

Frozen Peace to Warm Relations
Re-thinking the purpose of the OSCE Minsk Group to resolve the Nagorno-Karabakh
conflict
Policy Brief

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Executive Summary

The ongoing Nagorno-Karabakh conflict in the contested region between Armenia and Azerbaijan sparked a 44-day war between the two nations from September and November 2020 which resulted in a convincing military win for Azerbaijan supported by its ally Turkey, and a humiliating defeat for Armenia. The outcome of the war formed a new status quo in the region but in a potentially beneficial situation where the reset of meaningful negotiations between the OSCE Minsk Group, Armenia, Azerbaijan, and the proposed addition of new participants to the negotiation table can consider the introduction of new arguments and potential drafting of proposals to find a stable, long-term peace and put an end to the longest-running conflict in the South Caucasus region.

These arguments concern the right to external self-determination for the inhabitants of the contested Nagorno-Karabakh region based on international law and expert opinion, recent developments in the region based on Azerbaijani President Aliyev's stance and perspectives of the recent military victory in the 2020 conflict and his authoritarian government, the application of negotiated talks in lieu of armed conflict and war. The current situation, in conjunction with the historical background found in this conflict, does not bode well for the ethnic Armenians of Nagorno-Karabakh, and to prevent a further humanitarian crisis, a spiraling security dilemma, and additional participation from secondary actors that raises the potential of a larger spillover of conflict in the South Caucasus and NW Asia, the United States needs to take over the reins of the OSCE Minsk Group committee as it holds the most even-handedness and parity of the three co-chairs, seek to replace one or both of the other co-chairs, Russia and/or France, and revive and redraw the Madrid Principles drafted by the Group using effective arguments of self-determination to convince Azerbaijan that the best way as per the UN Charter and Helsinki's Final Act protocols that a peaceful resolution in the form of a national referendum should be made to determine the status of Nagorno-Karabakh moving forward.

Background / Soviet Era

Situated between the countries of Armenia and Azerbaijan in the South Caucasus lies the region of Nagorno-Karabakh, a mountainous highland that literally means “mountainous black garden” (Benedikter, 2021), the region is politically and internationally recognized as part of Azerbaijan, its assignment contributed to the demarcation policies of the Bolsheviks and later Soviets in the early 20th century. The region holds much importance for both ethnic Armenians who comprise much of the population of Nagorno-Karabakh as well as ethnic Azeris both in its cultural and historical narrative. Armenians have always considered Nagorno-Karabakh as the heart of their culture, a region never conceding their identity and preserving Armenian traditions. Armenians thus identify in their historical narrative that Nagorno-Karabakh “as the ‘last Armenian stronghold,’ the ‘surrender’ of which will result not only in the loss of territory but in the loss of a big part of the Armenian identity” (Gamaghelyan, 2010, p.8). For Azerbaijanis, Nagorno-Karabakh is revered historically and culturally for its contributions to Azeri culture, particularly in and around the Karabakh city of Shusha which was the birthplace of many Azerbaijani poets and artists giving Azerbaijan its identity it identifies with today (de Waal, 2021a).

Shortly after the Soviet occupation of the South Caucasus, Joseph Stalin, unfairly “placed the overwhelmingly Armenian population of Nagorno-Karabakh in Azerbaijan, creating dissatisfaction among Armenians. He also gave the territory autonomous status and moved the territory’s capital from the Azeri influenced city of Shusha to the Armenian-influenced city of Stepanakert, thus, dissatisfying the Azerbaijanis” (Gamaghelyan, 2010, p. 3-4). For the next six decades, ethnic Armenians in Nagorno-Karabakh had been seeking separation from Azerbaijani administration to be joined with Armenia with each request turned down by the government in Moscow.

In 1988, during the waning years of the Soviet Union and the rise in Armenian nationalism, the issue of the status of Nagorno-Karabakh was proposed again to the Supreme Soviet in Moscow and was met with yet another refusal (Benedikter, 2021). Frustrations and tensions led to acts of ethnic violence such as the pogroms of Sumgait, Baku and Khojaly (de Waal, 2021b) where ethnic Armenians and Azerbaijanis inflicted violence on each other. For the Armenians, the pogroms at Sumgait and Baku revived the specter of the worst chapter of the history of Armenian people - the 1915 Armenian genocide committed by the Ottoman Turks (Cornell, 1997). After diplomatic talks in Riga, Latvia failed to quell rising tensions and with no other options left, ethnic Armenians in Nagorno-Karabakh “unilaterally declared itself independent in September 1991 under the name “Republic of Nagorno-Karabakh”, and since 2017 under the name “Republic of Arzakh” (Benedikter, 2020, p. 2). The Azerbaijani response in retaliation, stripped the region of its autonomous status in November 1991. A full-scale war ensued between the two newly independent nations of Armenia and Azerbaijan over Nagorno-Karabakh that lasted to mid-1994 which resulted in at least 30,000 lives lost and a massive displacement of over one million people, 700,000 which were Azerbaijani (Benedikter, 2021). By the time a ceasefire was reached in 1994, in the midst of the dead, wounded, and displaced, Armenia emerged as the clear victor, claiming not only the Armenian enclave of Nagorno-Karabakh but seven other Azerbaijani territories that amounted to 13.6% of the de jure territory of Azerbaijan

(de Waal, 2021b) that Armenia identified as “‘buffer zones’ on the grounds of military security” (Benedikter, p.2) to protect Nagorno-Karabakh from Azeri military assaults.

The Interim Peace: 1994-2020

From 1994 up to 2020, a “frozen conflict” formed (Benedikter, 2021) which at the time appeared to be the best solution considered by the Minsk Group members who were tasked with finding a workable solution to the conflict. The Minsk Group was formed in 1992 in the midst of the first Nagorno-Karabakh war by the Commission on Security and Cooperation in Europe (CSCE), later called the Organization for Security and Co-operation in Europe (OSCE). The formation of the Group was to “provide a forum for negotiations towards a peaceful settlement” (OSCE, n.d.) of the Nagorno-Karabakh conflict. The Minsk Group is comprised of a three-chair committee of representatives from the United States, Russia and France with other permanent members as well as Armenia and Azerbaijan (OSCE, n.d). The efforts of the Minsk Group in 30 years has shown minimal progress to get representatives from both Azerbaijan and Armenia to meet and come to a mutually agreed upon resolution with only the Key West talks in 2001 and the Madrid Principles first drafted in 2007 and reaffirmed by the group in 2009 (Benedikter, 2021) having any real potential for a breakthrough, but a frozen peace remained with no end of the conflict in sight. Throughout this frozen peace, sporadic border incidents between the two countries were generally the main incidents with the most serious event being a continuous four-day battle in 2016 that resulted in approximately 200 casualties. (de Waal, 2021a).

The Second War: 2020-Present

At the end of the first war with Armenia, Azerbaijan’s military expenditure was 1.95% of its GDP; in 2020, it steadily rose to 5.39% (World Bank, n.d.) In addition to military spending “Turkey’s military was also training the Azerbaijani military “to new NATO standards” (de Waal, 2021b, p.4). Border clashes in July 2020 sparked demonstrations in Baku for a militarized response from the Azerbaijani government. Two months later in September 2020, Azerbaijani military forces launched an offensive against Armenian defenses in Nagorno Karabakh and along the border beginning with air and drone strikes and upgraded weaponry. By November 8th Azerbaijani forces captured the prized Azeri city of Shusha and were closing in on the Karabakh provincial capital of Stepanakert. With the threat of the city falling into Azeri hands and the potential risk of a large-scale humanitarian refugee crisis (de Waal, 2021b), Russia stepped in and brokered a deal on November 10th. Within forty-four days Azerbaijan was able to regain the seven territories it had lost in the first war as well as a third of Nagorno-Karabakh which in principle restored partial sovereignty over the region (Benedikter, 2021). Though up to 90,000 of the 150,000 ethnic Armenians of Nagorno-Karabakh fled during the fighting, many returned when the Russian peacekeepers were installed. In total, there were approximately 8,000 total deaths and 30,000 people remained displaced over the fighting (de Waal, 2021b). The conflict escalated to war due to the lack of urgency by the Minsk Group to create any sound negotiations and by Azerbaijani impatience of the negotiation process and an arsenal that they were all too ready to use against their enemy. Benedikter (2021) noted that the OSCE border control mission tasked with deescalating the conflict was simply too overwhelmed to make any meaningful progress to control the situation on the ground and it was left up to Russia, who was all too happy to oblige, to broker a cease fire. The conditions of the cease fire consisted of; 1) the

immediate cessation of hostilities, 2) the creation of a timetable for Armenian forces to withdraw from the seven occupied Azerbaijani territories, 3) the introduction of Russian peacekeepers along the border and inside Nagorno-Karabakh for an agreed upon time and at the consent of the Azerbaijani government and, 4) the establishment and protection of transport corridors for detached enclaves, specifically, the Lanchin Corridor connecting Nagorno-Karabakh with Armenia and a corridor to connect the detached Azeri territory of Nakhichevan to Azerbaijan proper (de Waal, 2021a). The most notable issue missing from the Russian brokered agreement was the status of Nagorno-Karabakh.

Off the battlefield and in the political arena, the two sides continued to clash over accusations from both sides on the treatment of prisoners, alleging torture and summary executions (de Waal, 2021b), as well as the context and meaning of the brokered cease fire concerning the locations of where the militaries of both nations “must stop in their current positions.” For the Armenians this meant that this condition allowed them to keep their troops in Nagorno-Karabakh, and for the Azeris this meant that the Armenians should have pulled out of Nagorno-Karabakh, too. Hence, the key missing element of the cease fire has led to another stalemate over this contested territory. Neither the Russian peacekeeping presence nor the international community has expressed dissatisfaction with the presence of Armenian troops in the area; in fact, Armenians have continued to refer to the territory as ‘Artsakh’ and to insist on its right for ‘remedial secession’” (De Waal, 2021b, p.8). This silence suggests that in the prior 27 years after forceful Armenian control over Nagorno-Karabakh there existed a peaceful status quo and acceptance of the existence of an ethnically majority N-K district has made the international community seemingly accept this situation.

Issues

The historical background and post-Cold War timeline of events to the present day reveal the ongoing issues that have plagued this conflict and have found a negotiated settlement and peace elusive. From this perspective, three issues stand out; the composition of the Minsk Group, the Azerbaijani government’s ambivalence toward Armenian inhabitants of Nagorno-Karabakh and the effective argument to create a solid framework for a solution that considers other recent geopolitical events that support a move toward self-determination.

Composition of the Minsk Group

Formally, the main international multilateral organization dealing with the conflict remains the Organization for the Security and Cooperation in Europe (OSCE)” (de Waal, 2021b p.12) who in its official stance based on current legal precedent has recognized the territorial integrity of Azerbaijan in its right to Nagorno-Karabakh. The UN security council made resolutions through its Security Council and General Assembly calling on Armenia to withdraw from occupied Azeri regions it took during the first war but has otherwise kept its distance from the conflict, relying on the OSCE to make paths to peace.

Interested observers such as Altstadt (2020) note that “the OSCE Minsk Group as currently constructed has been ineffective...because the parties have not meaningfully negotiated.” Both sides want all their demands fulfilled and no one wants to concede anything, hoping for a zero-

sum result. Though it may seem that the two belligerents are the ones fully at fault here, two of the co-chairs of the Group are not without fault. Russia and France, it can be argued, have been less than optimal members. For its part, Moscow has never fully backed either Armenia or Azerbaijan opting to maintain a formal military and economic partnership with Armenia through the Collective Security Treaty Organization (CSTO) and Eurasian Economic Union, respectively, but also keeps a positive relationship with Azerbaijan based on similar political leanings with Azerbaijan's leader Aliyev (de Waal 2021b).

Since 2000, "Russia has continued to be the main mediator in the dispute, (while at the same time) has displayed little sense of urgency to resolve the dispute" (de Waal, 2021b, p.10) Now for the first time since the Soviet era, Russia again has a presence, and an influence, in the region in the form of military peacekeepers. "This is seen as a political triumph in Moscow...because the (cease fire) agreement marginalised the Western powers" (de Waal, 2021b, p.9) Any successful resolution of this conflict would also deflate Russian influence. Further, the relationship Russia and Putin has maintained with both Azerbaijan and Armenia has allowed the sale of Russian weapons and military pieces to both sides, which de Waal points out appears to "be a clear breach of its commitments as an OSCE mediator" (2021b, p. 10). Despite the conflict of interest seen here, Russia still wants very much to keep the Minsk Group alive and to remain a co-chair of it to assert both its regional influence and gain legitimacy from the international community as a mediator in foreign affairs even during its current standoff with Ukraine and NATO.

The second co-chair, France, has mostly been seen as a biased member, often siding with Armenia due to its large emigrant Armenian population in the country. On May 13, 2021 after alleged Azeri military incursions into Armenian territory were reported, French president Emanuel Macron took to Twitter, posting on social media, "to the Armenian people: France stands with you in solidarity and will continue to do so (Macron, 2021). This obviously drew a negative attitude toward the French in Azerbaijan.

The third co-chair of the Minsk Group, the United States, has been the "only other international actor that has occasionally spent political capital on pursuing a Karabakh peace settlement" (de Waal, 2021b, p.13) despite recent waning interest during the Trump administration. This recognition as a real interested party is the basis for building the foundation for which the United States should take an unbiased, objective lead in seeing a resolution through self-determination.

Azeri Contempt for Armenians to consider Self-determination

Reflecting his contempt for the Armenians, especially those living in Nagorno-Karabakh, Azeri president Aliyev has refused to recognize or even meet with ethnic Armenian officials on the region and has expressed the view that he will seek to isolate the region from Armenia (de Waal, 2021a). Once promising Nagorno-Karabakh the "highest autonomy in the world" upon its return to Azerbaijan and before the 2020 war, Aliyev now states "the status went to hell...as long as I am president, there will be no status" (de Waal, 2021a). Even after the agreed upon cease fire, Aliyev wasn't finished showing his contempt, calling Armenians the "enemy" and mocking Armenian prime minister Pashinyan concerning Pashinyan's political rhetoric made before the hostilities commenced. Aliyev even permitted a "war park" of sorts in Baku highlighting the recent victory that contained caricatured Armenians and "war trophies" of Armenian military

helmets (de Waal, 2021b). Even for those who found the war park not in the best taste, many Azeris contain much contempt for Armenians. Given these current conditions on the ground, for the Armenians still living in Nagorno-Karabakh their security and well-being holds an uncertain future given the authoritarian nature of Aliyev and the Azerbaijani government which was assigned a Freedom Score of 10/100 for 2019 and 2020. (Freedom House, 2020)

The feeling of ambivalence is mutual on the Armenian side. Shortly after the 2020 conflict, a 2021 survey in Armenia commissioned by CivilNet (2021) revealed hardened responses regarding the conflict and Azeri relations. Of those polled 72% of Armenians do not believe in a peaceful co-existence with Azeris; 3% only fully believe in it (CivilNet). Overwhelmingly, respondents felt that Karabakh should either be officially part of Armenia, an independent country or interestingly, part of the Russian Federation with a special status (35.5%, 35.2%, and 19.3%, respectively), any response regarding Azeri control over the territory generated a less than 1% response showing the high importance Armenians place on Nagorno-Karabakh. Much of this sentiment may come from the Armenian historical narrative regarding Nagorno-Karabakh. In sum, the ambivalence toward each other is so high that one would be hard-pressed to find an ethnic Armenian living in Azerbaijan or an Azerbaijani living in Armenia, it has become that polarized.

Solutions

1) Recharge the Minsk Group with the Madrid Principles as a roadmap to successful negotiations

The United States is seen by both Armenia and Azerbaijan as the most even-handed co-chair of the Minsk group most likely due to the non-military aid both nations receive from the country. The U.S. however according to De Waal (2021a) has in recent years partially disengaged itself from the conflict primarily due to the domestic turmoil of the 2020 elections, social justice issues, the COVID-19 pandemic, and most recently a new standoff with Russia concerning Ukraine. Diplomatically, the U.S. must take advantage of this favorable stance by both belligerents and use the Minsk Group as a connection to re-engage in the dispute and partner with Russia (if able to be kept in the group) and a new third co-chair to find a resolution. If the U.S. disengages further and France keeps openly siding with Armenia and not remaining objective, by default Russia remains the only “interested” and “relevant” player in the dispute tasked with finding peace, and the ability to manipulate the peace process to satisfy its own objectives in the region. Thus, the proposal here is to replace France with one of the other permanent members of the Minsk Group, Germany. Germany, in essence, is no stranger to the struggle of self-determination as East Germans sought the right of self-determination too in the waning days of the Soviet Union’s power. Their peaceful efforts and desire to choose for themselves their own path forward caught the attention of the world. Their own self-determination experiences and their standing in the international arena are a sounder choice to represent more effectively the EU, revive the negotiating process through the Madrid Principles, and work with the United States with a firm but fair approach toward self-determination for Nagorno-Karabakh. As it concerns the other co-chair Russia, sound and firm diplomacy by the

United States to maintain Russia as a neutral party must be enforced despite the uncomfortable tension it may bring, but Russia's actions and relationships with the two belligerents have consistently hurt the efforts of the Minsk Group and has only created a "hegemonic" influence for itself in the South Caucasus. Russia should cease the sale of weaponry and other military pieces to both Armenia and Azerbaijan in this conflict and allow the presence of other peacekeepers in Nagorno-Karabakh, even over Aliyev's objections. Failure to conform to these requests may result in the consideration of economic sanctions designed to seek Russian compliance in maintaining neutrality.

On a side note, two other regional actors must be considered in this context that may seek to meddle in the conflict, more for their own regional standing than for the true intent for peace. Though Turkey has also correctly called for an overhaul of the Minsk Group, they seek an actual role in the negotiation process as a co-chair. Though they are a permanent member of the Group (OSCE, n.d), given their involvement with military support and past transgressions against the Armenians, this obviously is not a viable option. If Turkish insistence persists, the US can exert moderate pressure on Turkey, being a NATO ally, to stand down and watch from the sidelines. The other regional player, Iran has not been influential in the conflict though it has tried to but been dissuaded by the United States to also stand down and that though the countries concerned can arguably be geographically placed in Asia proper, the conflict is considered to be in the realm of Europe.

2) Reigniting the Madrid Principles as the path to self-determination.

Once the new order for the Minsk Group co-chairs is set, the next sequential step is to reintroduce the Madrid Principles first drafted in 2007 and then focus on this proposal as a roadmap to a peaceful negotiation with the goal of a considering self-determination for the Armenian Karabakhs.

The Madrid Principles has for its foundations portions of the Helsinki Final Act particularly "Article II Concerning "refraining from the threat or use of force", Article IV "the territorial integrity of States" which Azerbaijan claims as control over Nagorno-Karabakh, and to Article VIII relating to the "equal rights and self-determination of peoples" that Armenia argues for. The key factor in the resolution to this conflict, though never agreed upon, is found in the text of the Madrid Principles, specifically, " future determination of the final legal status of Nagorno-Karabakh through a legally binding expression of will" (OSCE, 2009), essentially, in de Waal's (2021b) words, "final legal status...will be determined through a plebiscite allowing the free and genuine expression of the will of the population of Nagorno-Karabakh" (p. 9).

If there was a silver lining to the 2020 war, it was that four of the six Madrid Principles drawn have been established and the final two can be handled by the Minsk Group if applying the prescribed solutions identified in this brief – Armenia relinquished the seven Azeri territories it took in the first war gave refugees and displaced persons the right to return to their former homes/lands satisfying two elements, and the establishment of the Lachin Corridor linking Nagorno-Karabakh is in place through the presence of Russian peacekeepers satisfying the "international security guarantees (through) a peacekeeping operation" (OSCE, 2009). The final two principles, "interim status for Nagorno-Karabakh providing guarantees for security and self-

governance (and) future determination of the final legal status of Nagorno-Karabakh through a legally binding expression of will” (OSCE, 2009) can be achieved. Ohanyan (2021) has pointed out that “strong security guarantees for the Armenian Community in Nagorno-Karabakh and Armenia proper is a necessary first step for generating the political will for negotiated settlement.”

3) *The argument for the right of self-determination for Nagorno-Karabakh*

Providing the rationales for the right to self-determination, it is known that “International law grants ‘peoples’ the right to self-determination” (Sterio, 2016, p1). Post-WWI Wilsonian thought has attempted to apply the concept of self-determination to non-colonial peoples such as minorities that too, have been marginalized and oppressed within a state’s borders. Self-determination, however, is at odds with territorial integrity a key component of state sovereignty and a “fundamental norm of international legal order” (Sterio, p. 4) and is found in Article 2(4) of the UN Charter. Azerbaijan has cited this article to establish its claim on Nagorno-Karabakh, and virtually every other nation finds this norm vital to the survival of the state. However, recent history has shown a willingness for some states to “entertain the possibility of democratic principles in examining separatist and self-determination claims” (Sterio, p.10). Referendums have been held to allow the Quebecois, Scots, and groups in East Timor to decide on its own sovereignty. While the Quebecois and Scots opted to remain part of Canada and the United Kingdom, respectively, the East Timorese opted to break free from Indonesia. The most parallel example to the Nagorno-Karabakh dispute is the matter of Kosovo in the late 90s and early 2000s. In those situations where the mother state will not consider self-determination claims *and* where evidence of oppression, marginalization, and prejudice is found to occur within these minority groups, international law may tolerate a claim of secession if the circumstances and justification of secession are well founded. This rationale has earned support among international legal scholars, foreign policy experts, human rights activists and entities such as the Canadian Supreme court that considered the self-determination principle for the French-Canadian Quebecois. (Sterio, 2016)

Elements of the Kosovo Independence pursuit has some parallels with Nagorno-Karabakh concerning a region overwhelmingly populated by a concentrated ethnic minority people that was (once) autonomous, a break-up of a larger state (in Nagorno-Karabakh’s case the Soviet Union), denial of larger entities of a territory attempt to declare independence and the state’s government in the practice of oppression of the peoples of that territory. The difference with Kosovo was that there was an international intervention in the form of the UN and NATO with the use of force and eventual recognition of independence and a subsequent international administration of Kosovo until the new Kosovar government could be installed. A double standard exists here as Nagorno-Karabakh does share many of the elements and the potential to meet other elements after the 2020 conflict. At the time, the international community heard the pleas of the Kosovars, however for decades, the pleas of the Ethnic Armenians have fallen on deaf ears. Kosovo at the time of declaring independence was under international administration and the oppression element was no longer present as the government of Serbia also changed, yet they were granted external self-determination status. The rationale among recognizing states also seems to be at a loss according to Sterio “as to why Kosovo should be recognized” (p. 19), yet it still happened. Indeed, Sterio (2016) points out that the International Court of Justice never

provided any clear precedent to the Kosovo case effectively stymieing the path for resolution for other international secession claims like Nagorno-Karabakh.

It appears that the consideration for self-determination may be the only option for resolving this crisis (and other crises that run along similar veins), but the argument for self-determination must be done by the means of democratic processes. The equation for such a solution has been proposed by Sterio's (2016) three-part framework for self-determination. The framework considers the totality of the circumstances from a historical and current perspective that may determine what the future holds for the consideration of a right to self-determination. Specifically, the first question seeks to consider the historical and current relationship between Karabakh's Armenian majority and the Aliyev government. Given Aliyev's stance and comments previously mentioned and a lack of a clear security agreement for the Armenian Karabaks once Russian peacekeepers leave in 2025 as agreed upon, as well as an unwillingness "to provide meaningful autonomy options for this region" (Sterio, p. 25-26), and has threats to partition it, this provides a setting for ominous tones in future affairs, giving Armenians in the region reason to fear reprisals such as marginalization, pogroms, displacement, or worse - ethnic cleansing/acts of genocide. The argument for the Armenians of Nagorno-Karabakh would be for "just cause secession" based on past facts, current events and an uncertain future. Though the Armenian population would have to "demonstrate that its rights have been consistently abused and disrespected by (Azerbaijan), and that no meaningful form of internal autonomy within (Azerbaijan) is possible in the future" (Sterio, p. 23), point two could be considered as the rationale for point one based on past acts committed on Armenians by ethnic Muslims within the past century. Waiting to see if Azerbaijan will commit such acts against the Armenians of Nagorno-Karabakh is not only dangerous but may as well assign the international community as complicitly acting in concert with Azerbaijan if human rights abuses were allowed to be carried out due to the principle of territorial integrity that Azerbaijan claims over Nagorno-Karabakh.

The second criterion Sterio's framework considers is the arguments that focus on Azerbaijan's right to preserve its territorial integrity with the ethnic Armenian region of Nagorno-Karabakh's desire to secede. Can the two states reconcile to keep as one nation? Are there strong historical claims to the territory in question? Will secession have a heavy or undue detrimental impact on Azerbaijan? It has been shown for the last hundred years, two wars, and numerous skirmishes that reconciliation is not possible. Historically speaking, the region has for centuries up to the present day been ethnically Armenian and the territory involved is about 1700 square miles (Cohen, 2019) of the total 33,400 square mile total land mass of Azerbaijan (World Atlas, 2021), roughly 5%. A consideration of a referendum to potentially cede this much territory that is mountainous and undeveloped terrain would not make it any more of a burden than to be locked in perpetual conflict with no resolution in sight. Based on these facts, it would appear that the consideration of self-determination complements Sterio's third consideration – if the proposed secession is both fair and reasonable. Sterio (2016) notes that "doctrines of fairness (and reasonableness) already exist in other areas of the law, such as contracts" (p.24) so this is not a new concept. In addition, considering secession on the fair and reasonableness doctrine can also right past transgressions such as Stalin's purposeful intention of dividing up pockets and enclaves of ethnically concentrated territories and attaching them to other distinct ethnic Soviet republics for the benefit of the then-Soviet Union.

Thus, the argument exists for the efforts of the Minsk Group to bring to the table both Azerbaijan's Aliyev and Armenia's Pashinyan and place before them the existing Madrid Principles and express a firm willingness to set the matter for a referendum of the people of Nagorno-Karabakh. As Armenia would welcome such an approach, Aliyev and Azerbaijan will need some convincing in the form of either sticks or carrots based on the existing ambivalence displayed by both sides and the potential hardline approach based on the rhetoric of Aliyev's statements concerning the future status of Nagorno-Karabakh and its Armenian population. In encouraging negotiations, a threat of revoking the waiver for Section 907 of the FREEDOM Support Act of 1992 (Public Law 102-511 of the 102d Congress) (Freedom Support Act, 1992) can be used to compel Azerbaijan to consider self-determination for the Armenians of Nagorno-Karabakh. Some may counter that if this vital funding is withheld Russia or Turkey would likely step in with its own assistance to Azerbaijan but these attempts would unlikely materialize such assistance can be seen as a conflict of interest with Russia to have formal economic pacts and security pacts with Armenia and with Turkey potentially being at odds with a fellow NATO member in the United States who is seeking a peaceful resolution while Turkey has militarily assisted and encouraged Azerbaijan to engage with Armenia in armed conflict. Such moves may delegitimize each nation in their efforts to find a lasting negotiated settlement. If Azerbaijan opts not to make reasonable considerations for self-determination referendums, the Minsk Group should put forth the matter to the UN and to the International Court of Justice for argument.

Conclusion

The seemingly endless rivalry between Armenia and Azerbaijan may be seen by scholars of conflict as a localized, dyadic interaction between two competing states that also share a border but are characterized as different in culture, language, and religion. Benedikter (2021) regards the Nagorno-Karabakh conflict as a rivalry in which "religious, ethnic and civil-religious-nationalist components in addition to political and economic ones, which make it particularly difficult to resolve" (p.1). Levy and Thompson (2010) note that "rivalries (over time) become weighted down with mutual suspicion and mistrust that make attempts at accommodations become perceived as something sinister...(thus) rivalries are generally quite difficult to terminate" (p 59). On the other hand, others may apply Senese and Vasquez's "steps-to-war" model to explain the conflict between Armenia and Azerbaijan over Nagorno-Karabakh where territorial disputes that have the potential to go to war often go down a path of "coercive threats, military build-ups, and alliances" (Levy and Thompson, 2010, p.61). Such activity creates a seemingly endless conflict spiral in the conflict and at some point along this path is a point of no return where armed conflict is inevitable. In the instance of Nagorno-Karabakh, this was clearly seen *twice*; in 1988 and again in 2020. Though de Waal (2021a) correctly notes that the 2020 war "tipped the balance of the dispute in Azerbaijan's favour but did not resolve it...(nor did it) bring it any nearer to a peace agreement" (p.1), he has pessimistically tagged the conflict as "virtually un-resolvable" due the lack of consideration on the status of Nagorno-Karabakh, the source of the conflict between Armenia and Azerbaijan.

Outside of the rivalry that exists between these two states, the most salient barriers to a successful resolution of this conflict has been the lack of urgency from the Minsk Group to make effective arguments and to compel both sides to agree on the six parts of the Madrid Principles and commit to the most important of the principles, the consideration of "future determination of

the final legal status of Nagorno-Karabakh through a legally binding expression of will”, that is, the right to self-determination. Though this may appear like a zero-sum game to Azerbaijan in which they lose all, the game has lasted too long and has for its cost taken tens of thousands of lives, displaced hundreds of thousands of people, and has left a legacy of mistrust and hatred toward each other. If this is the price to pay to have a people live in peace, then the game has been played wrong. Let those whose lives are affected the most, the people of Nagorno-Karabakh, make that decision and end the frozen peace for warmer relations.

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