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**The Territory-Identity Nexus in the Conflict
over Nagorno Karabakh:
Implications for OSCE Peace Efforts**

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The Territory-Identity Nexus in the Conflict over Nagorno Karabakh: Implications for OSCE Peace Efforts

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The conflict over Nagorno Karabakh stands out as the most intractable on the territory of the South Caucasus as it represents a combination of separatism and irredentism and has exacerbated the relations between two neighbouring countries – Armenia and Azerbaijan – whose geo-political orientation, subject to cross-cutting regional and external interests and influences, is still in the balance. Nagorno Karabakh is the first full-blown conflict where the Organization for Security and Cooperation in Europe (OSCE) has been primarily involved as a mediator and the first conflict related to the OSCE's concrete talks to operationalize its concept of peacekeeping. This article argues that the OSCE normative context is one of the factors that has made the conflict resolution a daunting task. Focus is placed on the effect international norms and principles have on the conflict dynamics and on conflict resolution efforts in general. The article further examines the main constraints on reconciling the adversarial positions of the conflicting parties and concludes that there is a need for creating a framework to search for cooperative solutions based on common needs and interests.

I. Introduction

Ethnicity itself is not the cause of ethnic strife. It is rather the sense of injustice based on collectively recognized individual victimization which leads to the realization of ethnicity (Azar, 1990; Gurr, 1993). Real or perceived inequalities in power, status and access to resources turn ethnicity into a political instrument for channelling ethnic-based interests, needs and objectives. The effectiveness of ethnicity as a political instrument emanates from the emotional attachment of individuals to a group. This emotional attachment can also be projected through a sense of belonging to a territory, thus linking identity with territory.¹ In ethnic conflicts, therefore, the real or perceived threats to any ethnic group's identity, well-being and survival often have territorial dimensions. Like issues of identity, territorial issues can also trigger a sense of injustice, which can be defined as an "evaluative and emotional judgement based on the recognition that there is no appropriate correspondence between a person's fate and that to which he or she is entitled" (Forsberg, 1996).

Ethnic conflicts with territorial dimensions pose a major challenge to conflict resolution research and activities. Policy-makers and scholars alike regard such conflicts as potentially the most threatening phenomenon in the post-Cold War period, particularly in Eastern Europe and the former Soviet Union, as they have proved to be fairly violent and

* The views expressed are those of the author and do not reflect the official opinion of Human Rights Without Frontiers, International.

¹ Vasquez (1995: 289) defines "human territoriality" simply as "the tendency for humans to occupy and, if necessary, defend territory".

long-standing. The conflict over Nagorno Karabakh, defined as an amalgam of separatism and irredentism, is one of the test cases in this respect. How do we explain conflicts involving mobilized ethnicity which are aimed at changing the territorial *status quo*? Why was the increase in territorial disputes in the wake of the Cold War so poorly anticipated? And why have the responses of the international community come to be regarded as “retrospective, inconsistent, and confusing” (Forsberg, 1996: 433)?

This article argues that the OSCE normative context is one factor that has made conflict resolution a daunting task. The focus of this article is on the effect international norms and principles have on the dynamics of conflict and on the efforts that are made towards its resolution. The article further seeks to examine what chances there are for peace when measured against the irreconcilability of the right to self-determination and territorial integrity as encoded in the OSCE documents. In what way has the OSCE normative basis affected the way conflicting parties interpret possible outcomes of the peace negotiation process? By tracking historical developments in the Nagorno-Karabakh conflict, both in terms of OSCE activities and conflict dynamics, the article draws two main conclusions: 1) that the legitimating power of international norms and principles is in a state of flux; and, 2) that the attitude of the parties is often reflective of their own interpretation of these norms and principles.

II. The Nagorno-Karabakh Conflict: Manifestations of the Territory-Identity Link

Since the collapse of the Soviet Union, the Caucasus has seen some of the most violent and intractable conflicts spread across the region of the newly independent states, where ethnic assertiveness exploded in the 1990s as a result of policies of ethnic manipulation and politicization. As states born unexpectedly out of the collapse of the Soviet empire, Armenia, Georgia and Azerbaijan have been confronted with the simultaneous problems of forging nationhood and the re-emergence of subdued national aspirations. The legacy of the arbitrary construction of the boundaries of these countries, their lack of social cohesion and recent emergence into statehood have all raised the stakes of ethnic strife in the region and directed ethnic assertiveness towards issues of rights, legitimacy, and belonging.

Among the three conflicts in the Caucasus,² the conflict over Nagorno Karabakh with its mixture of separatism and irredentism represents the most complex and intricate pattern

² Two of them, Abkhazia and South Ossetia, are on the territory of Georgia. The third conflict is Nagorno Karabakh.

of the territory-identity linkage and is, arguably, the most revealing in terms of conflicting interpretations over the right to self-determination and the principle of territorial integrity. Although a cease-fire has been effective since May 1994, it can be legitimately claimed that the “relative quiet is an eerie, delicate, deceptive balance” (EastWest Institute 1999: 11), as the question as to who has the legitimate right to Nagorno Karabakh remains a deep-rooted and emotional source of suspicion, fear, and potential violence amongst the conflicting parties.

The dispute of Nagorno Karabakh has its roots far in the past.³ The status of the area has been an issue since its incorporation by Russia at the beginning of the nineteenth century. With the declaration of independence by the Caucasian states in 1918, it was claimed by both Azerbaijan and Armenia, while its fate was determined by the policies of other countries, leaving behind strong sentiments of betrayal and injustices. More recently, the status of the autonomous *oblast* of Nagorno Karabakh began to pose serious challenges to the politics of Michael Gorbachev, strongly demonstrating the underlying seriousness of the nationalities problem in the Soviet Union and the way they could jeopardize the course of democratization. Against the background of *glasnost* and *perestroika*, it was the call to remedy the injustices done to ethnic groups during the communist rule, which primarily galvanized opposition political forces in the Caucasus. In this respect, Nagorno Karabakh was the most blatant example of the inconsistency of Moscow’s nationalities policy, which in its turn alienated the nations and ethnic groups from the centre and invigorated their national aspirations and demands.

Almost two years before the dissolution of the Soviet Union, the inconsistent and contradictory policies of the central authorities towards interethnic tensions in the region and their deliberate misuse to curb growing factionalization, actually turned Nagorno Karabakh into a catalyst for identical political tendencies in both Armenia and Azerbaijan. These common tendencies can be characterized by their vocal anti-Moscow sentiment, based on a presumption of support for the interests of the other country; a strong drive towards secession from the Soviet Union and independence as the only perceived way of protecting their own interests; and radicalization of the nationalist movements and their assumption of power.⁴

³ For analysis of the region’s history, see Shireen Hunter (1993) and. Altstadt A.L. (1994)

⁴ In Armenia, the nationalists defeated the communists in the June 1990 elections and Levon Ter-Petrossian became the chairman of the Armenian Supreme Soviet. In Azerbaijan, the events in January 1990 brought the Azerbaijani Popular Front to the centre of politics. For more on this topic, see S. Hunter (1994: 35-37; 68-70).

As Altstadt has pointed out, “at the most fundamental level the clash concerns a piece of land”, which the peoples of both Armenia and Azerbaijan “regard as historic patrimony and the present conflict is therefore bound up with historical claims” dating back to three distinct periods of development: the upsurge of the Armenian and Azerbaijani national movements in the nineteenth century; the period of independence of Armenia and Azerbaijan after World War I and the Bolshevik decisions; and the rise of national assertiveness in the 1980s (Alstadt 1994: 105).

The conflict over Nagorno Karabakh that unfolded in the wake of the demise of the Soviet Union can therefore be seen as a tangled pattern of past and present claims to territory. These claims have been advanced primarily in historical, rather than economic or strategic terms, which have greatly curbed the present processes of nation- and state-building in both Armenia and Azerbaijan. In this way, the conflict has been built up on a series of escalating claims and counter-claims, which have seen each ethnic group, majority or minority, contend the exclusive right to the disputed territory. Herzig, for example, has consequently observed that “the strength of attachment to these claims reflects the specific Caucasian Soviet culture, in which both official and dissident thinkers gave history a privileged place in validating contemporary political and territorial claims”. In their essence, these historical claims are contradictory, as they have been put forward by “selective use of sources, by tendentious interpretation and on occasions, by deliberate falsification of the historical records” (Herzig, 1999: 59).

Mainly during the first half of the 1990s, when the conflict reached its highest degree of intensity and endurance, scholars tried to explain the parties’ motives in terms ranging from religious animosity between Muslims and Christians, ethnic enmity between Armenians and Turks, and the manipulation by outside forces. Though all of these factors may be relevant to some degree, the conflict can, nevertheless, be best understood and explained in terms of its ethno-territorial dimension or, more precisely, in terms of national identity professed through the sense of belonging to a territory, which is based on historical ideas and collective myths. A closer look at this identity-territory dyad draws a clearer link between the rather intangible aspect of identity, which can be defined by various means, and a concrete issue as territory whose possession is believed to be “part of national duty to one’s fellow-nationals and to one’s ancestors” (Alstadt, 1994: 119). Therefore, in the conflict over Nagorno Karabakh, as in other conflicts of this type, it is the concrete issue of territory rather than national identity and consciousness that is propelling the differences between ethnic groups into animosity and violence.

For the Nagorno Karabakh Armenians, on the one side, the conflict has been a struggle for independence, which is perceived as the only guarantor of their security, especially outside the Soviet state structure and within a newly independent country that is struggling to assert its national identity on the international arena. The Armenians regard Nagorno Karabakh as part of their historical land where their right to self-determination should be preserved at all costs. Thus, Hunter has observed that Armenians fear that the loss of Nagorno Karabakh could shift the ethnic balance in favour of Azerbaijan and might lead to “Armenia’s demographic marginalisation in the region” (Hunter, 1994: 105). In this respect, the right to self-determination is respectively seen as a security guarantee for the Armenian population of Nagorno Karabakh and the basis for a political settlement of the conflict.

For Azerbaijan, on the other hand, the security of the region can be guaranteed only by reaffirming and safeguarding the principles of the respect for sovereignty and territorial integrity of states. The Azerbaijanis fear that the separation of Nagorno Karabakh would be the beginning of Azerbaijan’s disintegration.⁵ Moreover, for Azerbaijan the conflict is not between Nagorno Karabakh and itself, but between Azerbaijan and Armenia’s purported territorial claims.

III. Irreconcilability of the Principle of Territorial Integrity and the Right to Self-Determination

Since 1992, when Armenia and Azerbaijan joined the Organization for Security and Cooperation in Europe (OSCE, at the time still CSCE), the conflict over Nagorno Karabakh has proved the primary test case for the conflict management capabilities of this organization. By 1992, the conflict had already been escalating for several years and the warring parties had become entrenched in their positions on the major issue of contention.

From the outset, the political settlement of the conflict over Nagorno Karabakh has been discussed within the framework of the so-called ‘Minsk Group’. At the First Additional Meeting of the Council of Ministers held on 24 March 1992, the participating states agreed that a conference under the auspices of the then CSCE would provide an ongoing forum of negotiations towards a peaceful settlement of the crisis on the basis of the principles, commitments and provisions of the CSCE. Further to that, it was agreed that the conference would take place in Minsk and would have as participants Armenia, Azerbaijan,

⁵ S. Hunter (1993: 104-5) points out that this is not a far-fetched idea, given the existence of separatist tendencies among some Azerbaijani minorities such as Talysh and Lezghi.

Belarus, Czech and Slovak Federal Republic, France, Germany, Italy, Russian Federation, Sweden, Turkey and United States of America. France, Russia, USA and Turkey were designated as countries, which had traditionally played a role in the region, while Germany, Czech and Slovak Federal Republic,⁶ and Sweden were included in their position of former, current and future Chairs of the organization. Since then, the Troika of countries dealing with the ongoing negotiations has rotated. As for “elected and other representatives of Nagorno Karabakh”, it was agreed that they would be invited to the Conference as “interested parties by the Chairman of the Conference after consultation with the States participating at the Conference”.⁷ In the institutional history of the OSCE, this is the first, and the last, application of the principle of delegating some tasks to an *ad hoc* group of states. The Minsk Conference, however, was never actually convened. In 1992, at the insistence of the US delegation, “preliminary emergency” negotiations within the informal framework of a ‘Minsk Group’ were launched with the purpose of preparing for a Conference. Thus the Minsk Group and its process, which is still functioning and is the only forum for negotiations on the political settlement of the Nagorno Karabakh conflict, were not created by organization’s decision, but “by high-level U.S. insistence” (Maresca, 1996: 260). Nevertheless, while the Minsk Group held numerous rounds of negotiations in the first years of its existence, concrete proposals on possible settlement of the conflict were elaborated only after 1996 when the negotiation process was reinvigorated under the co-chairmanship of United States, Russia and France, leading to a noticeable increase in diplomatic activity.

In reality, the break-up of the Soviet Union presented a major existential challenge to the OSCE as a descendant of the Helsinki process whose *raison d’être* was expressly to secure the inviolability of European Cold War borders and to preclude any aggression of one state against another. The shift of borders in the wake of the Cold War’s end, nevertheless, highlighted the complex fabric of interethnic relations prevalent in the post-Soviet space, defying the tenets of the unified-centred approach⁸ to international relations and shifting focus from the possibility of cross-border war to the reality of internal wars.

According to Miall et. al., it is therefore ironic to note that the task of managing conflicts has fallen primarily on organizations which are based on sovereignty and non-

⁶ In 1992, Czech and Slovak Federal Republic was still one country. It split into Czech Republic and Slovakia in 1993.

⁷ Summary of Conclusions of the First Additional Meeting of the Council of Ministers, CSCE, Helsinki, 1992

⁸ Scholars admit that the Soviet Union was viewed as a unified bloc and all studies were centre-oriented without due account of questions related to nationalities. Following the Soviet Union collapse, the focus shifted towards relations between nationalities and relations between the centre and the periphery.

interference, while those very conflicts reflect the “collapse of sovereignty” (Miall et.al. 1999: 34). In the wake of the collapse of the Soviet Union, the OSCE has had to take over the responsibility for a region saturated with ethnic conflicts for which the irreconcilability of the need to protect states’ territorial integrity and the claims of non-state entities to self-determination can be considered as one of the stalling factors in any peace negotiations. This is especially the case with regard to the conflict over Nagorno Karabakh. In this respect, norms can be used in the explanation of ethnic conflicts with territorial dimension as they “are far more clearly connected to the salience of a historical territorial dispute than power relations” and “are important also as subjectively understood conceptions of justice, which played a major role as a motive for the dispute” (Forsberg, 1995: 31-7).

A variety of norms serve to guide the behaviour of states in such a way as to produce collective outcomes commensurate to the outlined expectations. For the OSCE, these are the obligation of states to respect sovereign rights, the obligation to refrain from the use of force, the obligation to respect the inviolability of frontiers and territorial integrity, the obligation to settle disputes peacefully and to refrain from intervening in internal affairs, the obligation to respect human rights as well as the equal rights and self-determination of peoples as stipulated in the 1975 Helsinki Final Act. Therefore, norms are translated into the rights and obligations of states. Rules are those components of an international regime, which convert the regime norms into prescriptive or proscriptive actions. In this way, Kratochwil speaks of “rule density”, i.e. the number and specificity of rules that instil concrete meaning into a given norm, and specifies that it can vary considerably from one norm to another (Kratochwil, 1989: 10). This distinction with regard to the density of rules and their balanced distribution across the scale of norms is of importance to the analysis of the OSCE regime. Certain norms like peaceful settlement of disputes have generated detailed regulations and procedures. However, other norms have remained vague as the OSCE member states have failed to agree on corresponding rules that would govern relations on specific issues. A particular case in point is the self-determination norm, which has failed to live up to the expectations of some states on the basis of the vague prescription for its implementation. Contrary to norms where the correlation between their validity and claims is strong enough and guarantees explicit rules of commitment, the OSCE norms and especially the right to self-determination seem to be problematic, as the link between the legitimacy of the norm and the claims to independence has weakened. It can therefore be questioned what implications such a hypothesis can have on the viability of the OSCE

regime of norms and principles and what effect this can have on its conflict resolution activities.

The underlying OSCE principles elaborated more than two decades ago, however, leave enough leeway for conflicting interpretation under present geopolitical conditions. The break-up of the Soviet Union and Yugoslavia have led to the creation of a new social and political environment within which states and non-state entities alike have reformulated both their self-interests and objectives, thus challenging the viability and maintenance of the OSCE norms and principles. The efforts to marginalize the problem of how the OSCE principles and code of conduct can be applied in reality have contributed to the failure of all subsequent peace initiatives on Nagorno Karabakh. The confused signals as to the possible parameters of a political settlement in terms of the application of the OSCE principles triggered defiance and intransigence with the parties and they found their actions legitimate as long as their interests were safeguarded. From 1992 to 1996, for example, the OSCE lacked a clear understanding of the impact its own regime of norms and principles could have on the parties' positions as to the legitimacy of their demands and interests. These institutional constraints subsequently came to the fore of the OSCE decision-making process at three of its meetings – the Emergency Meeting of the Committee of Senior Officials in 1993, the Fourth Meeting of the Council of Foreign Affairs in 1993, and the Lisbon Summit in 1996.

Azerbaijan requested the convening of an emergency meeting in 1993 in protest against the violation of its sovereignty and territorial integrity and sought the OSCE reaffirmation of these principles. The final statement worked out as a compromise between proposals put forward by the Minsk Group Chairman and Russia, however, fell short of Azerbaijan's expectation for a "serious and strong decision demanding from the Republic of Armenia the cessation of aggression and immediate withdrawal of all occupying Armenian forces" (Interpretative Statement, Azerbaijan, 1993). Though the final statement spoke about "occupying forces" in general and did not specifically name any countries, Armenia vetoed its adoption as a signal of its strength at a time when the OSCE and individual countries were reluctant to address Azerbaijan's territorial integrity in definite terms. The final statement, stripped of any substantive meaning and implications, could consequently only be recorded in the journal of the meeting alongside the interpretative statements by the delegations of Azerbaijan and Turkey demanding the adoption of decisions without the consent of Armenia, a measure the OSCE was reluctant to take.

With the escalation of military activities in 1993, the OSCE delegations and the Minsk Group focused their attention and efforts on operational issues through which they sought to achieve an effective cease-fire and de-escalation of military activities. For the parties, however, the cease-fire was not an end in itself and without having their concerns addressed, they were not prepared to settle any other issues.

In the months preceding the Rome Council Meeting in December 1993, the OSCE sought to push ahead with two issues – the adoption of ‘Adjusted Timetable of Urgent Measures for the Application of the UNSC Resolution 822’ and the preparation for sending Verification and Monitoring Missions to the conflict area. The parties, however, considered the implementation of these measures to be contingent entirely on the safeguarding of their interests and on firm guarantees given by the OSCE that their demands would be addressed. In the process of elaborating its first comprehensive peace plan, i.e. the Adjusted Timetable, the OSCE was confronted for the first time with the insurmountable obstacle to reconcile the status-security opposites in the Nagorno Karabakh conflict, a situation which has haunted the organization ever since. At this juncture in October 1993, just two months before the Rome Council Meeting where delegations hoped to push through a number of substantive issues related to Nagorno Karabakh, the parties had solidified their perception of their own role in the conflict and of the outcome they would pursue in the negotiations. Armenia and Nagorno Karabakh agreed to the proposed Timetable since it followed the steps it favoured – cease-fire, restoration of communications, and withdrawal. For Azerbaijan the acceptance of such a sequence of measures would have amounted to capitulation. It consequently insisted first on the complete withdrawal from the occupied territories and then restoration of communications.

Against this background, the Minsk Group submitted a revised version of the ‘Adjusted Timetable of Urgent Steps’ dated 12 November 1993 in which the cessation of military activities and the withdrawal from occupied territories took first place and preceded the restoration of communications and transportation. This version of the timetable, however, still lacked the explicit reference to the Azerbaijan’s territorial integrity and it was therefore rejected outright by this party for disregard of its main concerns.

The first draft of the Rome Council document was submitted to delegations on 16 November 1993. It contained a two-page decision on the conflict dealt with by the Conference on Nagorno Karabakh, which was primarily focused on the preparations for the deployment of OSCE verification and monitoring missions as well as the establishment of an initial OSCE presence in the area. In the subsequent drafts, the delegations included a

direct reference to the sovereignty and territorial integrity of the Azerbaijani Republic and all other states in the region, which immediately made the decision unacceptable to Armenia. The Azerbaijani delegation demanded a strong OSCE action to counter the Armenian veto. Delegations were not prepared for such a turn of events at this high-level meeting and their only reaction was therefore to attempt to prevent an *impasse* by producing a new draft, which evaded all the thorny issues. The new draft highlighted the OSCE concern about the continuation of the conflict and urged the parties to look for a common ground for consensus. The Chairman of the Minsk Group, however, was not in a position to bring the parties closer even on this mild decision on Nagorno Karabakh, which was to be included in the final *communiqué*. After several hours of delay and confusion, Azerbaijan voiced its adamant position as to the inclusion of a direct reference to its territorial integrity and sovereignty either in the final *communiqué* or in a separate statement. The Chairman of the meeting failed to put forward such a statement and Azerbaijan vetoed the whole decision on Nagorno Karabakh, instead elucidating its position in an interpretative statement in the journal of the meeting.

For the next three years leading up to the Lisbon Summit Meeting, the OSCE negotiations on Nagorno Karabakh continuously revolved around the issue of how the principles of territorial integrity and the right to self-determination should be interpreted and applied in this concrete case. This issue turned out to be an unforeseen stumbling block in the subsequent negotiations. On their side, frustrated by the neglect of their main interests, the parties felt the constant pressure to make concessions, which they considered unnecessary in the context of the ongoing peace efforts. Distrust between the parties and their lack of confidence towards the OSCE mediation efforts has been an adverse and, unfortunately, a decisive factor in the search for peace in Nagorno Karabakh. In 1994, the OSCE tried to overcome the negative consequences of the Rome Council Meeting and rigorously took up the task of establishing an OSCE presence in the region and deploying peacekeeping forces there. This time, as before, delegations pushed aside the uneasy question of the application of the OSCE principles and norms in practice. Instead, the Minsk Group decided to pursue the line of confidence-building measures in the region by consolidating its humanitarian assistance to the affected countries and setting up the basis for sending its peacekeeping force as a security guarantee. The parties welcomed these activities but increasingly insisted on parallel negotiations aimed at reaching a consensus on the fundamental issues of the political settlement and considered the deployment of any peacekeeping forces possible only after such consensus.

The decision on the deployment of peacekeeping forces was adopted at the Budapest Summit Meeting in December 1994. Although the document seems to be of pivotal importance to the peace process in Nagorno Karabakh, it nevertheless carries the typical overtones of OSCE decisions. In essence, it sounds more like a declaration of intentions that is devoid of any political weight since its cornerstone is the conclusion of a political settlement that has been elusive for the whole period of OSCE involvement in the conflict. Though the decision clearly stipulates that the peacekeeping forces can be introduced only after the conclusion of a political accord, the OSCE focused its attention and efforts on developing a concept of operation of a possible mission. The main concerns of the parties, however, remained unaltered and they urged a consensus on an agreement, which sought to allay their apprehensions. In the absence of such political agreement, even discussions related to some operational aspects of a prospective deployment were viewed as a threat and the parties were therefore reluctant to engage in such talks before the OSCE clarified issues relating to the overall status of Nagorno Karabakh and the security of the region.

In the wake of the Rome Council Meeting, where the polemics over OSCE principles played a crucial role in the negotiations, the parties became even more focused on their own interests, while the OSCE readily devoted its time to the preparation of its first full-scale peacekeeping operation. The rhetoric of the previous years not only did not subside but also gained a new momentum and in 1995-96, the parties became increasingly preoccupied with their own interpretation of these principles. Within the discussions on the Security Model and at other meetings Azerbaijan constantly referred to its territorial integrity as the only basis for a political settlement, while Armenia and Nagorno Karabakh insisted that they could not accept the priority of the principle of territorial integrity of states over other principles.

The Lisbon Summit Meeting was therefore the second high-level opportunity used by Armenia and Azerbaijan to play their cards on issues of self-determination and territorial integrity respectively with regard to the conflict over Nagorno Karabakh. The main clash came as a result of the strong resistance by Armenia to a specific reference to Azerbaijan's territorial integrity, contained in paragraph 20 of the political declaration. To overcome Armenia's veto, paragraph 20 was omitted from the final text, leaving the Lisbon Summit Declaration without any reference to the conflict over Nagorno Karabakh. This was a repetition of what had happened in Rome in 1993. Unlike Rome, however, the Chairman along with the other OSCE participating states, except for Armenia, issued a special statement as a last minute compromise containing three "principles, which should form part

of the settlement of the Nagorno Karabakh conflict”.⁹ These principles are the territorial integrity of Armenia and Azerbaijan, the highest degree of self-rule of Nagorno Karabakh within Azerbaijan, and guaranteed security for Nagorno Karabakh and its population.¹⁰

Though drafted in haste and under pressure, this statement is a clear reflection of the new approach the OSCE adopted towards the prolonged Nagorno Karabakh conflict. Avoiding any in-depth discussions on the implications of its years-old normative setting in a new political context, the OSCE felt the urgency to present its new understanding of a possible solution to the conflict. Though this statement may look like an unexpected turn, the exasperation of the international community with the continued *impasse* as well as the new economic interests in the region that were unfolding throughout 1995-96 suggested stronger actions was needed towards the parties and a more categorical approach to the conflict. Understandably, Azerbaijan and Armenia interpreted the outcome of the summit in opposite ways. The political leaderships in both countries had been under constant domestic pressure to defend their respective interests and they were therefore at pains to present their country as a ‘winner’ at the talks. The Armenian president claimed the exclusion of the text on Nagorno Karabakh from the final document as a great victory, while the Azerbaijan’s president instead highlighted the Chairman’s statement, reaffirming the country’s territorial integrity.

The foregoing examination of the decision-making process at three OSCE meetings spanning the three years from 1993 to 1996 has sought to demonstrate that situations in which the normative context is in flux can give rise to various interpretations and definitions of the same problem. The need to develop a common understanding in response to a changing context is, nevertheless, particularly relevant to conflict resolution activities with regard to the conflict over Nagorno Karabakh. First, the OSCE norms and principles are elaborated through a sophisticated and complex process of political bargaining dating back to the realities of the Cold War. Historically, they fit into the mould of the rationalist approach conceiving of norms and rules as functional responses of rational actors to perceived collective action problems (Hasenclever et al., 1997: 23-6; 30-5). On the other side, their explicit verbal formulation is not justifiable for lack of binding force and explicit rules of implementation, which in the context of the post Cold-War realities have led to

⁹ Statement of the OSCE Chairman, Annex 1, Lisbon Summit Document 1996.

¹⁰ Following the Chairman’s statement, the Delegation of Armenia stated that it “predetermines the status of Nagorno Karabakh, contradicting the decision of the OSCE Ministerial Council of 1992, which referred this issue to the competence of the OSCE Minsk Conference, to be convened after the conclusion of a political agreement”. See Annex 2 of the Lisbon Summit Document 1996.

loss of commonality of interests and actions. The changes in behaviour prompted by a change of interests, however, presuppose the need to develop a common understanding and expectations. This point is particularly relevant for the OSCE regime of norms and principles whose cohesion has been affected by the fact that the link between the legitimacy of the self-determination norm and the validity of claims to independence has weakened owing to its potential to trigger conflicts of major military scale and further splintering processes.

Second, the approach to normative arrangements as dynamic phenomena has been missing from the OSCE mediation activities for most of the post-Cold War period, while the parties to the conflict were entrenched in their self-interpretation and self-definition of the OSCE regime of norms and principles. As the irreconcilability of the principles of territorial integrity and the right to self-determination is considered too difficult to overcome, the OSCE seems to have discarded the possibility of forging convergent expectations through political discourse and agreement on common interpretations.

The interpretation of norms and principles and the emphasis on common interpretation and convergent expectations furthermore touch upon another issue that is important in the search for political solutions to conflicts such as Nagorno Karabakh, and particularly where the domestic factor is as equally important as the need for international discourse. These are the issues of justice and fairness as perceived by the parties to a conflict. Confined to a situation of stalemate where a mutually acceptable compromise is difficult to reach, Nagorno Karabakh adds to the list of long-running, deep-rooted and intractable conflicts. As such, the outcome of any peace agreement will be contingent on the ability of the domestic audience to move away from the mentality of entrenchment despite the readiness of the countries' leadership to opt for compromises. This was the problem faced by the OSCE negotiators throughout 2001, when the official high-level expectations for a peace plan ran contrary to the domestic fears and mounting suspicion of injustice and unfairness as regards their main concerns.

IV. The 'Enduring Rivalry' Context – Implications for the OSCE Peace Process

The conflict over Nagorno Karabakh represents an interesting case for empirical research of 'enduring rivalry' theories of conflict, as the political and psychological dimensions of the confrontation can be expected to be deep-rooted, permeating society at both the individual and public levels, while the behaviour of the parties is greatly influenced by past

grievances.¹¹ Under such circumstances, “it becomes increasingly difficult to view specific conflicts as independent phenomena and to extract them from their rivalry system without distorting the context in which they occur” (Thomson, 1995: 196-7). If we assume that there is no alternative to conflict resolution within the specifics of the rivalry system and within the frame of conflicting interests, then it can be hypothesized that a major precondition for a successful peace process would be the shared concepts of justice and fairness. Under such circumstances, the conflicting parties will be in a position to opt for compromises commensurate to their equalized expectations and the negotiations will be in fact guided and facilitated by the shared desire to reach a just solution (Albin, 1999: 262-5). The so-called ‘concession-convergence’ model, however, is difficult to apply to conflicts like Nagorno Karabakh, where the negotiation outcome is viewed by the parties primarily as zero-sum and the conflicting notions of justice and fairness themselves become part of the negotiation process. For the conflict over Nagorno Karabakh, the predominant asymmetrical dimension is the irreconcilability of the parties’ demands and objectives. For example, a guarantee of security of one side, like the presence of Armenian armed units in Nagorno Karabakh and the link between Armenia and Nagorno Karabakh, is perceived as an encroachment on Azerbaijan’s territorial integrity and sovereignty.

Any workable formula for a political settlement to the conflict over Nagorno Karabakh would eventually have to contain solutions to the four major issues of contention between the warring parties, which are (1) the status of Nagorno Karabakh; (2) the Armenian withdrawal from Azerbaijani territory; (3) the security of Armenians in Nagorno Karabakh; and (4) the return of Azerbaijani refugees. The issues in the conflict are complex and intertwined and the greatest challenge to the Minsk Group has been whether to tackle them concurrently or successively, leaving decisions on the status of Nagorno Karabakh to a later stage, possibly the promised Minsk Conference. On the basis of this reasoning, the OSCE has recently tested the feasibility of two approaches to conflict settlement – ‘package’ or ‘step-by-step’.

The first full-fledged peace plan worked out by the Minsk Group in July 1997 follows the ‘package’ solution, emphasizing the need to solve certain aspects concurrently, owing to the interdependent nature of the major issues. At that time, the Minsk Group called for full self-government of Nagorno Karabakh within Azerbaijan, Armenian withdrawal from all of the

¹¹ The criteria defined for ‘enduring rivalry’ are: a minimum of five to seven militarized disputes, at least 20 years between the outbreak of the first dispute and the termination of the last dispute, and a maximum of 10 years between disputes/or identical and unresolved issues in the rivalry dispute. Definition by G. Goertz and P. Diehl as summarized in W.R. Thomson (1995).

occupied territories, return of Azerbaijani refugees, OSCE peacekeeping force to patrol the buffer zone, lease of Lachin from Azerbaijan to Nagorno Karabakh, lifting of all economic blockades (Emerson and Tocci, 2001).

The most important aspect of the 'package' proposal is that it determines Nagorno Karabakh as "a territorial formation within Azerbaijan" whereby "the population of Nagorno Karabakh elects representatives to the parliament of Azerbaijan and takes part in the election of the president of Azerbaijan" (Margarian, 2001). Thus the 'package' proposal pre-determines the status of Nagorno Karabakh as an integral part of Azerbaijan and it was thus declined by Armenia and the Armenian leadership of Nagorno Karabakh.

Later in 1997, the Minsk Group launched its new strategy with a shift from the 'package' to the 'phased' or 'step-by-step' option. The plan contains the same aspects as the previous version, i.e. Armenian withdrawal, return of refugees, blockade lifting, while postponing any decision on the status of Nagorno Karabakh until the last phase of the peace process (Hakala, 1998). Azerbaijan had accepted the proposal, while Armenia and the leadership of Nagorno Karabakh opposed the postponement of the status question as too risky and failing to take into account their security concerns.

In 1998, the Minsk Group presented a new peace plan to the parties in the conflict based on the concept of 'common state', which would allow non-hierarchical relations between Azerbaijan and a *de facto* independent Nagorno Karabakh that would not have the right to unilateral secession (Emerson and Tocci, 2001). Article 1 of the published peace proposal stipulates that Nagorno Karabakh and Azerbaijan shall form a common state to be governed by a joint commission comprised of representatives of the two entities (Danielyan and Peuch, 2001). This plan, envisaging the establishment of horizontal rather than vertical relations between Nagorno Karabakh and Azerbaijan, was rejected by Baku while it was embraced by Yerevan and Stepanakert.

The year 2001 then saw an increase in diplomatic activities and reinvigoration of the Minsk process. In July 2001, the presidents of Armenia and Azerbaijan met in Paris to discuss the so-called 'Paris principles' for the conflict settlement reiterating the 'common state' concept, the most essential aspect being the establishment of horizontal relations between Nagorno Karabakh and Azerbaijan, thus ruling out the possibility of subordination. Under the proposed plan, neither of them can unilaterally change the provisions of the common state and the Nagorno Karabakh Republic would itself form its own executive, legislative, and judicial branches as well as a national guard and police (Danielyan and Peuch, 2001).

The last high-profile round of negotiations within the framework of the Minsk Group were held in Key West, Florida, in April 2001. The peace plan proposed at that time reiterates some of the crucial aspects of earlier plans, including:

- Withdrawal of Armenian troops from six of the seven Azeri districts, the seventh being Lachin, which provides the link between Armenia and Nagorno Karabakh;
- Nagorno Karabakh together with Lachin would be allowed effective self-government remaining only nominally part of Azerbaijan;
- An internationally patrolled corridor, linking Azerbaijan to Nakhichevan through Armenian territory (Emerson and Tocci, 2001).¹²

Though based on some of the elements of the 1998 concept, the reference to ‘common state’ has been abandoned as it was rejected earlier by Azerbaijan. However, the new plan would only ‘nominally’ leave Nagorno Karabakh in Azerbaijan and would thus enjoy *de facto* although not *de jure* independence. In essence, Nagorno Karabakh would be loosely tied to Azerbaijan through non-hierarchical relations, yet directly linked territorially to Armenia through Lachin.

Despite the prevailing optimism for a breakthrough throughout 2001, the parties’ stands on the issue of Karabakh’s status, which again happened to be the most crucial point in the negotiations, appeared to be as far apart as ever. While Azerbaijan had insisted on its territorial integrity by granting Nagorno Karabakh an autonomous status, Armenia and the leadership of Nagorno Karabakh rejected any ‘vertical’ subordination of the enclave to Baku.

The table below demonstrates the asymmetry of demands and issues in the Nagorno Karabakh conflict through an overview of the OSCE peace proposals:

¹² Despite the secrecy of the talks, certain aspects of the proposed plan were made known to the public.

<i>Concept</i>	<i>Implications for Azerbaijan</i>	<i>Implications for Armenian side</i>	<i>Rejected by/ on what grounds</i>
New principles Lisbon 1996	Territorial integrity affirmed	Highest degree of autonomy for NK	Armenia refers to the Helsinki Principles
'Package' peace plan – July 1997	Territorial integrity affirmed/ vertical relations between Azerbaijan and NK	NK status as an integral part of Azerbaijan predetermined	Armenia and NK/against autonomy
'Phased' peace plan – Dec. 1997	Territorial integrity upheld/ vertical relations between Azerbaijan and NK	NK status to be determined at a later stage	Armenia/NK fear to lose strategic advantages, which would put them in a disadvantageous position at subsequent talks
'Common state' plan – Nov.1998; Paris principles 2001; Key West talks - 2001	Horizontal relations between Azerbaijan and NK/ NK receives an enhanced status	NK is a territorial formation of a republican type/ Azerbaijan and NK are to sign a treaty on division of powers.	Azerbaijan/the plan does not determine NK status as an integral part of Azerbaijan

The sharp asymmetry in terms of major issues, objectives, and strategies to reconcile the conflicting interests respectively can be usefully discussed within two conceptual frameworks – 'narrow' or 'contextual' and 'broad' or 'external'.¹³ The 'narrow' perspective concerns the interpretation of principles set out in the OSCE peace plans. The OSCE silence on any possible basis for political settlement up until 1996 and the subsequent shift from one position to another regarding the underlying principle of an agreement reinforced the asymmetrical structure of the conflict and the feeling that the conflict is inherently insurmountable. The 'broad' framework covers the principles of international law in general and the OSCE regime of norms and principles in particular. The way in which these principles are projected on to the processes of conflict resolution have led conflicting parties to question the legitimacy of the proposed peace plans, which address the main concerns of one or the other side but never both at the same time. Quite relevant to this case is the observation that "the extent of the search for satisfactory solutions to a problem depends in part on the belief that the environment is benign and that such options in fact exist" but "it is in the nature of crisis that most, if not all, policy alternatives are likely to be perceived as undesirable" (Holsti, 1972: 16). Depending on

¹³ On this matter, see C. Albin (1999: 274) discussing the Israeli-Palestinian conflict.

which of the principles is proposed as the benchmark of a future settlement, each of the sides has been in a position either to promote the peace plan or to reject it. As a rule, every new peace proposal on Nagorno Karabakh has invariably been followed by a period of a prolonged deadlock, reinforcing the parties' perceptions that the processes that propel their rivalry are extremely difficult to reverse.

The OSCE approach to the Nagorno Karabakh conflict so far is a demonstration of the failing of the static model of resolution versus the need to employ more dynamic and developmental mechanisms. The static model described in the conflict resolution literature, i.e. focused on the trading of concessions on the basis of rationality and maximization of value by each side, cannot be successful in conflicts where positions prevent adversaries from reaching an agreement on a shared notion of justice or a priority principle of settlement. As presented in the table of OSCE peace plans since 1996 above, the negotiation strategy has been to concentrate on the "relationship of the asymmetries to the content of solutions" (Mitchell, 1991: 37). The peace proposals so far have displayed a very rigid characteristic, namely the tendency to link the objectives and demands to the impossibility to reconcile the inherent asymmetries of the conflict. It is true that for conflicts like Nagorno Karabakh it is legitimate to ask what alternatives are available and possible when the parties' definitions of concerns and objectives preclude any possibility of a solution. The preceding part of this article deals with the normative flux as regards the OSCE regime of norms and principles and highlights the need for a common approach to their application. While it is unrealistic to expect that the international community will apply the same standards and criteria to different conflicts, the lack of unanimity on crucial normative issues gives rise to a diversity of expectations. The sequence of peace plans proposed by the OSCE in the past few years are a reflection of the tendency to concentrate on the parties' positions rather than on their interests and needs. As the parties' positions are conflicting and mutually exclusive, every plan would imply unilateral concessions rather than mutual trade-offs. Therefore, the lack of a shared definition of the problems and elaboration of common expectations has served to solidify the antagonistic positions and to reinforce the existing adversarial relationship among the parties. As Kelman (1982: 44) has observed, successful negotiations:

Must aim for a resolution of the conflict, i.e. an outcome that – though of necessity involving compromise – leaves both parties better off, is responsive to their basic needs and concerns, and is at least minimally consistent with their sense of justice. They must entail a process that helps build mutual trust. And must produce agreements to which the parties are and feel committed.

The lack of search for a minimal sense of justice for each of the parties is, moreover, the harbinger of another problem. This is the misconception that the conflict would be instantly solved when and if the conflicting parties sign a detailed legal and political document. Such approaches tend to neglect the domestic context of conflict resolution, which at the end of the day is of crucial importance for conflicts like Nagorno Karabakh where the history of confrontation determines current perceptions and expectations for the future. On this point, the static approach emphasizes “the need to view domestic political constraints within the context of the core beliefs and interests shared by the state’s leaders” (Hagan, 1994: 198). Such perspectives fail to take into account that the inherent conflictual asymmetries have as much influence on reaching a shared basis for an agreement within the framework of official negotiations as on its implementation on domestic level. In 2000-2001, the information on Nagorno Karabakh oscillated between speculations on an imminent agreement to be signed by the presidents of Armenia and Azerbaijan and talks of ‘betrayal of interests’ largely circulated in both Armenia and Azerbaijan. Through the history of the negotiation process under the OSCE auspices, there has been the constant dilemma to protect the secrecy of the talks and at the same time to share information with the public. Within the existing asymmetries of the conflict, it is evident that any political agreement will have to imply compromises for all sides. Against the background of the secrecy of the OSCE talks, however, there is much room for various speculations and fear as well as mounting suspicion in Armenia, Azerbaijan and Nagorno Karabakh that such compromises might be detrimental to their own interests.

So far, the chances that the parties’ positions will be reconciled through the currently existing static model of negotiations seem very slim, precisely because the mediation efforts were focused on finding half-way points of convergence between asymmetric adversarial positions. Such efforts are viewed both by the parties and their domestic publics as conflicting, incompatible, and sometimes arbitrary and requiring unjustified substantial compromises on their respective side.

The emphasis on the adversarial positions versus the underlying needs and interests of conflicting communities distinguishes the static model of negotiations from the developmental paradigm of conflict resolution.¹⁴ The latter views the negotiation as a process of learning, developing and adjusting relationship moving away from the

¹⁴ See R. Fisher and W. Ury (1987); C. Mitchell (1981); G.J. Stein (ed.) (1989).

adversarial, competitive and power-oriented frame to an interactive joint search of a cooperative solution. In other words, such progress would represent a “shift from a winning to a conciliatory mentality” (Zartman, 1989: 9).

As discussed above, the Nagorno Karabakh conflict has so far displayed all the characteristics typical of the adversarial frame of viewing conflict and its possible resolution. At this stage of the existing relationship between the parties and of the negotiators’ approach to settlement, a potential agreement will eventually fail, as the focus on adversarial positions does not address the underlying needs, fears and concerns of the affected communities as well as their long-term interests. If a political agreement is signed within the adversarial frame, it will be based on a competitive, exclusive, win-lose, and power-oriented approach aiming at compromise on substantive issues by eliciting concessions. The implementation of such agreement would entail coercive measures raising questions as to its fairness to all parties.

What will be the implications for the OSCE under this scenario? First, the peace plans put forward by the OSCE by now tend to over-emphasize the legalistic aspects of a future agreement. Though not much information is available to the public on specific aspects of these proposals, it is evident that the main issues revolve around the constitutional aspects of a political settlement and any compromise within this frame seem threatening to all conflicting parties. Second, if presumed that the OSCE is in a position to facilitate an agreement within the specifics of the adversarial frame, it would lack the enforcement mechanisms to ensure its implementation.

The ‘enduring rivalry’ context presupposes a long process of social-psychological transformation of the conflicting parties and communities and, therefore, involvement of a wider group of civil leaders apart from the principal political authorities. On the other side, as the only forum for the Nagorno Karabakh conflict resolution, the OSCE commitment to such a process would need to work towards changing the perceptions, attitudes and behaviour of the conflicting parties. The conflict resolution literature has identified several instruments through which attitudinal change can be advanced. These are, for example, consultative meetings, problem-solving workshops, or communal-level training in conflict resolution. It is to be presumed that such initiatives can easily remain beyond the scope of the official negotiations under the OSCE auspices. This in itself represents a broadening of the scope of conflict resolution as it is no longer concentrated exclusively in the hands of international organizations and external agencies in “one-shot mediation efforts” and

advances the need to build conflict management capacity within societies. (Miall et al, 1999 : 18-9).

VI. Conclusions

One of the main obstacles to successful negotiation in deep-rooted, protracted conflicts like Nagorno Karabakh is that compromise appears unacceptable to the parties. This compromise is even more unacceptable when it emphasizes the legalistic aspects of a settlement in conditions of a changing normative basis as experienced by the OSCE in particular and international law in general, while the underlying fears and concerns of the affected communities are not truly addressed.

It is not possible to extract peace negotiations from the existing rivalry system and view them as independent phenomena. Therefore, negotiations are affected greatly by the parties' notions of justice and fairness that prevail. In terms of the OSCE negotiations on Nagorno Karabakh, this article points to the fact that locked within the asymmetries of the conflict, the parties do not view the outcome as a positive, integrative and cooperative game.

A successful outcome of the negotiations would mean that the OSCE had managed to create a flexible evolutionary framework for developing the necessary infrastructure for cooperation and reciprocity. Such a framework would lower fears deriving from perceptions of insecurity and mistrust of the other party's intentions. From the perspective of the integrative mode the problems are framed as common. For instance, insecurity of either side should be viewed as a concrete problem for both sides. The logic for this is that in feeling insecure, each side will act in ways that will make the other side feel insecure. This point is of special relevance to the OSCE conflict resolution activities on Nagorno Karabakh as the negotiation process has stayed primarily in the domain of the parties' rights, while the latter have been difficult to determine in view of the irreconcilability of the principle of territorial integrity and the right to self-determination in the way they are subjectively interpreted by the parties.

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