by Armenia which, consequently, exercises effective control over Nagorno-Karabakh and other occupied territories of Azerbaijan³.

Needless to say, that although this conflict has been managed through the ceasefire agreement that was signed by the conflicting parties in May 1994 and many attempts have been made to find a political solution, it has not yet been resolved. A 'no war, no peace' situation has persisted over the years - presumably with the common understanding that this is a typical frozen conflict without any real potential to break out again. This approach is, perhaps, also reflected in the work of mediators, in particular, the OSCE Minsk Group, whose efforts have, over the years, been reactive rather than proactive. Despite the fact that the co-chairs of the Minsk Group have more than once declared the status quo unacceptable, they have mainly focused on preventing an escalation of the conflict, rather than making a resolution happen.

On the other hand, despite the leading global and regional powers' and international organizations' confirmed commitment to Azerbaijan's sovereignty and territorial integrity within its internationally recognized borders, they have so far opposed any attempts to use any sanctions

¹ Mostly inhabited by ethnic Armenians, NKAO was established within the borders of the Azerbaijan Soviet Socialist Republic on 7 July, 1923, and the town of Khankandi was designated as its administrative center.

²United Nations High Commissioner for Refugees (UNHCR). Available at: http://unazerbaijan.org/en/un_agencies/united-nations-high-commissioner-for-refugees/

³ Judgment (Merit). Case of Chiragov and Others v. Armenia (Application no. 13216/05). European Court of Human Rights, Strasbourg, 16 June 2015, p. 68.

against Armenia. In fact, owing to the lack of political will of the international community, the four legally binding UN Security Council resolutions (specifically, 822, 853, 874 and 884) adopted in 1993, that demand full and unconditional withdrawal of the Armenian armed forces from the occupied territories of Azerbaijan have not yet been implemented by Armenia.

Thus, a ‘syndrome of impunity’ has contributed not only to the uncompromising position of Armenia in the negotiation process, but also to the consolidation by this country of the results of its military occupation. This leaves us with the following consequences:

First of all, Armenia and the separatist regime created in the occupied Azerbaijani territories, which has not been recognized by any other state, including its kin-state Armenia refuse any final status short of independence for Nagorno-Karabakh.

Secondly, the fate of seven occupied Azerbaijani districts surrounding the former NKAO, which is also one of the important sticking points in the negotiation process, is very vague. The international community frequently fails to distinguish the territory of the former NKAO from these seven other adjacent, occupied Azerbaijani districts, which were transformed by Armenian forces into ‘buffer zone’ and came to be considered as bargaining chips in the negotiation process. Initially, the official Yerevan stance envisaged returning these seven districts as bargaining chips back to Azerbaijan on securing its demands, but the situation has, apparently, changed in recent years. The US Ambassador to Armenia Richard Mills while completing his diplomatic mission in this country also touched upon this issue in an interview with the Armenian website EVN. He said that he was surprised when he first got here and found out that most Armenians he met were adamantly opposed to the return of the occupied territories as part of a negotiation settlement. Ambassador Mills noted that return of land was one of the core principles of the Madrid Principles.

Although Pashinyan government raised some hopes for progress in negotiations over the Nagorno-Karabakh conflict and high-profile meetings were held between the heads of states and the foreign ministers of Armenia and Azerbaijan between 2018 and 2020, the peace process has not yielded any results due to the several provocative statements of the current Armenian establishment. We will now take a closer look at two statements that have been made by high-ranking officials of Pashinyan government on the fate of the seven Azerbaijani districts surrounding the former NKAO.

On February 27, 2019 the then Director of Armenian National Security Service Artur Vanetsyan, during his visit to the occupied Azerbaijani territories⁴ after learning about resettlement efforts under way in southern Hadrut near the Arax River, made particular mention of Araxavan, a new village designed for up to 150 homes, with adjacent land and work facilities, located in a strategic area adjoining both Azerbaijan and Iran. Assessing this program as an important guarantee of national security, Artur Vanetsyan concluded: “The program that we call a resettlement program, in my and everyone’s assessment, will be the main guarantee of our

⁴ New settlements in Artsakh: Leyla Abdullayeva vs. Artur Vanetsyan. Mediamax.am. March 1, 2019. Available at: <https://mediamax.am/en/news/foreignpolicy/32479/>

country's security. Because there are those speeches, those expressions, and those people who always manipulate this subject as if lands will be returned, will be negotiated, conceded, etc. As a result of that program, we will send a clear message to all our people and the world that we have *no intention to give an inch of land*; on the contrary, our compatriots must settle on those lands and build our country" (Emphasis added).⁵ The Ministry of Foreign Affairs of Azerbaijan strongly reacted to this statement by underlining, in particular, that it is "a blatant attack against a years-long negotiating process under the auspices of the OSCE Minsk Group co-chairs."⁶

Another statement belongs to the current Armenian Defense Minister, Davit Tonoyan, who, at the meeting with representatives of the Armenian community in New York on March 29, 2019, pointedly announced: "'I, as the Defense Minister [of Armenia], say that the option of return of 'territories for peace' will no longer exist, and I have re-formulated it into 'new territories in the event of a new war'"⁷.

Thus, presumably, the Armenian government and society are not so keen to return these territories back to Azerbaijan on their own accord without strong pressure from the external actors at present.

Thirdly, the Armenian government has pursued the policy of illegal settlement in the occupied Nagorno-Karabakh region and surrounding areas of Azerbaijan over the years. Sources, including Armenian ones, report that tens of thousands of settlers have moved to the occupied territories of Azerbaijan, including the districts of Lachin, Kalbajar, Zangilan and Jabrayil adjacent to the Nagorno-Karabakh region, in an organized manner with the purpose of annexing these territories⁸. In fact, two missions to the occupied Azerbaijani territories⁹ conducted by the OSCE in 2005 and 2010 found evidence of the presence of Armenian settlers in the occupied territories.

The separatist regime created in the occupied territories of Azerbaijan has been working very hard, together with Armenia and the Armenian Diaspora, toward the illegal resettlement of thousands of Armenians in the occupied Azerbaijani territories as well as the subsequent implementation of illegal activities and infrastructure projects. It's no surprise that "Armenian

⁵Not an inch of land?: Vanetsyan's statement a welcome sign for Artsakh. Armenianweekly.com, March 6. 2019. Available at: <https://armenianweekly.com/2019/03/06/not-an-inch-of-land/>

⁶ Azerbaijan urges OSCE MG to condemn provocative statements by Armenian leadership. News.az, 2 March 2019. Available at: <https://www.news.az/news/azerbaijan-urges-osce-mg-to-condemn-provocative-statements-by-armenian-leadership>

⁷ New Territories in the Event of New War,' Says Defense Minister. Asbarez.com, April 1, 2019. Available at: <http://asbarez.com/178701/new-territories-in-the-event-of-new-war-says-defense-minister/>

⁸Ambassador Araz Azimov. "Armenia-Azerbaijan Nagorno-Karabakh Conflict: Historical Background, Legal Aspects and Negotiation Process," in Azerbaijan in Global Politics Crafting Foreign Policy (Baku, Azerbaijan Diplomatic Academy, 2009), p. 283.

⁹ Report of the OSCE Fact-Finding Mission (FFM) to the Occupied Territories of Azerbaijan Surrounding Nagorno-Karabakh (NK). 30 January - 5 February 2005 Available at: https://www.europarl.europa.eu/meetdocs/2004_2009/documents/fd/dsca20050413_08/dsca20050413_08en.pdf; Executive Summary of the "Report of the OSCE Minsk Group Co-Chairs' Field Assessment Mission to the Occupied Territories of Azerbaijan Surrounding Nagorno-Karabakh", 24 March 2011. Available at: <https://www.osce.org/mg/76209?download=true%20-%20>

settlers are housed in homes that belonged to Azerbaijani residents and new settlements build by Armenian authorities”¹⁰ because the aims of such a policy are very clear. Illegally settling Armenians from different parts of the world in the occupied Azerbaijani territories by Armenia and the separatist regime created in the occupied territories in Azerbaijan is intended to artificially increase the number of inhabitants of ethnic Armenian origin and create obstacles to the return of Azerbaijani IDPs forcefully expelled from Nagorno-Karabakh and surrounding districts. Resettling Lebanese people of Armenian origin in Nagorno-Karabakh is the latest wave of this policy: “The Foreign Ministry of Azerbaijan has raised its serious protest against the illegal settlement policy pursued by Armenia, in particular the resettlement of ethnic Armenians from Lebanon to the Nagorno-Karabakh region and surrounding areas of Azerbaijan, to the OSCE Minsk Group co-chairs and within the relevant international organizations”¹¹.

Finally, Armenia resorted to an armed attack against Azerbaijan along the Armenia-Azerbaijan state border in the Tovuz direction from 12 to 16 July, which was provocative in nature and has the aim of derailing the negotiation process by any means. At the same time, it was Armenia’s intention to involve the political-military organization of which it is a member in this conflict.

On September 19, President of the Republic of Azerbaijan Ilham Aliyev negatively assessed the current stage of Karabakh peace talks. He particularly mentioned that negotiations are virtually non-existent and “in fact, the Armenian leader has disrupted the process of negotiations”¹². Thus, due to the extremely provocative behavior of the Armenian leadership the negotiation process has stalled today and without significant diplomatic commitment, the risk of outbreak of violence remains extremely high, which in fact has been proven by the latest developments.

Sine quo non or an essential condition for breaking a vicious circle around Nagorno-Karabakh is to speed up the early political settlement of this conflict, which is not “frozen” anymore. At the same time a common approach should be applied by the international community in regard to occupiers and the states the territories of which have been occupied. This issue has also been raised by the foreign minister Jeyhun Bayramov during the meeting with French Ambassador to Azerbaijan Zakari Gross on September 15, 2020. The minister noted in particular that “the balanced approach to the aggressor state Armenia and Azerbaijan, the territories of which have been under occupation for almost 30 years was wrong”¹³. Therefore, the OSCE Minsk Group should not hesitate to adopt a strong and determined stance on the issue of Armenia’s occupation of Nagorno-Karabakh and its surrounding regions. As J.Popjanevski notes, “Armenia’s

¹⁰ Svante Cornell and Brenda Shaffer. Occupied Elsewhere. Selective Policies on Occupation, Protracted Conflicts, and Territorial Disputes. January 2020, p.29. Available at: <https://www.fdd.org/wp-content/uploads/2020/01/fdd-report-occupied-elsewhere-selective-policies-on-occupations-protracted-conflicts-and-territorial-disputes.pdf>

¹¹ Azerbaijan’s Foreign Ministry: The Armenian leadership is undermining the negotiated settlement of the conflict with its policy of annexation, Azertag.az, 14.09.2020. Available at: https://azertag.az/en/xeber/Azerbaijans_Foreign_Ministry_The_Armenian_leadership_is_undermining_the_negotiated_settlement_of_the_conflict_with_its_policy_of_annexation-1583817

¹² President: I have a negative assessment of the current state of negotiations and I think the Azerbaijani people fully agree with me. Azertag.az, 19 September 2020, Available at: https://azertag.az/en/xeber/President_I_have_a_negative_assessment_of_the_current_state_of_negotiations_and_I_think_the_Azerbaijani_people_fully_agree_with_me-1589697

¹³ FM Bayramov receives French Ambassador to Azerbaijan. Azvision.az, 15 September 2020. Available at: <https://en.azvision.az/news/130735/fm-bayramov-receives-french-ambassador-to-azerbaijan.html>

significant troop presence in Azerbaijani territory constitutes a clear violation of recognized international law and standards. If unchallenged, these risks setting dangerous precedents in international practice with implications beyond the region”¹⁴.

¹⁴ Johanna Popjanevski. International law and Nagorno-Karabakh conflict. In: Cornell S. (eds) *The International Politics of the Armenian-Azerbaijani Conflict*. 2017, Palgrave Macmillan, New York, p. 44.