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PEPPERDINE DISPUTE RESOLUTION LAW JOURNAL

## Negotiation and Settlement in Nagorno-Karabak: Maintaining Territorial Integrity or Promoting Self-Determination?

Argam DerHartunian\*

The little-known region of Nagorno-Karabakh,<sup>1</sup> known to Armenians as Artsakh, has been no stranger to conflict.<sup>2</sup> This land, nestled in the historic “Armenian Plateau,” has been ruled by many different dynasties and seen the faces of many different ethnicities and cultures.<sup>3</sup> Today, both Armenians and Azeris claim an absolute historic right to Nagorno-Karabakh, periodically fighting over the region.<sup>4</sup> Although the intense fighting ended in 1994, negotiation efforts regarding the territory of Nagorno-Karabakh remain stalemated. This has caused the leaders of Karabakh to declare the region an independent republic, although no state, including Armenia, has recognized this status.<sup>5</sup>

The territorial dispute between the Armenians and Azeris is centered upon the war of 1991-1994, which resulted in Armenian military control of Nagorno-Karabakh and the surrounding areas.<sup>6</sup>

Continued occupation or release of these territories forms a key asset to the Armenian side in its attempts to prioritize the determination of Nagorno-Karabakh’s future status as a precondition for dialogue on other is-

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<sup>1</sup> The words Nagorno-Karabakh and Karabakh will be used interchangeably throughout this article.

<sup>2</sup> See Wikipedia, Nagorno-Karabakh, <http://en.wikipedia.org/wiki/Nagorno-Karabakh> (last visited Sept. 16, 2006).

<sup>3</sup> See Wikipedia, *supra* note 2.

<sup>4</sup> See PATRICIA CARLEY, NAGORNO-KARABAKH: SEARCHING FOR A SOLUTION (1998), [http://www.usip.org/pubs/peaceworks/pwks25/chap1\\_25.html](http://www.usip.org/pubs/peaceworks/pwks25/chap1_25.html).

<sup>5</sup> See CARLEY, *supra* note 4.

<sup>6</sup> See Broers, Laurence, *The Limits of Leadership: Elites and Societies in the Nagorny Karabakh Peace Process* (2005), at <http://www.c-r.org/our-work/accord/nagorny-karabakh/introduction.php>.

sues. It has thus proved impossible to disentangle negotiations over the consequences of armed conflict from the substantive issues underlying it.<sup>7</sup> Negotiations and mediation efforts have solely revolved around the status of the region; however, "Armenia and Azerbaijan remain divided on vital points. Azerbaijan does not accept any compromise of its territorial integrity, nor does it agree that Nagorno-Karabakh's population alone can vote on determining its final status."<sup>8</sup>

This article will attempt to trace the origins of the region, and most notably outline the recent conflict which erupted in 1991 continuing with the negotiation and settlement attempts after the 1994 cease-fire agreement. Furthermore, this article will humbly try to analyze the causes of the conflict and suggest new mediation methods that might lead to a fair and just agreement to this conflict. This will be no easy task because the conflict is deeply rooted with a long history of conflict between these two peoples. Therefore, the first objective will be to trace the history of the conflict while outlining the current status of the conflict and the parties involved. The second objective will be to summarize and analyze past mediation efforts. Finally, this article will attempt to suggest an equitable means to achieve a remedy to the conflict. The focus of this article has been purposely kept narrow to facilitate an easy understanding of the conflict and provide sufficient background to those unfamiliar with the dispute.

#### INTRODUCTION: WHAT IS NAGORNO-KARABAKH?

Nagorno-Karabakh ("Karabakh") is a region of Azerbaijan, in the South Caucasus, located about 270 km (about 170 mi.) west of the Azerbaijani capital of Baku.<sup>9</sup> The region currently has a population of approximately 145,000 people, of whom 95 percent are ethnic Armenians.<sup>10</sup> The area is known for its green rugged beauty, its wild mountains, and its isolation from to the rest of the Caucasus.<sup>11</sup>

#### *Origins of Nagorno-Karabakh*

Tracing the origins of Nagorno-Karabakh is difficult because little historical record exists in the region. However, it has been widely accepted that

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<sup>7</sup> See Broers, *supra* note 6.

<sup>8</sup> *Nagorno-Karabakh: A Plan for Peace*, International Crisis Group., Crisis Group Eur. Report No. 167 at 3 (October 11, 2005), available at [http://www.crisisgroup.org/library/documents/europe/caucasus/167\\_nagorno\\_karabakh\\_a\\_plan\\_for\\_peace.pdf](http://www.crisisgroup.org/library/documents/europe/caucasus/167_nagorno_karabakh_a_plan_for_peace.pdf).

<sup>9</sup> See *infra* App. Fig. 1.

<sup>10</sup> See Wikipedia, *supra* note 2.

<sup>11</sup> See Wikipedia, *supra* note 2.

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the people who first inhabited in this region were the people of the Kura-Araxes culture.<sup>12</sup> The region of Karabakh and most of eastern Transcaucasia was then inhabited by a people called Albanians, not to be confused with the people of the same name now living in the Balkans.<sup>13</sup> This area was highly disputed at times being part Aghbania, or Caucasian Albania, and at other times, of Greater Armenia.<sup>14</sup> Tigranes II, ruler of the Kingdom of Armenia conquered the land in 95 B.C.<sup>15</sup> Shortly after the Armenians converted to Christianity in 301 A.D, the Albanians too adopted the Armenian brand of Christianity.<sup>16</sup> As a result of this adoption, Albanians soon started losing their own identity and began to slowly merge with the Armenian population.<sup>17</sup> This resulted in the loss of a separate culture of the Caucasian Albanians by the 7<sup>th</sup> century, establishing Armenians as the majority population in the region.<sup>18</sup>

In the seventh and eighth centuries much of Karabakh was conquered by Arabs, who converted a portion of the population to Islam.<sup>19</sup> Karabakh passed to Imperial Russia by the Treaty of Gulistan in 1813, before the rest of Transcaucasia was incorporated into the Empire in 1828 by the Treaty of Turkmenchai.<sup>20</sup> In 1822, the Karabakh Khanate was dissolved, and the area became part of the Russian province that later formed Azerbaijan.<sup>21</sup>

### *Nagorno-Karabakh After 1917*

Representatives of the Armenians, Georgians and Azeris met and formed a short-lived Transcaucasian Federation.<sup>22</sup> However, this federation failed and three separate independent republics were established: Armenia,

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<sup>12</sup> See Wikipedia, *supra* note 2.

<sup>13</sup> See SVANTE E. CORNELL, SMALL NATIONS AND GREAT POWERS: A STUDY OF ETHNOPOLITICAL CONFLICT IN THE CAUCASUS 66 (2001) [hereinafter CORNELL, SMALL NATIONS].

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See Hye Etch, *Religion and Church*, <http://www.hyeetch.nareg.com.au/religion/index.html> (last visited Sep. 16, 2006).

<sup>17</sup> See Gerard Libaridian, *Pre-Soviet History of Karabakh*, <http://www.cilicia.com/armo19i.html> (last visited Sep. 16, 2006).

<sup>18</sup> See CORNELL, SMALL NATIONS, *supra* note 13.

<sup>19</sup> Nina Garsian, *The Arab Invasions and the Rise of Bagratuni (640-884)*, in THE ARMENIAN PEOPLE FROM ANCIENT TO MODERN TIMES 125 (Richard G. Hovannisian ed. 1997).

<sup>20</sup> TIM PORTIER, CONFLICT IN NAGORNO-KARABAKH, ABKHAZIA, AND SOUTH OSSETIA: A LEGAL APPRAISAL 1 (2001).

<sup>21</sup> *Id.*

<sup>22</sup> See CORNELL, SMALL NATIONS, *supra* note 13, at 70.

Azerbaijan, and Georgia.<sup>23</sup> Azerbaijan claimed sovereignty over Karabakh, and sought to secure its claims with help from the Ottoman Empire.<sup>24</sup> The Allies decided that the ultimate status of Karabakh was to be determined at the Paris Peace Conference.<sup>25</sup> While Azerbaijan applauded this decision as recognition of its territorial rights over the region, the Armenian side criticized this decision arguing it was motivated by the Allies' economic interests in the oil fields near Azerbaijan's capital, Baku.<sup>26</sup>

In 1920 all of the Trans-Caucasian nations were taken over by the Bolsheviks.<sup>27</sup> Given the sudden takeover and the uncertainty of the status of the regions of Nagorno-Karabakh and Nakhichevan, the borders between Azerbaijan, Armenia, and Georgia were not immediately determined.<sup>28</sup> On March 16, 1921, a treaty between Turkey and the Soviet Union established that Karabakh would be under the authority of the Azerbaijani Soviet Socialist Republic.<sup>29</sup> In 1924, Karabakh was granted status as an autonomous oblast.<sup>30</sup> Stalin's main strategy was to prevent any one ethnic group from gaining enough power and autonomy to secede from soviet rule; therefore, he implemented policies which split Armenian nation to different regions of the Caucasus.<sup>31</sup>

### *Eruption of Violence in Karabakh*

As tensions built up in the Soviet Union while Gorbachev was enacting his glasnost policies, the gradual dissolution of the Soviet Union gave way to Karabakh's aims at independence. In 1988, the Armenian majority in the Nagorno-Karabakh Supreme Soviet (the region's legislature) appealed to have the region join Armenia. Violence erupted, and each side claimed that the other had initiated the hostilities.<sup>32</sup> In 1989, Soviet authorities granted Azerbaijan more leeway to control the region. The Supreme Soviet of Armenia reacted by passing a resolution proclaiming the unification of Nagorno-Karabakh and Armenia. Azerbaijan, in response to the movement for

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<sup>23</sup> See CORNELL, SMALL NATIONS, *supra* note 13, at 71.

<sup>24</sup> PORTIER, *supra* note 20, at 2.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 3.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Svante E. Cornell, *Undeclared War: The Nagorno-Karabakh Conflict Reconsidered*, JOURNAL OF SOUTH ASIAN AND MIDDLE EASTERN STUDIES VOL. XX, NO. 4, SUMMER 1997, 2, [http://www.pcr.uu.se/publications/cornell\\_pub/main\\_doc.pdf](http://www.pcr.uu.se/publications/cornell_pub/main_doc.pdf) Autonomous oblasts have less autonomy than autonomous republics in the structure of the Soviet Union. *Id.*

<sup>31</sup> FRANK NORTEN MAGILL, GREAT EVENTS OF HISTORY II 2349 (1992).

<sup>32</sup> See CARLEY, *supra* note 4.

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unification, started pogroms against Armenians in cities with large Armenian populations.<sup>33</sup>

In the spring of 1991, serious fighting erupted in Karabakh involving Armenian, Azeri, and Soviet troops.<sup>34</sup> After the dissolution of the Soviet Union, the autonomous region of Karabakh declared complete independence in early 1992.<sup>35</sup> During this escalation of the conflict, military action between Azerbaijan and Armenia was heavily influenced by the Russian military.<sup>36</sup> Many allege that Russian military forces inspired and manipulated the rivalry between Armenia and Azerbaijan, providing weapons to both sides in order to weaken each state and maintain control over the region.<sup>37</sup> By mid-1992, the Armenians largely controlled Nagorno-Karabakh, many of the Azeris that lived there had left, and the Lachin corridor, a land bridge from the region to Armenia, was established.<sup>38</sup> By 1993 there were thousands of casualties and refugees on both sides.<sup>39</sup> Furthermore, Armenian forces managed to occupy almost 20 percent of Azerbaijani territory outside of Karabakh.<sup>40</sup>

In 1994, by the mediation efforts of Russia and pressure from the UN Security Council, Azerbaijan and Armenia reached a cease-fire agreement.<sup>41</sup> Since the cease-fire agreement, the situation has been stalemated; however, occasional eruptions of violence do occur within the region.<sup>42</sup> Karabakh remains an independent republic with its own government and elections; nevertheless, the governments of Armenia and Karabakh remain closely tied

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<sup>33</sup> Mark Saroyan, *The 'Karabakh Syndrome' and Azerbaijani Politics*, in *MINORITIES, MULLAHS AND MODERNITY: RESHAPING COMMUNITY IN THE FORMER SOVIET UNION* 175 (Edward W. Walker ed. 1997).

<sup>34</sup> See THOMAS GOLTZ, *AZERBAIJAN DIARY: A ROGUE REPORTER'S ADVENTURES IN AN OIL-RICH, WAR-TORN, POST-SOVIET REPUBLIC* 75 (1998).

<sup>35</sup> JAMES B. MINAHAN, *MINIATURE EMPIRES: A HISTORICAL DICTIONARY OF THE NEWLY INDEPENDENT STATES* 13 (1998).

<sup>36</sup> DONALD E. MILLER ET AL., *ARMENIA* 70 (2003).

<sup>37</sup> *Id.*

<sup>38</sup> LEOKADIA M. DROBIZHEVA, *ETHNIC CONFLICT IN THE POST-SOVIET WORLD: CASE STUDIES AND ANALYSIS* 247 (1996).

<sup>39</sup> KEVIN BOYLE & JULIET SHEEN, *FREEDOM OF RELIGION AND BELIEF: WORLD REPORT* 272 (1997).

<sup>40</sup> MICHAEL P. CROISSANT, *THE ARMENIA-AZERBAIJAN CONFLICT: CAUSES AND IMPLICATIONS* 133 (1998).

<sup>41</sup> Volker Jacoby, *The Role of the OSCE: An Assessment of International Mediation Efforts*, in *THE LIMITS OF LEADERSHIP: ELITES AND SOCIETIES IN THE NAGORNY KARABAKH PEACE PROCESS* (Laurence Broers ed. 2005) available at <http://www.c-r.org/our-work/accord/nagorny-karabak/osce-role.php>.

<sup>42</sup> Personal knowledge of the author.

with Karabakh using the currency and many of the resources of Armenia.<sup>43</sup> Armenia is hesitant to recognize Karabakh as an independent state or to support unification fearing backlash from the international community – notably Turkey and Azerbaijan.<sup>44</sup> This situation remains volatile until a firm resolution to the conflict is agreed upon by all parties.<sup>45</sup>

## PLAYERS IN THE NEGOTIATION TALKS

### *Primary Parties*

#### Armenia and Nagorno-Karabakh

Armenia is a small nation-state almost the size of Maryland.<sup>46</sup> It is purely a diasporan nation with more ethnic Armenians living outside the state than inside- namely in Russia, the United States, and Europe.<sup>47</sup> Diasporan Armenians contribute money and time to the growth of Armenia and support the independence of Karabakh.<sup>48</sup> Armenia emerged as a democracy after it proclaimed independence from the Soviet Union in 1991.<sup>49</sup> It has been applauded as the most democratic nation in the region, although allegations of voter fraud plague every election and corruption is rampant amongst government officials.<sup>50</sup> Furthermore, instances of censorship have been documented: “[t]he Armenian government continues to use its powers to limit political activity, restricting freedom of assembly and persecuting those that it perceives as a threat to its hold on power.”<sup>51</sup>

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<sup>43</sup> Personal knowledge of the author.

<sup>44</sup> Personal knowledge of the author.

<sup>45</sup> Personal knowledge of the author.

<sup>46</sup> CIA-THE WORLD FACTBOOK: ARMENIA, <http://www.cia.gov/cia/publications/factbook/geos/am.html> (last visited Sept. 16, 2006).

<sup>47</sup> Armenia Diaspora Conference Official Site, <http://www.armeniadiaspora.com/followup/population.html> (last visited Sept. 16, 2006).

<sup>48</sup> See GOLTZ, *supra* note 34, at 314.

<sup>49</sup> LEONIDAS T. CHRYSANTHOPOULOS, CAUCASUS CHRONICLES: NATION-BUILDING AND DIPLOMACY IN ARMENIA, 1993-1994, at 3 (2004).

<sup>50</sup> Emil Danielyan, *Corruption Remains Pervasive in Armenia, Despite Two-Year Anti-Graft Campaign*, EURASIANET, Nov. 10, 2005, <http://www.eurasianet.org/departments/business/articles/eav111005.shtml> (last visited Sept. 16, 2006).

<sup>51</sup> Human Rights Watch, *EU-South Caucasus: Concrete Human Rights Benchmarks Needed*, <http://hrw.org/english/docs/2005/12/09/azerba12177.htm> (last visited Sept. 16, 2006) [hereinafter EU-South Caucasus].

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Armenia, by forces beyond its control, has had to establish alliances with Iran and Russia to maintain its security in the region and Karabakh.<sup>52</sup> Armenia's alliance with the United States has been complicated by the Karabakh conflict because the United States has tried to secure its oil interests in the region while trying to satisfy the large Armenian-American constituency in the United States. Section 907 of the Freedom Support Act is an example of this complicated relationship.<sup>53</sup> While the executive department favors Azerbaijan in the conflict, Congress has partially sided with Armenia because of the Armenian-American lobbying efforts.<sup>54</sup> Recently, Armenia has had no choice but to openly ally itself with Iran and Russia, which might lead to a deterioration of relations with the United States; however, given the efforts of the Armenian-American constituency in the United States this will be a difficult relationship to fully sever.<sup>55</sup>

Armenia has a long history in the Caucasus and a rich history of Christianity.<sup>56</sup> The ethnic Armenians living in the Ottoman Empire suffered the first genocide of the 20<sup>th</sup> Century in 1915 perpetrated by the "Young Turk" government on Armenian historic homeland.<sup>57</sup> Turkey to this day denies that a systematic genocide took place despite international pressure to recognize the fact.<sup>58</sup> Therefore, Armenia and Turkey have held an antagonistic relationship mainly due to this sensitive issue and the Diaspora's insistence to keep it on the agenda. Turkey has maintained a blockade of Armenia damaging Armenia's economy and not allowing the infant nation to grow and prosper. Despite this, Armenia has made some economic progress

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<sup>52</sup> See CORNELL, SMALL NATIONS, *supra* note 13, at 394.

<sup>53</sup> See CORNELL, SMALL NATIONS, *supra* note 32, at 377. The executive department has expressed its view on Section 907 of the Freedom Support Act. Former Secretary of State Albright's advisor Stepeh Sestanovich has stated:

Section 907 remains a serious obstacle to our diplomacy in Azerbaijan...Politically, Section 907 and related provisions are an impediment to our making progress on Nagorno-Karabakh, to our ability to work effectively with Azerbaijan on the east-west Eurasian transport corridor, to advancing in Azerbaijan the same reforms we have support in other NIS countries, and to the ability of United States firms to do business in Azerbaijan.

*Id.* This clearly illustrates the mixed policies of the White House and Congress.

<sup>54</sup> See CORNELL, SMALL NATIONS, *supra* note 32, at 377.

<sup>55</sup> See CORNELL, SMALL NATIONS, *supra* note 32, at 394.

<sup>56</sup> See, e.g., MARK CHAHIN, *THE KINGDOM OF ARMENIA: A HISTORY* (2001).

<sup>57</sup> Roger W. Smith, *The Armenian Genocide: Memory, Politics and the Future*, in *THE ARMENIAN GENOCIDE: HISTORY, POLITICS, ETHICS I* (Richard G. Hovannisian ed., 1992).

<sup>58</sup> PETER BALAKIAN, *THE BURNING TIGRIS: THE ARMENIAN GENOCIDE AND AMERICA'S RESPONSE*, xxiii (2004).



through the help and financial support of the Armenian Diaspora and has maintained double digit growth for six years.<sup>59</sup>

Karabakh mainly provides sentimental value to Armenia and influence over the region; there are no valuable resources in Karabakh that would benefit Armenia, nor does it provide access to untapped foreign markets. Furthermore, Armenia is faced with the struggle of keeping its state and nation together—this has been the first time since the short lived independent Armenian republic of 1918-1920 that Armenians have had an independent republic in Karabakh.<sup>60</sup> However, as stated above, Karabakh holds a long history of Armenian presence.<sup>61</sup> The governments of Armenia and Karabakh are intertwined in many ways and work as one unit rather than two. Armenia, therefore, has great interest in keeping the territories gained in the war since they have contributed much capital toward its redevelopment.

Protecting the legal status and individual rights of the people of Karabakh is a major concern of Armenia and Karabakh. The Armenian population of Azerbaijan has been subject to persecution and various pogroms throughout the twentieth century. If Karabakh were to fall back into the hands of Azerbaijan there is a strong likelihood that the Armenians of the region would again face great persecution and treatment as second-class citizens. The long history of discrimination against Armenians in Azerbaijan, coupled with the recent conflict, suggests that an Azerbaijani control of the region would most likely result in large scale discriminatory effects against the Armenian population.

### Azerbaijan

Azerbaijan is a secular state with a majority Shi'a Muslim population and of Western Turkic descent, known as Azerbaijanis, or simply Azeris.<sup>62</sup> Azerbaijan sits at the banks of the Caspian Sea, bordering Armenia, Iran, Russia, and Georgia.<sup>63</sup> The country claims to be a democracy, but is lead with strong authoritarian rule by Ilham Aliyev, the son of the former president.<sup>64</sup> Azerbaijan's capital of Baku is regarded as the economic hub of the Caucasus due to its large oil reserves and geographic position.<sup>65</sup>

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<sup>59</sup> <http://www.armeniadiaspora.com/ADC/news.asp?id=1907>.

<sup>60</sup> See CARLEY, *supra* note 4.

<sup>61</sup> See *supra* notes 7-19 and accompanying text.

<sup>62</sup> CIA, *The World Factbook: Azerbaijan*, <https://www.cia.gov/library/publications/the-world-factbook/geos/aj.html> (last visited Sept. 14, 2007).

<sup>63</sup> *Id.*

<sup>64</sup> Human Rights Watch, *Azerbaijan Elections and After: Introduction*, [http://hrw.org/backgrounder/eca/azerbaijan1105/1.htm#\\_Toc120082498](http://hrw.org/backgrounder/eca/azerbaijan1105/1.htm#_Toc120082498) (last visited Sept. 16, 2006).

<sup>65</sup> CORNELL, SMALL NATIONS, *supra* note 13, at 394.

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Azerbaijan has exhibited many facets of corruption and lack of freedom in its policies. For example, the Azerbaijani government persecutes those who it perceives to be critical of its policies.<sup>66</sup> Furthermore, there have been many allegations of voter fraud and intimidation which have undermined the integrity of its elections.<sup>67</sup> This has led to the Azerbaijani people having little influence in the activities of the government and the Nagorno-Karabakh conflict.

Azerbaijan is home to a large reserve of oil; about sixty percent of the territory is oil rich, eighty percent of which lies by the Caspian Sea.<sup>68</sup> Thus, Azerbaijan is self-sufficient in most of its energy supply, although it has recently relied on Iran, Turkmenistan and Russia for its natural gas needs.<sup>69</sup> "Oil, therefore, is the cornerstone of Azerbaijan's newly acquired statehood and the key to its viability."<sup>70</sup> Armenian forces control many of the regions close to the oil pipelines, and as a result the interests of Azerbaijan in maintaining security and stability in the flow of oil is compromised by the Armenian presence in those regions.<sup>71</sup>

Azerbaijan's policy towards Karabakh has always been to maintain territorial integrity in the region without compromising the interests of Azerbaijan.<sup>72</sup> Furthermore, Azerbaijan aims at maintaining and advancing its oil interests in the region.<sup>73</sup> The Baku-Tbilisi-Ceyhan pipeline has secured a means of transporting oil out of the region.<sup>74</sup> The pipeline bypasses Armenia and has opened itself up to the instability of the Georgian state and Kurdish populated regions of Turkey.<sup>75</sup> The politics of the Baku-Tbilisi-Ceyhan pipeline play a large role in the settlement of the Karabakh conflict because such a substantial portion of the Azerbaijani economy depends on oil; some four billion dollars have been invested into the project.<sup>76</sup> Those who currently control the regions where oil flows and the surrounding areas have the ability to disrupt the pipelines, they have a significant influence in the profit-

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<sup>66</sup> EU-South Caucasus, *supra* note 51.

<sup>67</sup> Human Rights Watch, *Azerbaijan: Run-Up to Election Not Free or Fair*, <http://hrw.org/english/docs/2005/10/31/azerba11943.htm> (last visited March 10, 2006)

<sup>68</sup> BULENT GOKAY, *THE POLITICS OF CASPIAN OIL* 110 (2001).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 111.

<sup>71</sup> *Id.* at 112.

<sup>72</sup> Author's analysis.

<sup>73</sup> See *supra* note 68 and accompanying text.

<sup>74</sup> MUSTAFA AYDIN, *TURKISH-AMERICAN RELATIONS: PAST, PRESENT, AND FUTURE* 134 (2003).

<sup>75</sup> See *infra* App. Fig. 2.

<sup>76</sup> Author's analysis.

ability of the pipeline, and in turn adversely affect the Azerbaijani economy.<sup>77</sup>

Azerbaijan's main ally is Turkey, however it is striving to develop closer relations with the West.<sup>78</sup> Azerbaijan seeks to further establish Turkish and American influence on the East-West corridor, which would decrease the influence of Iran and Russia in the region.<sup>79</sup> Azerbaijan has been succeeding in developing interests with the West mainly because of the United States' goal of decreasing its reliance on Saudi oil.<sup>80</sup> The prospect of a new source of oil from the region via the Baku-Ceyhan pipeline has driven the United States to adopt policies favoring Azerbaijan.<sup>81</sup>

Azerbaijan has been unwilling to reach a peaceful settlement in recent talks with Armenia.<sup>82</sup> Given the large profitability of the Baku-Tiblisi-Ceyhan pipeline, which has not begun to operate at full capacity, Aliyev might be holding out to reap the profits of the pipeline and build up the Azerbaijani military. A buildup of the military would allow Aliyev to launch an offensive to reclaim Nagorno-Karabakh.<sup>83</sup>

Outside of the strategic and profitable interests, Azerbaijan is also concerned with the large amount of Azerbaijani refugees that have been displaced outside of Nagorno-Karabakh as a result of the war.<sup>84</sup> Present nego-

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<sup>77</sup> See Emin Makhmudov & Mikhail Zygar, *Revolutions in the Pipeline, Caspian Oil Will Fill Up the Boku-Jeikhan Pipeline*, KOMMERSANT, May 25, 2005, available at <http://www.kommersant.com/page.asp?id=580345>; see also Yigal Schleifer, *Pipeline Politics give Turkey and Edge*, THE CHRISTIAN SCIENCE MONITOR, May 25, 2005, available at <http://csmonitor.com/2005/0525/p06s01-woeu.html>. Azerbaijan does not want to lose the support they have worked for in developing the pipeline. The significant investment by the United States and Great Britain have been largely due to interests of oil in the region. If instability and loss of significant land plagues Azerbaijan foreign investors will be more hesitant in pumping money into Azerbaijan and developing its oil interests. *Id.*

<sup>78</sup> See CORNELL, SMALL NATIONS, *supra* note 13, at 394.

<sup>79</sup> See CORNELL, SMALL NATIONS, *supra* note 13, at 394.

<sup>80</sup> Author analysis.

<sup>81</sup> Author analysis.

<sup>82</sup> *Azerbaijan's Aliyev Says Karabakh Talks At 'Dead End'*, <http://www.rferl.org/featuresarticle/2006/03/e3bffc4-85c1-408d-8d4d-046c66818487.html> (last visited March 10, 2006).

<sup>83</sup> Vartan Oskanian, *Old States and New: Shifting Paradigms and the Complex Road to Peace in Nagorny Karabakh*, in THE LIMITS OF LEADERSHIP: ELITES AND SOCIETIES IN THE NAGORNY KARABAKH PEACE PROCESS, (Laurence Broers ed., 2005), available at <http://www.c-r.org/accord/norgany-karabakh/contents.php>.

<sup>84</sup> MICHAEL BOTHE ET AL., THE OSCE IN THE MAINTENANCE OF PEACE AND SECURITY: CONFLICT PREVENTION, CRISIS MANAGEMENT AND PEACEFUL SETTLEMENT OF DISPUTES 473 (1997). "The safe return of the refugees is a major issue in the negotiations." At present there are 380,000 Armenian and approximately one million Azeri refugees (of which 200,000 come from Armenia, 45,000 from Nagorno-Karabakh and about 750,000 from the parts of Azerbaijan occupied by Karabakh-Armenian troops). *Id.* The UN has also estimated that about one million Azeri refugees have been

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tiation efforts mainly focus on the safe return of Azerbaijani refugees from the occupied territories around Nagorno-Karabakh and a few areas in the region.<sup>85</sup> Azerbaijan aims at achieving a safe return of these refugees with citizenship rights to Nagorno-Karabakh; however, this will be a hard task given the decade they have spent outside their homes and the amount of destruction and reconstruction in the region.<sup>86</sup>

### *Secondary Parties*

#### Organization for Security and Co-operation in Europe – Minsk Group (OSCE)

Although not an independent state itself, the Organization for Security and Cooperation in Europe (OSCE), initially called the Conference on Security and Cooperation in Europe (CSCE), holds a crucial role in the settlement of the Karabakh conflict.<sup>87</sup> It has fifty participating states from Europe, the Mediterranean, the Caucasus, Central Asia, and North America.<sup>88</sup>

The OSCE Minsk Group was a group established by the OSCE to maintain security and be a coordinating organization.<sup>89</sup> The Minsk Group is headed by the Co-Chairmanship consisting of France, the Russian Federation and the United States. “Furthermore, the Minsk Group also includes the following participating States: Belarus, Germany, Italy, Portugal, the Netherlands, Sweden, Finland, Turkey as well as Armenia and Azerbaijan.”<sup>90</sup> Nagorno-Karabakh participates at the meetings as an interested party.<sup>91</sup> The OSCE leads all the negotiation efforts in the conflict.<sup>92</sup> “[A]lthough the negotiations have provided opportunities to test a series of formulas that

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displaced from Nagorno-Karabakh. FEDERAL RESEARCH DIVISION, AZERBAIJAN: A COUNTRY STUDY 97 (2004), available at <http://rs6.loc.gov/frd/cs/aztoc.html>.

<sup>85</sup> BOTHE, *supra* note 84, at 473.

<sup>86</sup> See BOTHE, *supra* note 84.

<sup>87</sup> Jacoby, *supra* note 41. “The CSCE took the first steps to transform itself into the Organization for Security and Cooperation in Europe (OSCE – the name was changed only in December 1994) in an attempt to address issues of common interest in what may now appear a naive spirit of mutual trust and shared values prevailing over narrow national interests.” *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> <http://www.state.gov/p/eur/rls/or/2002/13503.htm>.

<sup>91</sup> BOTHE, *supra* note 84, at 465.

<sup>92</sup> *Id.*

might still be useful in achieving a solution, the OSCE mediation has failed to bring a solution.”<sup>93</sup>

The OSCE has developed a twofold task in the Nagorno-Karabakh conflict: “firstly, to mediate, facilitate and support a peaceful settlement of the Nagorn[o]-Karabakh conflict, and secondly to negotiate relations between its participating states and determine the role of the [O]SCE and, specifically, the Minsk Process within it.”<sup>94</sup>

The OSCE brings together the interests of the parties mentioned below, and each participant in the OSCE negotiation process exhibits some influence in the talks and the eventual settlement to the conflict. The Minsk Process negotiations will be discussed below in the negotiations attempt section.

### Turkey

Turkey has a long history of conflict with Armenia, including the Armenian Genocide, recent denial of the Armenian genocide, an economic blockade of Armenia, and refusal to normalize relations with Armenia. “The only country that constantly expressed its support for Azerbaijan is Turkey. In all international fora Turkey has tried to explain and promote the Azeri view of the conflict, and has certainly been instrumental in preventing a pro-Armenian approach from totally dominating these fora.”<sup>95</sup> Turkey has been the closest ally of Azerbaijan, being the first to recognize its status as an independent state and provide support to the new government.<sup>96</sup> Furthermore, Turkey has been accused of providing arms in small amounts to Azerbaijan to help in the Karabakh war efforts.<sup>97</sup> Turkey is in direct competition with Russia and Iran for influence in the Caucasus.<sup>98</sup> A major source of Turkish support for Azerbaijan stems from the notion of Pan-Turkism, which is the belief that Turkic people should unite into a single unified state.<sup>99</sup> In this

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<sup>93</sup> Gerald J. Libaridian, *The Elusive 'Right Formula' At The 'Right Time': A Historical Analysis Of The Official Peace Process*, in *THE LIMITS OF LEADERSHIP: ELITES AND SOCIETIES IN THE NAGORNY KARABAKH PEACE PROCESS*, (Laurence Broers ed., 2005), available at <http://www.c-r.org/accord/nagorny-karabakh/elusive-right-formaula.php>.

<sup>94</sup> See Jacoby, *supra* note 41.

<sup>95</sup> Svante E. Cornell, *Turkey and the Conflict in Nagorno-Karabakh: A Delicate Balance*, in 34 *MIDDLE EASTERN STUDIES* 51, 51-72 (1998), available at [http://www.pcr.uu.se/publications/cornell\\_pub/xfopol.pdf](http://www.pcr.uu.se/publications/cornell_pub/xfopol.pdf) [hereinafter Cornell, *Turkey*].

<sup>96</sup> See Cornell, *Turkey*, *supra* note 95, at 60.

<sup>97</sup> BOTHE, *supra* note 84, at 468.

<sup>98</sup> BOTHE, *supra* note 84, at 468. Turkey holds a seven percent interest in the Azeri oil consortium. *Id.*

<sup>99</sup> See generally SWIETOCHOWSKI, TADEUSZ, *RUSSIA AND AZERBAIJAN* 33 (1995); see Wikipedia, *Pan-Turkism*, <http://en.wikipedia.org/wiki/Pan-Turkism> (last visited March 10, 2006). The movement is closely related to Turanism which preaches a unity of Turkic people. “The first step toward

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regard Turkey has interests in advancing Azerbaijani interests in the Karabakh conflict because a unified Azerbaijan would bring it a step closer to a unified "Turan."

However, Turkey was and is constrained in its foreign policy from providing direct military support to Azerbaijan.<sup>100</sup> First, the still influential doctrine of Kemalism prevents Turkey from involving itself with the conflict of other countries except in limited circumstances.<sup>101</sup> Second, Turkey's close relationship with western countries prohibits it from directly involving itself in the crisis because Western countries do not want to escalate the conflict.<sup>102</sup> Third, Russia's role in the region and Turkish economic and political affairs prevents Turkey from taking a direct adversarial role.<sup>103</sup> Fourth, Turkey's membership in NATO plays a major role in its constraint from providing direct support to Azerbaijan; an escalation of the conflict could lead to other members having to enter the war.<sup>104</sup> Finally, Turkey itself does not want an escalation of the war because an escalation of the war will lead to Russia and Iran being involved in the conflict which would diminish the role Turkey plays in the Caucasus.<sup>105</sup>

### Russia

Russia is a large and powerful player in the Nagorno-Karabakh conflict because both Azerbaijan and Armenia were part of the Soviet Union before the conflict erupted.<sup>106</sup> Russia considers the Caucasus within its direct sphere of influence and does not want to lose its dominant role in the conflict.<sup>107</sup> Russian forces were reported to have helped Armenian forces in

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this goal [Pan-Turkism] would be the creation of a literary idiom that served all Turks, from the Balkans to the great Wall of China." SWIETECHOWSKI, *supra* note 99, at 33. Turkey has provided financial support to Azerbaijan to convert its language into the Latin alphabet like modern Turkish. Cornell, *Turkey*, *supra* note 95, at 60.

<sup>100</sup> *Id.*

<sup>101</sup> Cornell, *Turkey*, *supra* note 95, at 63. The limited situations that Turkey can involve itself in the conflict of other countries are "the Turks on Cyprus, and perhaps the Mosul area of Northern Iraq." *Id.*

<sup>102</sup> Cornell, *Turkey*, *supra* note 95, at 64.

<sup>103</sup> Cornell, *Turkey*, *supra* note 95, at 65. "The total volume of trade between the two countries ranges between United States \$ three to four billion; in 1992 Turkey's trade with Russia was five times larger than its trade with Azerbaijan and the Central Asian states combined." *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> BOTHE, *supra* note 84, at 468.

<sup>106</sup> *Id.*

<sup>107</sup> GOKAY, *supra* note 68, at 187.

certain skirmishes and delivered arms to Armenian troops in Karabakh.<sup>108</sup> Russia does not like the OSCE's influence in the region and their leading role in the negotiations; rather, they would prefer to see a "Russian only" mediation lead by Russian peacekeepers.<sup>109</sup> Russia was pivotal in the cease-fire agreement reached in 1994, and they would like to further strengthen their stronghold in the negotiations to achieve and promote their interests.<sup>110</sup>

Russia's interests in the Caucasus are numerous and deep. Russia wants to keep its dominant role in the region and control the transportation of Caspian oil and natural gas.<sup>111</sup> Furthermore, the increased production of oil from a stronger Azerbaijan may weaken Russia's role in world petroleum trade. Influence over the Caucasus is also important for Russia's security because of the potential for numerous separatist movements from its Turkic populations.<sup>112</sup> A strong Armenian state between Azerbaijan and Turkey will provide a buffer zone and block the goal at a unified Turkic bloc spanning from Istanbul to Baku.<sup>113</sup> Over 10 million Russians live in the Caucasus; thus, the Russian government feels responsible for the Russian population in the region.<sup>114</sup> Russia also seeks

[T]o prevent Turkey or Iran from getting a foothold in the Caucasus through Azerbaijan, [and] to have Russian troops in the Republic, guarding the 'common CIS [Commonwealth of Independent States] border' with Iran and Turkey just like it does in Armenia and Georgia (Azerbaijan is the only Transcaucasian state not to have any Russian troops on its soil)."<sup>115</sup>

Russia does not want Azerbaijan to be a powerful player in the Caucasus since Azerbaijan has the potential to be the regional powerhouse.<sup>116</sup> Reports have indicated that Russia has provided military support to both countries to play each side against each other thereby keeping each side weak and occupied.<sup>117</sup> Recently Russia has tried to strengthen relations with Azerbaijan; however,

Russia is able to offer Azerbaijan nothing because Russia doesn't want Azerbaijan to be strong, to be independent and to escape from occupation of

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<sup>108</sup> *Id.*

<sup>109</sup> Cornell, *Turkey*, *supra* note 95, at 58.

<sup>110</sup> Jacoby, *supra* note 41.

<sup>111</sup> GOKAY, *supra* note 68, at 187. Russia is not interested in the oil in the region because it has large reserves of its own. *Id.*

<sup>112</sup> GOKAY, *supra* note 68, at 187.

<sup>113</sup> MILLER, *supra* note 36, at 70.

<sup>114</sup> GOKAY, *supra* note 68, at 187.

<sup>115</sup> Cornell, *Turkey*, *supra* note 95, at 8.

<sup>116</sup> Robert Parsons, *Analysis: Putin Seeks To Draw Azerbaijan Back Into Russian Orbit*, RADIO FREE EUROPE (Feb. 21, 2006) at <http://www.rferl.org/featuresarticle/2006/02/0335ec2e-489b-4be6-b5f0-f52d0c96226b.html>.

<sup>117</sup> MILLER, *supra* note 36, at 70.

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its territory. . .Russia is able to propose some support maybe in the liberation of one or two regions but the price is very big: it is the independence of Azerbaijan.”<sup>118</sup>

Putin has expressed that he would like Russian peacekeepers to be present in and around Karabakh in case a peace deal with Armenia is reached, thereby maintaining his influence in the region.<sup>119</sup>

### United States of America

The United States’ policy towards Azerbaijan and Armenia since in the 1990’s and currently has been a policy of mixed interests and goals.<sup>120</sup> Armenia enjoys good relations with the United States; it receives one of the highest per capita foreign aid from the United States and has received a multitude of support in the development of its democracy.<sup>121</sup> Furthermore, the Armenian lobby in the United States was successful in passing Section 907 of the Freedom from Russia and Emerging Eurasia Democracies and Open Markets (FREEDOM) Support Act which prevented the United States government from sending aid to Azerbaijan as long as it maintained an economic blockade of Armenia.<sup>122</sup> However, this section of the act was waived by the President after September 11, 2001 to garner support for the “War on Terror.”<sup>123</sup> The White House has consistently tried to strengthen ties with Azerbaijan after September 11<sup>th</sup> because of its close proximity to Afghanistan and Iran. Azerbaijan provides airspace which the United States can use for its missions in the region.<sup>124</sup>

Currently, there are four essential pillars of U.S. military interests in Azerbaijan, comprising broad areas of security driven by the new demands of waging a global war on terror. The first two focus on the general goals of fostering regional stability and security and forging cooperative assistance in countering terrorism. The third and fourth pillars comprise countering the proliferation of chemical, biological, radiological, and nuclear weapons and

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<sup>118</sup> Parsons, *supra* note 119.

<sup>119</sup> *Id.*

<sup>120</sup> See *supra* notes 20-21 and accompanying text.

<sup>121</sup> Fed. Research Div, *supra* note 52, at 145.

<sup>122</sup> GOKAY, *supra* note 68, at 194.

<sup>123</sup> Transcript of the interview of Ambassador John Evans with Armenia TV station (Jan. 21, 2005) <http://www.usa.am/news/2005/january/news012405.html>.

<sup>124</sup> Shannon O’Lear, *Armenia, Azerbaijan, and the United States: Power Shift in the Caucasus or Business as Usual?*, available at [http://www.acdis.uiuc.edu/Research/S&Ps/2002-Su/S&P-Su2002/arm\\_azer\\_and\\_US.html](http://www.acdis.uiuc.edu/Research/S&Ps/2002-Su/S&P-Su2002/arm_azer_and_US.html).



maintaining access to the Caucasus air corridor, which is essential for projecting power into Central Asia and Afghanistan.<sup>125</sup>

Oil is the major reason why there has been increased support for Azerbaijan in the 21<sup>st</sup> century. The United States wants to maintain its relations with Azerbaijan and keep the region peaceful given the substantial investment of United States firms in the Baku-Ceyhan pipeline and the potential of a new rich oil source thus, allowing oil to flow undisturbed.<sup>126</sup> The Baku-Ceyhan pipeline runs very close to the Armenian-controlled regions of Karabakh; therefore, any conflict there might be a danger to the pipeline and its operations. United States policy also favors developing new pipelines out of the Caspian to further enhance the transportation capacity of the oil.<sup>127</sup>

Armenia's growing relationship with Iran is another point of interest for the United States. "Iran can provide Armenia with significant economic ties and energy and act as a political counterweight to Turkey and Turkish influence in the region."<sup>128</sup> The United States would not like to see this relationship develop, but rather maintain ties with Armenia so it is not forced into a relationship with Iran. Growth possibilities with Iran only strengthen the Iranian state, which the United States wants to keep weak.

In general, United States foreign policy toward the Nagorno-Karabakh conflict is not firm.<sup>129</sup> The official foreign policy supports the territorial integrity of Azerbaijan, but is influenced heavily by the Armenia lobby in the United States.<sup>130</sup> The United States has mainly played a mediating role in the conflict while recently providing financial support to both sides.<sup>131</sup> Congress has also given aid directly to the Nagorno-Karabakh government although official policy does not recognize it as a state.<sup>132</sup>

## Iran

Logic would dictate that Iran would be a major supporter of Azerbaijan given their common religion and close cultures.<sup>133</sup> However, Iran has become an ally of Armenia given the various interests Iran wants to further and

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<sup>125</sup> Richard Giragosian, *Nagorno-Karabakh: Peace May Depend On Military Situation*, available at <http://www.rferl.org/featuresarticle/2006/02/b1317838-a67a-47d8-8f24-61dba3680448.html>.

<sup>126</sup> O'Lear, *supra* note 124.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> Transcript, *supra* note 123.

<sup>133</sup> Cornell, *Turkey*, *supra* note 95, at 58. "Iran is an Islamic fundamentalist state, of Shi'i denomination like a majority of the Azeris, and furthermore has a numerous Azeri population, estimated at 15-20 million—several times larger than the Azerbaijani republic's population." *Id.*

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Armenia's willingness to ally with Iran.<sup>134</sup> Not only has Iran supported Armenia in the Nagorno-Karabakh war, but it has recently made numerous energy agreements where Iran would provide natural gas to Armenia.<sup>135</sup> Most recently, Iran and Armenia opened up a key gas pipeline that will allow Armenia to import natural gas from Iran and ease its strong dependence on Russian energy resources.<sup>136</sup> Furthermore, Iran and Armenia are in talks to build an oil refinery in Armenia along the Iran-Armenia border, which would allow Armenia to directly import oil via pipeline and increase the refinery capabilities of Iran.<sup>137</sup>

Iran has many interests in wanting Azerbaijan to remain weak in the region. First, the growth of the Azerbaijani economy would decrease the strong hold that Iran has on oil in the region.<sup>138</sup> Iran does not want to lose its dominant position on the export of petroleum.<sup>139</sup> Second, because Iran has a large Azeri minority living within its borders, a strong unified Azerbaijan might incite separatist movements within Iran. Iran and Armenia are both concerned over Azeri national movements and aims at reunification of Azeris who are separated by the Azerbaijani-Iran border.<sup>140</sup>

## NEGOTIATION AND SETTLEMENT ATTEMPTS

### *First Attempts*

The Presidents of Russia and Kazakhstan were the first to attempt a settlement process for the Nagorno-Karabakh conflict in 1991; however, these

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<sup>134</sup> *Id.* at 59.

<sup>135</sup> *Id.*

<sup>136</sup> <http://www.armenialiberty.org/armeniareport/report/en/2007/03/C72E2866-3145-4780-92D1-4157576CD348.ASP>.

<sup>137</sup> <http://www.armenialiberty.org/armeniareport/report/en/2007/04/E580653A-9925-49A3-99CF-97EC752D9973.ASP>.

Despite its vast oil reserves, Iran lacks refining capacities and has to import gasoline to meet domestic demand. Nonetheless, some Russian experts have questioned the economic wisdom of the project, arguing that oil refineries are usually located near sea ports or major oil pipelines. They see political motives behind the idea of building such a facility in landlocked Armenia. *Id.*

<sup>138</sup> Cornell, *Turkey*, *supra* note 95, at 59.

<sup>139</sup> *Id.*

<sup>140</sup> O'Lear, *supra* note 124. "There are also approximately two hundred thousand Armenians living in Iran. Iran and Armenia continue to expand cooperation in areas of economic activity, transport and energy despite opposition from both the United States and Russia to increased Iranian influence in the region." *Id.*

talks were not successful.<sup>141</sup> Russia then launched initiatives with Iran to bring together the parties, which were successful for small intervals of cease fires but no permanent resolution was reached.<sup>142</sup>

### *The Minsk Process*

In 1992 the OSCE, then called the CSCE, agreed to form what was called the Minsk process with hopes that the group would meet in Minsk, Belarus where the parties would reach a peaceful settlement.<sup>143</sup> As problems surfaced over the many complicated issues in the conflict, the Minsk meeting was indefinitely postponed, but the Minsk Group was formed with the eleven OSCE countries.<sup>144</sup> Russia kept a low profile in the Minsk Group, which was created to diminish the influence of Russia in the settlement of the crisis.<sup>145</sup> Furthermore, Russia played a dual role in the negotiations, as both a Minsk Group member and a dominant regional actor.<sup>146</sup> Outside of the Minsk Group negotiations Russia took it on its own accord to establish negotiations between the parties.<sup>147</sup> Given the different foras available to the parties, they took advantage of the situation and were involved in “forum shopping” and “mediator shopping.”<sup>148</sup> This undermined the efforts of the Minsk Group and allowed other organizations, like the United Nations, to be involved.<sup>149</sup>

During the Budapest Summit in December 1994 the Minsk Group established a co-chairmanship process and Russia joined Sweden as then co-chairman.<sup>150</sup> Russia continued on its quest for independent negotiations and was able to broker a cease-fire agreement independent of the Minsk Group on May 12, 1994.<sup>151</sup> However, this cease-fire agreement was mostly the result of the Azerbaijani defeat on the battlefield rather than Russia’s influence over the negotiations.<sup>152</sup>

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<sup>141</sup> BOTHE, *supra* note 84, at 469.

<sup>142</sup> *Id.*

<sup>143</sup> Jacoby, *supra* note 41.

<sup>144</sup> *Id.* “Apart from the parties to the conflict the current Minsk Group members are Belarus, Denmark, Finland, France, Germany, Italy, Poland, Russia, Sweden, Turkey and the United States.” Hakala, Terhi, *The OSCE Minsk Process: A balance after five year*, 9 HELSINKI MONTITOR 5 (1998), available at <http://www.nhc.nl/hm/1998/vol1/Hakala98-1.pdf>.

<sup>145</sup> BOTHE, *supra* note 84, at 469.

<sup>146</sup> Jacoby, *supra* note 41.

<sup>147</sup> Hakala, *supra* note 144, at 6.

<sup>148</sup> *Id.* at 8.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> BOTHE, *supra* note 84, at 470.

<sup>152</sup> *Id.*

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In subsequent years different strategies of co-chairmanships were attempted but none proved to be anymore effective than the other.<sup>153</sup> A summit was held in Lisbon in December of 1996, which eventually strengthened Azerbaijan's position and switched the roles in the negotiations.<sup>154</sup> Three principles were set out for the resolution of the dispute one of which was the "affirmation of the territorial integrity of Azerbaijan, including Nagorno-Karabakh,"<sup>155</sup> which isolated Armenia and led Karabakh to proclaim that it was not ready to deal with Azerbaijan.<sup>156</sup> France was also nominated to be co-chair of the group with Russia.<sup>157</sup> However, in 1997 Azerbaijan expressed much dissatisfaction in France's nomination due to the large Armenian population in France and the bias France might bring to the negotiations; therefore, the United States was nominated as third co-chair of the group.<sup>158</sup>

### *The Fall of Ter-Petrosian and New Negotiations*

Former President of Armenia, Levon Ter-Petrosian, softened his position on Karabakh after the Lisbon Summit.<sup>159</sup> He conceded that the international community would never recognize the autonomy of Nagorno-Karabakh, and that Armenia had to use a step-by-step negotiation process while keeping the interests of Karabakh in mind.<sup>160</sup> Armenians in Karabakh expressed dismay at the new negotiation terms and were not ready to withdraw from the occupied territories. Ter-Petrosian eventually resigned his position and current President Robert Kocharian, the former president of Nagorno-Karabakh, was elected President of Armenia.<sup>161</sup>

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<sup>153</sup> Hakala, *supra* note 144, at 9-10.

<sup>154</sup> THOMAS DE WAAL, BLACK GARDEN: ARMENIA AND AZERBAIJAN THROUGH PEACE AND WAR 256 (2004).

<sup>155</sup> DE WAAL, *supra* note 154, at 256.

<sup>156</sup> Hakala, *supra* note 144, at 8.

<sup>157</sup> DE WAAL, *supra* note 154, at 258.

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at 259.

<sup>160</sup> *Id.* The so-called 'step-by-step' solution, proposed in September 1997, was premised on sealing Agreement I first before dealing with Agreement II, with the question of the Lachin corridor linking Nagom[o]-Karabakh with Armenia moved to Agreement II. Nagorny Karabakh would continue to exist in its present form until agreement on final status was reached, but would gain internationally recognized 'interim status'. In principle the step-by-step solution would build a constructive atmosphere in the early stages focused on military aspects, paving the road for negotiations on the more complex political issues. Jacoby, *supra* note 41.

<sup>161</sup> DE WAAL, *supra* note 154, at 260-61.

In November 1998 a common state plan was offered that encompassed “a vaguely defined common state between Azerbaijan and Nagorn[o]-Karabakh, featuring more or less ‘horizontal’ relations between Baku and Stepanakert.”<sup>162</sup> This plan was rejected by Azerbaijan on the grounds that it violated territorial integrity and the principles adopted at the Lisbon summit.<sup>163</sup> From 1998 to the Washington summit of 1999 there was a cold peace period where Azerbaijan strengthened its ties with the United States.<sup>164</sup> During the Washington summit Presidents Kocharian and Aliyev met with Secretary of State Madeline Albright and Georgian President Eduard Shevardnadze.<sup>165</sup> Madeline Albright left President Kocharian and Aliyev to talk amongst each other in privacy; this was the first time the presidents had met each other face to face in six years.<sup>166</sup> Almost by accident, Secretary of State Albright had developed a new form of high level negotiations that eventually led to the subsequent meetings between the two.<sup>167</sup> After these meetings Armenia went through much political turmoil because of internal conflict and the assassination of the Prime Minister by extremists, which put the peace process on hold until Armenia’s domestic policies were sorted out.<sup>168</sup>

### *Key West Talks*

Before the Key West talks, Presidents Kocharian and Aliyev met in Paris twice, led by President Jacques Chirac.<sup>169</sup> The international scene seemed to be set for a resolution to be reached; the co-chairs of the Minsk Group had been reaching compromises and the Presidents Aliyev and Kocharian had constant dialogue. In April 2001, the United States Department of State organized a five day meeting in Key West, Florida.<sup>170</sup> These talks were the highest level talks to date and encompassed the negotiation of the heads of state and the leadership of Minsk Group negotiators.<sup>171</sup> The parties stated that they reached a deal about eighty to ninety percent complete. The deal included the annexation of Nagorno-Karabakh by Armenia and the land

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<sup>162</sup> Jacoby, *supra* note 41.

<sup>163</sup> *Id.*

<sup>164</sup> See DE WAAL, *supra* note 154, at 262.

<sup>165</sup> *Id.* at 263.

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* at 264-66.

<sup>169</sup> *Id.* at 267.

<sup>170</sup> DE WAAL, *supra* note 154.

<sup>171</sup> *Id.*

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mass that separated Nagorno-Karabakh from Armenia prior to the war.<sup>172</sup> In exchange for the unification of Armenia and Karabakh, Armenia would provide a corridor to Nakhichevan through the Meghri region which would allow Azerbaijan to have direct access to Turkey.<sup>173</sup> Furthermore, all Azeri refugees would have the right to return to non-annexed territories and “significant foreign aid would be provided to Azerbaijan paying for the reintegration or resettlement of Azeri refugees.”<sup>174</sup>

Although the settlement seemed almost complete in the minds of the Presidents, they faced extreme opposition to the settlement plan back in their home countries. In Armenia, the parliament rejected the plan because Karabakh’s status was non-negotiable.<sup>175</sup> In Azerbaijan Aliyev was met with much stronger opposition. Azerbaijanis did not agree with the hand over of Nagorno-Karabakh to Armenia, given Aliyev’s prior strong position of not sacrificing the territorial integrity of Azerbaijan.<sup>176</sup> Therefore, the settlement terms agreed to at Key West quickly fell through and the parties were back to square one.

#### *Post Key-West and Rambouillet Rounds*

After the Key West summit, negotiation talks were put on hold while President Aliyev’s health continued to deteriorate. As he was transferred to a hospital in Cleveland, Ohio, it became clear that his time was coming to an end. In wake of this development, the Azerbaijani parliament appointed his son Ilham Aliyev as prime minister.<sup>177</sup> Right before the death of his father, Ilham Aliyev was elected President in an election plagued with voter fraud.<sup>178</sup> As the years progressed, there seemed to be no compromise in sight as President Ilham Aliyev took a fierce position on Karabakh and dismissed any claims at the unification of Karabakh and Armenia.<sup>179</sup> Further-

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<sup>172</sup> DAVID L. PHILLIPS, UNSILENCING THE PAST: TRACK TWO DIPLOMACY AND TURKISH-ARMENIAN RECONCILIATION 84 (2005).

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> DE WAAL, *supra* note 154, at 267.

<sup>176</sup> *Id.* As one Western diplomat explained it, Aliev was basically a control freak: “He either wants Karabakh back properly or not at all.” *Id.*

<sup>177</sup> *Chronology*, <http://www.c-r.org/our-work/accord/nagorny-karabakh.php> (last visited Sep. 16, 2006).

<sup>178</sup> *See supra* note 29 and accompanying text.

<sup>179</sup> *Id.*

more, tensions arose between the two sides as an Armenian lieutenant was brutally axed to death during a NATO sponsored training mission.<sup>180</sup>

As tensions increased and there were numerous violations of the cease-fire agreement at the borders, and the prospect of peace seemed slim until the meetings at Rambouillet, France. Much of the negotiations at the Rambouillet rounds depended on the military situation on the ground.<sup>181</sup> There were high expectations from the talks in Rambouillet because the sentiment around the world was that an agreement was close to being finalized; however, the talks ended in no immediate solutions to the conflict.<sup>182</sup> Furthermore, both sides have toughened their positions on Karabakh after Rambouillet; Aliyev has stated that the talks are at a “dead end” and Kocharian has hinted at officially recognizing Nagorno-Karabakh and strengthening the military “if Aliyev drops out of further negotiations.”<sup>183</sup>

### *Recent Efforts at a Resolution*

President Robert Kocharian and Ilham Aliyev met with mediators in Bucharest between June 4-5, 2006.<sup>184</sup> Many different solutions were proposed; however, both Presidents did not stray away from their hard stance positions even with pressure from mediators.<sup>185</sup> The principles proposed at the Bucharest meetings were for a gradual settlement, concluding with a referendum in Karabakh on the territory’s status.<sup>186</sup> The main point of disagreement between the parties were the terms of the referendum.<sup>187</sup> President Aliyev purportedly feels that any legitimization of Armenian control of Karabakh will compromise the territorial integrity of Azerbaijan.<sup>188</sup>

The Presidents of the two countries met once again in November of 2006 in Minsk.<sup>189</sup> These confidential talks were only signaled by positive reactions from the Azeri standpoint and neutral statements from the Armeni-

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<sup>180</sup> Armenian National Committee of America, *Reps. Schiff, Pallone & Knollenberg Speak Out Against Brutal Slaying of Armenian Soldier*, [http://www.anca.org/press\\_releases/press\\_releases.php?prid=515](http://www.anca.org/press_releases/press_releases.php?prid=515) (last visited Sep. 16, 2006).

<sup>181</sup> Giragosian, *supra* note 128.

<sup>182</sup> Ashot Beglarian, *Karabakh: Peace Deal Doubts*, [http://www.iwpr.net/?p=crs&s=f&o=260194&apc\\_state=henh](http://www.iwpr.net/?p=crs&s=f&o=260194&apc_state=henh) (last visited Sep. 16, 2006).

<sup>183</sup> Julie A. Corwin, *U.S.: Minsk Group Fails To Produce Results On Nagorno-Karabakh*, RADIO FREE EUROPE/RADIO LIBERTY, Mar 9, 2006, at <http://www.c-r.org/our-work/accord/nagorny-karabakh.php> (last visited Sept. 16, 2006).

<sup>184</sup> Emil Danielyan, *Armenia, Azerbaijan Again Fail To Break Karabakh Deadlock*, (June 8, 2006) <http://www.eurasianet.org/departments/insight/articles/eav060806.shtml#>.

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> <http://www.rferl.org/featuresarticle/2006/12/3f26c60e-daa2-4fbd-a019-054e519531e7.html>.

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ans.<sup>190</sup> The only comments made by the Armenian Foreign minister were that “both presidents assessed the meeting as positive in terms of atmosphere and constructive approaches.”<sup>191</sup> However, President Aliyev pointed to agreement on a few major issues.<sup>192</sup>

The Foreign Ministers of Armenia and Azerbaijan have met on numerous occasions in 2006 and 2007 trying to draw upon the past commitments made by both parties. Most notably, the two met in Moscow with American, Russian, and French mediators where there were small productive steps towards a resolution.<sup>193</sup> Recently, the Armenian Foreign Ministers has signaled at the prospect of a resolution and his optimism towards a peaceful settlement.<sup>194</sup> However, President Aliyev has maintained his position in maintaining the territorial integrity of Azerbaijan and has continued his threats at a military solution to reclaim the territories.<sup>195</sup>

#### WHAT IS NEXT?

Given the close proximity of either an escalation in the conflict or finally a peaceful settlement in the Karabakh conflict, it is difficult to determine the adequate course of action needed to reach a peaceful settlement. Some twelve years of negotiations have resulted in nothing but stalemates and intensification of attitudes over the crisis. The longer the stalemate continues, the harder it will be for the refugees to return to their homes in the occupied territories outside of Karabakh, and on the other side, the ability of Azerbaijan to exercise control over Karabakh. Elongating the conflict will serve against both parties' interests. Once the Karabakh Armenians have tasted freedom it will be hard to turn back the clock and put them under Azerbaijani or Armenian rule. The Minister of Foreign Affairs of Armenia, Vartan Oskanian has stated:

The solution will not be found either through military action or international resolutions, and no solution can be imposed from the outside. The only way to a solution is to demonstrate political will and embrace realistic positions. Armenians remain faithful to their initial premises that there cannot be a vertical link between Azerbaijan and Nagorn[o] Kara-

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<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

<sup>192</sup> *Id.*

<sup>193</sup> <http://www.armeniadiaspora.com/ADC/news.asp?id=1966>.

<sup>194</sup> <http://www.reliefweb.int/rw/RWB.NSF/db900SID/RMOI-72CMJZ?OpenDocument>.

<sup>195</sup> <http://www.itar-tass.com/eng/level2.html?NewsID=11432900&PageNum=0>.



bakh, that it must have a geographic link with Armenia, and that the security of the people of Nagorn[o] Karabakh must be assured.

For us, the basis of resolution is the affirmation of the right of the people of Nagorn[o] Karabakh to self-determination and international recognition of that right. Azerbaijan's acceptance of this fact – and its formalization in an agreement – will open the way for the resolution of the conflict and the elimination of its consequences.<sup>196</sup>

There needs to be a solution to this conflict in the near future, as the situations of the Azeri refugees and Karabakh Armenians are not getting better. Both sides should be willing to concede certain points to be able to accomplish a solution.

Ultimately, a negotiated solution depends on three factors: the degree of urgency felt by the parties to the conflict to reach a solution; sufficient political capital held by their leaders to sell a compromise solution to publics used to hard-line rhetoric; and the combined and determined support of regional and international players to support such a solution. The two alternatives to a negotiated solution – a renewal of hostilities or a solution imposed through forceful action by the major powers – cannot be attractive to either party.<sup>197</sup>

The framework has been laid down by both the Key West talks and the Ramboulet rounds, and it is clear that both sides need to make major concessions in order to garner a peace deal. Armenia does not want to give up its only route to Iran because it needs an outlet for trade; and Azerbaijan does not want to compromise its territorial integrity in any way. These conflicting interests have made it impossible for the conflict to reach a resolution.

During my visit to the region of Nagorno-Karabakh, I encountered a common sentiment amongst the people: control will not be surrendered to Azerbaijan under any terms. Even the mention of a return Azeri rule to any of the residents would be met by quick dismissal and impossibility. Azerbaijan cannot continue to maintain its hard stance to regain control of the region and continue with its threats of violence. The settlement of the conflict is pivotal for the continued development and prosperity of Armenia as a whole; thus, Azerbaijan is hesitant to propose a settlement that would give control to Armenia. On the other hand, Armenia is constricted by its corrupt officials that continue to benefit from the continuity of the conflict. The conflict needs to be resolved so that all people of the Caucasus can all experience prosperity and security. Azerbaijan has to realize that control of the region is beyond its reach now and that the further economic development of

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<sup>196</sup> Oskanian, *supra* note 83.

<sup>197</sup> Libaridian, *supra* note 17.

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Azerbaijan is based on an equitable settlement to both parties. Thus, it is essential for each people groups to realize that the conflict will only worsen and intensify the hatred for the each other if certain concessions are not accepted and worked into a settlement agreement.

Appendix  
Figure 1



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Figure 2

