

GEOPOLITICIZATION OF THE NAGORNO-KARABAKH CONFLICT IN THE SHADOW OF THE MADRID PRINCIPLES: A LOOK AT THE PAST

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Abstract

While the majority of Armenian scholars are convinced the status of Nagorno-Karabakh should be based on the implementation of the right of self-determination, very little attention has been paid to the issue of the legitimacy of the pre-war borders of the Republic of Artsakh. Roughly, it is possible to divide the positions of the Armenian expert community into those who believed some or most of the seven districts will be ceded to Azerbaijan as a result of negotiations and those who deemed any attempt to change the pre-war status-quo as either dangerous, strategically flawed, unnecessary, groundless or downright betrayal of national interests and the century-long struggle for the integrity of Artsakh and Armenia. However, the evolution of the state of the de-facto Republic of Artsakh in the context of the legitimacy of its pre-war borders has received scant, if any, academic attention. It is this side of the matter that we attempt to address in this article through the lens of territoriality and the critical review of the so-called Madrid Principles.

Keywords: Madrid principles, the Republic of Artsakh, legitimacy, self-determination, ceasefire agreements, military pedagogy

Introduction

The recent war in Nagorno-Karabakh has turned the regional security architecture upside down. Experts agree that “the new conflict tipped the balance of the dispute in Azerbaijan’s favour but did not resolve it.” (de Waal 2021). Previously, Armenia was the one and only external security guarantor of Nagorno-Karabakh in addition to the army of Nagorno-Karabakh itself: “With difference to other “hot spots” in the post-Soviet area, peacekeepers were never stationed in Nagorno-Karabakh and its adjacent districts” (Маркедонов 2018), another factor that has to be taken into consideration in the context of the repercussions of the recent war and the deployment of a Russian peace-keeping force. Frequently, Armenia would warn that in the case of a large-scale war against Nagorno-Karabakh it would recognize the independence of the latter, which

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many believed functioned as a strategic deterrent. In fact, it was the officially declared posture of the Republic of Armenia to abstain from any steps that would harm the peace process: “Despite the existence of the decision on reunification of Armenia and Nagorno-Karabakh of December 1, 1989, Armenia, certainly, respected the will of the people of Nagorno-Karabakh, expressed in the referendum of December 10, 1991, in favor of the independence of the Nagorno-Karabakh Republic. The *de jure* non-recognition of the independence of the NKR by Armenia is caused by the latter’s involvement in negotiation process for the settlement of the conflict.” (Kocharyan 2016). In addition, the Armenian Diaspora actively lobbied for the recognition of the *de-facto* republic which was born out of a legal cradle, acquired legitimate territoriality fighting against Azeri aggression and functioned as a democratic state-famously freer than Azerbaijan—a neighbor in violent search of its national identity and prone to use of force to quell any expression of freedom of what it considered its land (an aggressive and war-inducing form of aggrandizement and neo-colonialism one might be tempted to righteously argue). Even though there were international efforts aimed at the resolution of the conflict, enforceable changes were never implemented, even if agreed upon, to prevent an escalation. Consequently, the parties as well as the fate of the conflict were exposed to metamorphosis on the international scene: “Although this has been considered by many to be a classic “frozen conflict”, events over the past decade in Georgia and Ukraine show how “frozen” conflicts can come to an end not only through a diplomatic solution, but through violent conflict in which a new status quo is imposed by force of arms rather than mutual agreement among the parties.” (Hopmann 2015). Currently, as the Russian peace-keepers control the situation in what is left from the previous territory of the *de-facto* Nagorno-Karabakh Republic, the role of Armenia in terms of security provision has become vague, if not unknown altogether. As the Armenian-Turkish rapprochement gains momentum, novel questions arise concerning the fate of Nagorno-Karabakh, the prospects of negotiations, the role of external actors in finding a lasting solution to the conflict etc. In what ways and through what means can the Republic of Nagorno-Karabakh succeed in the after-war reconstruction if the international community has so far been unwilling to either extend tangible aid packages, recognition or additional security pledges to Artsakh? How can negotiations resume against the backdrop of vitriolic anti-Armenian rhetoric coming out of Baku? In what ways can the international community reconcile its own differences and engage in the peace process more meaningfully? Why were third parties so reluctant to impose crippling sanctions on Turkey and Azerbaijan in order to halt the bloodshed after they themselves had admitted to the transfer of Islamist mercenaries to the zone of conflict by Turkey during the war? The amalgam of these and similar questions creates an atmosphere of uncertainties and can potentially wreak diplomatic and long-term strategic havoc if lessons are not learned from the recent war. Before the 2020 war engulfed Artsakh, the expert community warned, albeit to no avail, the specter of war loomed large: “Frustrated with the stalled peace process and awash with energy money, Azerbaijan has the strongest incentives to resort to war to change the status quo. Altering the image of the defeated party and regaining (some) control over Nagorno-Karabakh and the surrounding territories is a clear goal of the Aliyev administration.” (Simão 2016). Therefore, in an attempt to address the issue of uncertainties regarding the fate,

contents and course as well as the possible outcome of the negotiations, we have aimed to heed particular attention to the issue of territoriality. To be precise, we discuss the legitimacy of the pre-war borders of the Nagorno-Karabakh Republic comparing it with the logic of the Madrid Principles. In order to identify any inconsistencies of the Madrid Principles with the legitimacy of the pre-war borders of Artsakh, we will examine the former in the context of other similar ceasefire agreements in the post-Soviet area shedding light on the incompatibility of the Madrid Principles with post-Cold War international practice.

The Outline of the Issue of Nagorno-Karabakh with Regard to the Legitimacy of the pre-war borders of Nagorno-Karabakh

Manasyan and Ghevondyan argue that the geopolitical situation as well as the ethno-political makeup of the Transcaucasian region at the beginning of the 20th century was different before and after the Turkish intervention and was decidedly in favour of the Armenians (Manasyan and Ghevondyan 2011, 18). In this context, they emphasize the fact that had it not been for an external force, “the balance of ethno-political forces in the eastern Transcaucasia ruled out the establishment of a national state by Caucasian Tats”. Further, they argue that the newly-established state was called after a state in Iran-Azerbaijan-to demonstrate Turkey’s far-reaching designs in the region vis-à-vis Iran. The combination of these two factors leads us to the conclusion that Turkey is both behind the creation and expansion of Azerbaijan as a projection of its power and influence eastwards and the guarantor of its expansionist policies. Turkey’s direct involvement in the war in Nagorno-Karabakh in 2020 is the latest and perhaps most forceful confirmation of this argument. In addition, the authors lay bare the illegal claims of Azerbaijan over Nagorno-Karabakh that date back to 1918 and constitute the rationale behind Turkish-Azeri aggrandizement (Manasyan and Ghevondyan 2011, 25). Obviously, the historical roots of the initiation of the conflict over Nagorno-Karabakh-through a combination of illegal designs and massacres aimed at the elimination of the Armenian political-civilizational factor-have been largely, if not wholly, ignored during the Minsk Group negotiations as we shall see again and again in the discussion of the historical roots and causes of the conflict (de Waal 2003).

Interestingly, the authors also argue that the conflict over Nagorno-Karabakh still remains unresolved as the Turks “failed to bring Nagorno-Karabakh to its knees in 1918” (Manasyan and Ghevondyan 2011, 25) - another reminder of the historical roots of the conflict tied to Turkey’s anti-Armenian policies and warmongering. Most importantly, the authors refer to the fact that the League of Nations turned the Azeri membership bid down due to the latter claiming ownership of Nagorno-Karabakh (Manasyan and Ghevondyan 2011, 26) - another historical fact that has been blatantly ignored in the course of the Minsk Group negotiations.

In keeping with these arguments, other authors take a step further and directly challenge the legitimacy of Azeri claims over Nagorno-Karabakh in the context of the establishment of the Republic of Azerbaijan itself. As a matter of fact, Azerbaijan denounced its rights of succession vis-à-vis Soviet Azerbaijan and declared itself a

continuation of the pre-Soviet Republic of Azerbaijan, which was not a member of the League of Nations and never had internationally recognized borders (Hakobyan 2011, 19). Consequently, the declaration of independence of Artsakh was not only legal in the context of both the international law and Soviet legislation but also highlighted the incompatibility of Azeri claims with the nature of the conflict. In other words, Azerbaijan intended to absorb a territory that it itself denounced as it became independent from the Soviet Union. This fact too, however, was overlooked during the negotiations led by the Minsk Group and is one of the historical-legal reasons that challenge the compatibility of the so-called Madrid Principles with both international laws in general and precedents in particular. In line with international principles, the people of Nagorno-Karabakh held a referendum to uphold the declaration of independence on December 10, 1991. Unfortunately, the outcome of the referendum never became a foundation for ensuing negotiations under the auspices of the Minsk Group, which is another testimony to the fact that not only the historical causes of the conflict but also its legal underpinnings were underrepresented through the so-called Madrid Principles. It is our conviction that this severely curbed the possibility of establishing long-term peace in the region ignoring the totality of Armenian interests and constitutes what eventually led to the Turkish-Azeri aggression against Artsakh in 2020. Furthermore, even though there were some attempts to diffuse tensions at the outbreak of the conflict in 1991 through mediation, Azerbaijan not only disregarded peace initiatives and made use of forbidden weapons to quell the voices of Artsakh but also made an undemocratic and illegal move dissolving Nagorno-Karabakh Autonomous Region (NKAR) on November 26, 1991. Thus, the NKAR was “eliminated as a national-territorial unit” (Hakobyan 2011, 31). In line with the logic of earlier examples, this undemocratic act was not condemned or otherwise singled out during the subsequent negotiations and, as one might expect, was not reflected in the Madrid Principles in any implicit way as a violation of the rights of the people of Artsakh in early 90’s that led to further escalation of the conflict and the resultant status-quo. As far as our research has demonstrated, the legitimacy of the status-quo that existed before the 2020 war was never investigated in the light of the violation of the rights of the Armenians.

In line with this, other authors have demonstrated the true intent of the Azerbaijani side leading to the Bishkek ceasefire. To be specific, international mediators had been trying to convince Azerbaijan in the necessity of a truce. However, the Azeri side had turned down such offers as it had been hoping to put an end to the conflict through force (Pashayan and Balayan 2016, 41). The authors explicate that as a result of territorial losses in the spring of 1994, Azerbaijan had arrived at a new understanding of the situation assessing the improbability of its success in the war, which turned into a decisive factor leading to the ceasefire agreement. Thus, as in other cases, the discussion of the fate of the districts adjacent to the former NKAO is inextricably linked to the notion of their legitimacy the historical facts concerning their status and ownership regardless. In other words, the reluctance of the Azeri side to agree to the cessation of hostilities in the zone of conflict displayed its hidden agenda of the destruction of what would be left of the former NKAO. Our purpose is not to argue that those adjacent lands belonged to Azerbaijan as legal-historical documents pertaining to the pre-Soviet era discussed elsewhere in the article show Azerbaijan could have to legal claims over them.

What we have aimed at highlighting is that even if they belonged to Azerbaijan, the aggression meant to lead to the ultimate destruction of the abodes and livelihoods of the Armenian population of Nagorno-Karabakh would have legitimized their occupation within the framework of the anti-colonial policy of the United Nations, an argument that has apparently never been brought to the table of negotiations by the Armenians. Not without historical precedents, the Nagorno-Karabakh Republic is, in a sense, a replica of the Republic of Mountainous Armenia that existed at the beginning of the previous century in similar geopolitical circumstances. As was the case in Syunik, the Armenian people demonstrated both willpower and military feat to achieve political independence as they were striving for a national democratic home in their historical homeland. Martin Zilfugharyan depicts the struggle of the Armenians in Zangezur against Turkish-Azeri as well as Bolshevik intervention as a heroic episode in history that culminated in the failure of the intervening parties to illegally incorporate the region into Azerbaijan. Further, the spirit of self-defense ultimately led to the necessity to strengthen the victory through nation-building and the establishment of functioning state institutions (Zilfugharyan 2008, 4). Interestingly, the Republic of Mountainous Armenia, which was declared independent on April, 26, 1921 (Zilfugharyan 2008, 8) included Syunik, Vayots Dzor as well as Nagorno-Karabakh, which underscores the totality of the region from geographic, historical, legal and political perspectives. More important, Zangezur and Nagorno-Karabakh were an indivisible part of the Republic of Armenia; hence the de facto independence of the region had nothing to do with neighboring Azerbaijan. Moreover, the central government in Yerevan recognized the official responsibilities of the regional council of Zangezur and Karabakh (Zilfugharyan 2008, 16). Thus and thus, Syunik and Karabakh were part of the Republic of Armenia and have century-old traditions of self-rule and struggle for sovereignty. In the context of the declaration of the independence of the Republic of Azerbaijan, which does not proclaim itself as a successor state of Soviet Azerbaijan, it becomes obvious that Nagorno-Karabakh does not belong to Azerbaijan as the first Republic of Azerbaijan was not a member of the League of Nations and did not have internationally recognized borders. As we have mentioned earlier, even if that was the case, the Azeri retaliation against demands from Yerevan and Stepanakert to give the Armenians of Nagorno-Karabakh an opportunity to implement their right of self-determination, as well as the 2020 war that devastated a democratic and free country-Nagorno-Karabakh Republic, would suffice to consider the pre-war borders of NKR as legitimate. Unfortunately, the Republic of Artsakh as well as the Republic of Armenia was right in bitterly acknowledging that “Azerbaijan is not prepared to compromise, sabotages the negotiations, and promotes an arms race. Azerbaijan threatens with a war and even jihad.” (Заргарян 2018). Apart from this, the tripartite nature of the conflict had conveniently been forgotten while some experts thought the conflict over Nagorno-Karabakh had “a special place among other ethno-political in the post-Soviet area as three parties are indirectly involved in it.” (Апешев 2009).

The Madrid Principles and their Incompatibility with the Norms Stemming from Several Ceasefire Agreements in the post-Soviet area and the Balkans

Not surprisingly, experts characterized the Madrid principles as “vague and ambivalent” which could “give rise to different understanding and interpretation by the parties of the conflict.” (Babayan 2014). The recent war has recast the whole region geopolitically; hence a retrospective analysis of the Madrid principles has become necessary to avoid the repetition of any political oversights. Eastern Europe and the post-Soviet area has long been the scene of post-Cold War geopolitical transformations. The recent crisis in Ukraine, coupled with the 2020 war in Artsakh, is the latest incarnation of the mentioned transitory process that is on-going, violent, deeply troubling and transforming at the same time. The West and Russian are pitted against each other and are making an attempt to mould the situation in line with their respective geopolitical interests. However, the regional powers are also in the geopolitical spotlight and should identify their diplomatic faux pas to address their own precarious in political and strategic terms situation. In order to discuss the compatibility of the so-called Madrid Principles, let us provide a brief overview of what they were meant to be. The following points are the backbone of the Madrid Principles and represent, in no particular order, the most crucial domains from the perspective of the present article. First, they called for the return of the seven districts adjacent to the former Nagorno-Karabakh Autonomous Region to Azerbaijani control. Second, the return of the internally displaced people and international security guarantees were part and parcel of the principles. Third, a prospective determination of the status of Nagorno-Karabakh was envisioned that would be legally binding as well as final in addition to the provision of a corridor between Armenia proper and Nagorno-Karabakh (OSCE Minsk Group 2009). Before analyzing the Madrid Principles in the light of the long-term interests of the Republic of Armenia and Nagorno-Karabakh, we deem it necessary to look into the diplomatic foundations of the negotiations that commenced after the ceasefire agreement was signed in 1994. Throughout the diplomatic journey, the legitimate interests of the Armenian side have been ignored due to the fact that the ceasefire agreement was, as it seems, either haphazard or deliberately undermining Armenian interests. Even though there can be disagreements about the extent of the legitimacy of Armenian aspirations, it must be noted that comparisons with other ceasefire agreements dating back to the 90’s of the 20th century in the post-Soviet area and the Balkans underscore the vulnerability of the Bishkek ceasefire agreement in terms of a vision for the future negotiations and the ultimate resolution of the conflict. The ceasefire agreement for Bosnia and Herzegovina was signed on October 5, 1995. In addition to “terminating all hostile military activities”, the agreement “provided that at that time full gas and electrical utility service shall have been restored in the city of Sarajevo.”¹ Thus, the ceasefire agreement functioned as a guide in the domain of humanitarian issues providing for later improvement of the situation on the ground. Furthermore, it stipulated that “that all prisoners of war will be exchanged under the supervision of the United Nations Protection Force (UNPROFOR).” In the case of the Dniester region of the Republic of Moldova, whose ceasefire agreement on the principles

¹ “Cease-fire Agreement for Bosnia and Herzegovina, 5 October 1995.” Last modified April 17, 2021. <https://www.peaceagreements.org/viewmasterdocument/322>.

for a peaceful settlement of the armed conflict was signed on July 21, 1992, the ceasefire stipulated the withdrawal of armed forces to create a security zone (UN DPPA 2019a). In other words, the ceasefire agreement was in its own right a solid foundation for a later build-up of mutually reinforced trust and the installation of a security mechanism that would forestall the possible escalation of the conflict at later stages. Moreover, according to the agreement, “the parties to the conflict consider the application of any sanctions and blockades unacceptable. In this context, obstacles to the provision of goods and services and the movement of individuals shall be eliminated immediately.” Therefore, the ceasefire agreement spelled an end to the hostilities but also provided with effective mechanisms to prevent a fresh humanitarian disaster as well as to effectively apply de-escalation mechanisms. The agreement on a cease-fire in Abkhazia-signed on July, 27, 1993 is yet another similar example. In addition to military issues aimed at complete de-escalation, the agreement created “trilateral Georgian-Abkhaz-Russian interim monitoring groups (comprising three to nine persons each).” (UN DPPA 2019b). Also, in an attempt to attach weight to the involvement of the United Nations, the agreement stipulated that “the parties consider it essential to invite international observers and peace-keeping forces to be deployed in the conflict zone. This shall be on the understanding that the size and composition of the international peace-keeping forces shall be determined in consultation with the United Nations Secretary-General and the Security Council and subject to the agreement of the parties.” (UN DPPA 2019b). Nevertheless, the legitimacy of the interim security forces of Abkhazia was also recognized as it stipulated that “the armed formations on the Abkhaz side shall be amalgamated into a regiment of internal troops, which shall be placed on stand-by and, until a comprehensive settlement is reached, shall perform functions appropriate to internal troops (guarding main roads and important facilities).” (UN DPPA 2019b). To be more specific, even though an international security mechanism was in place, a legitimate Abkhaz security force was recognized with a precise realm of security operations it had to undertake. On yet another occasion, as a major step towards the recognition of the legitimacy of the local government, the Interim Agreement for Peace and Self-Government in Kosovo was signed on June 4, 1999. Even though there was a reaffirmation of the commitment to the territorial integrity of Yugoslavia, something that did not preclude the recognition of independent Kosovo, the agreement stipulated that “citizens in Kosovo shall have the right to democratic self-government through legislative, executive, judicial, and other institutions.” (UN DPPA 2019c). What’s more, the agreement established the ways in which the displaced persons could restore their legal status and property rights. To be precise, it stipulated that “all the persons shall have the right to reoccupy their real property, assert their occupancy rights in state-owned property, and recover their other property and personal possessions.” (UN DPPA 2019c). Last but not least, the cultural rights of nationalities were also protected by the ceasefire agreement as it stipulated that “the preservation and promotion of the national, cultural and linguistic identity of each national community in Kosovo are necessary for the harmonious development of a peaceful society.” (UN DPPA 2019c). By contrast, the Bishkek Ceasefire Agreement of 1994 concerning the conflict in Nagorno-Karabakh was uncharacteristically concise. First, it ensured the cessation of hostilities. Second, it laid out a road map for the withdrawal of troops but lacked specific instructions or articles

except for a call for an urgent meeting. Thus and thus, the ceasefire agreement did not recognize the legitimacy of the local government of Nagorno-Karabakh even though the latter was a signatory and was thus recognized as a party to the conflict. Furthermore, the agreement did not recognize either the suffering of the people of Nagorno-Karabakh, the need for the elimination of the consequences of the massacres in Sumgait and Baku, horrific crimes against the Armenian minority, or the need for the erection of protective mechanisms regarding the national, cultural, linguistic rights of the Armenians. Finally, the ceasefire agreement neither stated anything about humanitarian missions and international mediation, nor established any legal channels for the provision of safety and security in the zone of conflict after the termination of hostilities. In other words, while other ceasefire agreements discussed earlier provided numerous ways in which humanitarian issues could be addressed and security could be guaranteed in the context of the rights of the minority and the legitimacy of the local government, nothing was done to ensure the protection of any such rights in the case of Nagorno-Karabakh. Consequently, the people of Nagorno-Karabakh suffered an unjust and biased treatment on the part of the international community that was either unwilling or incapable of making sure the fate of the people of Nagorno-Karabakh was not at the mercy of the success of negotiations at later stages of conflict resolution. Ironically, the properties as well as cultural rights of the Armenians of Baku and Sumgait were not, as far as our research has demonstrated, brought up by the Armenian side in the negotiations that ensued the cessation of hostilities until the November 9 tripartite agreement between Armenia, Azerbaijan and Russia was signed in 2020. As a result, the legitimacy of the rights of the Armenian people to declare an independent Artsakh in the de-facto borders as of May, 1994, was overlooked while the subject matter of the negotiations under the auspices of the Minsk Group was narrowed down to the task of determining the extent of the application of the right to self-determination and the appropriate conditions in which it could be realized in a legally binding way, something that led to overlooking the legitimate aspirations of the Armenian side in the context of the territoriality of the issue.

Conclusion and discussion

As of 2022, competing geopolitical interests manifest themselves in a number of ways in and around the Transcaucasian region. In this precarious situation, the Republic of Armenia should focus on building a network of partnerships and fora that will address the grievances of the Armenian people in meaningful way. It is, thus, important to overcome the sense of victimhood and strive to put forward a national agenda. It is important to take into consideration the fact that “the new XXI century and the new millennium is a phenomenon not only of a new humanism, sustainable development and harmony, but also of war, turbulence and genocide.” (Aleksanyan 2021, 64). In this context, it is crucial to put forward a package of proposals in order to address the “fault lines” along Armenian national security and foreign policy issues. To be precise, it is necessary to look into the feasibility of recognizing the legitimacy of the pre-war borders of the Republic of Artsakh as well as the possibility of linking the fate of the region with

the fate of Nakhijevan-two districts that were incorporated into Soviet Azerbaijan on a shaky legal-political foundation. Further, Armenia should emphasize the importance of the recognition of the rights of the Armenian minority of Azerbaijan whose life and property was the target of egregious human rights violations at the end of the previous century. It is our conviction that narrowing down diplomatic options to the right of self-determination not only underrepresents the issue of Artsakh but also harms the territorial dimension of the conflict from the perspective of legitimate Armenian aspirations. It is no more permissible to turn a blind eye to the fact that the Turkish-Azeri alliance has expansionist designs on Armenia and Artsakh that need to be challenged resolutely countering aggression and aggrandizement through a combination of military build-up and diplomatic initiatives. To quote Professor Ashot Aleksanyan, “Azerbaijani-Turkish military relations have always been dynamic against Armenia and Artsakh. The turning point in bilateral relations came in 2020, when the political situation and the balance of power in the South Caucasus changed after the Second Karabakh War and the ongoing armed conflict. The political crisis in the South Caucasus showed, on the one hand, the aggressive intentions of the anti-Armenianism of Azerbaijan and Turkey, on the other hand, contributed to the strengthening of the Azerbaijani-Turkish partnership with the slogan “one nation, two states”, brought bilateral relations to the level of strategic depth.” (Aleksanyan 2021, 67). In this context, as Armenia is reeling from the disastrous consequences of the 2020 war, we believe efforts should be made to focus military pedagogy to improve public-military relations, enhance the transparency of the military pedagogy, engage civil society in nation-building more meaningfully in order to face the external and internal security challenges posed by new geopolitical configurations.

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