



## Would Azerbaijan Choose to Use Force in the Karabakh Dispute?

### Introduction

Although the Karabakh problem dates back earlier, its impact on the world agenda only started in conjunction with the Soviet Union's disintegration process. The rise of nationalism in nearly every region of the Soviet Union and the Moscow administration's loss of control over these regions, coupled with Armenia's expansionist policy, meant that Caucasia was inescapably reunited with a new point of conflict. The strategic significance of Caucasia for states that are competing for global power, energy resources in the Caspian basin, the regions significance for international transportation routes and other reasons have all brought this problem to the centre of attention.

Small scale armed clashes in the late-1980s turned into a large-scale war resulting in the successful occupation of the area by Armenia, followed by a ceasefire agreement in 1994 which intermitted the war. Actually, peace talks, which had been started earlier, intensified after that date yet did not reach a peace agreement. Despite the delay, peace talks continue intensively today, periodically making some progress where statements are given that peace is the only way for settlement and at other times, hints are given for the possibility of resumption of war. In particular;

1. The discomfort that the Azerbaijani and even Armenian people feel due to inconclusive peace talks
2. The shared belief amongst almost all Azerbaijani people that territories must be recovered at all costs
3. The continuous statements by Azerbaijani officials stating that they will never accept indefinite Armenian occupation and will do whatever it takes to recover occupied territories and sometimes even the possibility of war is mentioned
4. Periodically Azerbaijan's attempts to take disputes to the highest levels of international organisations to acquire a resolution on Armenia's occupier status, the last successful



example of which was at the UN General Assembly

5. Intensified border clashes following the last Presidential election in Armenia, which went beyond the continuous “small ceasefire breaches” and turned into a partial war

6. Frequent visits by the President of Azerbaijan Ilham Aliyev to villages that are close to Armenian occupied regions and the close attention paid to the problems of the region’s people, sends the message to Armenia and the world about the recovery of occupied lands

7. Significant annual increases of Azerbaijan’s military budget, for instance, next year’s budget will be over 2 billion dollars

The dispute becomes a priority and the question whether Azerbaijan would use force comes into mind. What is the possibility of re-igniting a war in the region and Azerbaijan’s use of force to recover its lands from Armenia’s occupation?

To find answers to these questions a careful investigation of the dispute’s historical background, development, the conditions of the region, the application of international law and similar issues is necessary.

### A Brief Historical Background of the Dispute

A brief examination of the region’s history shows that the dispute is based on the big powers’ policies towards the region, thus, ethnic migration in the region. In the past a population made up of Armenians and Azerbaijanis (Azerbaijan Turks or Muslims) lived peacefully, without ethnic conflicts, under the states that were established in the region. However, the strengthening of Russia since the early 18th century, the enlargement of its regional dominance, and its efforts for Southward expansion, thus its need for a state structure that could be used as a base, resulted in triggering ethnic strife in the region. In the 18th century, under the leadership of Penahali, the Karabakh Khanate was established. The Karabakh region generally protected its independence, except for a short period of time (only in 1797) following intensified attacks on the region, when they were under the rule of the Qajar Turks, who were stationed in the South of Azerbaijan (today’s Iran). In 1826, the Karabakh Khanate was occupied by Tsarist Russia. Wars between the



Russian and Qajar rule resulted in the Turkmenchay agreement, by which Karabakh Khanate joined Russia. Moreover, the war in Caucasia between the Ottoman Empire and Russia during 1828-1829 helped Karabakh Khanate to regain its independence. Another significant result of the wars and agreements for the Karabakh region is that of the migration of Armenians to the Karabakh region ; 18,000 between 1825 and 1826 from Qajar ruled lands, 50,000 in 1828 (article 15 of the Turkmenchay agreement foresees migration of Armenians under the rule of Qajar to the North of the Aras river, in other words Russian ruled territory) and 84,000 in 1829 with the Ottoman-Russian Edirne agreement. According to Russian historians of the period, throughout this process at least 1 million Armenians migrated or were forced to migrate to Caucasia from Anatolia and the territories of Iran . The Emperor of Russia Nicholas I established an Armenian region in the territories of Revan and Nakhichevan Khanates by means of migrations . Russia's aim to change the ethnic structure of the region to establish a "base-post-state" for its interests is well documented by Russian and Armenian historians .

Although various uprisings occurred during the late-19th century and early-20th century, until 1918 the Karabakh region remained a part of Azerbaijan (within the Ganja Gubernia), which was under the rule of Tsarist Russia. After the establishment of the Azerbaijan People's Republic on 28th May 1918, the Karabakh region remained inside Azerbaijani territory. On 20th January 1920 at the Paris Peace Conference the independent Azerbaijan Republic was officially recognised and the Karabakh region accepted as a part of it. Furthermore, conflicts that ignited after the collapse of the Soviet Union are the result of policies that were enacted between the periods of Soviet Union occupation of Azerbaijan and the collapse of the Union. These policies included giving Azerbaijan's Zengezur and Gokce regions to Armenia as a "gift" , the establishment of the Nagorno-Karabakh Autonomous Oblast (NKAO) within Azerbaijan , the achievement of a high Armenian ethnic population in this Oblast and continuous preparations for Armenia's annexation of NKAO from both inside and outside of the Soviet Union . At first, reciprocal ethnic hatred



increased leading to small-armed clashes along the Azerbaijan-Armenia border and the NKAO region, then, in June 1992, clashes turned into war. In this period, Armenia's possession of a national army coupled with Azerbaijani officials' negative stance towards the establishment of a national army resulted in 5% of Azerbaijan's territory being occupied by Armenian forces. During the war, Armenian forces, with the support of a 366-strong Russian force, carried out a massacre in Azerbaijan's Khojaly (Hocali) district which was strongly condemned by many states, international organisations and the foreign media but investigations were not held in order to find those who were responsible for the massacre. Continuous attacks by the Armenian army during 27th March - 3rd April 1993 resulted in the occupation of Azerbaijan's Kalbajar (Kelbecer) district by Armenia. The UN Security Council took its first resolution on the problem after this occupation. Resolution 822 stated the unconditional and quick return of the Kalbajar (Kelbecer) district. However, the resolution has not been applied because of Armenia's diversionary tactics, which are encouraged by the tolerant attitudes of international organisations. As a result, Armenia continued to occupy Azerbaijan's territory until the end of 1993 (today approximately 17% of Azerbaijan's territory is still under Armenian occupation), with the UN Security Council continuing to make new resolutions (853, 874 and 884) requesting the end of occupation. In the meantime, initiatives toward the settlement of the dispute continued with various international organisations. The OSCE Minsk Group was established to encourage a peaceful resolution to the conflict. As a result of special initiatives of the Minsk Group and Russia, a series of agreements were reached concerning a ceasefire between Azerbaijan and Armenia in May 1994. From May 1994 until today, the ceasefire situation continued with only minor violations.

During the ceasefire period, various attempts to settle the dispute continued with the mediation of especially the Minsk Group, various international organisations and states. The most significant attempts of all are those of the OSCE Minsk Groups three peace plan offers. However, the plans were not put into practice because of rejections by Armenia of the first

two and the last one by Azerbaijan. Although these plans were rejected, controversy was caused when plans that were kept secret for a long time were published in Azerbaijan's official gazette on 21st February 2001. All three peace plans foresaw the signing of an absolute peace agreement, the withdrawal of Armenian forces from Azerbaijan, the return of Azerbaijan's territories outside of the NKAO borders except Lacin, the return of Azerbaijani refugees and the establishment of a structure similar to that of the former NKAO within Azerbaijan. The differences between the plans were about the timetable of the process and the status of a newly established structure.

Notably, two serious initiatives for the settlement of the dispute came close to success. First, in 1997, the initiative of French President Jacques Chirac almost realised a peace agreement. However, the overthrow of the Armenian President Levon Ter Petrossian by R. Kocharian stopped the process. Another significant initiative could have been that of the OSCE Istanbul Summit in November 1999. However, upon claims that the peace agreement would be signed just before the summit, an armed attack on the Armenian Parliament, which resulted in the deaths of high-ranking officials, ended the initiative unresolved. The third round of dispute settlement initiatives started in March 2001 with France's mediation. When the meetings in Paris and right after on April 2001 in the Key-West (Florida-USA) are carefully observed and statements before and after the meetings examined, claims that various conclusions had been reached can be made. However, officials denied, every time, claims that conciliation had been reached. On 10th-11th February 2006 in France, the "Rambouillet tour" of the peace talks was held and again according to official statements an absolute result was not reached. Today, peace talks continue, but contradicting statements on results makes it difficult to reach a conclusion about the effectiveness of the talks.

#### Nature of the Dispute and Options for Settlement

The emergence of the dispute is a result of Armenia's desire to annex Azerbaijan's historical Karabakh region. The Armenian Parliament took a decision on 1st December 1989 to



achieve this and have never backed down from it since . However this decision and Armenia's official requests were found to be contradictory to the USSR Constitution, the Republics' constitutions and condemned and annulled by both the Moscow and Azerbaijan administrations. When Armenia, which officially stated its expansionist policy and took the decision accordingly, became a member of the UN, made some changes in its policy, although it did not change the aim in order not to experience difficulties against international law . The Armenian administration have previously, openly expressed the reason for armed clashes and war between Azerbaijan as that of gaining territory and expansion, but following UN membership, they felt the necessity to define events differently. For instance, the Armenian administration started to claim that events in the region is not a war, that the Armenian people, who were escaping Azerbaijani oppression, are fighting for their independence and that Armenia is only supporting a struggle for independence. However, these claims are not enough to cover the aggressiveness and expansionist characteristic in Armenia's foreign policy. Today, this policy still continues and Armenian officials at every level do not hesitate to state that they can annex a considerable amount of occupied territory. Furthermore, occupied territories of Azerbaijan are de facto a part of Armenia. Armenians of Azerbaijani citizenship in the region officially contact the outside world through Armenia, play an active role in Armenia's domestic politics, and in the same manner, the Armenian central administration continuously pay visits to occupied territories, evaluate the situation and develop policies in various areas (military, cultural, social). Armenian money is used in the region. All of these show that Armenia did not back down from annexing and occupies Azerbaijani territories, on the contrary, despite the change of tactics, Armenia is actively pursuing its same old expansionist policy.

The end of Armenia's occupation of Azerbaijan's territory is a necessity for a settlement, which takes the nature of the problem and Caucasia's ethnic structure into consideration. In parallel to this, international organisations propose settlement plans in order to make the Armenian minority in Azerbaijan feel safe. After the end of occupation, Armenian's basic

rights and freedoms, just like other minorities, will be warranted.

The following options can be followed by Azerbaijan to end Armenian occupation of its territories:

- 1) Azerbaijan and Armenia accept and swiftly put into practice an internationally guaranteed peace plan: Initiatives until now did not yield a result and all proposals apparently were not accepted. The most important reason for this, as explained above, is the great gap in the approaches to the issue between the conflicting parties. International organisations and generally all mediators should study in detail the regions' and especially Azerbaijan and Armenia's characteristics, consider all aspects of the dispute, and prepare a realistic peace proposal based upon this investigation.
- 2) Azerbaijan tries to re-take occupied territories based on the right of self-defence: In this situation, problems may occur on the basis of Azerbaijan's right to self-defence. Therefore, we will examine this in more detail.

#### Azerbaijan's Right to the Use of Force for Self-Defence

The war between Azerbaijan and Armenia can be evaluated in many ways depending on different perspectives. However, whichever perspective is chosen, the reality of occupation is there. This situation, despite being documented by various international organisations' resolutions, is generally denied by Armenian officials, claiming that there is no occupation but an "existence of independence initiatives of Armenians of Nagorno-Karabakh Autonomous Oblast". However, in some instances, Armenian state officials have accepted the occupation. An example of this happened on 17th May 2001. On this day, during a session in the Armenian Parliament, first Armenia Defence Minister Serzh Sarkissian stated these words: "There are territories that we have occupied. There is nothing to be ashamed of. These territories were occupied for our security. We were saying this in 1992 and before, now we still say it. My style may not be diplomatic, but this is the truth". After him, upon the first reactions to the previous speech, Armenia's Foreign Affairs Minister Vartan Oskanian made a clarification and talked about the occupation, but upon requests for an explanation

of his speech by the Tashnag Party, he backed down.

On August 2002, while the meeting between Azerbaijan's President Haydar Aliyev and Armenia's President Robert Kocharian at the border in Sederek was ongoing, the Armenian Defence Minister Serzh Sarkissian made a statement; he officially talked about the existence of Armenia's soldiers in the occupied region and added that this is normal . In the same statement, Sarkissian expressed that the former Nagorno-Karabakh Autonomous Oblast territories were never seen as Azerbaijan's territory.

We will primarily focus on the criteria of being under attack, which is necessary for the right of self-defence. Today, the occupation of Azerbaijan's territory is undeniable. As mentioned above, both in UN Security Council Resolutions and in various international legal documents this situation has definitely been accepted and Armenian officials have, in various instances, accepted the occupation and existence of Armenia's soldiers in Azerbaijan's territory. Meanwhile, the Armenian Parliaments' decision of 1st December 1989, which is the annexation of the Karabakh region, has not yet been annulled. Enlightening developments, for our subject matter, took place during Armenia's 2003 Presidential election. Firstly, a debate broke out on whether former President Robert Kocharian's candidacy is valid. Opposition parties to Kocharian claimed that he does not satisfy the condition of "being an Armenian citizen for at least 10 years", thus he cannot be a candidate. According to some claims, the Armenian Ministry of the Interior provided Kocharian with the necessary citizenship document based on the Armenian Parliament's decision of 1st December 1989 and the problem was resolved . Another development in the 2003 elections was that the Kocharian administration shifted forces from occupied Azerbaijani territories to Yerevan in order to prevent opposition against him. Similar events happened during the 2008 Presidential election and caused strong reaction by the Armenian public. These developments should be considered as the Armenian administrations de facto moves directed at Azerbaijan's territory.

Armenia's unilaterally scaled actions towards Azerbaijan are contradictory to the UN





General Assembly resolution 3314. According to the 3rd article of resolution 3314, Armenia without doubt is an aggressor state. During the visit to the region on April 2003, the OSCE's Special Envoy Anjey Kasprshik stated that forces tied to the Armenian Ministry of Defence were operating inside Azerbaijan's occupied territories and that the Armenian Defence Minister (today's President) Serzh Sarkissian is aware of this fact . This act has been defined as an act of aggression by the International Court of Justice decision on the 1986 Nicaragua Case and thus grants right to self-defence.

At the 25th January 2005 sessions, the Parliamentary Assembly of the Council of Europe carried a resolution on ending Armenia's occupation of Azerbaijan's territory and on 14th March 2008 in the UN General Assembly a similar resolution has been carried .

Furthermore, Armenian officials of all ranks state that they do not recognise the territorial integrity of Azerbaijan and that the return of occupied lands (they define this with the general statement "Nagarno Karabakh") to Azerbaijan is out of the question . Even this statement alone grants the right of self-defence to Azerbaijan according to the argument that attacks on the State's right to exist and its territorial integrity justifies self-defence .

In conclusion, Azerbaijan has the right to the use of force provided that Azerbaijan informs the UN Security Council and that it is limited to the occupied land (that is, use of force cannot continue towards the inside of Armenia). However, our aim here is not to encourage the use of force. We also defend that force shouldn't be used, as far as possible, in settling disputes and are aware of the danger that use of force creates for humanity and civilisation. However, turning a blind eye to the long continued occupation would doubtless create dangerous results for international peace and security, thus humanity and civilisation. Everybody knows the fact that the current occupation between Armenia and Azerbaijan threatens regional and global peace and security and prevents development and cooperation. Moreover, possible results of encouragement of expansionism, even by turning a blind eye, for the region and the world can be easily anticipated.

Conclusion

In light of the above insights, the resolution of the dispute wouldn't be easy. Current circumstances show that Azerbaijan has no option but the use of force to recover its territories that are under Armenia's occupation. Aside from statements given in parallel with national interests, Azerbaijan's right to recover its territories from the occupier is undisputable according to international law. Statements by Azerbaijani officials, especially Azerbaijan's President Ilham Aliyev and the Defence Minister Sefer Ebiyev, similar to the reasoning above, have been heard frequently. Ilham Aliyev in his latest speech, which was on 18th April 2008 in the semi-occupied Fuzuli region, while expressing his reaction to mediators' persistent requests for irresolute peace talks, his statement of "Were our territories occupied via peaceful means, that we could recover them with peace?" shows Azerbaijan's resoluteness on this issue. Azerbaijan's defence budget continues to increase every year despite reactions from international organisations and even the US and Russia. However, the nature of the dispute and its process, reflections of global rivalry on the region and especially Russian military presence in Armenia diminishes the possibility of Azerbaijani initiated war to a minimum. Azerbaijan couldn't resist the occupation of Armenian forces, which had international military and moral support, thus lost the first round. However, Azerbaijan desires to win in the second round. Because of this, unless occupied territories are saved from occupation (Armenia ends the occupation), given the right military-diplomatic conditions, Azerbaijan would use force to recover occupied territories.

#### Endnotes

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