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WORKING PAPER

**EVALUATING THE OSCE
MINSK GROUP'S
MEDIATION OF THE
ARMENIA-AZERBAIJAN
CONFLICT**

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I. INTRODUCTION

The Armenia–Azerbaijan conflict started with an armed military attack launched by Armenia against Azerbaijan in the late 1980s and early 1990s. The consequence of this war, lasting from 1988–1994, was the occupation by Armenia of Azerbaijan’s Nagorno-Karabakh region and seven adjacent districts, which, to this day, are controlled by the Armed Forces of the Republic of Armenia. Numerous international documents, in particular the four UN Security Council resolutions (822, 853, 874, 884) demanding the liberation of the occupied Azerbaijani territories, are still being ignored.

Conflict resolution has so far remained elusive, despite the fact that the OSCE Minsk Group’s Co-Chairmanship Institute, which includes the United States, France and Russia, has, since its establishment in 1992, been mediating the conflict. This work aims to focus on the work of the OSCE Minsk Group in its mediation of the Armenia–Azerbaijan conflict and give a relevant analysis through theoretical lenses involving the works of scholars in the fields of conflict resolution and international mediation. After conducting this analysis, the work will conclude whether the OSCE Minsk Group’s mediation activity so far can be characterized as a success or a failure.

II. THE START OF THE MEDIATION PROCESS

International involvement in the Armenia–Azerbaijan conflict was not possible at the outbreak of hostilities, as the conflict started before the dissolution of the USSR. This situation excluded any initiatives by international actors because they could have been interpreted as interference in the internal affairs of a sovereign state. Things changed after the disintegration of the Soviet Union and subsequent internationalization of the conflict. In 1991–1992, there were several mediation attempts by Russia, Kazakhstan, and Iran. The United Nations did not shoulder the responsibility for conflict mediation owing to its already being overburdened with other priorities around the world.¹ Upon both Armenia and Azerbaijan becoming members, in 1992, of the Conference on Security and Co-operation in Europe (CSCE; renamed the OSCE in December 1994), that organization, in a regional arrangement under Chapter VII of the UN Charter, undertook a major role in mediating the conflict resolution.

At the beginning, the CSCE sent a special mission of rapporteurs, under the leadership of Czech diplomat Karel Schwarzenberg, to collect information about the conflict. Another mission following the first one was led by Mr Dienstdier, the CSCE Chairman-in-Office.² After the Khojaly massacre³ of February 26, 1992, the CSCE Ministerial Council took the

¹ However, the UN did speak up in the most active phases of the conflict by adopting UN SC resolutions 822, 853, 874 and 884. All of those resolutions recognized the territorial integrity of Azerbaijan and called for the withdrawal of Armenian forces from the occupied Azerbaijani territories.

² Erjan Kurbanov, “The Armenian-Azerbaijani Conflict over Nagorno- Karabakh and Prospects for OSCE Mediation,” in S. Neil MacFarlane and Oliver Thranert, (eds.) *Balancing Hegemony: The OSCE in the CIS*, (Queen’s University Kingston, Ont. Center for International Relations, 1997): 87

³ At night from February 25 to 26 the Armed Forces of Armenia occupied the Azerbaijani town of Khojaly. The occupation was carried out with active support of several units of the Russian Army's 366th regiment. In a few hours 613 innocent and unarmed were killed. Among them were 106 women, 63 children, 8 families were totally exterminated. 25 children were totally, and 130 children were partly orphaned. 487 people became

decision to convene a conference in Minsk on the Nagorno-Karabakh conflict, to work out a final settlement for the conflict. However, owing to dissonances on the idea of the conference, the Minsk Conference was quickly replaced by the 'Minsk Group,' which comprised eleven participating states (Belarus, the Czech Republic, Slovakia, France, Germany, Italy, Russia, Sweden, the U.S.A., Armenia, and Azerbaijan).⁴ In March of 1995, the mandate of the Minsk Group co-chairs was adopted.⁵ This gradual retrenchment from a conference format to a co-chairmanship institute, in reality, marked the beginning of shuttle diplomacy on the part of the mediators between the conflicting parties.

From the inception, the CSCE's mediation efforts were negatively affected by a string of adverse events. The occupation of the Azerbaijani cities of Shusha and Lachin, on May 8 and 18, 1992 respectively, by the Armed Forces of Armenia further escalated the conflict and complicated peace efforts. In November 1992, during the Prague meeting of the CSCE Conference of Senior Officials (CSO), a decision was taken to establish a special planning group in Vienna; this was to prepare an Advance Monitoring Group to be deployed in the region. Moreover, at the Rome meeting of the Minsk Group in February 1993, a preliminary agreement was signed to send a group of special observers to monitor the situation. However, new attacks by Armenia against the Kelbajar district of Azerbaijan at the end of

disabled persons (of them 76 were minors). 1275 people were taken into hostage and even though afterwards most of the hostages were released from captivity, the fates of 150 of them are still unknown. (<https://www.justiceforkhojaly.org/>)

⁴ At the beginning the Minsk Group consisted only of the nine participating states, excluding Armenia and Azerbaijan, however, later in the year, the two parties to the conflict joined the Group.

⁵ Organization for Security and Cooperation in Europe (OSCE) – Azerbaijan relations <https://mfa.gov.az/en/content/170/organization-for-security-and-cooperation-in-europe-osce-azerbaijan-relations>

March, and a new surge in the level of violence at the front line, played havoc with these plans.⁶

Political tensions in Azerbaijan and a change of leadership therein, coupled with Armenia's further military advances,⁷ conditioned a bleak setting for the CSCE's rather timid initial mediation efforts. Scepticism of the Minsk Group's capacity to deliver effective solutions to end the hostilities on the ground contributed to Russia's increasing profile as a mediator. Instead of an international 'monitoring force,' the Russian Federation was trying to organize and control a CIS 'separation force,' though under the auspices of the CSCE, which would enable Russia to permanently station itself in the conflict zone.⁸ However, in 1993, in view of the internal political turbulence in the country, Russia had to shelve its plans, which enabled the CSCE to re-energize its activities. Through the efforts of the Swedish Co-Chair of the Minsk Group, meetings between the conflicting parties resumed. Nevertheless, this window of opportunity quickly closed, owing to the attacks by Armenia on two Azerbaijani regions, Zangelan and Goradiz. Control over the mediation process was again assumed by Russia, which brokered the ceasefire on May 12, 1994.⁹

After the ceasefire agreement, Russia's activism in the mediation process became more pronounced than that of the other co-chairs. However, with the signing of the so-called 'Contract of the Century' in September 1994 between the State Oil Company of the Azerbaijan Republic (SOCAR) and foreign oil companies on the exploration of the oil resources of the Caspian basin, the West started to perceive Azerbaijan in more strategic

⁶ Oliver Paye and Eric Remacle, "UN and CSCE policies in Transcaucasia" in Bruno Coppieters (ed.), *Contested Borders in the Caucasus*, (VUB University Press, 1996):119-120.

⁷ In July 1993 Armenian forces captured further Azerbaijani territories, also the city of Aghdam, which was not the part of the Nagorno- Karabakh autonomous region.

⁸ David D. Latin and Robert Grigor Suny, "Armenia and Azerbaijan: Thinking a way out of Karabakh", *Middle East Policy*, vol. VII, no.1, (October 1999):159.

⁹ *Ibid.*, 160-161.

terms. The necessity of ensuring security and stability in this part of the world was now correlated with the urgency of securing the critical infrastructure projects that were in the process of coming into being.

III. 'SECOND BREATH', OR A NEW WAVE OF ACTIVISM

The following years, especially 1996–1997, marked an increase in intensity in the mediation activity of the Minsk group. At the OSCE Lisbon Summit of 1996, the Member States laid out three very important principles as a legal basis for a peaceful settlement process. These were: 1) the territorial integrity of the Republic of Armenia and the Republic of Azerbaijan; 2) the legal status of Nagorno-Karabakh, defined in an agreement based on self-determination, which confers on Nagorno-Karabakh the highest degree of self-rule within Azerbaijan; 3) guaranteed security for Nagorno-Karabakh and its population, including mutual obligations to ensure the compliance by other parties with the provisions of the settlement.¹⁰

However, the OSCE consensus rule became part of the problem that prevented the inclusion of all three principles in the final Lisbon document. Although 53 out of 54 participating states accepted the principles, Armenia's refusal to join the consensus rendered impossible the reflection of the above principles in the main Lisbon document and the achievement of any mutually agreeable arrangement based on the Lisbon principles. Thus, this protracted inter-state conflict was left in anticipation of the next steps for a peaceful resolution.

In 1997 the composition of the co-chairmanship of the Minsk Group was altered¹¹ in accordance with the Chairman-in-Office's decision to include France, the Russian Federation and the United States, a situation that remains unchanged up to the present. The change in the composition of the Minsk Group was almost immediately translated into new

¹⁰ Statement of the OSCE Chairman-in-Office, Annex 1 to the Lisbon Document, December 2-3, 1996. From <http://www.osce.org>

¹¹ Between 1992 and 1997 Italy, Sweden, Finland and Russia assumed the chairmanship.

initiatives. In 1997, the co-chairs initiated famous three proposals – the so-called ‘package’ variant, ‘step-by-step’ or ‘phased,’ and ‘common state’ proposals – that envisaged a negotiated solution to the conflict. The ‘package’ approach aimed at achieving a solution for the cessation of hostilities and the withdrawal of its armed forces by Armenia and an agreement on the final status of the Nagorno-Karabakh region in one stage. The ‘phased’ solution implied the cessation of hostilities and withdrawal of armed forces by Armenia in the first place, to be followed by negotiations on the status of the Nagorno-Karabakh region. The third, and most contentious, ‘common state’ proposal promoted the idea of the Nagorno-Karabakh region becoming a state-territorial formation in the form of a republic constituting a common state with Azerbaijan within its internationally recognized borders.¹² All three proposals failed to build a base for a negotiated solution, owing to the parties’ different security considerations and preferences for one or other model of conflict resolution.

¹² “Key texts and agreements from the Nagorno-Karabakh conflict and peace process” Conciliation Resources, available from (<http://www.c-r.org/accord-article/key-texts-and-agreements-accord-nagorny-karabakh>). Accessed on March 1, 2014

IV. ENGAGING FACE-TO-FACE

After the failure of all three proposals, the Minsk Group stopped preparing new ones, and the next strategy became the organization of tête-à-tête negotiations between Armenian and Azerbaijani leaders to again discuss all three proposals individually. In 1999–2001, the presidents met several times in Washington, Istanbul, Geneva, Davos, Moscow, Yalta, Paris, and Key West. The negotiations between the Presidents were highly confidential. However, the mutually exclusive demands of the parties, coupled with Armenia’s rigid negotiating position to perpetuate its gains from the war, rendered these talks ineffective. Suspicions regarding the ability of the Minsk Group to perform effective mediation rose again. Nevertheless, the tête-à-tête strategy was not abandoned.

The mediators employed a new approach towards the negotiations by establishing contacts mainly at the ministerial level in order to build an appropriate environment for further negotiations by the presidents. In 2004, the Prague Process, which envisaged direct bilateral negotiations between the Azerbaijani and Armenian Foreign Ministers, was initiated. In 2004–2006, there was optimism about a window of opportunity for achieving a settlement between the election cycles in both countries (parliamentary elections in 2005 and presidential elections in 2008 in Armenia and Azerbaijan). During the presidential meeting in Kazan in 2005, the co-chairs proposed the so-called ‘basic principles’ for further negotiation.¹³

¹³ “Nagorno-Karabakh: Risking War,” International Crisis Group Europe Report, N 187, (November 14, 2007):2, <https://www.crisisgroup.org/europe-central-asia/caucasus/nagorno-karabakh-azerbaijan/nagorno-karabakh-risking-war>

These ‘basic principles’ were later refined and presented to the parties at the OSCE Madrid Ministerial in 2007 as the so-called ‘Madrid Principles.’ The principles envisaged the withdrawal of Armenian forces from the occupied territories adjacent to the Nagorno-Karabakh region with special modalities for the Lachin and Kelbajar districts. Restoration of the social and transport infrastructure and resumption of trade relations should be part of the plan, while the establishment of interim international security arrangements for the Nagorno-Karabakh region was considered until the vote on status could take place.¹⁴ The Madrid Principles underwent another revision as, on the basis of these principles, the co-chairs, in 2009–2012, proposed six additional elements:

- creating an interim status for Nagorno-Karabakh that provides guarantees for security and self-governance;
- returning the territories surrounding Nagorno-Karabakh to Azerbaijani control;
- building a corridor linking Armenia to Nagorno-Karabakh;
- determining the final legal status of Nagorno-Karabakh through a legally binding expression of will;
- upholding the right of all internally displaced persons (IDPs) and refugees to return to their former places of residence; and

¹⁴ Ibid., Also “Armenia and Azerbaijan: Season of Risks” International Crisis Group Europe Briefing, no. 71 (26 September 2013, <https://www.crisisgroup.org/europe-central-asia/caucasus/armenia/armenia-and-azerbaijan-season-risks>)

- granting the parties international security guarantees that would include a peacekeeping operation.¹⁵

However, the points of contention remained unchanged. For example, the modalities of a referendum or a population vote for defining the future legal status of the region are to be agreed and conducted as a result of a negotiated agreement between Armenia and Azerbaijan, and this vote should be conducted in a non-coercive environment in which all the citizens have opportunity to envisage their positions after public debate. The parties' opinions, however, differ widely on constituencies, modalities, and the scope of the potential vote on the region's status, with Azerbaijan expressing reservations that 1) IDPs from Nagorno-Karabakh should equally participate in the vote and, therefore, should previously be returned to the occupied areas; and 2) according to Article 3 of the Azerbaijani Constitution, any vote that could result in the independence of Nagorno-Karabakh should be a nationwide referendum.¹⁶ Azerbaijan is nevertheless ready to give the Nagorno-Karabakh region the highest degree of autonomy within its internationally recognized borders.

From 2009–2011, the OSCE Minsk Group Co-Chairs were engaged in shuttle diplomacy between the conflicting parties. From then until the January 2012 Sochi meeting of the presidents, the negotiations, though snail-paced, were still, more or less, on track. However, persistent disagreements between the parties continued to hinder the negotiation process. Negotiations were largely stalled until the Vienna summit on November 19, 2013, between the presidents.

¹⁵ "Digging out of Deadlock in Nagorno-Karabakh", Report N 255, 20 December 2019, <https://www.crisisgroup.org/europe-central-asia/caucasus/nagorno-karabakh-conflict/255-digging-out-deadlock-nagorno-karabakh>

¹⁶ Ibid., 5.

When the talks finally resumed in Vienna, expectations were cautiously optimistic about the continuity that this meeting could provide. Although nothing substantial emerged from that meeting, the presidents nevertheless committed themselves to relaunch direct negotiations. This, in itself, was already a positive sign after a long break. The next meeting of the presidents was set to take place sometime at the beginning of February 2014 after a preparatory meeting of foreign ministers on January 24, 2014, in Paris. However, consistent with the unlucky pattern, ceasefire violations involving casualties started to surge on the front lines. The parties again got ensnared in mutual recriminations and the blame game. The expected next meeting of the presidents did not take place. Later in 2014, there were meetings in Sochi (August); on the margins of the NATO Wales Summit (September 2014); and in Paris (October 2014). In Paris, the presidents agreed to exchange information on those missing in the Armenia–Azerbaijan conflict under the auspices of the International Committee of the Red Cross (ICRC). Later, the parties also met on the margins of the UN General Assembly in September 2015; in Vienna in May 2016; in St Petersburg in June 2016; in Geneva in October 2017; and in Vienna in December 2017. This period was also accompanied by increased incidents on the front lines, which culminated in the ‘four-day-war’ of April 2016, when Azerbaijan responded to Armenian provocation on the front line.

V. POST-‘VELVET’ PEACE PROCESS

The changes in the Armenian leadership in the spring of 2018 whipped up hopes that new energy and positive dynamics could be instilled into the negotiations. Indeed, there were positive expectations on the Azerbaijani side that 2019 could be the year of a breakthrough in the negotiations. Azerbaijani Foreign Minister Elmar Mammadyarov reiterated this expectation, remarking that, ‘We hope that in the coming 2019, certain progress will be achieved in terms of the withdrawal of the Armenian armed forces from the occupied territories of Azerbaijan and the normalization of relations between the two countries.’¹⁷ Indeed, in 2019, Azerbaijani and Armenian representatives had five meetings: in Paris on 16 January, with the respective leaders in Vienna on 28 March, in Moscow on 15 April, in New York on the margins of the UN General Assembly on 23 September, and in Bratislava on 4 December. Although the parties agreed to continue efforts towards conflict resolution and had numerous meetings in 2019, these talks did not yield any tangible outcome. A political solution to the conflict remained unattainable.

Despite the fact that several meetings between the foreign ministers of the two countries were held in 2019, and positive dynamism was noted on the human track, with mutual visits of journalists taking place through the facilitation of the OSCE Minsk Group, the year 2019 was dubbed the ‘lost year for the conflict settlement.’¹⁸ This was particularly the case due to the much-discussed and highly provocative move by Prime Minister Nikol Pashinyan, who, in his controversial speech on August 5, 2019, during the pan-Armenian

¹⁷ “Azerbaijan expects progress in 2019 in Armenian troops’ withdrawal from occupied lands”, Trend New Agency, 25 December 2018, <https://en.trend.az/azerbaijan/politics/2998348.html>

¹⁸ “Ilham Aliyev was interview by Rossiya-24 TV Channel”, 26 December 2019, <https://en.president.az/articles/35459>

games held in Khankendi, took the liberty to aggravate sensitivities even further by declaring that ‘Karabakh is Armenia – period.’ This move by Armenia’s Prime-Minister was soon rejected by Azerbaijani President Ilham Aliyev during his speech at the Valdai discussion club on 3 October 2019, when he pronounced, ‘Karabakh is Azerbaijan and an exclamation mark!’¹⁹

In January 2020, a meeting took place between the foreign ministers in Geneva. The meeting, said to have lasted up to seven hours, discussed the statement released by the co-chairs, and the ministers announced that they had talked about ‘implementation of agreements and proposals discussed in 2019 and possible next steps to prepare populations for peace; principles and elements forming the basis of a future settlement; and timing and agenda for advancing the settlement process.’²⁰

Moreover, even as COVID-19-induced lockdowns threw a wrench into the negotiation process, the parties met during the pandemic on April 21 and June 29–30 via a video conference between the foreign ministers Mammadyarov and Mnatsakanyan with the participation of Minsk Group co-chairs Igor Popov of Russia, Stephane Visconti of France, Andrew Schofer of the United States, and Andrej Kasprzyk, the personal representative of the OSCE chairperson-in-office. The joint statement of the April 21 meeting stated that, given the current unprecedented challenges faced by people all over the world, ‘... the Foreign Ministers and the Co-Chairs expressed the hope that the resolve seen in the global pandemic response will bring a creative and constructive impetus to the peace process.’ Moreover, the co-chairs, in the joint statement of the June 29–30 meeting, called upon the

¹⁹ Esmira Jafarova, “What is happening with the “peace” in Armenia-Azerbaijan conflict?”, *Columbia Journal of International Affairs*, 5 April 2020, <https://jia.sipa.columbia.edu/online-articles/what-happening-%E2%80%9Cpeace%E2%80%9D-armenia-azerbaijan-conflict>

²⁰ “Joint Statement by the Foreign Ministers of Armenia and Azerbaijan and the Co-Chairs of the OSCE Minsk Group”, <https://www.osce.org/minsk-group/445114>

parties 'to take additional steps to strengthen the ceasefire and to prepare the populations for peace.'²¹

However, then came the so-called 'parliamentary and presidential elections' held by Armenia in the Nagorno-Karabakh region, the results of which were not recognized by any member of the international community.²² The elections resulted in the Shusha provocation, in which the 'newly elected president' of the occupation regime was 'inaugurated' in Shusha – a city of great moral and cultural significance for Azerbaijan.²³ The rejection by Armenian Prime Minister Pashinyan of Russian Foreign Minister Lavrov's words that the staged and step-by-step solution of the conflict was the subject of negotiations further complicated an already fragile situation.²⁴

Things reached the inflection point with the new surge of violence at the front. From July 12–14, 2020, Armenia violated the ceasefire, this time on the Armenian–Azerbaijani international border in the direction of the Tovuz district of Azerbaijan. This military provocation left dozens or more servicemen killed on both sides, including one general and a 76-year-old civilian from the Azerbaijani side. International actors, including the European Union, the OSCE Minsk Group, the United Nations, the United States, and the

²¹ "OSCE MG co-chairs, Azerbaijani and Armenian FMs issue joint statement following meeting", APA News Agency, 21 April 2020, https://apa.az/en/nagorno_garabagh/Foreign-Ministers-of-Armenia-and-Azerbaijan-and-the-Co-Chairs-of-the-OSCE-Minsk-Group-issue-Joint-Statement-318731

²² Esmira Jafarova, "What is happening with the "peace" in Armenia-Azerbaijan conflict?", Columbia Journal of International Affairs, 5 April 2020, <https://jia.sipa.columbia.edu/online-articles/what-happening-%E2%80%9Cpeace%E2%80%9D-armenia-azerbaijan-conflict>

²³ Vasif Huseynov, "Lessons learned from ongoing clashes between Armenia and Azerbaijan", Euractiv, 14 July 2020, <https://www.euractiv.com/section/azerbaijan/opinion/lessons-learned-from-ongoing-clashes-between-armenia-and-azerbaijan/>

²⁴ Armenian MFA denies discussion of step-by-step settlement of Karabakh conflict, 23 April 2020, <https://www.world-today-news.com/armenian-mfa-denies-discussion-of-step-by-step-settlement-of-karabakh-conflict/>

Russian Federation called for an immediate cessation of hostilities. Pundits in the field have spoken of the motives behind Armenia's latest military provocation; these range from, *firstly*, an attempt to drag the Collective Security Treaty Organization (CSTO) into the conflict with Azerbaijan by invoking Article 4 of the Organization on collective self-defence; *secondly*, an objective to damage the critical energy infrastructure, established by Azerbaijan and its international partners, that passes nearby the Tovuz area; and *thirdly*, an attempt to shift attention from Armenia's internal problems to the foreign policy realm.²⁵

However, many concur that the July clashes were the deadliest and most violent after April 2016 war, particularly because they occurred far from the Line of Contact, where ceasefire violations have usually occurred. Moreover, the killing of a high-ranking Azerbaijani official, Major General Polad Hashimov, coupled with the newly surfacing evidence that Russia may have been actively arming Armenia during these military confrontations, further aggravated the already tenuous security situation in the region and dealt a heavy blow to the peace process. Azerbaijan did not hide its disappointment with Russian military shipments to Armenia that took place in the midst of and immediately after the July clashes.²⁶ Against the backdrop of this hostile political-military partnership between the Russian Federation and Armenia, Azerbaijan and Turkey stepped up their military-strategic cooperation, which included joint military drills, the planned purchase of new military equipment from Turkey, including drones, a visit by a delegation led by the Minister of National Defense of the Republic of Turkey, Hulusi Akar, to Azerbaijan in mid-August, 2020, and so on. The contours of military alliances in the South Caucasus have thus become more pronounced. The peace process, or whatever was still left of it, was further shattered to its core owing to

²⁵ Esmira Jafarova, "Russian military shipments to Armenia – a dangerous escalation?" Euractiv, 31 August 2020, <https://www.euractiv.com/section/azerbaijan/opinion/russian-military-shipments-to-armenia-a-dangerous-escalation/>

²⁶ Ibid.

the rejection by the incumbent leadership of Armenia of the Madrid principles and the position of the OSCE Minsk Group, which has confined itself to merely issuing declarations calling on the parties to end the violence.

Against this grim picture, Armenia's attempt, since March 2019, to change the negotiation format to also include Nagorno-Karabakh region as an independent party to the negotiations,²⁷ the provocative gestures of its Prime Minister, Nikol Pashinyan, discussed above, that continued throughout his tenure, as well as the rejection of the Madrid Principles by Armenia's leaders at different times during the peace process,²⁸ including by Nikol Pashinyan, led to discussions suggesting that Armenia is no longer interested in peace negotiations. Moreover, the increasingly militarized posture displayed by Armenia, which included the Prime Minister's wife, Anna Hakobyan, undergoing military training in the Nagorno-Karabakh region, and newly announced plans to relocate 100–150 Armenian families from Lebanon to the Nagorno-Karabakh region in the aftermath of the explosion in Beirut on August 5, 2020,²⁹ gave rise to speculation that the so-called 'Velvet Revolution' in Armenia is over and, unless the Minsk Group Co-Chairs speak up on these recent developments, one cannot expect the resumption of peace negotiations.³⁰

²⁷ Vasif Huseynov, "New Hope for a Breakthrough in the Nagorno-Karabakh Deadlock?" 6 April 2020, Central Asia Caucasus Analyst, <https://www.cacianalyst.org/publications/analytical-articles/item/13611-new-hope-for-a-breakthrough-in-the-nagorno-karabakh-deadlock?.html>. This proposal was rejected both by Azerbaijan and the OSCE Minsk Group co-Chairs.

²⁸ "Elmar Mammadyarov: "Armenia rejected the renewed Madrid principles and threatened the process of peace negotiations", Karabakh, org, 24 September 2011, accessed on 8 September 2020, from <http://karabakh.org/news/elmar-mammadyarov-%E2%80%9Carmenia-rejected-the-renewed-madrid-principles-and-threatened-the-process-of-peace-negotiations%E2%80%9D/>

²⁹ Vasif Huseynov, "Creating a new demographic situation in Nagorno-Karabakh is detrimental", Euractiv, 4 September 2020, <https://www.euractiv.com/section/azerbaijan/opinion/creating-a-new-demographic-situation-in-nagorno-karabakh-is-detrimental/>

³⁰ "Farid Shafiyev comments on Armenia's refusal from Madrid principles", 4 September 2020, Azərbaycan24, <https://www.azerbaycan24.com/en/farid-shafiyev-comments-on-armenia-s-refusal-from-madrid-principles/>

Just very recently, the next flare-up between Armenia and Azerbaijan happened in the early morning hours of 27 September 2020. The Armed Forces of Armenia by using large-calibre weaponry, mortars and all sorts of artillery initiated intensive shelling of the positions of Azerbaijani Armed Forces along with the frontline as well as of the populated areas in Qapanli village of Terter, Chragli and Orta Garvend villages of Aghdam, Alkhanli and Shukurbeyli villages of Fizuli, and Jojuq Merjanli village of Jabrayil districts. Azerbaijan reacted immediately through counter-offensive measures, and as of this writing, the Defense Ministry of Azerbaijan announced the liberation of several villages,³¹ strategic heights in the northern and southern directions, while the fighting was still at full swing.

However, for the purposes of this paper, it should be highlighted that the OSCE Minsk Group again confined itself to making generic and so-called “neutral” statement on 27 September,³² which strongly condemns “the use of force and regret the senseless loss of life, including civilians” and appeals “to the sides to cease hostilities immediately and to resume negotiations to find a sustainable resolution of the conflict”. Their statements issued at the later stage of the conflict followed a similar pattern.³³

If there is anything that the mediators had to learn from about 30 yearlong history of the conflict resolution, it is that making such generic and “balanced” statements do not serve conflict resolution purposes well. It is high time to uphold the relevant norms and principles of international law, particularly those relating to sovereignty and territorial integrity of

³¹ <https://report.az/dagliq-qarabag-munaqishesi/azerbaycan-odusunun-ugurlu-emeliyyati-neticesinde-bir-sira-kendlerimiz-azad-edilib/>

³² <https://www.osce.org/minsk-group/465018>

³³ “Statement by the Co-Chairs of the OSCE Minsk Group, 5 October 2020”, accessed from ReliefWeb, <https://reliefweb.int/report/armenia/statement-co-chairs-osce-minsk-group-5-october-2020>

states, call things by their proper names and distinguish the occupier from the victim of this occupation.

VI. EVALUATION OF OSCE MEDIATION VIA THEORETICAL LENSES

Based on the description above, and using the theoretical assumptions of mediation theories, the OSCE mediation efforts can be evaluated. Conflict mediation scholars layout a quite comprehensive theoretical approach that could be employed in analyzing this particular case. In their work ‘The Study of International Mediation: Theoretical Issues and Empirical Evidence,’ Jacob Bercovitch and Allison Houston highlight several factors that define the success of mediation, such as the nature of the mediator, its rank and identity, the mediation process, the mediation environment, strategies, the nature of the dispute, the duration and timing of the intervention, fatalities and intensity issues, etc.³⁴ However, below I will focus on those factors that have the most relevance to this analysis.

The authors define mediation as being successful when it has made a considerable and positive difference to conflict resolution and interaction between the parties. Mediation is considered to be partly successful when it has initiated dialogue and negotiations between the conflicting states, and it is deemed to be a limited success when it has achieved a ceasefire.³⁵ Against the backdrop of the aforementioned assumptions, and considering the overall picture of peace negotiations between the conflicting sides, the OSCE Minsk Group mediation efforts could perhaps occupy a position between being a partly successful and limited success. However, taking into account the real situation on the ground, I will argue that its efforts could best be labelled as being not successful, since, firstly, the ceasefire was

³⁴ Jacob Bertcovitch and Allison Houston, “The study of international mediation: theoretical issues and empirical evidence” in Jacob Bertcovitch (ed.) *Resolving International Conflicts: The Theory and Practice of Mediation*, (the USA, Lynne Rienner Publishers, inc.1996):31

³⁵ *Ibid.*,19.

brokered not by the collective efforts of the OSCE Minsk Group, but by an individual OSCE Minsk Group member, the Russian Federation; secondly, despite the fact that a dialogue between the conflicting parties was initiated, that has also been occasionally dominated by the Russian Federation. Moreover, this dialogue and the negotiations are hard to sustain, as recurring violations of the ceasefire often stall the peace process. As the events described above attest, maintaining this dialogue has therefore proven to be a challenging task for the OSCE Minsk Group. In terms of reaching a final solution, the OSCE mediation efforts could therefore not be seen as being successful. However, the possible success of the OSCE mediation activities also hinges on a number of different factors that could be explained using the conjectures of mediation theory.

There are several factors that influence the success of mediation. For the purpose of analysis, the most relevant ones will be focused on: the characteristics of the parties (previous relations between the conflicting parties),³⁶ the nature of the conflict, and the strategies of mediation. Firstly, it is assumed that the previous relations between the conflicting parties matter in defining the success of mediation. If the previous relations between the warring sides were friendly, then there are more chances for the mediation to be successful than in the case that the parties had a troubled past.³⁷ In sketching the success of the OSCE efforts through this prism, it becomes clear that the co-chairs are challenged by mediating between parties that share a history filled with rancour and antagonistic mutual perceptions. The fact the Armenians and Azerbaijanis have a history of ethnic clashes complicates the achievement of rapprochement on the difficult issues, thus diminishing the chances for a successful mediation. Moreover, Armenia's provocations, including along the international

³⁶ In "Characteristics of the conflict" I will focus only on the previous relations between the conflicting parties, leaving aside parties' political context and parties' power, since they will require more in-depth analyses, which is beyond the scope of this paper.

³⁷ Jacob Bertcovitch and Allison Houston, 22.

border with Azerbaijan, its questioning of the already established negotiation format, and its rejection of the Madrid Principles make matters much worse and also hinder the mediation activities.

Secondly, the nature of the dispute is defined as one of the important factors impacting the outcome of the mediation. When vital interests such as sovereignty and territorial integrity are at stake, it is much more difficult for the mediators to succeed. Ideological disputes and disputes over the issues of resources and ethnicity have a greater possibility of being resolved through successful mediation than security and sovereignty disputes.³⁸ Indeed, looking through the prism provided by this statement, it could be argued that the success of the mediation by the OSCE in the Armenia–Azerbaijan conflict is, to a large extent, impeded by what many like to refer to as the ‘intractable’ nature of the conflict, as can be seen from the acrimonious debate on the so-called ‘conflict’ between two principles of international law: territorial integrity and the rights of peoples to self-determination. To clarify, the principle of self-determination does not entail the right to unilateral secession of any part of a territory, and should be exercised peacefully within the internationally recognized territory of a state and the existing norms and principles of international law, including the 1975 Helsinki Final Act, which clearly delineates the borders of the two principles and establishes that “the participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to the territorial integrity of States.”³⁹ The Nagorno-Karabakh conflict is about hard security issues and involves vital interests such as sovereignty and

³⁸ Ibid., 24,25.

³⁹ Conference on Security and Cooperation in Europe Final Act, Helsinki 1975, <https://www.osce.org/files/f/documents/5/c/39501.pdf>

territorial integrity. This has an overwhelming impact on the OSCE's potential to succeed in its mediation efforts.

The third element involves the strategies used for mediation. According to the authors, there are three main strategies that lead mediation behaviour: communication-facilitation strategies, procedural strategies and directive strategies. In communication-facilitation strategies, mediators mainly execute the function of communication between the parties, with little control over the substance of the issues. In procedural strategies, mediators have greater formal control and may define the technical factors, such as the mediation environment, number and type of meetings, agenda of the meetings, etc. Directive strategies, however, are more advanced, in the sense that the mediators influence the content, substance as well as the process of the mediation. In directive strategies, mediators provide incentives, issue ultimatums, offer rewards and punishments, and introduce new proposals. It is argued that the directive strategies are the most successful compared with the others.⁴⁰ Moreover, the authors also assume that the mediators need 'leverage' in order to exert influence on the parties to move from their maximalist positions. Such 'leverage' and resources assist mediators' ability to attain a successful result through evening out the power inequalities and strengthening co-operative behaviour.⁴¹

During its activities, the Minsk Group used directive strategies in presenting various proposals to the parties. However, the group was only presenting the proposals for the parties' perusal, without any of the incentives, rewards, punishments, ultimatums, etc., that are required by directive strategies, thus diminishing the effectiveness of this strategy. The co-chairs have chosen to equate the aggressor state and the victim without exerting any

⁴⁰ Jacob Bertcovitch and Allison Houston, 30.

⁴¹ Ibid, 26.

pressure – the ‘leverage’ – on the occupying country. This actually evinces the heart of the problem with the OSCE mediation: The Minsk group has confined itself only to ‘good offices,’ without making any efforts to restore the justice that is constantly denied to the victim of the occupation and its population.⁴² In a thus-far-ossified, unhealthy pattern, the OSCE Minsk Group Co-Chairs would leave reaching agreement on the proposed deals at the discretion of the parties and, by opting for a communication-facilitation strategy, would wait for the conflicting sides themselves to find zones of agreement.

Therefore, although in terms of providing the parties with food-for-thought, the OSCE Minsk Group achieved some success in the 1990s, this did not usher in a solution to the conflict. The OSCE mediation efforts could be therefore be labelled as being not successful because the final solution to the conflict still remains elusive. Years of mediation are remembered because of the directive strategies – the initiation of frequent and continuous bilateral contacts, preparation of blueprints for a future peace deal, etc. – that, however, have not yielded a final, lasting solution to the conflict because the OSCE lacks the capacity and also the willingness to influence the conflicting parties’ behaviours and fails to differentiate between the occupying state and the victim of this occupation.

There is also a factor of bias in international mediation, which cannot be overlooked in dealing with the Minsk Group’s mediation activity. It is assumed that mediators, in general, have certain interests that motivate their involvement in conflict resolution. This also indicates that they have something at stake in the conflict that derives from the political or economic context, or a close relationship with any of the conflicting sides. A biased mediator is thought to be one that has something at stake or has preferential political,

⁴² Esmira Jafarova, “Restorative Justice in the Armenia-Azerbaijan conflict”, EurasiaReview, 4 September 2020, <https://www.eurasiareview.com/23082020-restorative-justice-in-context-of-armenia-azerbaijan-conflict-oped/>

economic, or other kinds of relations with one of the conflicting parties. In contrast, an impartial mediator is seemingly balanced or ‘neutral,’ in the sense that it has no opinion or preference in the conflict and its outcome. A biased mediator may not only be the only party available to mediate, but also the one with the greatest lever on the conflict side that needs to change the most.⁴³ There are suggestions that even biased mediators can achieve a breakthrough, despite their biases, but different forms of mediator bias can influence the parties’ perceptions about the whole mediation process. The partial mediator can sometimes unleash a political process that possesses leverage, weight and counterweight, or ‘carrots and sticks.’⁴⁴

The three Minsk Group Co-Chair states, Russia in particular, have not always been perceived as being non-tendentious. This perception was the strongest in Azerbaijan, which is suspicious of Russia’s extensive strategic and political alliances with Armenia, and believes that this special relationship undermines Russia’s image as an impartial mediator and translates into certain policy outcomes. The repeated free-of-charge delivery of military equipment by Russia to Armenia over the years, including the delivery of Iskander missiles; Armenia’s hosting of Russia’s 102nd military base and 3624th airbase within its territory; the creation of a single air-defence system of the two states in the Caucasus region; and the increasing military partnership between them constitute an apparent source of concern for Azerbaijan.

Moreover, intensified military interactions between Russia and Armenia on the days of the July 12–14 clashes, including the conduct of joint military exercises and, most lamentably,

⁴³ Peter J. Carnevale and Sharon Arad, “Bias and impartiality in international mediation”, in Jacob Bercovitch (ed.), *Resolving International Conflicts, The Theory and Practice of Mediation*, (Lynne Rienner Publishers, USA, 1996):40-42.

⁴⁴ *Ibid.*,49-51.

reports of Russian military shipments to Armenia, have further added to Azerbaijan's disappointment. It was reported that in July–August intensified flight activity was registered between the Russian Federation and Armenia, with over 500 tonnes of military cargo shipped by IL-76 military-transport planes on the route Rostov–Mineralnye Vody–Aktau–Turkmenbashi–Novoshehr–Rasht–Meghri–Yerevan. The Azerbaijani side expressed its dissatisfaction with the answer provided by the Russian officials that these were construction materials intended for the 102nd military base in Gyumri, Armenia. These developments are assessed as indeed marring Russia's role as an unbiased mediator in the conflict.⁴⁵

However, Russia is not the only country in the Minsk Group Co-Chairmanship troika that, in one or another way, has strong pro-Armenian connections. Both the United States and France have very active and omnipresent Armenian Diaspora lobby groups that extensively promote Armenia's interests within these two states. The foreign policies of the United States and France in regard to the Armenia–Azerbaijan conflict apparently do not exist in isolation from their domestic politics.⁴⁶ All three Minsk Group Co-Chairs have closer political and cultural relationships with Armenia than with Azerbaijan, although Azerbaijan increasingly shows more appeal in economic terms and its strengthening international posture. Ironically, however, despite the presence of bias on the part of the mediators, they

⁴⁵ Esmira Jafarova, "Russian military shipments to Armenia – a dangerous escalation?" Euractiv, 31 August 2020, <https://www.euractiv.com/section/azerbaijan/opinion/russian-military-shipments-to-armenia-a-dangerous-escalation/>

⁴⁶ To bring a recent example, the resolution "Situation in the occupied territories of Azerbaijan" initiated by Azerbaijan in 2008 during 62nd session of the UN General Assembly about the fires in the occupied territories was voted against only by Armenia and three co-chair states the US, Russia and France. The resolution was adopted; however, the co-chairs substantiated their stance with their disagreement to bring the matters related to the Nagorno-Karabakh conflict to the UN framework. But the mere act of their siding with Armenia in the voting for the resolution, in fact, testifies to the presence of bias in their approaches to the conflict resolution.

are also the ones with the greatest lever on the conflict side that needs to change the most, as argued in the work, discussed above, by Peter Carnevale and Sharon Arad. This statement suggests that, with a little more effort, the United States, Russia and France could have convinced Armenia to withdraw from the occupied Azerbaijani territories, thereby creating the basic, but most important, condition for the advancement of the peace process. However, unfortunately, we have so far not seen this happening.

In the given situation, there are two options that could further decide the fate of the peace process. In the first option, the OSCE Minsk Group continues to preserve the current discourse of keeping a balanced and equal approach to both conflicting parties, thus maintaining the dangerous and unproductive status quo for some years to come. This would, of course, be the worst-case scenario. In the second option, the OSCE, as a regional arrangement under Chapter VII of the UN Charter, could rethink its long-entrenched equal treatment of both parties and make appropriate adjustments to its position on conflict resolution by placing a premium on the implementation of the relevant resolutions of the UN Security Council (822, 853, 874, 884) on the Armenia–Azerbaijan conflict, calling for an immediate withdrawal of the occupying forces, and attaining restorative justice in this conflict.⁴⁷ Only then could the OSCE Minsk Group ensure defence against the recurring accusations of its ineffectiveness.

⁴⁷ Restorative justice, a term that stems from conflict resolution literature, means taking actions towards reducing animosity between the conflicting parties. The proponents of this idea argue that “the punishment of the offenders alone does not prevent them from continuing to hate the other side.” Therefore, it is best that “the offenders take the responsibility of acknowledging their offence and get motivated to change the relationship from destructive to constructive.” The concept does not merely seek to compensate the victims for the losses it incurred at the hand of the offender. It also necessitates that existing systems be revised so that injustices perpetrated in the past would no longer be possible in future. These systems must become a part of Armenia’s policy during this conflict resolution and a subsequent peacemaking process. Acceptance of all wrongdoings towards Azerbaijan and genuine intention to work towards fair and lasting peace based on the

VII. CONCLUSION

In concluding the above analysis, it should be reiterated that the OSCE mediation efforts could be seen as being not successful. Although the OSCE possesses the mechanisms to make a difference in the conflict resolution process, and its co-chairs have been engaged with mediation and facilitation work, the present format does not have the capacity and necessary tools to support attaining a final and lasting peaceful solution to the conflict. Despite all the work done so far, by extending the same treatment to both states – one being the victim of occupation, while the other is seeking to maintain its territorial acquisitions – the OSCE runs the risk of failing this task and consigning the entire South Caucasus region to many more years of instability. With matters remaining static in their present shape, the likelihood that the parties can achieve a negotiated conflict resolution based on the norms and principles of international law, as well as the relevant UNSC resolutions, seems, unfortunately, rather meagre.

Peace and reconciliation are long overdue in a region torn by conflict and mistrust. Security and confidence-building are not delivered automatically to those states in the most affected parts of Europe upon their membership in the OSCE. It takes hard work, dedication and well-thought-out strategies. The OSCE has a real chance to demonstrate that it can foster security and cooperation – the assets that its name stands for – in the South Caucasus region. It is long overdue.

norms and principles of international law, including respect for sovereignty, may lay the foundation for achieving restorative justice in this rocky neighbourhood.

Esmira Jafarova, “Restorative Justice In Context Of Armenia-Azerbaijan Conflict”, EurasiaReview, 23 August 2020, <https://www.eurasiareview.com/23082020-restorative-justice-in-context-of-armenia-azerbaijan-conflict-oped/>