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## Minsk Group Mediation of the Nagorno-Karabakh Conflict: Confronting an “Intractable Conflict”

### *Introduction*

This contribution evaluates the role of the Minsk Group of the Organization for Security and Co-operation in Europe (OSCE) as a facilitator in the conflict involving the former Soviet region of Nagorno-Karabakh<sup>1</sup> in the Southern Caucasus and offers recommendations for ways in which the facilitation process might be more effective. Currently co-chaired by the United States, France, and the Russian Federation, the Minsk Group, the activities of which have become known as the Minsk Process, has tried unsuccessfully to bring about a resolution of this protracted conflict since 1992. This contribution examines the mediation efforts of the Minsk Group in an effort both to explain why it has failed to find a solution to this conflict, as well as to suggest possible paths for resolution.

On 12 May 2014, the OSCE marked the twentieth anniversary of the ceasefire agreement brokered by the Russian Federation that ended the two-year-long war between Azerbaijan and Armenia over the former Soviet Nagorno-Karabakh Autonomous Oblast (NKAO), located in Soviet times within the Azerbaijan Soviet Socialist Republic. With the end of the fighting, a government was formed in the self-proclaimed Nagorno-Karabakh Republic (NKR), which has de facto control in the region but is not recognized by any state, including Armenia. The self-proclaimed republic's access to Armenia and the outside world is currently restricted to a two-lane high mountain road of some 90 kilometres between Stepanakert, the capital of Nagorno-Karabakh, and Goris, Armenia. Since the May 1994 ceasefire, Armenians have controlled more than 90 per cent of the territory of the former NKAO, as well as all of five and a large portion of two other districts (*rayons*) of Azerbaijan lying outside the NKAO, representing more than 13 per cent of Azerbaijan's territory. The ceasefire established a “line of contact” between the armed forces of both sides, which have dug in along the highly militarized frontier as well as along the internationally recognized border between Armenia and Azerbaijan. The line of contact is monitored by a small OSCE observer group under the direction of the Personal Representative of the OSCE Chairperson-in-Office on the conflict dealt with by the OSCE Minsk

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1 The name “Nagorno-Karabakh” is a combination of Russian, Turkish, and Persian words which literally mean “mountainous black garden.” Armenians now refer to the territory by its ancient Armenian name of Artsakh, used prior to its incorporation into the Ottoman Empire in the 14th century.

Conference, Ambassador Andrzej Kasprzyk of Poland. Sporadic killing from sniper fire frequently occurs along that line and has increased in recent years.

Approximately 20,000 people were killed in the fighting prior to the ceasefire. In addition, a total of about 750,000 Azerbaijanis were displaced before and during the fighting and now live as internally displaced persons (IDPs) in Azerbaijan. Some two-thirds of them fled Nagorno-Karabakh and the seven districts occupied by Nagorno-Karabakh forces; the remainder mostly fled Armenia in fear for their lives during pogroms that occurred as the Soviet Union was collapsing. About 350,000 Armenians became refugees from Azerbaijan in either Armenia or Russia, also fearing for their safety in Azerbaijan. The result effectively amounted to the “ethnic cleansing” of both countries in a few short years. None of these approximately 1.1 million people have been able to return to their homes since the war ended in 1994. In short, the humanitarian consequences of the war were staggering, leaving a high degree of distrust, animosity, even hatred and a desire for revenge in both populations. Having crossed the “Rubicon” of extensive violence, solutions to the conflict that might have been found between 1988 and 1991 largely disappeared, leaving mediators with the huge challenge of overcoming this bitter legacy.

Since that time, the OSCE Minsk Group has been charged with trying to facilitate a long-term resolution of the underlying issues in this conflict. However, their mediation efforts have consistently failed to reach a settlement, having been severely hampered by the seemingly intractable nature of the issues, especially by the essentially “zero-sum” perception of the dispute over the sovereignty of Nagorno-Karabakh, which is not readily amenable to solution by a compromise “50-per cent” solution. Both Azerbaijan and Armenia have founded their negotiating positions on constructed national identities, based on mutually exclusive narratives of the history and cultural significance of Nagorno-Karabakh. Having built domestic support for these mutually exclusive beliefs, the political leadership of all three parties – Azerbaijan, Armenia, and Nagorno-Karabakh – have become entrapped by their own rhetoric and have thus been unable to follow through on several pragmatic compromises proposed by the Minsk Group facilitators. Although this has been considered by many to be a classic “frozen conflict”, events over the past decade in Georgia and Ukraine show how “frozen” conflicts can come to an end not only through a diplomatic solution, but through violent conflict in which a new status quo is imposed by force of arms rather than mutual agreement among the parties. Indeed, on 4 August 2014, Swiss Foreign Minister and President of the Swiss Confederation Didier Burkhalter, the OSCE Chairperson-in-Office (CiO) in 2014, together with the three chairs of the Minsk Group, reported “their deep concern about the intense upsurge in violence along the Line of Contact and Armenian-Azerbaijani border that re-

sulted in numerous casualties”.<sup>2</sup> A negotiated solution to this conflict should thus be a high priority for the OSCE community.

Throughout their mediation efforts, the Minsk Group has wavered between two approaches to resolving this conflict, often referred to as the “package” versus “step-by-step” approaches. The “package” approach seeks to combine all issues in a comprehensive agreement. Rather than seeking a compromise on each issue individually, it seeks to identify trade-offs across issues, in which each party “wins” on those issues most important to it, while conceding on less important issues to the other party. The disadvantage of this procedure is that it requires agreement on all issues, including the most difficult ones, as part of the overall “package”; this becomes especially difficult when both parties consider the same issue to be of special significance to them. The “step-by-step” approach attempts to overcome this obstacle by seeking agreement on easier issues at the outset in an effort to build momentum and increase confidence between the parties to enable them to address the more difficult issues later in the negotiation process. The disadvantage of this approach is that it requires compromises on each individual issue rather than allowing for cross-issue trade-offs to resolve the larger conflict; furthermore, settlement of some “easier issues” may remove pressure to solve the core issues of the dispute.<sup>3</sup>

In March 1996, Swiss Foreign Minister and that year’s OSCE Chairman-in-Office, Flavio Cotti presented the mediators’ first attempt at a draft framework for a “package solution” to the conflict, proposing to preserve the territorial integrity of Azerbaijan, but with “the broadest possible self-rule for Nagorno Karabakh”.<sup>4</sup> This would have required withdrawal of all foreign forces from the occupied territories of Azerbaijan outside of Nagorno-Karabakh, unimpeded access between Nagorno-Karabakh and Armenia, and the right of refugees and IDPs to return to their homes. Armenia opposed this proposal because it resolved the critical status issue along the lines preferred by Azerbaijan. At the Lisbon Summit in 1997, the new Minsk Group co-chairs explicitly floated the “step-by-step” alternative. The major problem with this approach was that it put the most difficult question of the sovereignty of Nagorno-Karabakh off into the future, but many of the proposed intermediate steps carried implications for the final solution by creating path dependency; after being put into place, they would be difficult to modify once, and if, a final agreement were ever achieved. The leaders of the Nagorno-Karabakh enclave believed that the only final solution could be

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2 OSCE, *OSCE Press Release, OSCE Chairperson-in-Office, Minsk Group Co-Chairs deeply concerned about developments at Line of Contact, call for immediate action to defuse tensions*, 2 August 2014, at: <http://www.osce.org/cio/122190>.

3 For further development of the theoretical arguments for and against each of these approaches see P. Terrence Hopmann, *The Negotiation Process and the Resolution of International Conflicts*, Columbia, SC, 1996, especially pp. 79-85.

4 Quoted in: Valentin V. Lozinskiy, *The OSCE Mission in Nagorno-Karabakh*, in: *International Peacekeeping* 1/2000, pp. 10-16, here: pp. 12. Ambassador Lozinskiy is a former Russian co-chair of the Minsk Conference.

complete independence, especially since they were already in full control of the territory, and they were wary of intermediate steps that might undermine their primary goal. Therefore, even though both Armenia and Azerbaijan showed interest in this approach, it was rejected by the de facto leadership of Nagorno-Karabakh. The Minsk Group tried to return to the “package” approach in a 2001 meeting at Key West, Florida, in which Azerbaijan initially agreed to relinquish sovereignty over Nagorno-Karabakh in exchange for concessions in their favour, but Azerbaijan’s President Haidar Aliyev later withdrew this offer.

The Minsk Group, after consultation with the parties, announced a series of principles to guide negotiations at the OSCE’s Ministerial Council in Madrid in November 2007, based on three fundamental provisions of the Helsinki Decalogue: non-use of force, affirmation of the territorial integrity of each OSCE participating State, and respect for the right of self-determination of peoples.<sup>5</sup> The “Madrid Principles” were intended to serve as a formula<sup>6</sup> around which negotiation on details might follow. However, each of the parties prioritizes these principles differently: Azerbaijan emphasizes the territorial integrity of states, while Armenia and Nagorno-Karabakh stress self-determination. Under these principles, Nagorno-Karabakh would be granted an interim status, including guarantees for security and self-governance, until all other elements have been agreed upon and put in place; at that time a legally-binding referendum would be held to determine the popular will of the residents of Nagorno-Karabakh about their future status.

Although this seemed on the surface to combine elements of both approaches, it postponed the final resolution of the core status issue by introducing a referendum only after all other measures had been decided, even though all prior steps in the process would inevitably imply one or another solution to the sovereignty question. Furthermore, it did not define the constituency that would be asked to participate in the referendum, even though that would radically affect the outcome. Therefore, subsequent efforts to reach an agreement on the basis of the Madrid Principles have proven frustrating for the Minsk Group, and efforts to achieve even initial confidence-building measures to reduce violence along the line of contact and the Armenia-Azerbaijan border have fallen short. This implies that an alternative approach needs to be explored to break the current impasse.

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5 For the Madrid Principles see: The White House, Office of the Press Secretary, *Joint Statement on the Nagorno-Karabakh Conflict* by U.S. President Obama, Russian President Medvedev, and French President Sarkozy at the L’Aquila Summit of the Eight, 10 July 2009, at: [http://www.whitehouse.gov/the\\_press\\_office/Joint-Statement-on-the-Nagorno-Karabakh-Conflict](http://www.whitehouse.gov/the_press_office/Joint-Statement-on-the-Nagorno-Karabakh-Conflict).

6 Cf. I. William Zartman/Maureen R. Berman, *The Practical Negotiator*, chapter 4: Defining Solutions: The Formula Phase, New Haven, CT, 1983, pp. 87-146.

*The Current Impasse*<sup>7</sup>

After twenty years of negotiations, there are several major issues that still divide the parties:

- (1) The status of the former Soviet autonomous *oblast* of Nagorno-Karabakh: Azerbaijan has offered “deep autonomy” within the state of Azerbaijan, but opposes unilateral changes to the state borders that were recognized internationally after the break-up of the Soviet Union. Armenians argue for the creation of an independent state or its attachment as an integral part of Armenia, contending that Armenians residing in Nagorno-Karabakh can never feel safe in a region under Azerbaijan’s domination given the past history, both the distant past as well as recent events.
- (2) The status of the territories of seven former Soviet *rayons* of Azerbaijan outside Nagorno-Karabakh now occupied by Armenian and Nagorno-Karabakh troops, largely depopulated, and with several major cities totally destroyed: Azerbaijan has argued for their immediate return to their control and restitution to help defray the high cost of rebuilding demolished homes and infrastructure. Armenians at first argued that they needed to retain these territories as a “security buffer” until security could otherwise be guaranteed, but recently some politicians in Nagorno-Karabakh have hardened their position by claiming that these “liberated” territories should be incorporated into the new “Artsakh Republic” as the Karabakh Armenians refer to it.
- (3) The right of return of refugees and IDPs: The two sides generally agree on this in principle but differ about the modalities for its implementation.
- (4) Security guarantees: Both sides want guarantees of their mutual security from an international authority before demilitarizing the line of contact resulting from the 1994 ceasefire and prior to withdrawing to a mutually agreed frontier. Fear of further “aggression” by the other remains very high on both sides, but the present unstable status quo still appears to both parties to be superior to any change in the absence of firm guarantees of security. Both generally support the work of the OSCE’s High-Level Planning Group (HLPG) to prepare for a peacekeeping operation, while remaining sceptical of its ability to implement an adequate system of security guarantees over an extended period of time.
- (5) Access between Armenia and Nagorno-Karabakh: Armenians would like to maintain control of the Lachin Corridor, which connects Arme-

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7 The analysis in this and the following sections is largely based on interviews conducted by the author in January 2013 in Baku, Yerevan, and Stepanakert with high-level officials, scholars, NGOs, and civil society organizations, including refugee and IDP groups in both Armenia and Azerbaijan as well as Nagorno-Karabakh.

nia and Stepanakert across the Azerbaijani *rayon* of Lachin, now held by Armenian forces. In addition, they would like to be able to fly from Stepanakert to Yerevan and other cities without the current threat that planes will be shot down by Azerbaijan; eventually they also hope to open the railway line and highway to Baku, the capital of Azerbaijan, which has been closed since the war began. Azerbaijan would like the return of the entire Lachin district, although Baku would likely permit international peacekeepers to guarantee the right of passage between Armenia and Nagorno-Karabakh. Azerbaijan insists that the airspace above Nagorno-Karabakh is sovereign Azerbaijani territory, and hence maintains the right to supervise all air traffic over the region. Baku would also like to achieve guaranteed access through Armenia to the exclave of Nakhchivan.

The inability of the Minsk Process to bring a solution during 20 years of negotiations to this serious, protracted conflict in the Southern Caucasus raises the question of whether the mediation mechanism is appropriate for the task. The Minsk Group has collectively proposed several plausible solutions, but all have been rejected by at least one of the disputing parties. There are a number of possible explanations for the failure to reach agreement so far. The Minsk Group was hampered in its early years by frequent changes in its leadership, but this has stabilized since the United States, the Russian Federation, and France assumed the position of co-chairs. Furthermore, though surprising to many observers, the three co-chairs have demonstrated consistent cooperation in spite of other differences among their countries. Many Azerbaijanis accuse the chairs of bias due to the alleged political influence of the large Armenian Diaspora in each of these countries, but this does not appear to have significantly influenced their facilitation; some also cite Russia's treaty of alliance with Armenia within the Collective Security Treaty Organization (CSTO) and the presence of Russian military bases in Armenia as an indication of their pro-Armenian bias. The Minsk Group has also suffered since 1998 from the absence of key non-state parties to the conflict as direct participants in the negotiations, including representatives of the de facto government of Nagorno-Karabakh and the Azerbaijani IDPs. Both of these groups could introduce potential additional spoilers into the process. Any "total spoilers" are likely to exercise their influence whether or not they are present at the negotiation table, but, as in many other cases, any agreement will require that any "total spoilers" be marginalized from disrupting its implementation, while "limited" and "greedy" spoilers must somehow be included in the process in an effort to gain their support for any eventual agreement.<sup>8</sup>

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8 Cf. Stephen John Stedman, Spoiler Problems in Peace Processes, in: Paul C. Stern/Daniel Druckman (eds.), *International Conflict Resolution after the Cold War*, Washington, DC, 2000, pp. 178-224, here: pp. 180-183.

In the final analysis, however, the failure to resolve the Nagorno-Karabakh conflict can be best explained by the intractability of the issues as perceived by all parties rather than by any failure of the facilitators in managing the negotiation process. Even the best mediators are unlikely to be able to broker an agreement that none of the parties to the conflict wants. Furthermore, in spite of the criticism they have expressed, one thing all three parties agree upon is that there is no good alternative to the Minsk Process, and all parties remain committed to continuing within this framework. The challenge, therefore, is not one of finding a substitute for the Minsk Group but rather to search for an approach that has a better chance of producing tangible, long-term results.

There are many reasons why the Nagorno-Karabakh conflict has seldom been “ripe” for settlement throughout most of the period since the ceasefire agreement was reached in 1994. First, both parties believe that time is on their side, which tempts them to hold out for a better agreement in the future. Azerbaijan’s leaders believe that they can alter the balance of power in their favour by building up their own armed forces with a view either to pressuring the Armenians to agree on terms more favourable to them through threats of war or, failing that, to try to retake the conquered territory back by force. By contrast, many in the self-declared Nagorno-Karabakh Republic and, to a lesser extent, in Armenia seem to believe that the continuation of the status quo will gradually strengthen their position, as the *de facto* status will increasingly appear to the outside world to have become accepted as the reality on the ground the longer the present stalemate endures. In both cases, the perception that these different forms of power are shifting in their favour makes them reluctant to make concessions when they believe that holding out will enable them to obtain a better outcome in the future.

Equally important, the zero-sum perceptions of interest reflect a deeper conflict over identity. The conflict over Nagorno-Karabakh is one of many conflicts that developed as the Cold War came to an end and the large multinational states of the Soviet Union and Yugoslavia broke apart. Because the highest-level sub-units that became states were largely identified with a single, titular nationality, all other peoples living within those states suddenly became minorities in the new states, which generally set upon nation-building projects that favoured those national majorities and marginalized the minorities. Although the history of conflict is framed as being between two long-term enemies, this is not in reality a conflict of “ancient hatreds”, but of contemporary concerns about protecting national identities against perceived existential threats and of imminent fears by populations on both sides for their fundamental security in the aftermath of a period of deadly pogroms and an even more deadly war. The Azerbaijanis view Nagorno-Karabakh not only as a part of their state since early Soviet times, but also as a centre of Azeri culture, the birthplace of their most prominent artists, poets, and musicians; to many Azerbaijanis its permanent loss would mean that their cultural heri-

tage would be torn away. The Armenians view the same land as a centre of Armenian civilization, where Armenians claim to have lived for several millennia, longer than most have lived on the territory of the contemporary Armenian state, which was mostly settled by Armenians following their expulsion from Ottoman Turkey in the early years of the 20th century. Furthermore, Armenians generally invoke the “genocide” narrative whenever discussing the theoretical possibility of returning to live under Azerbaijani rule. In their minds, the Azerbaijanis are in fact “Turks”, and Azerbaijan is viewed as an artificial state created out of the collapse of the Ottoman Empire. They believe, as the self-proclaimed foreign minister of the NKR told the author, that Azerbaijan is currently preparing for war and genocide against the Armenian people; therefore, independence is viewed by them as an existential issue, as they fear that any return to Azerbaijani rule, even with so-called “deep autonomy”, would lead to their annihilation.<sup>9</sup> Negotiations have been complicated by the fact that this is not just an elite conflict but one into which entire populations have been drawn, making it politically difficult for even relatively strong leaders in rather authoritarian states to face the domestic political consequences of making too many concessions, especially those that threaten to surrender key components of the socially constructed national identities of their people.

Mediation can only succeed when the parties are prepared to make the necessary reframing psychologically, to cease demonizing the other, for leaders to prepare their publics for a peace based on compromise, including willingness to consider trade-offs and concessions that will bring them net benefits even if an agreement falls short of each party’s ideal outcome. It is these mutually antagonistic perceptions that drive the central argument about the status of the former Nagorno-Karabakh *oblast*.

#### *Conclusion: Towards a Possible Resolution of the Nagorno-Karabakh Conflict*

In this conclusion, I offer my own personal ideas for a potential resolution of the Nagorno-Karabakh conflict. In so doing, I do not mean to imply that this outcome is likely to be politically acceptable to all parties to the conflict in the near future. At the same time, the history of “near misses” and the generally agreed Madrid Principles do offer some potential guidelines for a possible resolution. In general, the framework I propose here focuses on returning to the earlier “package approach”. I acknowledge that some initial small steps might help to build confidence, not only mutually among the parties, but also in the international commitment, thereby facilitating a peaceful resolution. These steps could include, first, mutual withdrawal of opposing

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9 Author interview with Karen Mirzoyan, Minister of Foreign Affairs of the Nagorno-Karabakh Republic (unrecognized), Stepanakert, 23 January 2013.



forces so as to open a demilitarized zone along the present line of contact as well as the Armenian-Azerbaijani border, combined with enhanced OSCE monitoring to try to rein in the frequent violence. If successful, this might be followed by the withdrawal of Armenian forces from up to five of the occupied territories, perhaps beginning with Aghdam. These measures would serve as a signal of progress to Azerbaijan, while assuring Armenians that their security could be preserved along frontiers other than the militarized, virtually face-to-face confrontation established at the end of fighting in 1994.

However, beyond these initial steps, I argue that there can be no resolution of this conflict until the core issue of status is confronted directly through a “package” agreement that focuses on a resolution of the sovereignty issue and then adjusts all other issues in dispute accordingly. First, a “package” serves as a framework within which cross-issue trade-offs can be made, especially in exchange for the final resolution of the core status issue. Second, it would put resolution of the status issue front and centre, since, as suggested above, most partial measures tend to assume one resolution or the other to that question and therefore are unlikely to be settled until there is a basic agreement about the final status of Nagorno-Karabakh. The biggest requirement for acceptance of the Minsk Group’s principles is that they should provide the foundation for a balanced and fair agreement. To accomplish this, whichever side comes out on top on the status issue will have to make significant concessions on most other issues to compensate the party that loses sovereignty over the disputed territory; agreement on these other issues is unlikely to appear until the status issue is resolved. Resolution of the status issue, in turn, depends above all on all parties recognizing the legitimate interests of the other parties to this dispute. It also requires recognition that a forward-looking focus on the mutual benefits to be derived from an agreement will make all parties better off in the long-run rather than arguing over the many perceived injustices of the past.

In order to resolve the core issues at the outset, I propose that an internationally supervised plebiscite should be held, as proposed by the Minsk Group, with three options available to voters regarding the legal status of Nagorno-Karabakh: 1) autonomy within Azerbaijan, 2) unification with Armenia as a province, or 3) independence for the Nagorno-Karabakh (Artsakh) Republic. However, the decision about who can vote in this plebiscite is the key question, since answering that question will almost certainly determine its outcome. Armenians would prefer to have only current residents of Nagorno-Karabakh vote, and given the current composition of the region after the “ethnic cleansing” of virtually all Azerbaijanis who formerly lived there, it is clear that independence or union with Armenia would win overwhelmingly. The Azerbaijanis, however, contend that under their constitution secession is permitted only by a vote of the population of the entire country. In this case the composition of the electorate would almost certainly assure that Nagorno-Karabakh would remain a part of Azerbaijan, since the large

ethnic Azerbaijani population in the country as a whole would oppose the “loss” of Nagorno-Karabakh. The third option – probably the fairest but also the most difficult to carry out – would be to allow all current residents of Nagorno-Karabakh as well as all refugees and their descendants who could show that they were residents of the *oblast* at the time of the breakup of the Soviet Union, i.e., the beginning of 1992, to vote in the plebiscite. In this case, independence or attachment to Armenia would also likely win, but by a smaller margin than in the first option. All parties to the Minsk Group are aware that the plebiscite itself would be largely a formality once a decision had been agreed upon about the composition of the electorate.

The government of Azerbaijan will no doubt object that any option for secession violates international law, including the OSCE Decalogue’s principle affirming the territorial integrity of states, and, at least formally, that is correct. However, continued Azerbaijani sovereignty would clearly be unacceptable to Armenians, especially to those living in Nagorno-Karabakh. Twenty years after the violence, and after a continuing series of threats emanating from Baku, it is virtually impossible to imagine that ethnic Armenians could conceive of living in an Azerbaijani state, regardless of the level of autonomy, any more than Kosovo Albanians could consider returning to Serbian sovereignty after the violence of the late 1990s. Any resolution that involved restoration of Nagorno-Karabakh to Azerbaijani sovereignty would thus need to be accompanied by extraordinary guarantees for the safety and security of all ethnic Armenians within the region. It is inconceivable that Nagorno-Karabakh could be placed under the authority of Baku without extensive and internationally monitored and supervised security guarantees. However, Azerbaijan would also pay a high price, as any such settlement would require a long-term, extensive international presence on Azerbaijani territory, which would also constitute an external interference into Baku’s territorial sovereignty. Furthermore, if the status issue were decided in favour of Azerbaijan, then most other issues would likely need to favour the rights of the ethnic Armenians within not only Nagorno-Karabakh, but in Azerbaijan as a whole. With this outcome Azerbaijan might “win” a formal victory, but in the long-run it would pay a high price.

Therefore, the alternative option is to settle the status issue in a referendum in which only present and previous residents of Nagorno-Karabakh could vote, which, as noted above, would almost certainly result in a vote for the independence of Nagorno-Karabakh. An agreement along these lines would thus seem to offer a more viable and less complicated solution, albeit still one fraught with potential stumbling blocks. This outcome would require Azerbaijanis to recognize the painful reality that they have lost Nagorno-Karabakh for the past twenty years and are unlikely to get it back at acceptable cost. Any military action to recapture the territory would certainly entail widespread international condemnation and perhaps engage powerful neighbouring states militarily with potentially devastating consequences for

Azerbaijan. Therefore, in my opinion, their best strategy would be to cut their losses, acknowledge the current reality, and get the best deal possible on all other issues. Among other benefits, this would enable the government of Azerbaijan to restore some of the international credibility it has lost in recent years, due both to its deteriorating domestic human rights performance and to its militant rhetoric of confrontation with Armenia. As outlined below, it would also enable the vast majority, though not all, of the Azerbaijani IDPs to return to their original homelands.

On most other issues beyond the final status question, the government of Azerbaijan has a strong case in its favour. Claims by leaders of Nagorno-Karabakh that the seven occupied districts of Azerbaijan are “liberated” Armenian lands simply fly in the face of all generally accepted principles of international law; it would be a huge mistake for the international community to legitimize that outcome. These territories must be returned to full Azerbaijani sovereignty simultaneously with implementation of the plebiscite on the status of Nagorno-Karabakh, and all Azerbaijani IDPs from these territories should be allowed to return to their original homelands as soon as possible thereafter. Similarly all Azerbaijani refugees from Nagorno-Karabakh and all Armenian refugees from Azerbaijan should be guaranteed the right to return to their former homes as well. In these cases the right to return is more important than the actual fact of return, as in most cases it is unlikely for the foreseeable future that many refugees would exercise that right out of fear for their personal security. Nonetheless, they should be granted that right, and all governments should commit themselves to assuring their safety if they choose to take advantage of it.

Third, rights of safe passage should be guaranteed via land and air between Nagorno-Karabakh and Armenia (or any other neighbouring state) and between Nakhchivan and Azerbaijan. This could be done in several ways. The first would be to establish highway, air, and if feasible rail access across Azerbaijan’s restored territory between Nagorno-Karabakh and Armenia as well as across Armenia’s territory between Azerbaijan and Nakhchivan, along the lines tentatively agreed upon in negotiations facilitated by the Minsk Group prior to the 1999 OSCE Istanbul Summit and again at Key West in 2001. These could function much like the highway, rail, and air corridors that connected West Berlin and West Germany across East German territory during the Cold War, in which safe passage was guaranteed along designated routes. Alternatively, one might construct a “peace highway”, as proposed by some Azerbaijan specialists, going from Baku through Stepanakert to Yerevan and then on to Nakhchivan and eventually to Turkey and the Black Sea, as well as reopening the rail link between Baku and Stepanakert. The mutual benefits from keeping all routes open would be a powerful incentive for all parties to observe the agreement, if only out of fear of retaliation in kind by the other if they impeded transit. Nonetheless, international peacekeepers should be available to assure safety of transit on all

routes for an interim period until sufficient mutual confidence is achieved and all parties recognize the joint benefits that all would receive from keeping these routes open and safe. These transit routes should be no wider than is necessary to assure safe passage by all parties; therefore, most of Lachin should be returned to Azerbaijani control.

Fourth, the international community should commit to providing international peacekeepers, mostly likely mandated by the OSCE, drawing on plans long under development by the Vienna-based HLPG. These peacekeepers should initially be stationed on the border between Nagorno-Karabakh and Azerbaijan, and if necessary also along the border between Armenia and Azerbaijan, as well as along all access routes established under provision three above. There should be broad participation from OSCE participating States with no single state dominant; therefore a limit (perhaps 40 per cent) should be set on the number of peacekeepers provided by any single state. The peacekeepers should also include a mine-clearance component to demine the many affected areas throughout the region. They should also monitor the withdrawal of all fighting forces from along the line of contact and from the border regions between Azerbaijan and Armenia.

Finally, the international community, especially the European Union, should provide substantial financial assistance for rebuilding infrastructure, housing, and other structures damaged during the fighting. Although the government of Azerbaijan is reasonably well endowed with resources and should be expected to reallocate some significant portion of the funds now dedicated to its military build-up to reconstruction, the magnitude of the task in the large occupied regions of their country is likely to be so great due to the extensive war damage that international aid will be crucial to any successful recovery. A failure to produce concrete evidence of improvement in the quality of life could undermine any peace agreement, whereas shared economic prosperity could provide a foundation for an eventual stable peace. In short, the international commitment cannot stop at mediating a peace agreement, but must follow through to assure that all elements of that agreement are effectively implemented well into the future, especially in the devastated occupied territories that would be returned to Azerbaijan's control.

An agreement along the lines suggested above will be difficult to achieve because it will involve extensive changes in the positions and indeed the beliefs of the conflict parties, and political leaders in the region will have to show real courage to resist domestic and international pressures against making the necessary compromises. But an agreement is possible if the parties recognize that the costs of an agreement are likely to be far less damaging to their interests than the continuation of this stalemated, though not "frozen" conflict, especially the high risk that it could escalate into a larger military confrontation, perhaps involving neighbouring states.

A successful negotiation will likely require the Minsk Group mediators to abandon the "step-by-step" approach and rather focus at the outset on the

very heart of the issue, namely the future status of Nagorno-Karabakh. This “can” cannot be “kicked down the road”, because settlement of all other issues depends intimately on the resolution of this core issue. This will in practice require an initial agreement about the composition of the electorate for a referendum on the status issue, since a decision about who can vote on the status issue will almost certainly determine the outcome. However, once the referendum process has been decided, then agreement about the other Madrid Principles articulated by the Minsk Group will logically fall into place, by compensating the party that in effect relinquishes claims to sovereignty over Nagorno-Karabakh with significant concessions in their favour on the other issues in contention. But it is impossible to put the “cart before the horse” as envisioned in the “step-by-step” approach, since the settlement of the issues that the Minsk Group proposes to take up initially depends entirely on the outcome of negotiations on the final status issue.

Confronting the hard issue at the outset will present many obstacles, but there is little choice if this conflict is to be resolved diplomatically rather than on the battlefield. Furthermore, the unstable and painful status quo, though acceptable to many leaders and publics in the short-run, provides no hope for escaping from the impasse that holds the entire region back economically and politically in terms of integration into the global order. Looking to the future, however, only a peace agreement along lines such as those proposed above can pave the way for a better future for all of the region’s peoples who have suffered so much over the past 25 years of intense conflict.