

# Why the Nagorno-Karabakh Conflict Is Still Not Resolved

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## Introduction

The current phase of the Nagorno-Karabakh issue has started since the last years of the existence of USSR and turned into a conflict as a result of the militant policy adopted by Azerbaijan in response to the implementation of the right to self-determination by the people of Nagorno-Karabakh. The Nagorno-Karabakh conflict differs from other conflicts in the former Soviet area with the fact that the people of Karabakh implemented its right to self-determination impeccably before the collapse of the Soviet Union.

The Nagorno-Karabakh conflict was the bloodiest conflict of the post-Soviet area with tens of thousands of victims, hundreds of thousands of refugees and massive destruction. The military phase of the conflict ended in May 1994 with an open-ended ceasefire agreement. Notably during the past 19 years the large-scale military operations have not been renewed, and the relative peace has been preserved without the involvement of international peacekeeping forces.

The mediators in the negotiation process of the Nagorno-Karabakh conflict resolution are the 3 out of the 5 permanent members of the United Nations Security Council – Russia, USA and France. Despite the consistent efforts of the mediators, the Nagorno Karabakh conflict is still unresolved. The main reason is that Azerbaijan acts in contrary to the purposes of the United Nations.

The opinions presented below may differ from the opinions of the Nagorno-Karabakh Republic.

# 1. The Essence of the Issue is the Realization of the Right to Self-Determination of the People of Nagorno-Karabakh

## *1.1. Nagorno-Karabakh has never been a part of the independent Azerbaijan*

Nagorno-Karabakh (Artsakh), as a part of Armenia, is mentioned in the works of Strabo<sup>1</sup>, Pliny the Elder<sup>2</sup>, Claudius Ptolemy<sup>3</sup>, Plutarch<sup>4</sup>, Dio Cassius<sup>5</sup> and other ancient authors. Meanwhile Azerbaijan first emerged on the political map in 1918, after the collapse of the Russian Empire.

In 1918-1920 Nagorno-Karabakh was a self-governing unit and had all the attributes of a sovereign state. In this period of time the newly created Azerbaijan had territorial claims towards the neighboring states, including Nagorno-Karabakh, and the League of Nations denied Azerbaijan's application for membership because of the uncertainty of its borders.<sup>6</sup>

After the 1920 sovietization of the region, the Nagorno-Karabakh, against the will of its people, was included into Azerbaijan as an autonomous region, based on the 1921 decision of the Caucasian Bureau of the Communist Party of Russia, which didn't have such an authority. Moreover, with the subsequent steps not the entire territory of Karabakh was included in the autonomous region, and as a result Nagorno-Karabakh was deprived of a common border with Armenia as well.

With the 18 October 1991 constitutional act of independence Azerbaijan voided all the legal acts of the Soviet Union relating to Azerbaijan<sup>7</sup>. Therefore even if we admit that the decisions of the Bolsheviks to include Nagorno-Karabakh into Azerbaijan were legitimate, the independent Azerbaijan has abolished them.

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<sup>1</sup> Strabo, "Geography", [http://mfa.am/u\\_files/file/antic/GeographyStrabo.pdf](http://mfa.am/u_files/file/antic/GeographyStrabo.pdf)

<sup>2</sup> Pliny the Elder, "Natural History", [http://mfa.am/u\\_files/file/antic/NaturalHistoryPliny.pdf](http://mfa.am/u_files/file/antic/NaturalHistoryPliny.pdf)

<sup>3</sup> Claudius Ptolemy, "Geography", [http://mfa.am/u\\_files/file/antic/PtolemyGeography.pdf](http://mfa.am/u_files/file/antic/PtolemyGeography.pdf)

<sup>4</sup> Plutarch, "Lives of the Noble Greeks and Romans",  
[http://mfa.am/u\\_files/file/antic/PlutarchsLives.pdf](http://mfa.am/u_files/file/antic/PlutarchsLives.pdf)

<sup>5</sup> Dio Cassius, "Roman History", [http://mfa.am/u\\_files/file/antic/DiosRomanHistory.pdf](http://mfa.am/u_files/file/antic/DiosRomanHistory.pdf)

<sup>6</sup> League of Nations, Journal N17 of the First Assembly, Geneva 1920 (cited in Shahan Avakian "Nagorno-Karabagh: Legal Aspects", Yerevan 2010, available at [http://mfa.am/u\\_files/file/Legal%20Aspects\\_Nagorno-Karabagh\\_en\\_2010.pdf](http://mfa.am/u_files/file/Legal%20Aspects_Nagorno-Karabagh_en_2010.pdf))

<sup>7</sup> The Constitutional Act on the State Independence of the Republic of Azerbaijan, 18 October 1991, available at <http://azerbaijan.az/portal/History/HistDocs/Documents/en/09.pdf>

### ***1.2. Azerbaijan's policy of dearmenization in Karabakh***

Between May 1918 and April 1920 the military units of Azerbaijan committed violence and pogroms against the Armenian population. Only in March 1920 the armed units of Azerbaijan massacred and displaced about 40 thousand Armenians in Shushi, the Armenian cultural center in the region and the capital of Karabakh.<sup>8</sup>

The repression and discrimination on ethnic grounds in the social, economic and cultural spheres was consistently committed by Azerbaijan during the whole soviet period. Such policy resulted to the change of the demographic correlation in Karabakh: while in 1923 Armenians composed the 94.4 percent of the population of Nagorno-Karabakh, the data for 1989 showed a decrease of Armenian population to 76.9 percent.<sup>9</sup>

The people of Karabakh has always opposed that policy and based on the precedents and the only opportunity to solve the issue in the framework of the Soviet Union, it applied for many times to the central authorities with the request to join Karabakh with the soviet Armenia. For instance, the 1965 petition was signed by 45,000 individuals, and the 1987 petition was signed by 80,000.

### ***1.3. The realization of the right to self-determination of the people of Nagorno-Karabakh***

During the last years of the Soviet Union, in accordance with the legislation of that state, Karabakh legally obtained independence from Azerbaijan.<sup>10</sup> On 20 February 1988 the council of the delegates of the autonomous region adopted a decision to apply to the parliaments of the Soviet Union, Azerbaijan and Armenia with the request of transferring the autonomous region from Azerbaijan to Armenia.<sup>11</sup> Armenian Parliament agreed, but Azerbaijan's parliament rejected it. The central government rejected this request, however a special governing committee was formed for Karabakh, and the region was

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<sup>8</sup> Levon Chorbajian et al, "The Caucasian Knot: The History & Politics of Nagorno-Karabagh" (1994), at [\l "v=onepage&q=shushi%2040,000%201920&f=false](http://books.google.am/books?id=OUInYdOHJ3wC&lpg=PA110&ots=v0E9o9K8Gw&dq=shushi%2040%2C000%20armenians&pg=PA142)

<sup>9</sup> <http://www.ethno-kavkaz.narod.ru/rnkarabax.html>

<sup>10</sup> See e.g. Otto Luchterhandt, Der Status der Republik Berg-Karabach aus der Sicht des sowjetischen Staatsrechts, in: Kannatian, Raffi (Hrsg.): Geschichte und Gegenwart in schwierigem Umfeld, Frankfurt/ M 1998, S 266-286.

<sup>11</sup> Decision of the Special Session of the NKAO Council of Peoples Deputies of XX Session, 20 February 1988, available at <http://nkr.am/en/decision--of-the-special-session-of-the-nkao-council-of-peoples-deputies-of-xx-session/41/>

directly subjected to Moscow.<sup>12</sup> On 1 December 1989 the parliament of Armenia and the authorized representatives of Nagorno-Karabakh adopted a joint decision to reunite Armenia and Karabakh.<sup>13</sup>

A legal way out of the situation was provided by the 3 April 1990 law “Concerning the Procedure of Secession of a Soviet Republic from the USSR”.<sup>14</sup> According to article 3 of the law, in case a soviet republic secedes from the Soviet Union, the autonomous regions and compactly settled ethnic minorities were given the right to secede from the republic and determine their future status.

On 30 August 1991 Azerbaijan declared its independence. On September 2 The Nagorno-Karabakh Autonomous Region, together with the Shahumyan region, declared itself as an independent Republic.<sup>15</sup> Nagorno-Karabakh didn't participate to the September 21 referendum of independence of Armenia, and on December 10 the referendum for independence was held in Nagorno-Karabakh with the participation of international observers (by the way, the independence referendum of Azerbaijan was held on December 15). On December 21 the leaders of 11 Soviet Republics dissolved the Soviet Union by Alma-Ata declaration.<sup>16</sup>

Thus at the moment of the dissolution of the Soviet Union two independent and legally equal subjects were formed on the territory of Soviet Azerbaijan – the Nagorno-Karabakh Republic and the Republic of Azerbaijan.

## **2. The Conflict is a result of the forceful policy initially adopted by Azerbaijan**

### ***2.1. Pogroms and ethnic cleansings of Armenians***

In response to the 20 February 1988 peaceful request of the Regional Council of Delegates of Karabakh, the Azerbaijani leadership a week later, on February 27-29

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<sup>12</sup> Указ Президиума Верховного Совета СССР от 12 января 1989 года.

<sup>13</sup> "Joint resolution of Armenia SSR and Nagorny Karabakh Oblast on reunification, December 1, 1989":

<sup>14</sup> Закон о порядке решения вопросов, связанных с выходом союзной республики из СССР от 3 апреля 1990 года. [http://www.libussr.ru/doc\\_ussr/usr\\_16379.htm](http://www.libussr.ru/doc_ussr/usr_16379.htm)

<sup>15</sup> Declaration on Proclamation of the Nagorno Karabakh Republic, 2 September 1991 available at <http://www.nkr.am/en/declaration/10/>

<sup>16</sup> The Alma-Ata Declaration, 21 December 1991, available at [http://lcweb2.loc.gov/frd/cs/belarus/by\\_appnc.html](http://lcweb2.loc.gov/frd/cs/belarus/by_appnc.html)

organized the massacre of Armenians with an unspeakable cruelty in the town Sumgait 20 kilometers far from Baku. Sumgait was the beginning of Azerbaijan's policy of organizing massacres against Armenians on the territory of Azerbaijan. On 13-19 January 1990 the last group of Armenians remaining in Baku was pogromed and exiled. These barbarian acts resulted to hundreds of innocent victims.<sup>17</sup>

The Armenians all around the world, who survived the 1915-1920 genocide and mass killings in the Ottoman Empire and the South Caucasus, took this new flow of the massacres against Armenians starting in Sumgait as a continuation by Azerbaijan of the genocidal policy of the beginning of the century. As a result of these tense interethnic conditions the immigration of Azerbaijanians from Armenia started. There were no pogroms of Azerbaijanians in Armenia, with the exception of a few cases of violence, and most Azerbaijanians living in Armenia had the opportunity to sell their houses and leave Armenia with their property. As a result 361 thousand Armenian refugees left Azerbaijan and 167 Azerbaijanians left Armenia.<sup>18</sup>

Unlike the Armenians living on the territory of Azerbaijan, the Armenians of Karabakh and the relating regions resorted to self-defense against the conducted pogroms. In order to realize its policy of ethnic cleansings in Karabakh, Azerbaijan launched operation "Koltso" since 30 April 1991 and used its special forces, as well as managed to involve the units of the 23<sup>rd</sup> division of the 4<sup>th</sup> army of the Soviet Union.<sup>19</sup>

With the collapse of the Soviet Union in late 1991 the last target of Azerbaijan's policy of ethnic cleansings remained the self-determined Nagorno-Karabakh Republic.

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<sup>17</sup> Caroline Cox and John Eibner, Ethnic Cleansing in Progress: War in Nagorno Karabakh, Institute for Religious Minorities in Islamic World, April 1993; Zoryan Institute, "The Sumgait Tragedy: Pogroms Against Armenians in Soviet Azerbaijan (Volume I, Eyewitness Accounts) ", September 1990; MFA of Armenia, "Sumgait: 20 years later" at <http://mfa.am/en/sumgait/>; European Parliament, Resolution B3-0049/93, 15.2.93 Official Journal of the European Communities No C42/165, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1993:042:0145:0198:EN:PDF#page=21>; European Parliament, Resolution B3-0473/91, 22.4.91 Official Journal of the European Communities No C 106/121, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1991:106:0102:0163:EN:PDF#page=21>; An Open Letter on Anti-Armenian Pogroms in the Soviet Union, New York Times, 27 September 1990, available at <http://www.nybooks.com/articles/archives/1990/sep/27/an-open-letter-on-anti-armenian-pogroms-in-the-sov/>; Nationalism at Its Nastiest, New York Times, 19 January 1990.

<sup>18</sup> <http://www.hrw.org/reports/1994/12/01/seven-years-conflict-nagorno-karabakh>;  
<http://www.un.am/en/UNHCR>

<sup>19</sup> Доклад Комитета По Правам Человека Верховного Совета России, 1999г. октябрь.

## ***2.2. The aggression of Azerbaijan against the Nagorno-Karabakh republic***

Since 1992 Azerbaijan launched large scale military operation against NKR. As for June 1992 the Azerbaijani army had occupied about 60 percent of the territory of NKR, massacring the local Armenian population and destroying the settlements.<sup>20</sup> At the same time, Azerbaijani army was shelling the settlements of Armenia along the Armenian-Azerbaijani border and trying to conquer Armenian territories. In 1992 the President of Azerbaijan stated that they would take Zangezur, the southern part of Armenia, and that he will wash his feet in Lake Sevan.

Azerbaijan involved mercenaries in the war against Karabakh<sup>21</sup>, including more than 2,000 mercenaries from the terrorist hubs of Taliban and Al-Qaeda<sup>22</sup> and hundreds of fighters of the Chechen terrorist Shamil Basaev.<sup>23</sup>

The self-defense army of NKR managed to switch to an organized counterattack, crack the blockade of Karabakh and step by step push back the Azerbaijan's armed forces out of the most territories of Karabakh.

## ***2.3. The international reaction to the escalation of the conflict and blockade***

Many publications on the atrocities of Azerbaijan against Armenians took place in the leading media of the world. For instance, after the Sumgait pogroms Academician Andrei Sakharov stated that "If anyone could doubt it before Sumgait, then after this tragedy no one has any moral possibility to insist on the maintenance of Azerbaijan's territorial possession over NKAO [Nagorno-Karabakh Autonomous Oblast]."<sup>24</sup>

The U.S. Senate condemned in its resolution of 17 May 1991 the violent actions of Azerbaijan against the peaceful population, as well as the blockade of Karabakh and Armenia.<sup>25</sup> Moreover, the Section 907 of 24 October 1992 banned any kind of support to Azerbaijan by USA until the latter ceased all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.<sup>26</sup>

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<sup>20</sup> Baroness Cox, "Survivors of the Maraghar Massacre: It was truly like a contemporary Golgotha many times over", 27 April 1998 available at <http://www.christianitytoday.com/ct/1998/april27/8t5092.html>

<sup>21</sup> Ioannis Charalampidis, "Sponsored to Kill", "MIA" Publishers, Moscow 2013.

<sup>22</sup> Лейла Юнус, "Будущее за профессиональной Армией", Зеркало (Баку), 10 авг. 2002г.

<sup>23</sup> Газета "Ичкерия", (РФ) N8, 25 июня, 1992г.

<sup>24</sup> Андрей Сахаров, письмо М.С.Горбачеву, "Независимая газета", 27.10.1992.  
<http://armenianhouse.org/zolyan/nf-ru/karabakh/appendix.html>

<sup>25</sup> Condemning violence in Armenia S.RES.128, 17 May 1991, at <http://thomas.loc.gov/cgi-bin/query/z?c102:S.RES.128>:

<sup>26</sup> Freedom Support Act, SEC. 907. Restriction on Assistance to Azerbaijan[S.2532.ENR], at <http://thomas.loc.gov/cgi-bin/query/z?c102:S.2532>:

During the year of 1993 the UN Security Council adopted four resolutions, the main demand of which were the immediate cessation of all hostilities and the resolution of the issue through peaceful negotiations.<sup>27</sup> Despite these resolutions the Azerbaijani leadership initiated new armed attacks and suffered new defeats.<sup>28</sup>

These defeats made Azerbaijan suggested Nagorno-Karabakh Republic to negotiate a ceasefire.

#### ***2.4. The ceasefire negotiations***

On 3 September 1993 Heydar Aliyev issues a signed authorization, among other officials, to Afiyeddin Jalilov, the deputy Speaker of the Parliament, “to negotiate the arrangement of the meeting of the highest authorities of Azerbaijan and NKR”.<sup>29</sup> In response, Arkadi Ghukasyan, the Foreign Minister of NKR, receives a similar authorization. The achieved agreements resulted to the meeting of Robert Kocharyan and Heydar Aliyev, the Leaders of NKR and Azerbaijan, in Moscow on 25 September. Besides, many other bilateral meetings between the high officials of NKR and Azerbaijan take place as well. Those negotiations created a basis for the signing of the 1994 Bishkek Protocol<sup>30</sup> and the signing of an open-ended ceasefire agreement between the Nagorno-Karabakh and Azerbaijan in May 1994, to which Armenia joined as well as a party involved in conflict<sup>31</sup>.

These facts demonstrate that Azerbaijani leadership

1. Has recognized NKR at least as a party to the conflict, and
2. Whenever Baku really wants to reach a progress in the Karabakh issue, it enters into direct talks with NKR.

#### ***2.5. Responsibility for the consequences of the aggression***

As a result of the war Azerbaijan annexed the Shahumyan region of NKR entirely and the eastern parts of Martuni and Martakert regions. The Nagorno-Karabakh took control of the surrounding regions which served as buffer zones to stop the further shelling of the settlements of Nagorno-Karabakh and strengthen the defense positions of NKR in case of unconcealed preparations of Azerbaijan to a new aggression.

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<sup>27</sup> UN Security Council, Resolutions 822 (30 April 1993), 853 (1993 29 July 1993), 874 (14 October 1993), 884 (12 November 1993).

<sup>28</sup> Vladimir Kazimirov, Karabakh and UN Security Council Resolutions, «Highlights», XII.2004, available at <http://vn.kazimirov.ru/k100eng.htm>

<sup>29</sup> Владимир Казимиров, "Мир Карабаху", июль 2009г.

<sup>30</sup> The Bishkek Protocol, 5 May 1994, available at <http://nkr.am/en/the-bishkek-protocol/43/>

<sup>31</sup> <http://nkr.am/en/ceasefire-agreement/147/>



The entire responsibility for the casualties, destructions and the faith of refugees from all parties, which is a consequence of aggression and power politics, lies upon Azerbaijan, who launched forceful policy and aggression.

## ***2.6. The definition of aggression***

Do the military actions of Azerbaijan against Nagorno-Karabakh qualify for aggression under the international law, while NKR is not internationally recognized? Aggression is defined by the UN General Assembly Resolution 3314(XXIX) of 1974.<sup>32</sup> The preamble of the resolution reaffirms the duty of States not to use armed force to deprive peoples of their right to self-determination, freedom and independence.

Article 1 defines aggression as “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State.” According to the same article, the term State “Is used without prejudice to questions of recognition or to whether a State is a member of the United Nations.”

This definition clearly implies that the realization of military operations against internationally non-recognized, non-member states of the UN constitutes aggression.

## **3. The right to self-determination of peoples and the territorial integrity of states**

### ***3.1. The correlation of the right to self-determination of peoples and the principle of territorial integrity of states according to the fundamental documents of international law***

According to the fundamental norms of international law, the Principle of territorial integrity cannot oppose the right to self-determination of the peoples.<sup>33</sup> The first article of the Charter of the United Nations enlists the purposes of the organization, including the “respect for the principle of equal rights and self-determination of peoples.” The second article of the Charter begins with a preamble, according to which “[t]he Organization and its Members, in pursuit of the Purposes stated in Article 1,” shall act in accordance with the Principles enlisted in Article 2. Particularly, states are obliged to “refrain in their international relations from the threat or use of force against the

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<sup>32</sup> UN GA Res. 3314(XXIX), available at <http://www.un.org/documents/ga/res/29/ares29.htm>

<sup>33</sup> See e.g. Otto Luchterhandt, Der Status der Republik Berg-Karabach aus der Sicht des sowjetischen Staatsrechts, in: Kannatian, Raffi (Hrsg.): Geschichte und Gegenwart in schwierigem Umfeld, Frankfurt/ M 1998, S 266-286; Vahram Soghomonyan [Hrsg.], Lösungsansätze für Berg-Karabach/Arzach. Selbstbestimmung und der Weg zur Anerkennung, Nomos 2010, 11-77



territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”

Hence, the UN Charter clearly defines that the principle of territorial integrity is related to the dimension of relations between states. As a principle in pursuing the purposes of UN, territorial integrity cannot oppose the UN purpose of equal rights and self-determination of peoples.

According to the Article 103 of the UN Charter, “in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” Hereby in the event of any contradiction or differing interpretation between a bilateral or multilateral agreement and the UN Charter, the UN Charter prevails.

The same is related to the 1975 Helsinki Final Act, which states the conformity of its principles to the UN Charter and declares the common will of the participating States to apply these principles, in conformity with the purposes and principles of the UN Charter. Moreover, the 10<sup>th</sup> principle of the Helsinki Final Act directly confirms that “in the event of a conflict between the obligations of the members of the United Nations under the Charter of the United Nations and their obligations under any treaty or other international agreement, their obligations under the Charter will prevail, in accordance with Article 103 of the Charter of the United Nations.”

Notably according to the VIII principle of the Helsinki Final Act, “all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development”, and “[t]he participating States [...] recall the importance of the elimination of any form of violation of this principle.”

The wording of the right to self-determination of peoples in the Helsinki Final Act is consistent with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966, developed in the framework of the UN, as well as with the Declaration on Principles of International Law, approved by UN General Assembly Resolution 2625 (XXV) of 1970.

Therefore, from the perspective of international law the declaration and realization of independence by the people of Nagorno-Karabakh is undoubtedly quite legitimate, while the attempts by Baku to contradict the right to self-determination of the people of

Nagorno-Karabakh to the territorial integrity of Azerbaijan are contrary to international law, as well as the commitments undertaken by Azerbaijan under UN.

### ***3.2. The advisory opinion of the International Court of Justice on the Kosovo case***

Naturally, the clarifications of the International Court of Justice on the right to self-determination of peoples and the principle of territorial integrity can not contradict to the UN Charter. It is quite legitimate that in the ICJ's advisory opinion on Kosovo of 22 July 2010 it is clearly defined that the unilateral declaration of independence is not prohibited by international law in any way, and that the principle of territorial integrity only applies to interstate relations.<sup>34</sup>

### ***3.3. The wave of self-determination in the modern world***

The attempts by Azerbaijan to contradict territorial integrity to the right to self-determination of peoples are attempts to resuscitate the past and are doomed to failure. It is proved by the fact that since 1945 the quantity of UN members has grown 3.5 times, turning 193 from 55.

Among those states are Eritrea (1993), East Timor (2002), Montenegro (2006) and Southern Sudan (2011), that were relatively recently internationally recognized and joined the UN.

## **4. NKR established as a democratic state**

The people of Nagorno-Karabakh have proven its ability to be responsible for the realization of its right to self-determination. During the past 21 years NKR has established itself as a *de facto* democratic state in the situation of resisting the Azerbaijani aggression and the continuing blockade.<sup>35</sup>

Since the parliamentary elections of 28 December 1991, Karabakh regularly holds public administration and local self-government elections, which have been highly appreciated by international observers. The system of checks and balances, which is enshrined in the Constitution of 10 December 2006, adopted in a nationwide referendum, operates among the branches of power. The combat-ready army of NKR is under civilian control.

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<sup>34</sup> International Court of Justice, "Accordance With International Law of the Unilateral Declaration of Independence in Respect of Kosovo", Advisory Opinion of 22 July 2010, available at <http://www.icj-cij.org/docket/files/141/15987.pdf>

<sup>35</sup> Сергей Маркедонов, "Де-факто образования постсоветского пространства: двадцать лет государственного строительства", Аналитические доклады Института Кавказа № 5, январь 2012г.

It is noteworthy that in contrast to other subjects, that have become independent from the former communist camp or totalitarian system, the people of Karabakh has successfully implemented the process of fostering of democracy without the assistance of international institutions.

## **5. The Role of the Republic of Armenia**

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 for the independence of Nagorno-Karabakh, expressed in the referendum of December 10, 1991. The *de jure* non-recognition of the independence of NKR is Armenia's contribution to the peaceful settlement of the conflict through negotiations.

Since the independence of NKR, Armenia has built its relations with NKR as a *de facto* established state. The cooperation between Armenia and Nagorno-Karabakh is regulated by dozens of bilateral agreements, which include social, cultural, economic, financial, legal and defence areas. One of the most important dimensions of cooperation is overcoming the limitations on realizing human rights and fundamental freedoms, caused by the international non-recognition of NKR.

The army of the Republic of Armenia did not take part in the self-defense operations of Karabakh and only protected the territory of the Republic of Armenia against the aggressive actions of Azerbaijan.

Many Armenian volunteers from different states, including Armenia, took part in the operations against Azerbaijani aggression in Karabakh and went to Karabakh to join the self-defense army.

Taking into consideration the constant threats of the use of force by Azerbaijan, Armenia is always ready to support militarily Nagorno-Karabakh Defense Army to resist Azerbaijani military aggression and to protect the security of the people. It also derives from the obligation of all States to promote, through joint and separate actions, the implementation of the principle of equal rights and self-determination of peoples.

As a result of Azerbaijan's resistance, Nagorno-Karabakh, being a factual party to the conflict, does not participate in the negotiation process. In order to ensure continuity in the negotiation process, Armenia does not cease its participation, but, of course, cannot replace NKR.

## 6. The current stage of the negotiation process

### 6.1. Madrid principles

Since 1995, the peace process has been carried on in the format of negotiations with the mediation of the OSCE Minsk Group three Co-Chairs (Russia, USA, France), that have an international mandate. Currently negotiations are held, based on the Madrid proposals, presented by the Co-Chairs in November 2007.

For over a year Azerbaijan, which had agreed to accept Madrid principles as a basis for the negotiations, denied their very existence. Meanwhile, the negotiations on those principles were going on. And on July 10, 2009, the content of Madrid principles was partially published in the L'Aquila statement of the Presidents of the Minsk Group Co-Chair countries.<sup>36</sup>

The conflict should be resolved on the basis of principles of non-use of force, territorial integrity and equal rights and self-determination of peoples. And the six elements of conflict resolution, published in L'Aquila statement, are as follows:

- return of the territories surrounding Nagorno-Karabakh to Azerbaijani control;
- an interim status for Nagorno-Karabakh providing guarantees for security and self-governance;
- a corridor linking Armenia to Nagorno-Karabakh;
- future determination of the final legal status of Nagorno-Karabakh through a legally binding expression of will;
- the right of all internally displaced persons and refugees to return to their former places of residence; and
- international security guarantees that would include a peacekeeping operation.

After the publication of Madrid proposals the negotiations were activated. OSCE Minsk Group Co-Chair countries adopted a number of joint statements, including statements together with Armenia and Azerbaijan.<sup>37</sup> Besides, in 2008-2011 Presidents of

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<sup>36</sup> Statement by the OSCE Minsk Group Co-Chair countries, L'AQUILA, 10 July 2009, available at <http://www.osce.org/mg/51152>

<sup>37</sup> See OCSE Minsk Group page at <http://www.osce.org/mg>

Armenia and Azerbaijan, on the invitation of Russian President Dmitry Medvedev, had a series of meetings in Russia and adopted joint declarations.<sup>38</sup>

Thus, the mediators are trying to bring to compromise the opposing positions of the parties concerning self-determination and territorial integrity issues through Madrid principles. On the one hand, self-determination is proposed, but only on the territory of Karabakh, plus a land link with Armenia. On the other hand, Azerbaijan's territorial integrity is proposed, but without Nagorno-Karabakh. This agreement will ensure the realization of the right of all refugees to return to their homes. International security guarantees will be provided for the implementation of agreements.

### ***6.2. The two missions of the OSCE Minsk Group Co-Chair countries***

The Minsk Group Co-Chair countries actually carry out two missions. One is to maintain stability in the conflict zone. The Co-Chairs, as well as monitorings of the line of contact by the Personal Representative of the OSCE Chairman-in-Office, have a major contribution to the maintenance of the cease-fire and ceasing reescalation of large-scale military operations.

The other mission of Co-Chair countries is to contribute to reaching an agreement on the settlement of the issue through compromise. If a final result on this issue has not been reached yet, then it is not the mediators to be blamed. The side, which prevents the consistent efforts of the Co-Chairs, is in charge.

### ***6.3. What prevents progress in the negotiations***

#### ***6.3.1. Distortion of the essence of the dispute***

By distorting the nature of Nagorno-Karabakh conflict and the causes of the outbreak of the conflict, Azerbaijan is continuously trying to present the issue as a territorial dispute between Azerbaijan and Armenia. This approach hinders the efforts of Minsk Group Co-Chairs, aimed to settling the issue. At the same time this is an attempt by Azerbaijan to avoid responsibility for massacres of Armenians, policy of ethnic

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<sup>38</sup> Совместное заявление Президентов Азербайджанской Республики, Республики Армения и Российской Федерации по нагорно-карабахскому урегулированию от 23 января 2012 года [http://news.kremlin.ru/ref\\_notes/1135](http://news.kremlin.ru/ref_notes/1135); Meeting with Presidents of Armenia and Azerbaijan, Kazan 24 June 2011 <http://eng.kremlin.ru/news/2462>; Совместное заявление президентов Азербайджанской Республики, Республики Армения и Российской Федерации по нагорно-карабахскому урегулированию, 5 марта 2011 года, [http://news.kremlin.ru/ref\\_notes/882](http://news.kremlin.ru/ref_notes/882); Meeting with Presidents of Armenia and Azerbaijan, Astrakhan, 27 October 2010, <http://eng.kremlin.ru/news/1206>; Declaration between the Republic of Azerbaijan, the Republic of Armenia and the Russian Federation Maiendorf Castle, 2 November 2008, <http://archive.kremlin.ru/eng/text/docs/2008/11/208708.shtml>

cleansing and aggression against self-determined Nagorno-Karabakh, as well as their consequences.

### 6.3.2. Selective and distorted presentation of the proposals of the mediators

Baku rejects two of three fundamental principles proposed in Madrid document, on which the conflict should be resolved. Those are the right to self-determination of peoples and non-use of force or threat of force. The emphasis is only on one principle - territorial integrity, which is also presented in a distorted manner, contradicting the UN Charter.

Azerbaijan only emphasizes two of the six elements presented in L'Aquila statement of 2009 by the Presidents of Russia, U.S. and France. Baku endlessly talks about the return of the territories under the control of Karabakh, "neglecting" the territories of NKR under Azerbaijani control. Opposing "the right of all persons to return to their former places of residence", Baku only speaks about the return of Azerbaijani refugees, ignoring the Armenian refugees both from the occupied territories of Karabakh and from Azerbaijan.<sup>39</sup>

At the same time, Azerbaijan essentially rejects the proposed interim self-governing status of Nagorno-Karabakh, together with the determining of its final status through legally binding expression of will of the people of Nagorno-Karabakh.

Meanwhile, the mediators have repeatedly stated that both the three fundamental principles and the elements of conflict settlement are an integrated whole, and they should be realized after being agreed upon. Thus the principle "nothing is agreed until everything is agreed" operates. Moreover, Minsk group Co-Chairs confirm that there is no hierarchy among those principles and that they should be conceived as an integrated whole.<sup>40</sup>

Azerbaijan's selective and distorted approach to the proposals and negotiated documents presented by the mediators attests to the fact that Baku actually adheres to "everything or nothing" destructive principle.

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<sup>39</sup> See e.g. Azerbaijani Foreign Minister Discloses Details Of 'Madrid Principles', RGE/RL, 15 March 2010, at [http://www.rferl.org/content/Azerbaijani\\_Foreign\\_Minister\\_Discloses\\_Details\\_Of\\_Madrid\\_Principles/1984485.html](http://www.rferl.org/content/Azerbaijani_Foreign_Minister_Discloses_Details_Of_Madrid_Principles/1984485.html)

<sup>40</sup> Remarks by Hillary Clinton at Astana OSCE Intervention, 1 December 2010, at <http://www.state.gov/secretary/rm/2010/12/152167.htm>

### 6.3.3. By setting aside the Madrid principles, passing to drafting the text of the treaty

Baku offers to give up reaching an agreement around the Madrid principles and pass to the drafting of a comprehensive agreement. Obviously, it is impossible to reach an agreement on the text of the treaty, before the fundamental principles of the treaty are agreed upon.

### 6.3.4. Withdrawing the issue from the Minsk Group Co-Chairs format

In order to block the negotiation process, Azerbaijan makes continuous efforts to withdraw the discussion of the issue from the Minsk Group Co-Chairmanship format, and initiates parallel activities in various international organizations and in parliaments of individual states for propaganda purposes. Azerbaijan even manipulates the idea of Islamic unity, trying to ascribe religious nature to the conflict. It is another attempt to distort the essence and causes of the conflict.

### 6.3.5. Discrediting the activities of Minsk Group Co-Chairs

Azerbaijani high-rank officials regularly make statements about the inefficiency of the Minsk Group Co-Chairs and even accuse Co-Chairing countries – Russia, the U.S. and France, of being biased.<sup>41</sup> It turns out that mediators would only be impartial if they would not demand a peaceful settlement of the issue and would satisfy the “everything or nothing” approach of Azerbaijan.

## **7. What prevents the establishment of confidence-building measures among the sides**

Armenian sides fully accept the numerous calls and suggestions of the mediators aimed to strengthening confidence-building between the parties. The issue of confidence-building is a complete package, comprised of various elements. Those elements include refusing from belligerent rhetoric and state-sponsored propaganda of hatred among the peoples, disseminating hatred and enmity between peoples, protection of cultural heritage of the neighboring nations instead of destructing them, strengthening the ceasefire regime, withdrawal of snipers from the contact line, cooperation in various areas, as well as the promotion of interaction and dialogue between different groups of public.

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<sup>41</sup> See e.g. “Ilham Aliyev received Ambassadors of OSCE member-states in Gabala”, website of the President of Azerbaijan, 10.09. 2012 at <http://ru.president.az/articles/5977>.



As stated by the President of Armenia: "No nation is perceived by the Armenian people as enemies. In the same spirit, the Armenian people anticipate that the authorities of neighboring states will stop their policy of denying Armenians the right of existence, sovereignty, stable and secure development, meanwhile pushing their own societies towards violence."<sup>42</sup>

### ***7.1. Xenophobia against Armenians***

Azerbaijan's leadership does not miss a chance to declare all Armenians murderers, barbarians, fascists and Azerbaijan's enemies. Azerbaijan's youth is taught in the atmosphere of hatred and intolerance towards Armenians.<sup>43</sup>

The result of such education was the brutal murder of an Armenian officer in his sleep with numerous ax blows by Azeri Ramil Safarov during NATO training organized in Budapest. And this murderer, who had been sentenced to life imprisonment by the Hungarian court, after being extradited to Azerbaijan, was released right at the Baku airport, awarded an extraordinary military rank and paid off his salary for the years spent in the Hungarian prison. Thus, in Azerbaijan murdering an Armenian is not only considered as not a crime, but is also officially encouraged and glorified.

This action of Azerbaijan was not only condemned by the leadership of the Minsk Group Co-Chair countries, their executive and legislative bodies, but also by the vast majority of OSCE, EU, the Council of Europe, NATO participating States, as well as other international organizations.<sup>44</sup> In particular, in the Statement by the European Commission against Racism and Intolerance it is emphasized that "hate crime should be adequately punished", and that "developments such as those in the Safarov case risk cultivating a sense of impunity for the perpetrators of racist offences of the most serious nature." "ECRI has repeatedly recognized the link between the harsh comments regularly made in this country [Azerbaijan] about the Nagorno-Karabakh conflict and the discrimination that Armenians coming under Azerbaijan's jurisdiction encounter in their daily lives."<sup>45</sup>

The large-scale propaganda of presenting a falsified image of the events in Khojaly on 25-26 February 1992, is also aimed at disseminating hostility towards Armenians. The

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<sup>42</sup> <http://www.president.am/hy/press-release/item/2012/12/15/Address-by-Serzh-Sargsyan-at-the-14th-Republican-Convention/>

<sup>43</sup> Contre la xénophobie et la violence, ONG "Le Syndrome de Soumgait: L'anatomie du Racisme en Azerbaïdjan", Erevan 2012.

<sup>44</sup> See <http://karabakhfacts.com/tag/ramil-safarov-case/>

<sup>45</sup> Statement by the European Commission against Racism and Intolerance concerning the pardoning in Azerbaijan of a person convicted of hate crime, Strasbourg, 4 September 2012, at [http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/117-04\\_09\\_2012\\_Azerbaijan\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/117-04_09_2012_Azerbaijan_en.asp)

settlement was turned into a military base of the Azerbaijani army, and Karabakh's capital Stepanakert was regularly bombarded from the base in Khojaly. Also, being located beside the airport, it was preventing the only means of air link for Karabakh with the outside world, which was being blockaded.

Both the authorities and the population remaining in the area were informed about the planned attack and the humanitarian corridor for the population to freely reach the town of Aghdam, which was under the control of Azerbaijani army. But the civilians were fired at near Aghdam, in the area under the control of Azerbaijani army far away from Khojaly.

There is ample evidence about this, including in Azerbaijani sources. For instance, during Khojaly incident in 1992 the President of Azerbaijan Ayaz Mutallibov said in an interview, "...the corridor, by which people could escape, had nonetheless been left by the Armenians. So, why did they have to open fire? Especially in the area around Aghdam, where there was sufficient force at that time to get help to the people."<sup>46</sup> President of the committee investigating Khojaly incident Ramaz Fataliev said: "On February 22 National Security Council meeting took place, at which the President, the prime minister, chairman of the National Security Council and others were present. During the meeting it was decided not to evacuate people from Khojaly. Therefore, we ourselves provoked Armenians to attack. Even the members of the Security Council knew that Armenians could not commit acts of genocide."<sup>47</sup>

Presenting the tragedy of the population of Khojaly as if it was a genocide committed by Armenians also aims to preventing the discovering the truth and the real penetrators of the massacre, as well as trying to counterbalance, by false accusations, the committed genocidal policy against the Armenian population of Azerbaijan in Sumgait, Kirovabad, Shamkhor, Khanlar and Baku during a peacetime.

### ***7.2. Prohibiting individuals of Armenian origin or those who visited Nagorno-Karabakh Republic to enter Azerbaijan***

Azerbaijan bans individuals of Armenian descent to visit Azerbaijan, regardless of their nationality and place of residence.<sup>48</sup> There have been many cases of sending such people back right from the airport.

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<sup>46</sup> «Независимая газета», 2.04.1992г.

<sup>47</sup> <http://www.azadliq.org/content/article/1818751.html>

<sup>48</sup> Azerbaijan Country Specific Information, Bureau of Consular Affairs, US Department of State, at [http://travel.state.gov/travel/cis\\_pa\\_tw/cis/cis\\_978.html](http://travel.state.gov/travel/cis_pa_tw/cis/cis_978.html)

The recent case of keeping and afterwards expelling a citizen of Kazakhstan, ethnic Azerbaijani Bayram Azizov from Baku airport only because there was a note about visiting the Republic of Armenia in his passport, is ironical.<sup>49</sup> And that's in case when this individual of Azerbaijani ethnicity, together with tens of thousands of Iranian ethnic Azeri tourists visiting Armenia each year, of course, face no problems entering the territory of Armenia.

Azerbaijan's "black lists", which prohibit persons who visited Nagorno-Karabakh, including public and political figures, journalists, artists, athletes to visit Azerbaijan, are constantly increasing.

The same applies to the members of the elections observing delegations who visit NKR. Probably, after seeing the established democracy in Nagorno-Karabakh's, the observers' visit to Azerbaijan would allow them to make comparisons with the authoritarian reality in Azerbaijan.

### ***7.3.Falsification of the history and destruction of historic monuments***

Azerbaijani high leadership has repeatedly stated that Armenia and Nagorno-Karabakh are located in historical Azerbaijani lands, and that Armenians are aliens in this region.<sup>50</sup> Azerbaijani historians, acting for political order, have reached a "flight of thought", claiming that allegedly Azeris originate from Sumerians.<sup>51</sup> And this is in case when Armenia was known for at least three millennia ago, and Azerbaijan appeared on the political map less than a century ago.

Many materials are being distributed, including those with Azerbaijani President's prefatory, that Armenian churches, Khachkars (cross stones) and other historical and cultural monuments in the region are allegedly Azerbaijani monuments.<sup>52</sup> A natural question arises that if Azerbaijan really believes that the Armenian cultural heritage is theirs, then why do they ruthlessly destroy it? Naturally, medieval Khachkars in Jugha, that have a cultural value of universal significance, were barbarically destroyed not because of being Azerbaijani.<sup>53</sup> In the same logic, all monuments, that indicate the

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<sup>49</sup> Azeri-born Kazakhstan citizen banned from Baku over visit to Armenia, 21 November 2012, at <http://www.panarmenian.net/eng/news/133536/>

<sup>50</sup> Rouben Galichian, "Clash of Histories in the South Caucasus", London 2012.

<sup>51</sup> R. Aliyev, Y. Yousoufov, I. Babayev, I. Jafarov and A. Mamedova, authors. *History of Azerbaijan, 6<sup>th</sup> grade textbook* ( Baku: 2002)

<sup>52</sup> Aziz Alakbarli et al, "Monuments of the Western Azerbaijan." Baku, Nurlan 2006.

<sup>53</sup> Old Jugha: Chronicling the Destruction, at <http://mfa.am/en/jugha>

evidence of the age-old presence of Armenians, were destroyed on the territories of Nagorno-Karabakh Republic, occupied by Azerbaijan.<sup>54</sup>

#### **7.4. Economic blockade**

Azerbaijan implements the economic blockade of Armenia and Nagorno-Karabakh and keeps close all communication channels. Azerbaijan is the only country, which acts against the process of the normalization of Armenian-Turkish relations, because it will result to the opening of the border closed by Turkey and will terminate the blockade.

#### **7.5. Maintaining tension on the frontline**

Both the Co-Chair countries and international organizations have repeatedly urged the conflict parties to take steps to ease tensions on the line of contact. In particular, the mediators proposed to mutually withdraw snipers and form a mechanism for investigating incidents on the contact line. Both Armenia and Nagorno-Karabakh declared their readiness to implement these recommendations, while Azerbaijan rejects them. Moreover, the President of Armenia back in 2010 in Brussels offered to sign a treaty on retracting from the use of force, which was also rejected by Azerbaijan.

Retracting from the strengthening of the ceasefire regime, the withdrawal of snipers, the formation of an incident investigating mechanism and regularly organizing provocations on the border with Armenia and Nagorno-Karabakh, the Azerbaijani leadership is directly responsible for the maintenance of tension on the contact line and for every victim from all sides, regardless of their nationality.

#### **7.6. Threats to resume war**

In the last seven years, Azerbaijan has increased its military spending more than 20 times.<sup>55</sup> Consistently arming, Azerbaijan exceeded all upper thresholds indicated by the OSCE Treaty on Conventional Armed Forces in Europe.

The country's leadership uses every opportunity, even the opening ceremonies of schools, to voice its threats of resolving the Karabakh conflict by forceful means.<sup>56</sup> And

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<sup>54</sup> Samvel Karapetian, "The State of Armenian Historical Monuments in Azerbaijan and Artsakh", Yerevan, 2011, available at [http://mfa.am/u\\_files/file/monuments3.pdf](http://mfa.am/u_files/file/monuments3.pdf).

<sup>55</sup> The SIPRI Military Expenditure Database, available at <http://milexdata.sipri.org/>

<sup>56</sup> <http://www.azatutyun.am/content/article/24676913.html>;  
<http://www.apa.az/en/news.php?id=176277>; <http://en.president.az/articles/5252>;  
<http://en.president.az/articles/4739>; <http://en.president.az/articles/4423>;  
<http://www.news.az/articles/politics/51631>; <http://en.president.az/articles/3327>;  
<http://www.historyoftruth.com/news/latest/10097--karabakh-conflict-can-be-resolvedpeacefully-through-the-pressure-on-armenia>; <http://milaz.info/en/news.php?id=6145>;

this happens at the time when the mediators make calls for the resolution of the conflict through peaceful negotiation process, that are addressed to Azerbaijan. For instance, the 2011 Deauville Statement of the Presidents of France, Russia and the U.S. states that "the use of force created the current situation of confrontation and instability. Its use again would only bring more suffering and devastation, and would be condemned by the international community. We strongly urge the leaders of the sides to prepare their populations for peace, not war."<sup>57</sup>

The maintenance of international peace and the settlement of disputes by peaceful means is the first purpose of the UN Charter. By refusing from the measures aimed to loosening tension on the contact line and voicing threats to resume hostilities, Azerbaijan acts against this purpose.

### ***7.7. Using Karabakh conflict as a means of preserving the hereditary authoritarian regime***

As assessed by international organizations, Azerbaijan is a state with strengthened authoritarianism, where human rights and freedoms are roughly violated.<sup>58</sup>

By undermining the negotiation process, provoking increase of tensions and declaring the fight against Armenians, the authorities in Baku are in reality struggling against their own people. The goal of this struggle is preserving the inheritance of power

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<http://www.hurriyetdailynews.com/n.php?n=azerbaijan-backs-turkey-over-cyprus-but-fearskarabakh-impact-says-azeri-deputy-pm-2011-07-21>; <http://www.hurriyetdailynews.com/n.php?n=top-azeri-official-warns-of-fresh-war-in-caucasus-2011-07-18>; <http://news.az/articles/politics/40654>; <http://asbarez.com/97048/azerbaijan-must-attack-yerevan-says-political-expert/>; <http://www.milaz.info/en/news.php?id=5897>; <http://www.news.az/articles/politics/39670>; <http://ca.reuters.com/article/topNews/idCATRE75P0LD20110626>; <http://en.trend.az/news/karabakh/1891595.html>

<sup>57</sup> Joint statement on the Nagorno-Karabakh Conflict, by the Presidents of the OSCE Minsk Group Co-Chair Countries at the G-8 Summit, Deauville, 26 May 2011, available at <http://www.osce.org/mg/78195>

<sup>58</sup> "Azerbaijan: Autocracy in an oil paradise", DW, 19.05.2012 at <http://www.dw.de/azerbaijan-autocracy-in-an-oil-paradise/a-15958397>; "They Took Everything from Me", Human Rights Watch, 29.02.2012 at <http://www.hrw.org/reports/2012/02/29/they-took-everything-me>; "Beaten, Blacklisted, and Behind Bars", Human Rights Watch, 26.10.2010 at <http://www.hrw.org/reports/2010/10/26/beaten-blacklisted-and-behind-bars-vanishing-space-freedom-expression-azerbaijan>; "International Perceptions Index 2012", Transparency International at <http://www.transparency.org/cpi2012/results>; "Azerbaijan: the spring that never blossomed: freedoms suppressed in Azerbaijan", Amnesty International, 16.11.2011 at <http://www.amnesty.org/en/library/info/EUR55/011/2011/en>; "Running Scared: Azerbaijan's silenced voices", The International Partnership Group for Azerbaijan, 2012 at <http://www.article19.org/data/files/medialibrary/3003/12-03-26-azerbaijan.pdf>; "ECRI Report on Azerbaijan", ECRI, Council of Europe. 31.05.2011 at <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/azerbaijan/AZE-CbC-IV-2011-019-ENG.pdf>; "Azerbaijan", Freedom in the World 2012, Freedom House, <http://www.freedomhouse.org/report/freedom-world/2012/azerbaijan>

in a state of growing dissatisfaction among the population. The profits gained from energy exports are not directed to mitigating the social polarization, but to increasing the military expenditure, presenting the Karabakh conflict in a distorted manner and perpetrating the propaganda of hatred against Armenians.

Continuous complaints about the alleged injustice of international law and discriminated approach of the international institutions against Azerbaijan, stories about the conspiracy of Armenians worldwide, figures about Azerbaijan's military spending and statements on preparing for war are aimed to isolating the Azerbaijani community from democratic processes and intimidating people by the illusory external danger.

Continuous propaganda about the external enemy is a basis for declaring all dissidents, expressing their dissatisfaction with the regime, as enemies and supporters of Armenian and anti-Azerbaijani forces, and making repressions against them.

### ***7.8. Refusal from the reached agreements***

The negotiation process cannot be effective unless Azerbaijan regularly steps back from the reached agreements.

For instance, Azerbaijan withstood from the agreement on strengthening the ceasefire regime, signed on February 3, 1995, which was aimed to creating more favorable conditions for a progress in the peace process. The agreement described the procedure of investigating incidents.

The OSCE Minsk Group Co-Chairs have repeatedly stated the importance of realizing the mechanism of investigating incidents on the line of contact. The arrangement by the parties on creating this mechanism was stipulated in the Joint Declaration of 2011 by the Presidents of Armenia, Russia and Azerbaijan in Sochi.<sup>59</sup> But in 2012 Azerbaijan, opposing the arrangement, under the threat of using veto, did not allow providing funds from OSCE budget for the incident investigation mechanism.<sup>60</sup>

On November 2, 2008, the Presidents of Armenia, Russia and Azerbaijan signed the Maiendorf Declaration, in which the importance of peaceful settlement of the issue is highlighted. But within the same month in an interview to the Italian «RAI International»

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<sup>59</sup> Совместное заявление президентов Азербайджанской Республики, Республики Армения и Российской Федерации по нагорно-карабахскому урегулированию, 5 марта 2011 года, [http://news.kremlin.ru/ref\\_notes/882](http://news.kremlin.ru/ref_notes/882)

<sup>60</sup> International Crisis Group, Tackling Azerbaijan's IDP Burden, 27 February 2012, available at <http://www.crisisgroup.org/~media/Files/europe/caucasus/azerbaijan/b067-tackling-azerbaijans-idp-burden.pdf>

TV channel, the President of Azerbaijan stated that the obligation to settle the conflict by peaceful means does not oblige to refrain from a military resolution of the conflict.<sup>61</sup>

Whenever arrangements are achieved, and the international community expects a major breakthrough from the realization of these arrangements, Azerbaijan steps back. This was the case after the agreement reached in 2001 in Key West<sup>62</sup>.

Before the meeting in Kazan in 2011, the Minsk Group Co-Chairs and the international community called upon the sides to respect the agreements previously reached and accept the Basic Principles of the settlement. Opposing the agreements previously reached, Azerbaijan presented ten new proposals and blocked the possible progress.<sup>63</sup>

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Thus, all actions of Azerbaijan are aimed not to confidence-building, but to disseminating hatred against Armenians, not to reaching an agreement based on compromise, but to undermining the negotiation process. Azerbaijan has the illusion that the tolerance of mediators and the international community, typical to the modern civilized world, encourages its racism and aggressiveness. Continuation of this illusionary policy will inevitably lead to the international recognition of Nagorno-Karabakh Republic.

## **8. The constructiveness of the Armenian sides**

Nagorno-Karabakh issue is still not resolved, and a *status quo* is maintained because the Azerbaijani side is not yet ready for compromises and resists the involvement of Nagorno-Karabakh Republic, a party to the conflict, as a full-fledged party to the negotiations. There is no doubt that there will be no unilateral concessions, and that any nation determines its own destiny by itself.

Nagorno-Karabakh Republic has demonstrated a constructive approach since the beginning. Nagorno-Karabakh did not demand for the recognition by Azerbaijan as a precondition for the negotiation process, although it would be justified both from legal and moral points of view, and would evidence the refusal from power politics by Azerbaijan.

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<sup>61</sup> "Aliyev's statements meant to exert pressure on Armenia", 28 November 2008, at <http://www.panarmenian.net/eng/news/27741/>

<sup>62</sup> Key West Peace Talks on Nagorno-Karabakh", Press Statement, Richard Boucher, Washington, DC, 14.03.2001, at <http://2001-2009.state.gov/r/pa/prs/ps/2001/1243.htm>

<sup>63</sup> Comment by Foreign Minister Edward Nalbandian to the Media after the Presidential Meeting in Kazan, 25 June 2011, at <http://mfa.am/en/interviews/item/2011/06/25/kazan/>



Armenia showed its constructiveness by agreeing to accept the Madrid document as a basis for the negotiations. This document implies holding a legally binding referendum in Nagorno-Karabakh, despite the fact that the independence referendum of NKR was held back in 1991, in full compliance with USSR legislation of that time and the international law.

Armenia's position is expressed in the following section of the speech by the President of the Republic of Armenia of 15 December 2012:

"We will carry on with the process of negotiations. Expressing our gratitude to the Co-Chair states of the Minsk Group for their efforts towards the peaceful resolution of the conflict, we will at the same time continue to draw the attention of mediators and the international community to opportunities for the establishment and strengthening of confidence building measures, which could be helpful towards a peaceful resolution.

Azerbaijan's policy in general and, particularly, their refusal to withdraw snipers, refusal to put into force a mechanism for investigation of border incidents, the glorification of a murderer, inducement of xenophobia and racism, unreliable and hypocritical stance during negotiations are not conducive to the establishment of confidence building measures and, if left unchecked, will exacerbate the situation in the entire region. It would be reasonable and natural if Artsakh came to the table of negotiations as soon as possible, thus our efforts will be aimed at the expeditious resolution of that issue.

Effective negotiations in a constructive atmosphere will become possible only when the parties to the conflict genuinely want to reach a just resolution of this issue, abandoning baseless maximalist claims."<sup>64</sup>

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<sup>64</sup> <http://www.president.am/hy/press-release/item/2012/12/15/Address-by-Serzh-Sargsyan-at-the-14th-Republican-Convention/>