

Why is the Nagorno-Karabakh Conflict still not Resolved?

Shavarsh Kocharyan



Границы НКР
Статья 142 Конституции НКР: "До
полного восстановления государственной
и Нагорно-Карабахской Республики и
границы публичная власть
территории, фактически
являющиеся под юрисдикцией Нагорно-
Карабахской Республики."

Границы НКР согласно декларации о
независимости 2-го сентября 1991г.
Территории НКР находящиеся под де
факто контролем Азербайджана
Административные границы НКР

масштаб 1:1
0 10

**WHY IS THE NAGORNO-KARABAKH
CONFLICT STILL NOT
RESOLVED?**

Shavarsh Kocharyan

Yerevan 2016

Shavarsh Kocharyan

Deputy Minister of Foreign Affairs of the Republic of Armenia since 2008. Associate professor at the faculty of International Relations and Diplomacy of the Yerevan State University.

In 1971 he graduated from the State Engineering University (Yerevan), Faculty of Technical Cybernetics, with specialization as Mathematician-Engineer. In 1975 completed his postgraduate studies at the All-Union Scientific Research Institute of Genetics (Moscow). In 1977 defended his PhD thesis on Biological sciences.

From 1976 to 1990 he worked in the Scientific Institutions of Armenia, holding the positions of Associate Scientist, Senior Scientist, Head of Laboratory and Head of Department.

He is the author of more than 150 scientific works and more than 30 inventions licensed in dozens of countries.

In 1990, 1995, 1999 and 2003 he was elected as Member of the National Assembly of the Republic of Armenia. In the National Assembly he was the member of the Committee on Social, Health and Environmental issues, Committee on European Integration, was elected the Deputy Chairman of Committee on Foreign Relations (1990-1995) and the Chairman of Committee on Scientific, Educational, Cultural and Youth issues (1999-2003).

He was a member of the delegations of the National Assembly of Armenia to the CIS Parliamentary Assembly (1992-1995 and 1999-2003), the OSCE Parliamentary Assembly (1999-2003) and the Parliamentary Assembly of the Council of Europe (2003-2005).

He was Chairman of the National Democratic Unity (1992-1993), Head of the Parliamentary Group "National Democrats" (1990-1995). Since 2001 he has been the President of the National Democratic Party.

Since 1988 Shavarsh Kocharyan has actively participated in the national movement for the democratization of Armenia and the independence of Karabakh.

Content

Introduction	4
1. The Essence of the Issue is the Realization of the Right to Self-Determination of the People of Nagorno-Karabakh	5
2. The Conflict is a Result of the Policy of Use of Force Initially Adopted by Azerbaijan	7
3. The Right to Self-determination of Peoples and the Territorial Integrity of States	12
4. NKR Established as a Democratic State	14
5. The Role of the Republic of Armenia	14
6. The Current Stage of the Negotiation Process	15
7. What Prevents the Establishment of Confidence-Building Measures among the Sides	19
8. Positions of the Armenian Sides	28
Map	30

Introduction

The current phase of the Nagorno-Karabakh issue has started since the last years of the existence of the USSR and turned into a conflict as a result of the policy of power 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 of the former Soviet area by the fact that the people of Nagorno-Karabakh impeccably implemented its right to self-determination within the legal frameworks 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 22 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, the USA and France. Despite the consistent efforts of the mediators, the Nagorno-Karabakh conflict remains 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 (NKR).

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 independent Azerbaijan

Nagorno-Karabakh (Artsakh), as a part of Armenia, is mentioned in the works of Strabo¹, Pliny the Elder², Claudius Ptolemy³, Plutarch⁴, Dio Cassius⁵ and other ancient authors. Meanwhile, Azerbaijan first emerged on the political map in 1918 only, 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 that period, the newly-created Azerbaijan had territorial claims towards the neighboring countries including the territory of Nagorno-Karabakh, and the League of Nations denied Azerbaijan's application for membership because of the uncertainty of its borders⁶.

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

With the constitutional act of independence of 18 October 1991, Azerbaijan voided all the legal acts of the Soviet Union relating to Azerbaijan, including the Bolshevik decisions of annexing Karabakh to Soviet Azerbaijan⁷.

1 Strabo. Geography. http://mfa.am/u_files/file/antic/GeographyStrabo.pdf

2 Pliny the Elder. Natural History. http://mfa.am/u_files/file/antic/NaturalHistoryPliny.pdf

3 Claudius Ptolemy. Geography. http://mfa.am/u_files/file/antic/PtolemyGeography.pdf

4 Plutarch. Lives of the Noble Greeks and Romans. http://mfa.am/u_files/file/antic/PlutarchsLives.pdf

5 Dion Cassius. Roman History. http://mfa.am/u_files/file/antic/DiosRomanHistory.pdf

6 League of Nations // J. First Assembly. Geneva, 1920. №17 (cited in: Avakian, Shahan. Nagorno-Karabagh: Legal Aspects. Yerevan, 2013). <http://mfa.am/ru/artsakh/>

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

1.2. Azerbaijan's policy of de-Armenianization of 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 capital of Karabakh and the Armenian cultural center in the region⁸.

During the entire Soviet period, Azerbaijan was consistently committing policies of repression and discrimination in the social, economic and cultural spheres based on ethnic grounds.

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 the Armenian population to 76.9 percent⁹.

The people of Nagorno-Karabakh has always opposed that policy and based on the precedents and the only opportunity to solve the issue within 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 petition on reunification with Armenia of 1965 was signed by 45,000 individuals, while the petition of 1987 was already signed by 80,000.

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

During the last years of the Soviet Union, in accordance with the USSR legislation, Nagorno-Karabakh legally obtained independence from Azerbaijan¹⁰. On February 20, 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 Armenia¹¹. The Armenian Parliament agreed, but Azerbaijan's parliament rejected it. The central government rejected this request, however a special governing committee was formed for Karabakh, thus withdrawing Karabakh from Baku's subordination and subjecting it

8 Chorbajian, Levon et al. *The Caucasian Knot: The History & Politics of Nagorno-Karabagh*. 1994. <http://books.google.am/books?id=OUlnYdOHJ3wC&lpg=PA110&ots=v0E9o9K8Gw&dq=shushi%2040%20C000%20armenians&pg=PA142#v=onepage&q=shushi%2040,000%201920&f=false>

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

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

11 Решение внеочередной сессии Совета народных депутатов НКАО XX созыва от 20 февраля 1988 г. <http://nkr.am/ru/decision--of-the-special-session-of-the-nkao-council-of-peoples-deputies-of-xx-session/41/>

directly to Moscow¹². On December 1, 1989, the parliament of Armenia and the authorized representatives of Nagorno-Karabakh adopted a joint decision to reunite Armenia and Karabakh¹³.

A legal way out of the situation was provided by the law of April 3, 1990, “Concerning the Procedure of Secession of a Soviet Republic from the USSR”¹⁴. 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 independently.

On August 30, 1991, Azerbaijan, in accordance with the abovementioned legislation, declared its independence. On September 2, 1991, the Nagorno-Karabakh Autonomous Region, together with the Shahumyan region, declared itself as an independent republic¹⁵. Nagorno-Karabakh did not participate in the September 21 referendum for independence of Armenia, and on December 10, 1991, the referendum for independence of the Nagorno-Karabakh Republic was held in Nagorno-Karabakh in presence of international observers (by the way, the referendum of independence of Azerbaijan was held on December 15). On December 21, 1991, the leaders of 11 Soviet Republics dissolved the Soviet Union by Alma-Ata declaration¹⁶.

Thus, at the moment of 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 Policy of Use of Force Initially Adopted by Azerbaijan

2.1. Pogroms and ethnic cleansings of Armenians

In response to the peaceful request of the Regional Council of Delegates of Karabakh, made on February 20, 1988, the Azerbaijani leadership a week later, on February 27-29 organized the massacre of Armenians with an unspeakable cruelty in the town of Sumgait, which is 20 kilometers far from Baku. Sumgait events were the beginning of Baku’s consistent policy of de-Armenianization of the country by organizing massacres against Armenians throughout the territory of Azerbaijan. On January 13-19, 1990, the last group of Armenians remaining in

12 Указ Президиума Верховного Совета СССР от 12 января 1989 г.

13 Joint resolution of Armenia SSR and Nagorny Karabakh Oblast on reunification. December 1, 1989.

14 Закон о порядке решения вопросов, связанных с выходом союзной республики из СССР от 3 апреля 1990 г. http://www.libussr.ru/doc_ussr/ussr_16379.htm

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

16 The Alma-Ata Declaration, 21 December 1991. http://lcweb2.loc.gov/frd/cs/belarus/by_appnc.html

Baku became subject of pogroms and was exiled. These barbarian acts resulted to hundreds of innocent victims¹⁷.

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 the Armenians, which started from Sumgait, as a continuation of the genocidal policy of the beginning of the century by Azerbaijan. As a result of interethnic tension, the immigration of Azerbaijanians from Armenia started. There were no pogroms of Azerbaijanians in Armenia, with the exception of isolated cases of violence, and the majority of 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 Armenia¹⁸.

Unlike the Armenians living on the territory of Azerbaijan, the Armenians of Karabakh and the relating regions managed to resort to self-defense against the conducted pogroms. In order to implement ethnic cleansings in Karabakh, starting from April 30, 1991, Azerbaijan launched Operation "Koltso" (Operation Ring) with the involvement of its special forces and the units of the 23rd division of the 4th army of the Soviet Union¹⁹.

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.

2.2. The aggression of Azerbaijan against the Nagorno-Karabakh Republic

Since 1992, Azerbaijan launched a large-scale military operation against the NKR. By June 1992, the Azerbaijani army had occupied about 60 percent of the territory of the NKR, massacring the local Armenian population and destroying the settlements²⁰. At the same time, the Azerbaijani army was shelling the settlements of Armenia along the Armenian-Azerbaijani border and trying to conquer the Armenian territories. In 1992 the President of Azerbaijan stated that

17 Cox, Caroline, Eibner, John. 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. <http://mfa.am/en/sumgait/>; European Parliament, Resolution B3-0049/93, 15.2.93 // Official Journal of the European Communities. № C42/165. <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. № C 106/121. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1991:106:0102:0163:EN:PDF#page=20>; An Open Letter on Anti-Armenian Pogroms in the Soviet Union // New York Times. 27 September 1990. <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; Сумгаитский синдром: анатомия расизма в Азербайджане / Общественная организация «Против ксенофобии и насилия». Ереван, 2012. <http://karabakhfacts.com/wp-content/uploads/2012/12/The-Sumgait-Syndrome.-Anatomy-of-Racism-in-Azerbaijan-ENG.pdf>

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

19 Доклад комитета по правам человека Верховного Совета России. Октябрь, 1999 г.

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

they would take Syunik (Zangezur), the southern part of Armenia, and that he will wash his feet in Lake Sevan.

In the war against Karabakh Azerbaijan involved mercenaries²¹, including more than 2,000 mercenaries from the terrorist hubs of Taliban and Al-Qaeda²² and hundreds of fighters under the command of Chechen terrorist Shamil Basaev²³.

The self-defense army of NKR managed to switch to an organized counterattack, break 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 the blockade

Many articles condemning the atrocities of Azerbaijan against Armenians were published 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]"²⁴.

The U.S. Senate in its resolution of 17 May 1991 condemned the violent actions of Azerbaijan against the peaceful population, as well as the blockade of Karabakh and Armenia²⁵. Moreover, the Section 907 of October 24, 1992, banned any kind of support to Azerbaijan by the USA until the latter ceased the blockade and the use of force against Armenia and Nagorno-Karabakh²⁶.

During the year of 1993, the UN Security Council adopted four resolutions, the core requirement of which was the immediate cessation of all hostilities and the resolution of the issue through peaceful negotiations²⁷. Opposing these resolutions, the Azerbaijani leadership initiated new armed attacks and suffered new defeats²⁸.

These defeats forced Azerbaijan to apply to the Nagorno-Karabakh Republic with a proposal to negotiate a ceasefire.

21 Charalampidis, Ioannis. Sponsored to Kill. Moscow: "MIA" Publishers, 2013.

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

23 Газета Ичкерия (РФ). № 8. 25 июня 1992 г.

24 Sakharov, Andrei. Letter to M. Gorbachev // Nezavisimaya Gazeta (in Russian). 27.10.1992. <http://armenianhouse.org/zolyan/nf-ru/karabakh/appendix.html>

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

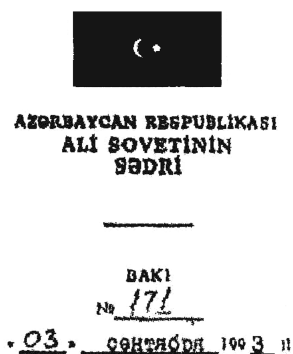
26 Freedom Support Act, SEC. 907. Restriction on Assistance to Azerbaijan [S.2532.ENR]. <http://thomas.loc.gov/cgi-bin/query/z?c102:S.2532>:

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

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

2.4. The ceasefire negotiations

On September 3, 1993, Heydar Aliyev issued a signed authorization to Afiyeddin Jalilov, the Deputy Speaker of Parliament, among other officials, “to negotiate the organization of the meeting between the highest officials of Azerbaijan and the NKR”²⁹ (see below the original document and English translation of the document).



Baku № 171, September 3, 1993

The leadership of Azerbaijan authorizes the Deputy Chairman of the Supreme Soviet A. Jalilov to hold negotiations on the organization of meeting between the leaders of Azerbaijan and NKR.

Acting President of the Republic of Azerbaijan
The Chairman of the Supreme Soviet of the Republic of Azerbaijan

(signature) Heydar Aliyev

Руководство Азербайджана уполномочивает заместителя Председателя Верховного Совета А. Джалилова вести переговоры об организации встречи руководителей Азербайджана и НКР.

Осуществляющий полномочия Президента Азербайджанской Республики
Председатель Верховного Совета Азербайджанской Республики

Гейдар Алиев

In response, Arkadi Ghukasyan, the Foreign Minister of the NKR, received a similar authorization. The achieved agreements resulted to the meeting of Robert Kocharyan and Heydar Aliyev, respectively the Leaders of the NKR and Azerbaijan, in Moscow on September 25, 1993. Besides, many other bilateral meetings between the high officials of the NKR and Azerbaijan took place as well.

Those negotiations created a basis for the signing of the 1994 Bishkek Protocol³⁰ and an open-ended ceasefire agreement between the Nagorno-Karabakh and Azerbaijan in May 1994, to which Armenia joined as a party involved in the conflict³¹.

²⁹ Казимиров, Владимир. Мир Карабаху. Июль 2009 г.

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

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

These facts demonstrate that Azerbaijani leadership:

- 1) has recognized the NKR at least as a party to the conflict, and
- 2) whenever Baku really wants to reach a progress in the Nagorno-Karabakh issue, it holds direct talks with the NKR.

2.5. Responsibility for the consequences of the aggression

As a result of the war unleashed by Azerbaijan, it seized the Shahumyan region of the NKR entirely and the eastern parts of Martuni and Martakert regions (See the Map page 30). The armed forces of Nagorno-Karabakh took under their control of the surrounding regions, which served as a buffer to hinder the further shelling of the settlements of Nagorno-Karabakh and strengthened the defense positions of the NKR against the unconcealed preparations of Azerbaijan for a new aggression.

The whole responsibility for the casualties, destructions and the fate of refugees, that all the parties to the conflict suffered as a result of aggression and power politics, lies upon Azerbaijan, the country that adopted use of force as a political tool and launched aggression.

2.6. The definition of aggression

Do the military actions of Azerbaijan against the self-determined Nagorno-Karabakh qualify for aggression under the international law, if the NKR is not internationally recognized? Aggression is defined by the UN General Assembly Resolution 3314(XXIX) of 1974³². 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.

By the article 1, aggression is defined 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 military operations against internationally non-recognized, non-member states of the UN constitutes aggression as well.

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

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 peoples³³. 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 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, aimed at the implementation of the purposes of the UN, the territorial integrity cannot be opposed to 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 goes for 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 accordance with the purposes and principles of the UN Charter. Moreover, the 10th principle of the Helsinki Final Act directly confirms that “in the event of a conflict between the obligations

33 Charter of the United Nations, <http://www.un.org/en/charter-united-nations/>

Final act of the 1st CSCE Summit of Heads of State or Government. Helsinki, 1975. <http://www.osce.org/mc/39501?download=true>

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

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 “the 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 the UN.

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

Based on the UN Charter, the International Court of Justice issued an advisory opinion on Kosovo of July 22, 2010, which clearly defines that unilateral declaration of independence is not prohibited by international law in any way, and that the principle of territorial integrity only applies to interstate relations³⁴.

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.

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

Among those states are Eritrea (1993), East Timor (2002), Montenegro (2006) and Southern Sudan (2011), that relatively recently have been internationally recognized and have 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 24 years, the NKR has established itself as a *de facto* democratic state, even in the situation of resisting the Azerbaijani aggression and the continuing blockade³⁵.

Since the parliamentary elections of December 28, 1991, Karabakh has been regularly holding state and local self-government elections, which have been highly appreciated by international observers. The branches of power are based on the system of checks and balances, which is enshrined in the Constitution of December 10, 2006, adopted in a nationwide referendum³⁶. The combat-ready army of NKR is under the civilian control³⁷.

It is noteworthy that in contrast to other subjects of the former communist camp, which have become independent or have abolished the totalitarian system, the people of Karabakh has been successfully implementing the process of strengthening the 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, expressed in the referendum of December 10, 1991, in favor of the independence of the Nagorno-Karabakh Republic. The *de jure* non-recognition of the independence of the NKR by Armenia is caused by the latter's involvement in negotiation process for the settlement of the conflict.

Since the independence of the NKR, Armenia has built its relations with the 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 to overcome the limitations on realizing human rights and fundamental freedoms, caused by the international non-recognition of the NKR.

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

Gardner, Anne-Marie. Beyond Standards Before Status: Democratic Governance and Non-State Actors // Review of International Studies. July 2008. V. 34:3. P. 531-552. <https://freedomhouse.org/report/freedom-world/2015/nagorno-karabakh>

36 The Constitution of the Nagorno-Karabakh Republic. <http://www.nkr.am/en/constitution/9/>

37 Kolsto, Pal, Blakkisrud, Helge. De-Facto States and Democracy: The Case of Nagorno-Karabakh // Communist and Post-Communist Studies. 2012. V. 45. Is. 1-2.

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 the Azerbaijani aggression in Karabakh and joined the self-defense army of the NKR.

Taking into consideration the constant threats of the use of force by Azerbaijan, Armenia is always ready to militarily support Nagorno-Karabakh Defense Army to resist the 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 the NKR.

6. The Current Stage of the Negotiation Process

6.1. Madrid principles

Since 1995, the peace process has been carried within 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 based on the Madrid proposals, presented by the Co-Chairs in November 2007.

For over a year Azerbaijan, which had agreed to accept the Madrid principles as a basis for the negotiations, denied their very existence. Meanwhile, the negotiations on those principles were going on. The basic content of Madrid principles was presented by the Presidents of the Minsk Group Co-Chair countries in their statement of July 10, 2009, in L'Aquila³⁸.

The conflict should be resolved based on principles of non-use of force, territorial integrity and equal rights and self-determination of peoples. 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;

³⁸ Statement by the OSCE Minsk Group Co-Chair countries. L'AQUILA, 10 July 2009. <http://www.osce.org/mg/51152>

- 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 peace-keeping operation.

After the publication of Madrid proposals the negotiations were activated. OSCE Minsk Group Co-Chair countries issued a number of joint statements, including statements together with Armenia and Azerbaijan³⁹. Besides, in 2008-2011 the Presidents of Armenia and Azerbaijan, upon the invitation of Russian President Dmitry Medvedev, had a series of meetings in Russia and adopted joint declarations⁴⁰.

Thus, the mediators are trying through the Madrid principles to bring closer the opposing positions of the parties concerning the issues of self-determination and territorial integrity. 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 should ensure the realization of the right of all refugees to return to their homes. And international security guarantees should 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 are actually carrying out two missions. One is to maintain stability in the conflict zone. The Co-Chairs, as well as monitoring of the line of contact by the Personal Representative of the OSCE Chairman-in-Office, have a major contribution to the maintenance of the ceasefire and preventing the renewal 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. It is not the mediators' fault that the final result on this issue has not been reached yet. The responsibility lies on the side, which prevents the consistent efforts of the Co-Chairs.

39 See OCSE Minsk Group page. <http://www.osce.org/mg>

40 Joint Declaration by the Presidents of the Republic of Armenia, Russian Federation and Republic of Azerbaijan on the resolution of the Nagorno Karabakh conflict, January 23, 2012 (in Russian). http://news.kremlin.ru/ref_notes/1135; Meeting with Presidents of Armenia and Azerbaijan, Kazan 24 June 2011. <http://eng.kremlin.ru/news/2462>; Joint Declaration of the Presidents of the Republic of Armenia, the Russian Federation and Azerbaijan on the resolution of the Nagorno Karabakh conflict, March 5, 2011 (in Russian). 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>

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 issue 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 the 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 cleansing and aggression against the self-determined Nagorno-Karabakh, as well as the consequences of such policy.

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

Baku rejects two of three fundamental principles proposed in the Madrid document, based 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 done 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 territories, which are under the control of Nagorno-Karabakh, “neglecting” the territories of NKR under the 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.

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 implemented after being agreed upon, based on the principle “nothing is agreed until everything is agreed”. Moreover, the Minsk Group Co-Chairs have confirmed that there is no hierarchy among those principles and that they should be conceived as an integrated whole⁴¹.

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

41 Joint Statement by the Heads of Delegation of the Minsk Group Co-Chair countries. Almaty, July 17, 2010. <http://www.osce.org/press/72085>, Remarks by Hillary Clinton at Astana OSCE Intervention, 1 December 2010. <http://www.state.gov/secretary/rm/2010/12/152167.htm>

6.3.3. To start the drafting of the text of agreement without the endorsement of the Madrid principles

Baku offers to start the drafting of a comprehensive peace agreement without the endorsement of the Madrid principles. 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. In some organizations, Azerbaijan even manipulates the idea of Islamic solidarity, trying to add religious dimension to the conflict and misrepresenting this issue at the Organisation for Islamic Conference. 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 biased⁴². 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. For that very reason in January 2015 during the meeting with the Foreign Minister of Azerbaijan Co-Chairs “Reminded the Minister (their) mandate and expressed (their) concern over the criticism of the ongoing negotiation process, the role of the Minsk Group Co-Chairs and the obligations of the OSCE observers”⁴³. The recent statement of the Heads of Delegations of the OSCE Minsk Group Co-Chair Countries of December 3, 2015, in Belgrade, particularly, outlined that “the Minsk Group remains the only accepted format by the sides and has the full confidence of all OSCE participating States”⁴⁴.

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

MFA: It is high time for the co-chairs to draw conclusions from their unsuccessful activity. 13.11.2015. http://azertag.az/en/xeber/MFA_It_is_high_time_for_the_co_chairs_to_draw_conclusions_from_their_unsuccessful_activity-901605

43 Press Release by the Minsk Group Co-Chairs, Krakow, January 27, 2015. <http://www.osce.org/mg/136876>

44 Joint Statement by the Heads of Delegation of the OSCE Minsk Group Co-Chair Countries, December 03, 2015. <http://www.osce.org/mg/206036>

7. What Prevents the Establishment of Confidence-Building Measures among the Sides

The Armenian sides fully accept the numerous calls and suggestions of the mediators aimed at strengthening the 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 line of contact, cooperation in various areas, as well as the promotion of interaction and dialogue between different groups of public.

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”⁴⁵.

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 Armenians⁴⁶.

The result of such education was the brutal murder of an Armenian officer in his sleep with an axe by Azeri Ramil Safarov during the 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 considered a crime; moreover, it is officially encouraged and glorified.

This action of Azerbaijan was not only condemned by the leadership of the Minsk Group Co-Chair countries, but also by the vast majority of the OSCE member-states, the EU, the Council of Europe, NATO, as well as other international organizations⁴⁷. In particular, in the Statement by the European Commission against Racism and Intolerance it is emphasized that “hate crime

45 Statement by the President of Armenia, Chairman of the Republican Party of Armenia Serzh Sargsyan at the 14th RPA Convention. <http://www.president.am/hy/press-release/item/2012/12/15/Address-by-Serzh-Sargsyan-at-the-14th-Republican-Convention/>

46 Against Xenophobia and Violence NGO. The Sumgait Syndrome. Anatomy of Racism in Azerbaijan. Yerevan, 2012. P. 36-40.

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

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”⁴⁸.

The large-scale propaganda of falsified Aghdam events of February 25-26, 1992, associated with the tragedy of people of Khojaly, is also aimed at disseminating hostility towards Armenians. The settlement was turned into a military base of the Azerbaijani army, and Karabakh’s capital Stepanakert was regularly bombarded from the base in Khojaly. Dislocated in Khojaly, around the airport, the Azerbaijani forces were blockading the only means of air link for then blockaded Karabakh with the outside world.

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 the Azerbaijani army. However, the civilians were fired near Aghdam, in the area under the control of Azerbaijani army, far away from Khojaly.

There are numerous evidences about this, including the 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”⁴⁹. In addition, Ramiz Fataliev, the President of the Azerbaijani committee investigating the Khojaly incident, testifies: “On February 22, the National Security Council meeting took place, attended by the President, the prime minister, chairman of the National Security Council and others. 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”⁵⁰.

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 genocidal policy committed against the Armenian population of Azerbaijan during peacetime in Sumgait, Kirovabad, Shamkhor, Khanlar and Baku.

48 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. http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/117-04_09_2012_Azerbaijan_en.asp

49 Независимая газета. 02.04.1992 г.

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

7.2. Denying entry to Azerbaijan to individuals of Armenian origin or those who have visited the Nagorno-Karabakh Republic

Azerbaijan bans the individuals of Armenian descent to visit Azerbaijan, regardless of their nationality and place of residence⁵¹. There have been many cases of deporting such people right from the airport.

The case of keeping and afterwards deporting a citizen of Kazakhstan and an ethnic Azerbaijani Bayram Azizov from Baku airport, only because there was a note in his passport about visiting the Republic of Armenia, is, indeed, ironical⁵². And that's in case when this individual of Azerbaijani descent, together with tens of thousands of ethnic Azeri Iranian tourists visit Armenia every year, of course, without facing any problems while 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 also to the members of the delegations, which visit the NKR for the observation of elections. Probably, after seeing the established democracy in Nagorno-Karabakh, 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 region⁵³. Azerbaijani historians, acting for political order, have reached a "flight of thought", claiming that allegedly Azeris originate from Sumerians⁵⁴. And this is in case when Armenia and Armenians were known 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 preamble, that Armenian churches, khachkars (cross-stones) and other historical and cultural monuments in the region are allegedly the Azerbaijani

51 Azerbaijan Country Specific Information, Bureau of Consular Affairs, US Department of State. http://travel.state.gov/travel/cis_pa_tw/cis/cis_978.html

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

53 Galichian, Rouben. *Clash of Histories in the South Caucasus*. London, 2012.

54 Aliyev, R., Yousoufov, Y., Babayev, I., Jafarov, I., Mamedova, A. *History of Azerbaijan*, 6th grade textbook. Baku, 2002.

monuments⁵⁵. A question arises that if Azerbaijan really believes that the Armenian cultural heritage is theirs, then why they ruthlessly destroy it. Obviously, the medieval khachkars in Jugha, that have a cultural value of universal significance, were barbarically destroyed not because of their Azerbaijani origin⁵⁶. Within the same logic, all monuments, that indicate the evidence of the centuries-old presence of Armenians, were destroyed on the territories of the Nagorno-Karabakh Republic, occupied by Azerbaijan⁵⁷.

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 the 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 the 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 establish a mechanism for investigating incidents on the line of Contact. Both Armenia and Nagorno-Karabakh have stated their readiness to implement these recommendations, while Azerbaijan rejects them⁵⁸. The Co-Chairs of the OSCE Minsk Group in their statement of on September 26, 2015, in New York once again urged the parties to accept the creation of mechanism to investigate ceasefire violations. The statement, particularly, outlined that Armenia has agreed to discuss the details of the mechanism, and the Co-Chairs urged Azerbaijan to do the same⁵⁹. In fact, just in two days after the statement of the mediators, Azerbaijan yet again rejected the proposal⁶⁰.

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.

Azerbaijan regularly conducts actions to maintain the tension along the borders with Nagorno-Karabakh and Armenia, to cause losses to Armenian

55 Alakbarli, Aziz et al. Monuments of the Western Azerbaijan. Baku: Nurlan, 2006.

56 Old Jugha: Chronicling the Destruction. <http://mfa.am/en/jugha>

57 Karapetian, Samvel. The State of Armenian Historical Monuments in Azerbaijan and Artsakh. Yerevan, 2011. http://mfa.am/u_files/file/monuments3.pdf

58 Hasratyan, Senor. Armenia and NKR agreed to withdrawal of snipers still in 2009. ArmenPress, 16.02.2011. <http://armenpress.am/eng/news/640485/>; We won't withdraw snipers from the front line, unless war ends / Azerbaijani Defense Ministry. APA, 17.09.2013. <http://en.apa.az/news/199602>

59 Press Statement by the OSCE Minsk Group. September 25, 2015, New York. <http://www.osce.org/mg/185001>

60 FM: Mechanism to withdraw Armenian military from occupied Azerbaijani lands – essential. 27.09.2015. <http://en.trend.az/azerbaijan/politics/2437251.html>

forces and damages to the Armenia border settlements. Particularly, the actions of the Azeri snipers, subversive groups, as well as the firing from the weapons of different caliber along the border serve to this very goal. In 2014, the total number of victims of ceasefire violations by Azerbaijan amongst the armed forces of the sides exceeded 130⁶¹. There is no coincidence that, the OSCE Minsk Group Co-Chairs in their press release, issued after the meeting with the Foreign Minister of Azerbaijan on January 25, 2015, in Krakow, called on the very Azerbaijan “to observe its commitments to a peaceful resolution of the conflict”⁶².

In order to maintain tensions Baku authorities also grossly violate the fundamental norms of the international humanitarian law. Particularly, Armenian villagers from the frontier zones, who mistakenly wandered into the zones under the Azerbaijani control, are not only unreasonably kept as prisoners in Azerbaijan but also are subjected to brutal torture. Thus, the Armenian villagers Manvel Saribekyan in 2010 and Karen Petrosyan in 2014 were killed in Azerbaijani captivity⁶³. Moreover, the Azerbaijani media screened the videos on how the representatives of law-enforcement bodies of Azerbaijan in the manner of terrorists demonstratively humiliated Karen Petrosyan⁶⁴.

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

7.6. Threats to resume war

From 2003 to 2015, Azerbaijan has increased its military spending for 30 times⁶⁵. 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

61 The losses of the defense and security structures of Azerbaijan (in Armenian). <http://razm.info/58149>

62 Press Release by the Minsk Group Co-Chairs, January 27, 2015. <http://www.osce.org/node/136876>

63 Baku's lie revealed – Armenian captive Manvel Saribekyan was tortured in Azerbaijan, 05.11.2010. <http://www.panarmenian.net/eng/politics/news/56384/>; Answer of the MFA Spokesperson Tigran Balayan to the question by the radio Liberty. 08.08.2014. http://www.mfa.am/en/interviews/item/2014/08/08/balayan_petrosyan/; The answer of the Deputy Foreign Minister Shavarsh Kocharyan to the Question of First news service of the Public Television of Armenia. 22.08.2014. http://www.mfa.am/en/interviews/item/2014/08/22/qocharyan_com_kpetrosyan/; State Department comments on killing of Karen Petrosyan. 16.08.2014. <http://www.panorama.am/en/comments/2014/08/16/state-department/>; Man's Death After Mysterious Border Crossing Sparks Row Between Baku, Yerevan, 11.08.2014. <http://www.rferl.org/content/death-border-azerbaijan-armenia/26525206.html>

64 <https://www.youtube.com/watch?v=wH2B35Aoem0>

65 The SIPRI Military Expenditure Database. http://www.sipri.org/research/armaments/milex/milex_database; Azeris to Boost Defense Spending Amid Risk of Armenia War. 19.11.2014. <http://www.bloomberg.com/news/articles/2014-11-19/azeris-to-boost-defense-spending-amid-risk-of-armenia-war>

by forceful means⁶⁶. And 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”⁶⁷.

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

7.7. Refusal of the reached agreements

The negotiation process cannot be effective as long as Azerbaijan continues to act in contrary to the reached agreements, which puts under question also the possibility of implementing future agreement by Azerbaijan.

While accepting the Madrid document presented by the Co-Chairs as a basis for negotiation, Azerbaijan also tries to base the settlement of the conflict on the United Nations Security Council (UNSC) resolutions of 1993 – (822 (1993), 853 (1993), 874 (1993), 884 (1993))⁶⁸, at the same time deliberately distorting the essence of those resolutions.

It is Azerbaijan foremost that violated all four resolutions by not fulfilling their core requirement – the immediate cessation of all hostilities and hostile acts, without which the implementation the other provisions of the resolutions was impossible. Contrary to the requirements of the UN Security Council, up until now Azerbaijan has not yet stopped its “hostile acts” against Armenia and Nagorno-Karabakh.

In those resolutions the Security Council expresses its full support for the peace negotiations within the framework of the OSCE Minsk Group and calls the parties to “refrain from any action that will obstruct a peaceful solution to the conflict”. Until now, Azerbaijan has continuously undermined the OSCE Minsk

66 <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>; <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/idCATRE75POLD20110626>; <http://en.trend.az/news/karabakh/1891595.html>

67 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. <http://www.osce.org/mg/78195>

68 1993 UN Security Resolutions on Nagorno-Karabakh. <http://2001-2009.state.gov/p/eur/rls/or/13508.htm>

Process by its attempts to shift the issue into other forums and by reiterating its threats to solve the issue through the use of force.

It is worth mentioning that Armenia is not called as a party to the conflict in any of those resolutions. The Security Council called on Armenia to continue “to exert its influence” on the Armenians of Nagorno-Karabakh in order to stop the military actions, which Armenia has fully implemented. Moreover, in those resolutions Nagorno-Karabakh was recognized as a party to the conflict. And under the calls of the resolutions to establish “direct contacts” were respectively understood the contacts between Baku and Stepanakert.

The resolutions require the “restoration of economic, transport and energy links of the region”. However, since the beginning of the conflict Azerbaijan has continued to blockade of Nagorno-Karabakh and Armenia, by openly declaring that it is one of the priorities of its foreign policy. Resolutions also call on “unimpeded access for international humanitarian relief efforts in the region, in particular in all areas affected by the conflict”, but Azerbaijan continues to hinder the implementation of humanitarian programs in Nagorno-Karabakh.

By such selective and distorted interpretation of the UN resolutions, Azerbaijan, in fact, opposes to the Madrid document, which it has adopted as a basis for negotiations. Contrary to the Madrid principles, the Azerbaijani leadership constantly declares that Nagorno-Karabakh can never be out of the Azerbaijani territory. It is an attempt to unilaterally predetermine the outcome of negotiation process, and, in fact, a claim towards the territory of the self-determined Nagorno-Karabakh Republic, which is another evidence of the continuation of Baku’s originally adopted policy of aggression.

Moreover, the President of Azerbaijan has started to present territorial claims to the Republic of Armenia, declaring that the territory of Armenia separates Turkey and Azerbaijan, and that the affiliation of those territories to Armenia is a historical injustice⁶⁹. Guided by that very expansionist policy,

69 Turkic Summit: Azerbaijan, Turkey, Kazakhstan and Kyrgyzstan question Armenia’s territorial integrity (in Russian). October 6, 2009. <http://regnum.ru/news/polit/1212286.html>; Speech by Ilham Aliyev at the X Summit of the Turkic-Speaking Countries’ Heads of State. September 16, 2010. <http://en.president.az/articles/737>; Pan-Turkism Anew: Aliyev voices the “Great Turkic World” idea in Kazakhstan summit. November 25, 2011. http://www.armenianow.com/commentary/analysis/32626/aliev_panturkism_summit_armenia_zangezur; Speech by Ilham Aliyev at the nationwide festivities on the occasion of Novruz holiday. March 19, 2013. <http://en.president.az/articles/7671>; Ilham Aliyev: Azerbaijan will restore its territorial integrity (in Russian). June 26, 2013. <http://inosmi.ru/sngbaltia/20130626/210413704.html>; Opening speech by Ilham Aliyev at the meeting of the Cabinet of Ministers of the Republic of Azerbaijan dedicated to the results of socioeconomic development of Azerbaijan in the first nine months of 2013 and objectives for the future. October 7, 2013. <http://en.president.az/articles/9716>; Ilham Aliyev attended a ceremony to commemorate the 90th anniversary of the Nakhchivan Autonomous Republic. April 08, 2014. <http://en.president.az/articles/11356>; President and Supreme Commander-in-Chief Ilham Aliyev visited a military unit in Agdam. August 6, 2014. <http://en.president.az/articles/12487>; Speech by Ilham Aliyev at the opening of Heydar Mosque in Baku. December 26, 2014. <http://en.president.az/articles/13981>; Congratulatory message of Ilham Aliyev to the people of Azerbaijan on the occasion of the World Azerbaijanis Solidarity Day and the New Year. January 1, 2015. <http://en.president.az/articles/13982>; Ilham Aliyev: Nagorno Karabakh will never gain independence. May 28, 2015. President: Zangezur is our ancient land. September 12, 2015. <http://news.az/articles/politics/101079>; Ilham Aliyev met with members of the Board of Directors of the Press Council on the occasion of the 140th anniversary of the national press. July 21, 2015. <http://en.president.az/articles/15874>

Azerbaijan initiated an aggression against Nagorno-Karabakh at the beginning of 1990s and attempted to seize territories of Armenia, bordering with Azerbaijan.

Azerbaijan is also grossly violating the ceasefire agreement signed on May 1994, and the trilateral (Nagorno-Karabakh, Azerbaijan, Armenia) agreement on the consolidation of ceasefire regime, signed on February 1995. The agreement of 1995 is aimed at the creation of more favourable conditions for enhancing the peace talks and suggests the mechanism for investigation of 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 Sochi⁷⁰. But in 2012 Azerbaijan, opposing the arrangement, under the threat of using veto, did not allow to provide funds from the OSCE budget for the incident investigation mechanism⁷¹.

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. However, during the same month in an interview to the Italian «RAI International» 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 conflict⁷².

Whenever arrangements are achieved, and the international community expects a major breakthrough form the realization of these arrangements, Azerbaijan steps back. This was the case after the agreement reached in 2001 in Key West⁷³.

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, accept the Basic Principles of the settlement to start the elaboration of the comprehensive peace deal. However, opposing the previously reached agreements, Azerbaijan presented ten new proposals and blocked the possible progress⁷⁴.

70 Joint Statement of the Presidents of Azerbaijan, Armenia and the Russian Federation on the Nagorno-Karabakh settlement (in Russian). March 5, 2011. http://news.kremlin.ru/ref_notes/882

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

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

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

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

7.8. 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^{75,76}.

By undermining the negotiation process, provoking increase of tensions and declaring war against Armenians, the authorities in Baku are in reality struggling against their own people. The goal of this struggle is to preserve the inheritance of power in the situation of growing dissatisfaction among the population. The profits gained from energy exports are not directed to mitigating the social polarization, but to multiplying the wealth of ruling elite, increasing the military expenditure, presenting the Karabakh conflict in a distorted manner and conduct the propaganda of hatred against Armenians⁷⁷.

75 Beaten, Blacklisted, and Behind Bars / Human Rights Watch. 26.10.2010. <http://www.hrw.org/reports/2010/10/26/beaten-blacklisted-and-behind-bars-vanishing-space-freedom-expression-azerbaijan>; Azerbaijan: the spring that never blossomed: freedoms suppressed in Azerbaijan / Amnesty International. 16.11.2011. <http://www.amnesty.org/en/library/info/EUR55/011/2011/en>; ECRI Report on Azerbaijan / ECRI, Council of Europe. 31.05.2011. <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>; Running Scared: Azerbaijan's silenced voices / The International Partnership Group for Azerbaijan. 2012. <http://www.article19.org/data/files/medialibrary/3003/12-03-26-azerbaijan.pdf>; International Perceptions Index 2012 / Transparency International. <http://www.transparency.org/cpi2012/results>; Azerbaijan: Autocracy in an oil paradise / DW. 19.05.2012. <http://www.dw.de/azerbaijan-autocracy-in-an-oil-paradise/a-15958397>; They Took Everything from Me / Human Rights Watch. 29.02.2012. <http://www.hrw.org/reports/2012/02/29/they-took-everything-me>; Azerbaijani Party Leader Offers Reward For Writer's Ear // RFE/RL. 11.02.2013. <http://www.rferl.org/content/azerbaijan-novelist-reward-cutting-off-ear-aylisli/24899021.html>; The dangers of online criticism in Azerbaijan / Aljazeera. 29.08.2013. <http://www.aljazeera.com/indepth/opinion/2013/08/2013826114929165535.html>; Turning black gold into sporting glitter: what Azerbaijan tells us about modern sport // Guardian. 19.12.2014. <http://www.theguardian.com/sport/2014/dec/19/black-gold-sporting-glitter-azerbaijan-modern-sport>; Azerbaijan Raids RFE/RL Baku Bureau // RFE/RL. 26.12.2014. <http://www.rferl.org/content/release-rferl-condemns-azeri-raid-on-baku-bureau/26764363.html>; U.S. 'Alarmed' As Azerbaijan Targets RFE/RL's Baku Office // RFE/RL. 29.12.2014. <http://www.rferl.org/content/azerbaijan-official-lashes-out-criticism-over-rferl-raid/26767855.html>; The 'broken window' approach to international relations // Washington Post. 31.12.2014. http://www.washingtonpost.com/opinions/the-broken-window-approach-to-international-relations/2014/12/31/98fb4802-9046-11e4-a412-4b735edc7175_story.html; Ten Days in the Life of Ilham Aliyev, President of Absurdistan // Huffington Post. http://www.huffingtonpost.com/till-bruckner/state-department-barely-c_b_6390974.html; Azerbaijan cracks down while chairing Council of Europe / BBC. 12.10.2014. <http://www.bbc.com/news/world-europe-29559009>; #BBCTrending: The president who threatened war on Twitter / BBC. 08.08.2014. <http://www.bbc.com/news/blogs-trending-28710785>; World Report 2015 – Azerbaijan / Human Rights Watch. <http://www.hrw.org/world-report/2015/country-chapters/azerbaijan>; Between Fiction and Reality: Aliyev's "Oceania" // Foreign Policy Journal. 10.02.2015. <http://www.foreignpolicyjournal.com/2015/02/10/between-fiction-and-reality-aliyevs-oceania/>; The Two Faces of Azerbaijan's Mr. Aliyev // NYT. 11.01.2015. http://www.nytimes.com/2015/01/12/opinion/the-two-faces-of-azerbaijans-mr-aliyev.html?_r=0.

76 European Parliament resolution of 10 September 2015 on Azerbaijan. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2015-0316+0+DOC+PDF+V0/EN>

77 OCCRP names Aliyev "Person of the Year". 31.12.2012. <https://occrp.org/occrp/index.php/en/ccwatch/cc-watch-indepth/1772-occrp-names-aliyev-qperson-of-the-year-q>; Offshore Companies Link Corporate Mogul, Azerbaijan's President // RFE/RL. 04.04.2013. <http://www.rferl.org/content/azerbaijan-aliyev-family-offshore-businesses/24947900.html>; Pricey real estate deals in Dubai raise questions about Azerbaijan's president // WP. 05.03.2010. <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/04/AR2010030405390.html>; The Corleones of the Caspian // FP. 10.06.2014. <http://foreignpolicy.com/2014/06/10/the-corleones-of-the-caspian/>;

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

Continuous propaganda about the external enemy serves as a basis for declaring all dissidents, expressing their dissatisfaction with the regime, as enemies and supporters of the Armenian and anti-Azerbaijani forces, and undertaking repressions towards them⁷⁸.

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. The continuation of this policy of illusion will inevitably lead to the international recognition of the Nagorno-Karabakh Republic.

8. Positions of the Armenian Sides

The Nagorno-Karabakh issue is still not resolved, and a *status quo* is maintained because the Azerbaijani side is not ready for compromises and resists the involvement of the 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.

The Nagorno-Karabakh Republic has demonstrated a constructive approach since the beginning, by not demanding its recognition by Azerbaijan as a precondition for the negotiations. Although such approach would be justified both from legal and moral points of view, and would serve as a proof of Azerbaijan's refusal from power politics.

Armenia showed its constructiveness by agreeing to accept the Madrid Document as a basis for the negotiations. This document implies the holding of 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.

78 Azerbaijan detains prominent human rights activists in fresh crackdown. August 15, 2014. <http://www.theguardian.com/world/2014/aug/15/azerbaijan-detains-human-rights-activists-fresh-crackdown>

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

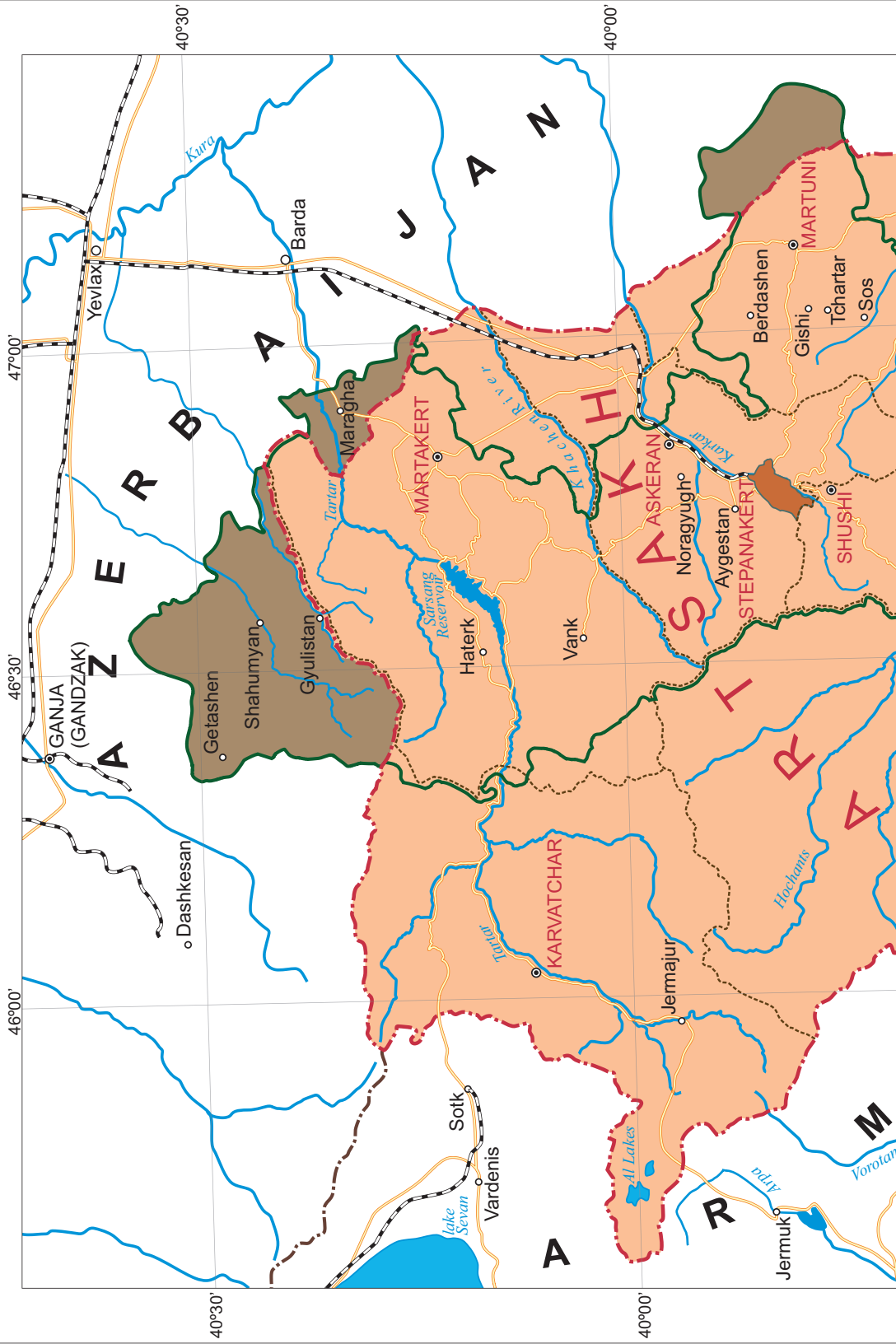
“We will carry on with the process of negotiations. Expressing our gratitude to the Co-Chair states of the Minsk Group for their efforts towards the peaceful resolution of the conflict, we will at the same time continue to draw the attention of mediators and the international community to opportunities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

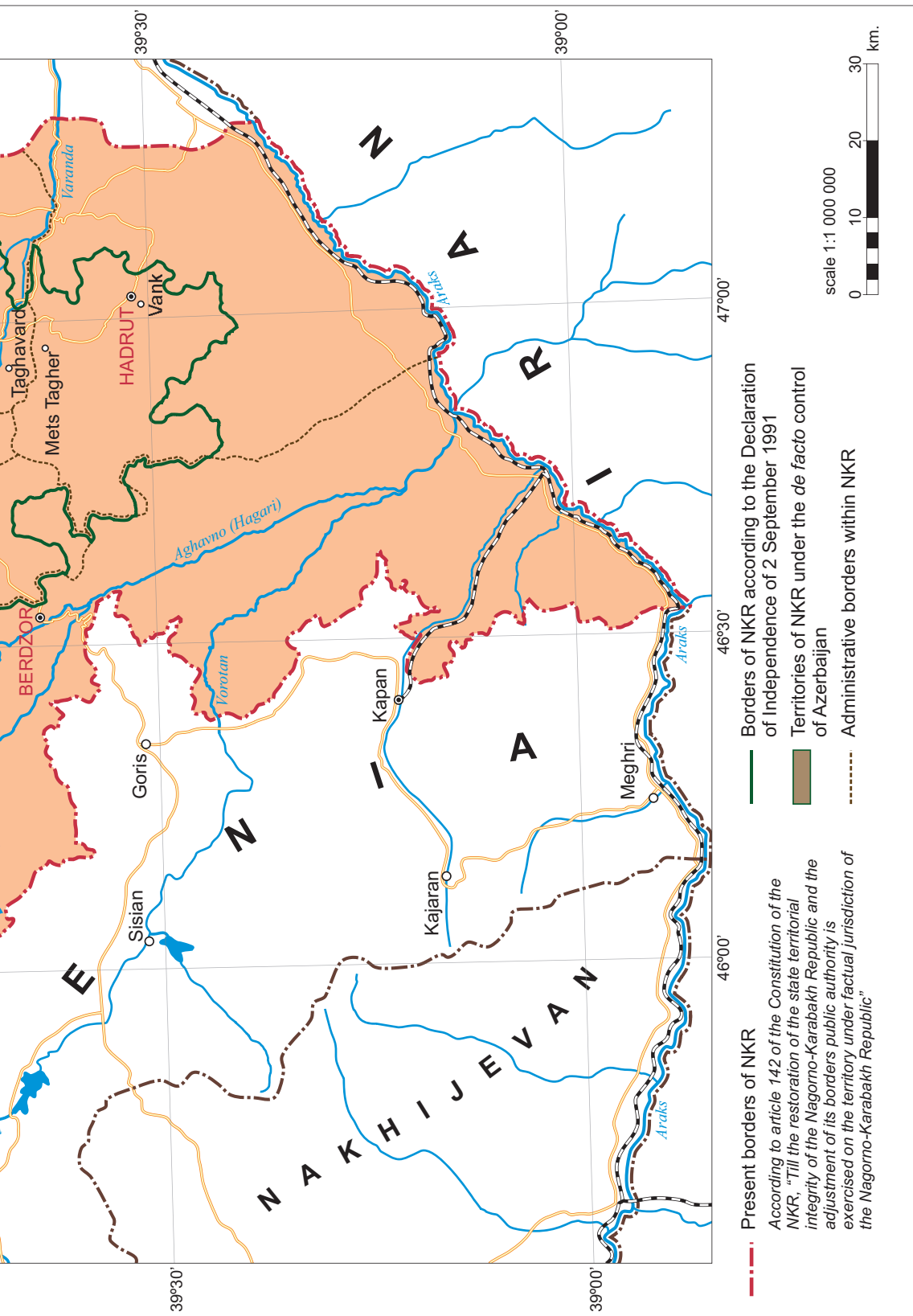
Azerbaijan's policy in general and, particularly, their refusal to withdraw snipers, refusal to put into force a mechanism for investigation of border incidents, the glorification of a murderer, inducement of xenophobia and racism, unreliable and hypocritical stance during negotiations are not conducive 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”⁷⁹.

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

NAGORNO-KARABAKH REPUBLIC (ARTSAKH)







UDC 323.1

Published:
"MIA"

ISBN 978-5-8948-1973-0



This publication is an updated and extended version of the French article with the same title, published in September 2013, in the third volume of the collection of articles "Crisis prevention and peace-building". (Kotcharian, Chavarche. Pourquoi le conflit du Haut-Karabagh n'est toujours pas réglé? // Prévention des crises et promotion de la paix (volume III). Déterminants des conflits et nouvelles formes de prévention / Ed. J.-P. Vettovaglia. Bruylant, 2013. P. 569-593).