

State Building and Conflict Resolution in the Caucasus

Charlotte Hille



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State Building and Conflict Resolution
in the Caucasus

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By
Charlotte Hille



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On the cover: Cristina Garcia Rodero/Magnum Photos/Hollandse Hoogte. Georgia, A woman from a small village of South Ossetia.

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For Sophie

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INTRODUCTION

The violent conflict that erupted in August 2008 between Georgia and Russia shows the importance of the Caucasus to the Russian Federation. The United States of America, North Atlantic Treaty Organization and the European Union among others are also actively involved in the region. The challenges and risks involved have the attention of many citizens and politicians. Many books on regional hostilities have been written on the North Caucasus, in particular on Chechnya, or on the South Caucasus, often concentrating on one republic. This book deals with the whole of the Caucasus, and aims to give an insight in the development of state building and conflict resolution in the area.

The aim of this book is to utilize a different method of looking at the state building process, by looking at it from a legal and political perspective. The starting point will be the 1933 Montevideo Convention, which was the first international legal document to list criteria which had to be complied before states would decide to recognize an entity as a state. Different forms of states are being discussed, with special emphasis on the position of minorities in the state. This is important since conflicts with minorities have led to territorial conflicts in both the North and the South Caucasus. Part of the state building process is the formation of functioning institutions, and the guarantee of civil rights. This aspect is especially highlighted in the chapters on state building and conflict resolution in the North Caucasus, since unrest in these republics originates from a lack of guaranteed basic rights. The assumption in this book is that there are many more ways to live in peace, and build a stable state, if governments would not adhere so strongly to the unitary state.

Conflicts in the Caucasus all have a history that predates the dissolution of the Soviet Union in 1991. In order to understand the positions of the parties concerned, it is important to explain the background of the claims. Through the inefficient work of the international community, mediation of third parties, including international organizations, the conflicts in this region could develop into “frozen conflicts”. This book explains the rationale behind specific viewpoints, and discusses why mediation in these conflicts should be preferred over power politics.

Through the years, some cities have changed names. In this book the name at the time is used. The city of Tbilisi was before 1936 called Tiflis. The city of Sukhum was called Sukhum before 1936, between 1936 and 1994 the city was called Sukhumi, after which its name changed back to Sukhum. The same applies for Batum, which before 1936 was called Batum, between 1936 and 1994 was called Batumi, and then changed back to its former name Batum. This follows the names given by the inhabitants of the territories to their capitals, and in the case of Sukhumi and Batumi, to the central Georgian authorities of these places.

CHAPTER ONE

OVERVIEW OF THE CAUCASUS

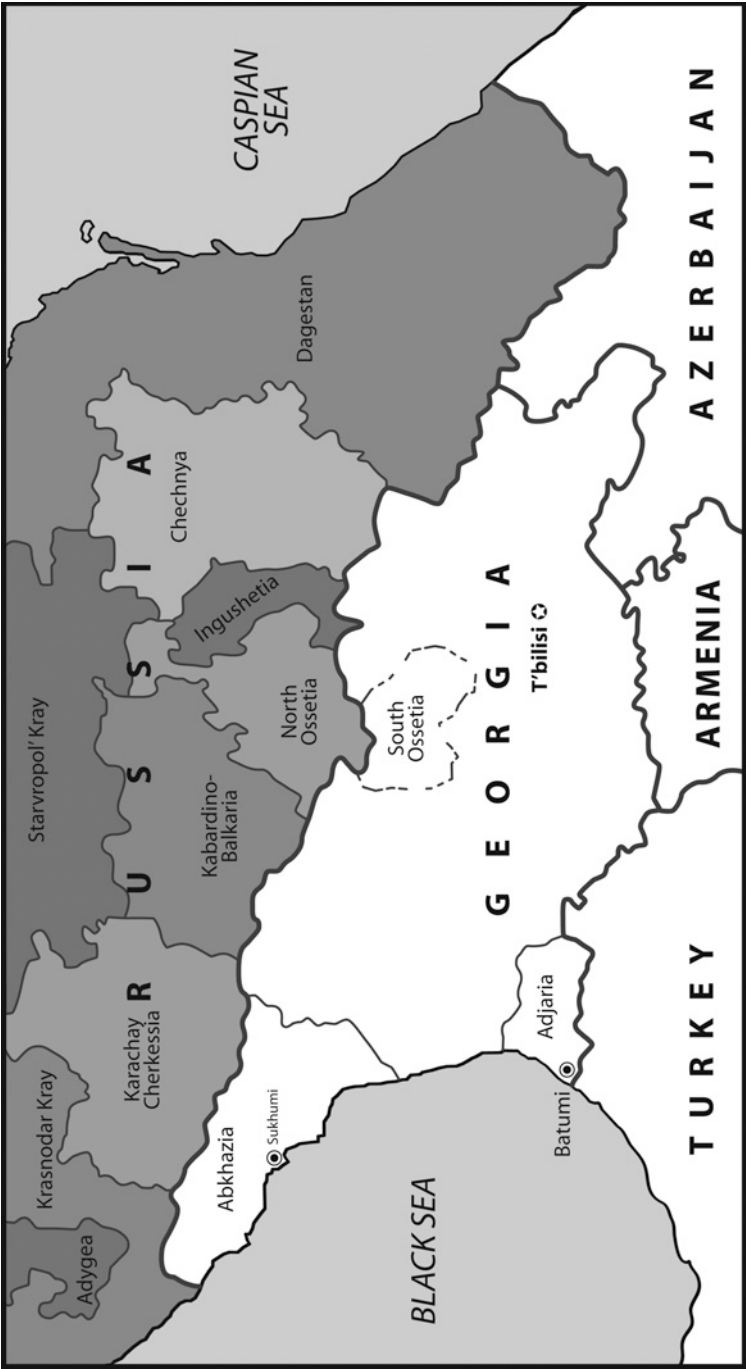
Geography of the Caucasus

The Caucasus lies between the Black Sea and the Caspian Sea, borders the Russian Federation, Turkey and Iran, and can be seen as the bridge between Christianity and Islam, between Europe and Asia and is named after the mountain range which runs throughout the territory. Part of the region has a sea climate, part has a land climate. The geography is diverse. There are steep mountains, rivers and forests. Especially in Georgia wine and citrus fruits are grown, and in the South Georgian region Borjomi, mineral water is found. Azerbaijan is known for its oil and gas reserves in the waters of the Black Sea. Oil is also found in Chechnya, though at the moment the infrastructure is largely destroyed after the Russian Chechen wars of 1994–1996 and 1999–2000. Oil has been found in the internal waters of Abkhazia. Yet these have not been explored.

The Republics on the North side of the Caucasus Mountain range are called the North Caucasus, and these Republics form part of the Russian Federation. The republics in the North Caucasus are: Adygea, Karachaevo-Cherkessia, Kabardino-Balkaria, North Ossetia, Ingushetia, Chechnya and Daghestan.

The Republics south of the Caucasus mountain range are called the South Caucasus or Transcaucasus, and comprise three independent states: Georgia, Armenia and Azerbaijan. Inside these Republics entities exist which still have a special, sometimes contested status, originating in the period when all territories north and south of the Caucasus were part of the Soviet Union.

In Georgia there are the contested entities of South Ossetia and Abkhazia, recently recognized by Russia after having been *de facto* independent for 14 and 15 years respectively, and the entity Ajaria. In Azerbaijan there is the enclave Nagorno-Karabakh. Azerbaijan also has an exclave, Nakhichevan, which lies between Turkey, Iran and Armenia.



Map 1 The North Caucasus

Political Landscape and Strategic Importance of the Region

The region has always been strategically important. Many wars have been fought over the control of this region. In the 4th century the Byzantine Empire acquired control over the Caucasus. Between the 8th and the 10th century the region was governed by the Khazars, who professed the Jewish religion. The Mongols crossed the Caucasus in the 13th century.

In the 17th century the Persian Kings and the Ottoman Empire were the great powers in the Caucasus. In the 18th and 19th century the Ottoman Empire and the Russian Empire sought to expand their influence in the region. By 1864 the Russians had conquered the whole of the Caucasus.¹

Since the dissolution of the Soviet Union along with the declaration of independence of the South Caucasian Republics, Russia, Turkey and Iran have regained their ambitions to gain influence in the region.

After the Soviet Union broke up, Russia has remained the most important ally of Armenia in maintaining her security, and since August 2008 Russia has given guarantees for the security of South Ossetia and Abkhazia. This is part of Russia's policy to keep influence in the region. Another way of increasing influence is investing in the Transcaucasian economies as part of the privatization efforts taking place in Georgia.

The armies of Azerbaijan and Georgia are trained on a bilateral basis as part of the NATO Partnership for Peace program.

Turkey also tries to strengthen its influence by creating international intergovernmental regional organizations such as the Black Sea Economic Cooperation (BSEC) and the South East European Cooperation Process (SEECP), which are aimed at strengthening co-operation between the countries in the region. The relations between Azerbaijan and Turkey are traditionally good, based on their historic relations, and by the fact that Azeri and Turkish belong to the same language family.

¹ Many books describe the history of the Caucasus, some of which explain both the history and culture of peoples in the Caucasus as Amjad Jaimoukha, *The Circassians, A Handbook* (Richmond: Curzon, 2001), Amjad Jaimoukha, *The Chechens, A Handbook* (London: Routledge Curzon, 2005), Yo'av Karny, *The Highlanders, A Journey to the Caucasus in Quest of Memory* (New York: Farrar, Straus & Giroux, 2000).

Turkey has a considerable North Caucasian diaspora on its territory, consisting of Circassians whose forefathers fled at the end of the 19th century when Circassia was occupied by the Russians. This results in a serious interest for Circassians in Turkey and the Turkish authorities in the development of the North Caucasus.

Iran has been quite active in its trade relations with Armenia since 1991. During the Nagorno-Karabakh conflict of 1988–1994, many Azeri fled their homes, and were put in refugee camps for internally displaced persons. Iran gave financial support to these refugee camps, and supported religious activities in the camps.

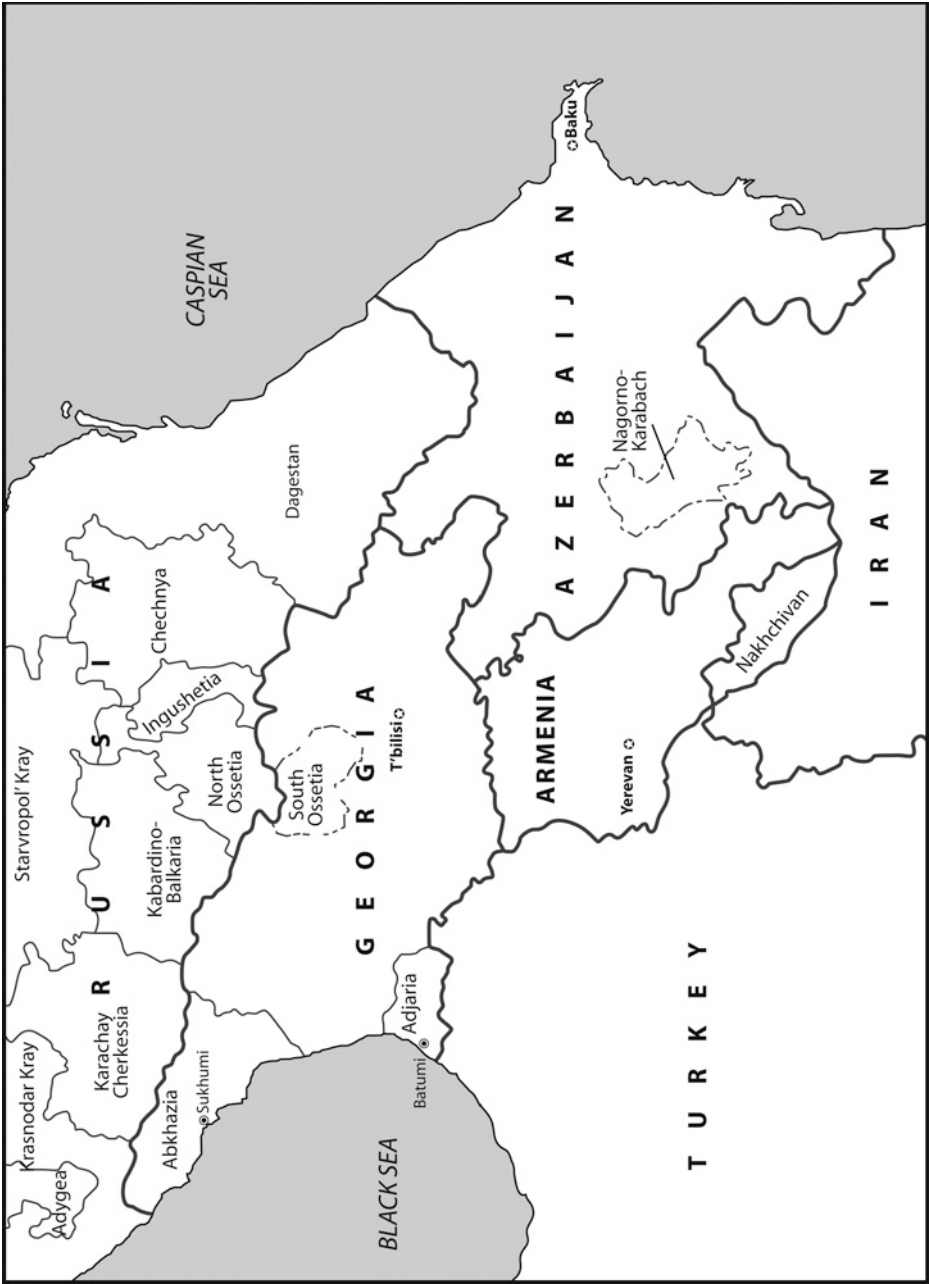
Other actors have also become important since the beginning of the 20th century. During the First World War for instance, the Germans supported the Georgians in their fight against the Turks, while at the same time allying with the Turks in the War as a whole. After World War I, as victors of the war, the British, Americans and Italians took over temporarily part of the administration of the South Caucasian republics as a part of their sphere of influence.

Since 1991 the United States has become increasingly interested in the region due to its geographical proximity to areas with which America has had troublesome relations, like Iran and Iraq, and for the oil from the Caspian Sea. International organizations like the United Nations, the Council of Europe, the European Union, and the Organization for Security and Cooperation in Europe have become regional players, as well as NATO. These organizations are all involved in some way in the transition processes in the South Caucasus. They all support negotiations concerning territorial conflicts, and monitor the level of democratic activity and respect for human rights.

After the March and October Revolutions of 1917, which resulted in the fall of the Russian Empire, Georgia had been independent and ruled by a Menshevik government (1918–1921). Abkhazia had its own government, the Abkhazian National Council, and South Ossetia had a Bolshevik government.²

Armenia was ruled by a nationalist government between 1918 and 1920. Azerbaijan had two governments, one in the capital Baku which was Bolshevik and one in Ganja which was nationalist (Musavat).

² The first revolution took place from 8 to 12 March 1917 on the Gregorian calendar (24–28 February 1917 Julian calendar). The October Revolution took place on 25 October of the Julian calendar, which is 7 November 1917 on the Gregorian calendar.



Map 2 The South Caucasus

Azerbaijan and Armenia became part of the Soviet Union in 1920, followed by Georgia in 1921. Between 1920 and 1924 the three Transcaucasian republics had the status of an SSR, Soviet Socialist Republic, which were Union republics. In 1924 the three republics were merged in the Transcaucasian Socialist Federative Soviet Republic, which would exist until the new Soviet Constitution of 1936.

From 1936 to 1991 the three Republics would again be separate SSRs within the Soviet Union.

The position of the North Caucasian Republics, and their borders, often changed between 1920 and 1924. This was part of Stalin's divide and rule policy. By putting ethnicities who spoke other languages together in a territorial entity, he hoped to weaken any nationalist striving in the Caucasus region, from where he originated. Stalin himself was a Georgian. Therefore he knew the Caucasian peoples were likely to oppose his policy of collectivization and unification.

Even in the period between 1924 and 1936 frontier changes occurred, but less frequent than before. The period during and after the Second World War resulted in internal frontier adjustments, due to the deportation of several peoples from the North Caucasus to Central Asia and Siberia. When they acquired the right to return in 1956 some border adjustments had to be made again.

It is clear that this has an enormous impact on people. The deportation and the return of the deportees meant that many had lost their houses, often finding other people living in them. The problems resulting from the deportations were not addressed adequately by any of the Caucasus' governments. After the dissolution of the Soviet Union the three Trans Caucasian Republics declared independence and pursued nationalist policies.

The North Caucasus republic of Chechnya declared unilateral independence in 1991. This however was not recognized by Russia which claimed that Chechnya did not have the ability to declare its independence, largely due to the fact that only Union Republics (SSRs) had the right to secede under the then existing Soviet Constitution. In this context, the Soviet Constitution did not grant the right of secession to lower constitutional entities like the ASSR Checheno-Ingushetia. The old Soviet Constitution remained in force until a new Constitution of the Russian Federation was adopted on 12 December 1993.

Most of the Presidents in the Republics in the North Caucasus had a communist background. Nationalist tendencies however quickly replaced communist ideology. Part of the nationalistic rhetoric can

also be attributed to the transition process which resulted in insecurity for many people. People who were often forced to (re)define their identities, and therefore were looking for aspects which could define them, such as religion, ethnicity, national history, family, regional affiliation.

Parties in the Caucasus and Demographic Information

The demographic situation in the North Caucasus shows both a high rate of birth and a high death rate. This results in an average age which is lower than in Western Europe. Unemployment in some republics is around 80%. The high unemployment rate implies that there is also a sizeable group of young people which has difficulty finding jobs. This has led to the creation of a shadow economy, which has come to play an important role in the daily lives of peoples. Moreover, this shadow economy also hints at an economy that is riddled with corruption. Other related problems that the region faces are: nepotism, security issues, poor hygiene and insufficient medical care. Lastly, there are also huge environmental problems, in nearly all the republics, for example the dumping of radioactive waste in and near Karachaevo-Cherkessia.³

In the North Caucasus multi-party democracy is still developing after 73 years of communism. Many elections have shown irregularities. The transition can be regarded as having just started. As may be expected there is not as much transparency, and as such the rule of law is often weak.

The demographics in the Republics in the South Caucasus are better than in the North Caucasus, but it is still not very good. Just as in the North Caucasus, the average age of men and women is lower than in Western Europe, there is a high level of unemployment, and there are high levels of corruption and nepotism.

The Republics have a multi-party system, but the opposition is often hampered by the government, especially during elections cycles. Elections have often been judged unfair by OSCE observers. Respect for human rights is often still lacking, and transparency has to be improved in all republics of the South Caucasus.

³ http://www.jamestown.org/chechnya_weekly/article.php?articleid=2373627.

Notwithstanding the political challenges mentioned, the situation both in the North and the South Caucasus has improved considerably over the last 15 years.

Languages of the Caucasus

All over the Caucasus over forty languages are spoken. Since the incorporation of the Caucasus into the Russian Empire, and later Communist rule, the *lingua franca* was Russian. Though this is still the case, more and more young people know English. The situation in Daghestan is especially interesting from a linguistic point of view. In this Republic, languages and dialects have evolved differently from one mountain village to the other due to the inaccessibility of the region.

Indigenous peoples of the Caucasus speak languages that belong to two Caucasian language families: North Caucasian languages and South Caucasian or Kartvelian languages. The North Caucasian languages can be divided into Northwest Caucasian, which are Abkhazian, Abazin, Adyghe, Kabardin, Circassian and Ubykh; the Nakh languages include Bat, Chechen (Vainakh) and Ingush. The North East Caucasian languages comprise Avar, Agul, Dargin, Khinalug, Lak, Lezgin, Rutul, Tabasaran, Tsakhur, Udi, and Archin. The languages belonging to the South Caucasian language family are Georgian, Mingrelian, Svan and Laz. The languages belonging to the Indo-European family spoken in the Caucasus are Armenian, Ossetic, Kurdisch, Talysh, Judeo-Tat, and the Slavic languages such as Russian. The languages belonging to the Altaic language family (or Turkic language family) are Azerbaijani, Balkar, Karachay, Kumyk and Nogai. A small group of Assyrians live in the area around Nagorno-Karabakh, and speak a Semitic language, Assyrian Neo-Aramaic.

Peoples in the Caucasus and Their History

Many peoples in the Caucasus have lived in the region for more than a thousand years. They can be regarded as indigenous to the region. Though some people speak of new settlers, these settlers arrived more than 800 years ago. The ancient history of the Caucasus has created aspects of society which the region shares.

Common to the Circassians, Abazas, Abkhazians, Ubykh, Karachay-Balkar and Ossetian peoples in the Caucasus is the Nart epic,

which has many similarities with other old epics such as the Iliad and Odyssey of Homer. The Nart epic comprises in its stories traces of animism, and the exploration of (traces of) clan society.⁴ Though the peoples have different languages and a different history, their common cultural ties are underlined by this epic.⁵

The Nart epic, or epic about the Narts, is a collection of works from a number of Caucasian peoples, among them the Adygs, Ossetians, Chechens, Balkars, Ingushes, and some of the peoples of Daghestan and Georgia. These peoples differ in origin, history, cultural background, and language. Allowing for these distinctions (though their centuries-old common history and close cultural ties should not be discounted), the Caucasian epic monument belongs by right to each of the Caucasian Peoples.⁶

Another aspect many peoples in the Caucasus have in common is animism. Even though the people are atheist, Muslim or Christian, many still observe animist rites. In Azerbaijan we find traces of a very old religion, the cult of the Sun and of Fire, called Zoroastrianism. Some people trace the name Azerbaijan, "Protected by the Holy Fire" back to this cult.

Many conquerors visited the Caucasus in their quest for more territory. During the reign of the Roman Emperor Hadrian, Armenia formed part of the Roman Empire. The Greeks conquered territory as far north as the Caucasus Mountain Chain. Sukhum was called Dioskuria. The Amazones are said to have lived near the Caucasus. One legend of the Circassians tells that once the Amazones decided to integrate in society, they married Circassian men, since these were such brave and good warriors. This is seen as the moment when the matriarchal system of the Circassians was replaced by the patriarchal system.⁷

Between 800 and 1000 AD the Caucasus was ruled by the Khazars, who professed the Jewish religion. Traces of old Jewish religion and

⁴ John Colarusso, *Nart Sagas from the Caucasus, Myths and Legends from the Circassians, Abazas, Abkhaz, and Ubykhs* (Princeton and Oxford: Princeton University Press, 2002).

⁵ Alla Alieva, "Caucasian Epics: Textualised Principles in Publishing" in: *Oral Tradition*, Vol. 11, No. 1, (1996), p. 155, http://journal.oraltradition.org/files/articles/11i/14_alieva.pdf, accessed 23 April 2009.

⁶ Alieva, p. 155, http://journal.oraltradition.org/files/articles/11i/14_alieva.pdf, accessed 23 April 2009.

⁷ Jaimoukha, *The Circassians*, 165.

customs can still be found in some villages in Daghestan.⁸ The South Caucasian peoples can be divided into the Georgians (including the Adjarians), Mingrelians, Svans and the Laz; the Turkic peoples, comprising the Azerbaijanis. In the South Caucasus we also find the Armenians, and the Iranian the Ossetians in South Ossetia. There is also a Slavic group, comprising Russians and Ukrainians.

The Balkars, Karachays, Kumyks, Nogai are peoples living in the North Caucasus, and belong to the Turkic peoples. The Ossetians in North Ossetia, Talysh, Kurds, Tats and Mountain Jews belong to the Indo European group.

Culture, Binding North and South Caucasus

An important question is what binds the peoples in the North Caucasus and makes it distinct from adjoining regions Eastern Europe and Central Asia?

A first reason is the fact that those warring with the Caucasian peoples were often the same parties for all peoples, meaning the Russians, the Turks and the Persians. Therefore, the Caucasus and its peoples as a distinct region was defined as such by their enemies.

A second reason is the mountain culture with its distinct habits, such as honour and hospitality. Honour is important, and if the honour is infringed, the person has to avenge himself. Part of the honour is hospitality, which has to be given to stranger, friend and enemy.

A third reason is the fact that in several republics in the North Caucasus, notably Chechnya and Ingushetia, clans still play a role in public life, which means that the society is organized around the clan and that relations in the family sphere and between clans are regulated through the clan (which has its own conflict resolution mechanisms and its own rules and laws). In other Caucasian republics the extended family still plays a considerable role, which should be distinguished from the clan society.

A fourth reason is the fact that they share a common religion which predates Judaism, Christianity, and Islam. In addition to these religions there are still many references to the animistic past of the Caucasus. Another religion which was practiced in the south of the Caucasus in

⁸ Karny, pp. 116–119.



Map 3 Languages in the Caucasus

late antiquity, is the monotheistic Zoroastrianism, where Ahura Mazda is worshipped, and Zoroaster is the prophet. Fire and water play a role in this religion, and places of worship are always close to a fire.

A fifth reason is the Nart epic, shared by the peoples of the North-west Caucasus, Abkhazia, Circassia, Ossetia and Chechnya-Ingushetia, resembling in its structure our Ilias and Odyssee.

Clans, Society and Blood Revenge

Max Weber considered clan politics as a “historically common form of social organization in the nomadic and seminomadic regions of Eurasia, the Middle East, and parts of Africa.”⁹ Weber assumed that clan societies would disappear as the society would be opened to other influences and modernized. The clan ties were regarded by Weber to be networks based on the rational calculations of individuals made within a collectivist cultural and institutional context.¹⁰ Joel Migdal argues that clans are one of several types of traditional social organizations, on which too little research has been done.¹¹

Little research has been performed on the political role of clans in state building and transition. Most research on clans has been done by anthropologists. Here we are interested in the political role of clans. One of the most important scientists doing research on the political role of clans in society, more particularly in Central Asia, is Kathleen Collins.

Recently Kathleen Collins described clan politics as:

Clan politics creates an informal regime, an arrangement of power and rules in which clans are the dominant social actors and political players; they transform the political system. Clan networks, not formal institutions and elected officials, hold and exercise real power. Clan politics has a corrosive effect on the formal regime, especially on democratic institutions; it further erodes the durability of both democratic and authoritarian institutions over time, as fragile, personalistic regimes cling to power.¹²

⁹ Max Weber, “Economy and Society” in Collins, *Clan Politics and Regime Transition in Central Asia* (Cambridge: Cambridge University Press, 2006), 16.

¹⁰ Collins, 16–17.

¹¹ Joel Migdal, *State in Society: Studying How States and Societies Transform and Constitute One Another*, Cambridge University Press, Cambridge, p. 50, in Collins, 15.

¹² Collins, 3.

Collins goes on to define clans as informal identity organizations based upon kinship.¹³ She recognizes two principles which mark clan relations and identity:

Kinship is the core foundation of clan relations and identity, and a *network* is the organizing principle of this unit. The clan is thus an informal organization built on an extensive network of kin and fictive, or perceived and imagined, kinship relations.¹⁴

Demian Vaisman, an Uzbeki scholar, explains how the clan is both defined by kinship based on birth and family relationships, and fictive kinship based on local or regional network, and business:

The core clan consists of blood relatives of the family of the clan head, who occupy important positions. The core is extended by marriage connections. Clans usually strengthen their positions through family connections among several regional elite groupings. This cements the clan's power and helps to extend it.¹⁵

Ekaterina Sokirianskaya uses the definitions of the Russian ethnologist Vyacheslav Arutiunov and the Chechen traditionalist Khoz Ahmed Nukhaev:

State building and policy-making in Ingushetia and Chechnya are shaped by the interaction of primordial patterns of social integration, primarily *teip* (clans) with the formal state-institutions

and

The Chechen people consist of tribal communities, regardless of whether this community has its classical completion, measured by origin from one forefather in the seventh generation or exists in a shortened variant—till cousins and second cousins. This is the real social basis of our society, and the problem is in placing the social framework, i.e. institutional organization on this platform. And such a platform can be only the *teip* system, which would integrate kin—tribal relations and *teip*—*tukhum* units, and through them create a united social body.¹⁶

Clan societies are, like the totalitarian societies of the communist states, regarded as closed societies, opposed to open societies; a

¹³ Collins, 24.

¹⁴ Collins, 24–25.

¹⁵ D. Vaisman, "Regionalism and Clan Loyalty in the Political Life of Uzbekistan", in Collins, 26–27.

¹⁶ Ekaterina Sokirianskaya, "Families and Clans in Ingushetia and Chechnya" in *Central Asian Survey*, Vol. 24, No. 4, 2005, p. 454.

differentiation explained by George Soros in “The Capitalist Threat”.¹⁷ He regards open societies as economical and democratic; he conceives them as more open to change and therefore more prone to transparency and improvement, culminating in a globalized world. This is in contrast to those preferring archaic-styled, closed society. Closed societies are based on the family tie, and honor plays an important role. The society is characterized as patriarchal, with a minor position for women. Marriages are often arranged, and honor for the family and the clan is important as for the individual. Violations of honor will result in a blood feud, not only with regard to the family, but with the whole clan to which the family belongs. The strong clan network can also result in acts of nepotism, where clan members give other members of the clan jobs, and reserve political positions for fellow clansmen. This same system is seen in the economic field as well. As a result of the patriarchal system and the importance which is given to honor, violations of human rights of women are not easily remedied in the courts, and it is more difficult for women to admit that they have been victim of human rights violations which are specifically aimed at women, such as domestic violence, sexual abuse, rape, or forced marriage. This makes women in some of these societies more vulnerable to trafficking, making them susceptible to related health problems like HIV/AIDS, TBC and sexual transmitted diseases. While clan societies can protect their members in times when the state does not provide safety or minimal subsistence, there are also negative aspects of the clan structure, as we have seen above.

Usually, clans have their powerbase in specific parts of the country. Each clan based society sees a division between smaller and bigger clans, older and younger clans, and important and less important clans.

Why members of a clan choose to stay within the network when economic conditions are so bad that they receive no payoff, or when conditions are optimal and they have no need of patronage are difficult to explain.¹⁸ Kathleen Collins finds the answer in the fact that intra-clan cohesiveness and survival goes further than the economic dependency of clan members upon each other (and the dependency

¹⁷ George Soros, ‘The Capitalist Threat’, *Atlantic Monthly*, Vol. 279, No. 2, 1997, <http://www.mtholyoke.edu/acad/intrel/soros.htm>, accessed 28–2–08.

¹⁸ Collins, 31.

on the elite of the clan). The norms of the clan, the identity and structure, also play an important role in cementing the clan.¹⁹

In the Caucasus we find renewed clan politics in Chechnya, Azerbaijan and Georgia. In Azerbaijan the notion of the nation-state had not existed for a long time, and the Azerbaijan state emerged only after the First World War. Gaidar Aliev, who was president of Azerbaijan both in the Soviet time and after Azerbaijan declared independence (1969–1982 and 1993–2003), relied on the Aliev clan, and provided his clan with considerable influence in the energy sector.²⁰ The transition period after the fall of the Soviet Union for many states meant a revival of the clan and kinship networks, which created protection and sharing of, and control over resources, according to Charles Fairbanks.²¹ According to the Georgian political scientist Tamara Dragadze the Georgian military had traditionally existed of the rural clans of central Georgia. Georgian social organization had existed of clans and extensive family networks, both prior and during the Soviet Union. The policy of Georgian president Zviad Gamsakhurdia to disrupt local clan and patronage networks has been an influence in the opposition to Gamsakhurdia.²²

Several Caucasian peoples lived under the clan culture, especially in the North Caucasus. Nowadays this culture is no longer visible in all states, but in many republics it still plays a role in society and sometimes even politics. Some republics like Chechnya and Ingushetia, and to some extent North Ossetia, state that clans are important, and scientists discuss whether this culture has survived 73 years of communism, or if politicians have re-invented the clan for nationalist purposes. To understand how a clan society works, we will look at Chechnya, where the clan is an important player in the society and its politics.

An Example of a Clan Society: Clans in Chechnya

The clan, or taip, as it is called in Chechnya, has always played an important role in Chechen society. The importance of the clan predates

¹⁹ Collins, 31.

²⁰ Collins, 305.

²¹ Charles Fairbanks, "Weak States and Private Armies", in Collins, 306.

²² Tamara Dragadze, *Rural Families in Soviet Georgia*, (London: Routledge, 1988), in Collins, 307.

the arrival of Islam. The clan has a very close relation with the territory the clan members live on, many clans having their power base in specific areas, either in the mountains or in the plains. The clan culture is also mixed with aspects of the former religion, animism, which is found in the rich mythology of Chechnya.

For the clan it is important to remember their ancestors. This history is learned by heart from youth, since knowing your ancestors is to know who is part of your clan and who is not. It also indicates territorial boundaries, since specific clans used to inhabit specific areas.²³ In times of peace, the society has often been divided internally, clans fighting clans, however the clans have often united when there is a common enemy. At such times the *tukhums* (who supervise groups of clans) and confederations unite the different clans to fight the outsider.

Clans consist of several families, united by one forefather. Presently the number of clans in Chechnya is approximately 150, though new clans can be found when an existing clan splits.²⁴ Clans are run by a clan elder, who is chosen by the clan. The clan elder acquires his position based on his achievements in life, which can be bravery in conflict, a strong economical position, or a strong sense of justice. In the 19th century there used to be a civilian clan elder, and a military clan elder, who took over in time of war. A clan elder can be old, but also middle aged or younger. The title is earned based on exceptional accomplishments, either in bravery or in other fields. The clans form part of *tukhums*, clusters of clans. Within the clan the clan elder is responsible for the resolution of conflicts and blood-feuds between members. Clans are named after their founder, have their specific mountain, a tower, their own gods, and their own cemetery exclusively for clan members.²⁵ Part of the clan culture is hospitality, which is given even to enemies, when those enemies ask for help. There is however also blood vengeance, which will never interfere with hospitality.²⁶

The clan as such can then safely be characterized as a closed society, due to the fact that clan members are accountable to their clan, and

²³ See also Jaimoukha, *The Chechens*, 15.

²⁴ S. Arutiunov, "Vpered nazad, k estestvennomu pravu" in *Rossija-Chechnia. Poiski vyhoda in Sokirianskaia*, 454.

²⁵ V. Avioutskii, *Géopolitique du Caucase*, (Paris: Armand Colin, 2005), p. 56.

²⁶ When an enemy leaves the house, he is given a specific amount of time, after which his hosts can run after him and perform that act which evens the blood vengeance.

have to protect their fellow clan members. This can potentially be contrary to accountability and transparency in a larger political process. In times of emergency the clan provides security and means of subsistence for its members only.

Chechnya for a long time adhered to a traditional, unwritten, law. *Adat* law has to be differentiated from *sharia* law, which finds its basis in religion, and was introduced in Chechnya only for a very short time after the first Russian-Chechen conflict by President Aslan Maskhadov in 1998. Even though since 1920 Soviet law and later Russian law were imposed, the traditional *adat* law has remained important within families and society. Examples from traditional law are the exclusion of women from social life, respect for elder people, a dominant role for the clan elder, and a strong bond with the territory of the clan.²⁷

Ekaterina Sokirianskaia states that there is agreement among scholars that the clan plays a pivotal role in the political process of Chechnya:

State building and policy-making in Ingushetia and Chechnya are shaped by the interaction of primordial patterns of social integration, primarily *teips* (clans) with the formal state institutions.²⁸

One is born into a clan, and cannot choose another clan. However, marriages are often between clans, rather than within clans, and due to the patriarchal system, the women will then leave their family and belong to the family and clan of their husband.

Are Clans Opposed to States?

It might look as if clans are little domains in themselves, being located often in specific areas, having their own internal conflict resolution system, having their own rules of behavior, providing security and financial wellbeing for the group, and having a clan elder, who has political, religious, and judicial powers, and can mediate in problems with other clans. It is true that this makes the clan society a rather horizontally organized society, with different clans next to the other, in times of peace not needing a united ruler. Therefore, it is rather easy to organize clans in a nation-state, as long as you leave the internal structure intact. When one wants to use a blueprint created for

²⁷ Avioutskii, 56.

²⁸ Sokirianskaia, 454.

a society which is not clan based, thus disrupting the relations and powerbases that have successfully existed for centuries, even under the Communist's rule, will meet with failure. It is fundamental to success that a majority of the population accepts any new power structures. However, when the state is able to provide rights and respect for all clans, minorities, be they ethnic, religious, cultural or other minorities, is able to provide security, create (government) jobs, an infrastructure, economy, and create a strong and transparent administration, there is no reason to expect that the clans will oppose this. The clans of Central Asia and the Caucasus in the Soviet Union adapted to their new situation as well. The clans which traditionally had an important role, acquired important places in the Soviet state apparatus, and after some time the traditional relations between the clans were mirrored in their influence in the administration.²⁹ After the dissolution of the Soviet Union little had changed. The clans kept their power structures, and changed their ideologies from Communist to nationalist. In Chechnya we witnessed a change of clan power. Under communist rule the clans from the plains held important positions. With the coming to power of Djokhar Dudayev, being from a minor clan in the mountains, the mountain clans came to power. President Vladimir Putin of Russia pursued a policy to ally with loyal persons of important clans in Chechnya, and therefore supported both father and son Kadyrov, and the opposition, originating primarily from the plain clans.³⁰ It is true that the states in Central Asia, the republics in the North Caucasus, and the states in the South Caucasus prove to be weak states. They all suffer, however, from the systematic changes caused by the process of transition, as a consequence of the dissolution of the Soviet Union and/or interference by outside powers. These transition processes are time consuming, and we have to remember that it took Western Europe hundreds of years before they became as affluent and democratic as they are now.

Are Clans and Democracy Opposed?

The horizontal organization of clan societies, which often do not have any nobility, and if they have had, as in the case of the Circassians,³¹

²⁹ Collins, 299 and 332–333, 343.

³⁰ Jaimoukha, *The Chechens*, 94, and Avioutskii, 55–57.

³¹ A people in the North Caucasus, divided over several republics, notably Adygeya, Karachayevo-Cherkesskaya, (the Abkhazians in Abkhazia are not Circassians, though they are related to them).

the nobility is not far above the citizen in society, means that it is easier to democratize such a society than a society which is composed of an elaborate system of social classes, which are impenetrable.³² Clans often are penetrable. In Chechnya outsiders can join the clan, even if they are not Chechen at all, and marriages take place between spouses of different clans. Though one is born in a clan and cannot choose a clan, marriage and the resolving of blood-feuds can result in a change of clan. The democratization of the clan society is to be done under the condition that not too much of the existing structure is damaged. It has often been the desire of other states which wanted to impose democracy (or communism in the case of the Central Asia and the Caucasus) that they want to eradicate the clan structure in state organs as much as possible and replace it by loyal persons, who do not have loyalties to the clan. This has been a problematic process, which in the Caucasus has resulted in a practice where the important clans have been co-opted in the state administration, and after decades of communism, the power balance was comparable to the situation before the communists came to power.³³ One of the crucial elements in democracy is transparency, both in engaging people, where one appoints the best person to a specific job, and in accounting for government expenditure. This aspect of accountability remains a problem in the post-Soviet Caucasus. Clientelism is also a problem which has its roots in the clan democracy, where clan members are appointed to positions by other clanmembers. The ideal situation is however to promote transparency in the administration and in elections. A survey performed in Chechnya learned that the outcome of the elections is seriously influenced by clan affiliation.³⁴

The policy to eradicate aspects of clan society in Central Asia and the Caucasus by the communist government have failed. The same holds for the policy of eradication of clan society in Albania, which started already in the beginning of the early 1930s under king Zog. Especially in the North of Albania, where the state is less successful in maintaining law and order, where infrastructure is less developed than in the rest of the country, unemployment is high and where security of the citizenry cannot be guaranteed sufficiently by the government, the power of the clans is considerable.

³² A. Byhan, *Civilisation Caucasienne*, (Paris: Payot, 1936).

³³ Collins, 225.

³⁴ Sokirianskaia, 463–464.

In Afghanistan clans are still very important, and the policies of the Communists in the 1970s as well as subsequent governments has ruined the country, but has not been able to eradicate or diminish the importance of the clan in society. Some activities of NATO forces in Afghanistan have been less successful because the intervening power, be it an intervention force or a country or coalition of countries willing to impose democracy, did not take into account the influence of clans on everyday (political) life.

Clans Co-opt in a Democracy

The co-optation of clanmembers in the institutions of the state is something I already mentioned above. It happened in the Soviet Union in the Central Asian SSRs, in the South Caucasian SSRs and in the North Caucasus. Leaving specific state functions to the clan and their traditions was a method used in the Afghan-Pakistani border area by the British from the 19th century.³⁵ This was successful, since it was the only way the British could get the area under control. Co-optation was also seen in Iraq under Saddam Hussein, who appointed his clan members to important posts, thereby also strengthening his own position.

Some argue that after the fall of communism some politicians and governments decided to re-invent the clan for nationalistic purposes. After 73 years of Communism many of the clan structures had weakened, but since in many republics communism was overnight replaced by nationalism, the re-invention of the clan was a perfect way to mobilize the population against the former regime. This reintroduction of the clan structure took place in Chechnya under President Dzhokhar Dudayev, but also in Iraq under Saddam Hussein.

Clans function as a solid base of society. They have existed for a very long time and cannot easily be removed, and therefore it is necessary to use some aspects of clan society in the administration and organization of the state. One thing has to be clear when talking about using clan aspects such as fair representation of the different clans in the administration, and that is that the rule of law shall always prevail over *adat* law or *sharia* law. However, conflict resolution mechanisms from the old system can be mixed with modern principles of the law

³⁵ M. Sultan, 'The Quest for Peace in Chechnya, The Relevance of Pakistan's Tribal Areas Experience', in: *Central Asian Survey*, Vol. 22 (4) December 2003, pp. 437-457.

and the strengthening of institutions. It is due to the perceived archaism of the clan some people from non-clan communities regard clan societies as backward.

When the State Gets Stronger, the Clan can Retreat

Now that we understand that there is an interaction between the organization of the state and the organization of the clan, and we have seen that the clan takes more power when the state withdraws, the question is how the state can strengthen itself, without creating an internal conflict between government agencies and clans, or between the clans themselves. The idea is that when the state gets stronger, it is able to uphold the monopoly on violence and generate income through taxes. The rule of law prevails and administrative organs get stronger. In many cases it also means cutting back on corruption. The result will be that the state moves from what George Soros calls a closed society to an open society, or what Francis Fukuyama describes as the transition to liberal democracy in his book *Trust, The Social Virtues and The Creation of Prosperity* where accountability is an important aspect of political and administrative life.³⁶ As we saw above, the inclusion of members of (important) clans in the administration, and democratization with, what Michael Ignatieff calls the light footprint, preserving some useful aspects of clan society and the realization of law and order, will help in preserving peace in these societies and bringing together groups, which within their clan may very well have differing political points of view.³⁷

Clans and the Rule of Law

In an effort to strengthen the state the first prerequisite is to reinforce the rule of law. This includes an expectation of a fair trial, integrity of the police, which includes a ban on torture or taking bribes, transparency in the recruitment of public jobs, the power to collect taxes, state monopoly on violence, all citizens are equal before the law, minorities are treated with respect, the situation in jails and prisons is in line with international legal standards, elections are fair and free and

³⁶ Fukuyama Says Ideas On Liberal Democracy 'Misunderstood', RFE/RL, 14 October 2006.

³⁷ M. Ignatieff describes this in his book *Empire Lite, Nation Building in Bosnia, Kosovo, Afghanistan*, (London: Vintage Publishers, 2003).

take place regularly, and the employment of politicians that work for the benefit of the state. In some situations the judiciary needs reform. Transitional justice and reconciliation can be important steps in keeping the state together. If a state is able to strengthen these aspects of public life, it will, according to my theory, be able to assume a dominant position in the balance of power with regard to the clans.

John Baddeley, an American businessman with a strong interest in cultural anthropology, has written some very valuable books about his travels to the Caucasus at the end of the 19th century. He observed that when there was a feud between two families, which could not be solved through mediation by the clan elder, one of the clans could decide to move for a time out of that village. This was to make sure that spilling of blood would stop, the move would prevent the rival clansmen from meeting each other. Another possibility for men who belong to a clan with a blood-feud, is not to look at each other when they meet on a path where they cannot avoid each other. This way they do not have to fight. Another possibility is to take another route when an enemy is nearing.

Blood-feuds can be solved by giving a child to the other clan to educate. The child will thus become part of the other clan, and the animosity is over. Persons in a blood feud can become blood brothers, by mixing each others blood. Another option is to become milk brothers, an activity in which the person from the other clan “drinks” at the bosom of a woman of the other clan.

Most blood feuds are however solved through the paying of a certain amount of money or giving a certain amount of goods. Every individual more or less knows what the price on a certain crime is. Solving of the feud is also important because there are no rules with regard to reciprocity. This means that one murder can be retaliated by ten murders, which can be retaliated by hundred murders.³⁸

Religion: Christianity, Islam and Animism

Some clans share the same religion, sometimes different divisions of the same religion are present within the clan, like Sunnism and Shiism, or (in the case of Chechnya) Naqsbandi and Qadiriya brotherhoods. However, in principle problems within clans are not religious in origin.

³⁸ J. Baddeley, *The Russian Conquest of the Caucasus*, (London: Longmans, Green & Co, 1908), pp. 245–247.

Clans unite when a jihad against an outsider has to be fought. Furthermore, the position of the clan is much more important in society than religion as such, since the clan is an element that is much older than Islam, having elements of pre-Islamic faith and culture.

The argument of Samuel Huntington that there is a clash of civilizations between the Christian societies and the Muslim societies can not be upheld with respect to Caucasian clan societies, having both Christian and Muslim states, since basic aspects of society are similar to countries in East and West alike.³⁹ The prejudice that religion, especially Islam, helps the survival of the clan in society therefore does not hold. The reason is that the clan predates the current Christian or Islamic religion. This is the case in many (former) clan based societies such as the Caucasus, Central Asia, Iran, and Afghanistan, but can also be found in Montenegro and in Christian southern Italy.

Apart from its basic clan structure, Chechen society is also organized in Sufi brotherhoods. Among the Sunni population two branches are to be found in Chechnya, the Naqsbandiya and the Qadiriya. These Sufi brotherhoods center around a sheikh (religious person), who is responsible for a wurd (branch) of the brotherhood. The sheikh is appointed by a Sufi master after having pursued training. A wurd normally bears the name of its founder (a sheikh). One is born into a Sufi brotherhood.

Prayers of the Naqsbandiya are quieter than those of the Qadiriya, who also perform the zikr (a dance where they get into a trance). The Naqsbandiya is older than the Qadiriya, having been founded in the North Caucasus by sheikh Mansour in the late 18th century.⁴⁰ Another important sheikh is Imam Shamil, who brought the idea of an imamate to Chechnya and the North Caucasus, and was the most important political and religious figure during the Murid wars, lasting from 1829 to 1854.⁴¹ The Naqsbandiya have their power base in Tolstoyurt, Urus Martan and the district of Naderetshny. The founder of the Qadiriya in the North Caucasus in the 1860s and 1870s was Kunta Haji. His family members still are held in high esteem in Ingushetia, Chechnya and Dagestan.

³⁹ S. Huntington, *The Clash of Civilizations and the Making of World Order*, (London: Simon and Schuster, 1996).

⁴⁰ <http://amina.com/article/partition2.html>, accessed 09-09-08.

⁴¹ Aviouetskii, 60. An imamate is a religious state, under the guidance of a Muslim cleric, an imam.

There is also a political difference between Naqsbandiya and Qadiriya. The Naqsbandiya have always remained positive about the idea of an imamate of sheikh Shamil, while the Qadiriya were against fighting the Russians. Therefore, it is not surprising that the Naqsbandiya were active in the struggle against Russia in 1920–1921, while the Qadiris cooperated with the Russians. During the Soviet period the brotherhoods had to go underground. After 1991, Dudayev and subsequent independent minded regimes were primarily supported by Qadiris, while Russia appointed Akhmed Arsanov, a Naqsbandi, as representative for Russia.⁴² The reason for this change is that the Naqsbandi are the intellectual and influential elite of Chechnya and the diaspora in Moscow belong in majority to the Naqsbandi. Therefore, they are in a better position to negotiate with the Russian government in Moscow.⁴³

The introduction and development of Islamisation in the Caucasus also had consequences for the development of the law. With the introduction of Islam, the sharia started to be a factor of importance, first next to the traditional adat law, and later replacing it. With the incorporation of the Caucasus in the Russian Empire, Russian law was to replace sharia and adat law, though even in the Soviet legal system, both played a role, and were tolerated. The development of law in the Caucasus has gone through three stages: customary law before annexation to Russia (seventeenth to mid nineteenth centuries), reformed customary law (second half of nineteenth to early twentieth centuries) and customary law in the Soviet and post-Soviet periods (1920–1990s).⁴⁴

According to Michael Kemper, a specialist on Islam studies and Sufism, the beginning of the jihad in 19th century Daghestan was linked to a pamphlet by Imam Ghazi-Muhammad, “in which he summoned the Daghestani communities to replace their customary law with the sharia.”⁴⁵

⁴² <http://amina.com/article/partition2.html>, accessed 09–09–08.

⁴³ Avioutskii, 61.

⁴⁴ I.L. Babich, “Islam and the Legal System” in, M. Gammer (ed.), *Ethno-Nationalism, Islam and the State in the Caucasus. Post Soviet Disorder*, Central Asian Studies Series, (London: Routledge, 2008), p. 20.

⁴⁵ M. Kemper, “The Daghestani legal discourse on the Imamate”, in *Central Asian Survey*, Vol. 21, No. 3 (2002), p. 265.

The customary (adat) law had an oral tradition. According to Babich,

Its underlying concept is that a crime is damage done to the collective. The basic principles of the 'adat is vengeance and/or compensation for damage. In customary law, man, family, clan and community are accepted as legal persons.⁴⁶

In the period between 1860 and 1910 the adat law was incorporated in the Russian law. The Russian lawmaker however had a preference for the sharia over the adat law. Adat courts continued their work. They consisted of five to ten judges (or arbiters), selected from the elders, and with knowledge of adat norms. The judgment shall be accompanied by a fine. Babich states:

The mediators decide on the compensation in money or in kind for each crime. If the injured person recovers, the guilty person and his family arrange a reconciliation dinner for the victim and his relatives to try to reach an agreement on compensation. If the victim dies, the family of the killer gives money and cattle, participates in the organization and expenses of the burial and funeral repast and helps in bringing up the orphans. If reconciliation fails, the injuring family leaves its settlement either of its own will or following a decision of the rural gathering. This move might be for a while or, sometimes, permanently.⁴⁷

The role of sharia law developed stronger in the North East Caucasus than in the North West Caucasus:

Islam penetrated the area from the Ottoman Empire with the help of the Khans of the Crimea. Other Islamic influences came from the east—from Daghestan and Chechnya—through Sufi orders active in the Eastern Caucasus, such as the Naqshbandiyya. Circassia was a borderland between Christian and Muslim powers. As it seems, most of the early contacts with Islam involved leaders and were connected to the political struggle between Russia and her Muslim rivals: the Ottoman Empire and the Tatars of Crimea. Its influence, therefore, was limited and had little effect on common people.⁴⁸

After the dissolution of the Soviet Union the role of religion in society increased. Mosques were (re) built, and the younger generation went abroad to study Islam. Theological problems developed between the

⁴⁶ Babich, 20.

⁴⁷ Babich, 22.

⁴⁸ C. Bram, "Re-Islamisation and Ethno-nationalism", in Gammer, 35.

younger and the older generation. Walter Richmond describes how the old adhered to Islam with a mix of customary law, while the younger adopt the Islam as taught in the Middle East:

When these students returned to the Northern Caucasus they found a discrepancy between the Islam that they had been instructed in and the transitional form of Islam. The latter is heavily infused with elements of local 'adat, customary law practiced by the mountaineers for centuries, which is often not only in conflict with the norms of the shari'a (canonical law) but often unambiguously condemned by it. This has led to a generational conflict in which believers over 40 are steadfastly opposed to changing these non-Islamic practices objected to by the returning graduates.⁴⁹

The fight of the Russian and local authorities against jihadists and Wahabis must be nuanced when we realize that in Karachai-Cherkessia and in Kabardino-Balkaria people who break the law or go against the government are called by the authorities "Wahabis."⁵⁰ For outsiders it is difficult to see whether the insecurity due to corruption or criminality is rising, or whether there is discontent among believers. It is an easy weapon to use against political opponents.

This is underlined by Bram:

From the perspective of Moscow, local security success is measured in the number of 'Wahhabis' identified and arrested. This has led to widespread abuse of the peaceful population and increased alienation, particularly among the young, from the authorities. These young people are then often recruited into the ranks of the real extremists. The events of 13 October 2005 in Nalchik are the culmination of this process.⁵¹

⁴⁹ W. Richmond, "Russian Policies Towards Islamic Extremism in the Northern Caucasus and Destabilization in Kabardino-Balkaria", in Gammer, 87.

⁵⁰ Bram, 34.

⁵¹ Richmond, 90.

CHAPTER TWO

STATE BUILDING, THEORETICAL APPROACHES

Introduction

The process of state building takes a long time. It took Europe centuries to transform herself from absolute monarchies to democracies. Some states having been only created in the 19th century, such as Germany and Italy.

The states and peoples in the Caucasus we know nowadays were incorporated in different entities in the Russian Empire since 1801. Only in 1918 were the three Transcaucasian republics independent states for the first time in their present boundaries.

The rules that regulate the state building process have changed over time, and it is worth looking at the development of the requirements of a state, in order to grasp the process of transition from Communism to a liberal democracy, as it is taking place in the Caucasus since 1991.

This legal theoretical framework will also help to understand the problematical consequences of weak and failing states in comparison to strong states. I have chosen to highlight the legal approach since it explains in detail the obstacles and possibilities of the territorial problems faced in the transition processes in the Caucasus.

Legal Criteria of the Montevideo Convention

The Montevideo Convention on the Rights and Duties of States was adopted on 26 December 1933 in Montevideo, Uruguay, at an international meeting of the American States. It dealt with criteria that could be used in order to assess whether an entity could be regarded as a state. This was necessary in order to articulate a coherent worldwide policy. These criteria are nowadays regarded as the traditional criteria concerning state building and part of customary international law.

The Montevideo Convention¹ states that four conditions must be met in order to be called a state. There must be:

¹ *Montevideo Convention on Rights and Duties of States Adopted by the Seventh International Conference of American States*, 26 December 1933, art. 1, 165 LTNS 21–31.

a permanent population;
 a defined territory;
 a government;
 the capacity to enter into relations with other states.

These four criteria were described in detail.

Population

The population in a state comprises of all the persons living in the territory. This population can be homogenous, but can also consist of several peoples.² There is no minimum size to population.³ In ascertaining the nature of the population, the concept of 'nation' plays a significant role. A people is defined here as a group that often has a common history, culture, language, religion, and the feeling of belonging together. Peoples are often indigenous to the territory they inhabit. Minorities are defined in Article 27 of the International Covenant on Civil and Political Rights as: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. Ian Brownlie states that

whilst it is clear that not all groups qualifying as 'minorities' will constitute also units of self-determination, there is no reason why, in certain conditions, a minority should not simply constitute a unit of self-determination, particularly if the group are the habitual residents of a specific area.⁴

A people can be a minority, but a minority is not necessarily a people. With regard to the indigenous nature of several peoples in the Caucasus it is important to note that though the Draft Declaration on the Rights of Indigenous Peoples of 1994 does not give a definition of indigenous peoples, Article 3 of the Draft provides, although not clearly formulated, a right to self-determination for indigenous

² M.N. Shaw, *International Law*, (Cambridge: Cambridge University Press, 1997), p. 104, J. Crawford, *The Creation of States in International Law*, (Oxford: Clarendon Press, 1979), p. 40.

³ J. Duursma, *Fragmentation and the International Relations of Micro-States*, (Cambridge: Cambridge University Press, 1996), pp. 117–118.

⁴ I. Brownlie, *The Rule of Law in International Relations*, (The Hague: Martinus Nijhoff Publishers, 1998), p. 47.

peoples. Whether indigenous peoples constitute units of self-determination, has to be analyzed on a case-by-case basis.⁵ Jorri Duursma's definition of indigenous peoples is:

Indigenous populations are considered to be special minority groups to whom, apart from the universal human and minority rights, specific indigenous rights should be granted. [...] Indigenous populations are special minorities in the sense that they have a strong attachment to their lands. They often have a landbased religion and/or access to land traditionally held by them is of significance to them culturally.⁶

Territory

In order to speak of statehood a state should have its own territory. It is important to delimit the territory. In casu only delimitation on land and of international rivers as natural boundaries will be discussed, since this can be applied directly to the analysis of state building in the Transcaucasus and the North Caucasus.

Frontiers need not be delimited with absolute certainty. Many states have long-standing frontier disputes with their neighbors and nevertheless have been accepted as a member of the League of Nations or United Nations, such as Georgia, which was accepted as a member of the United Nations in 1992 without having fixed borders. There is no minimum size for the territory, which makes it possible to recognize small states like Abkhazia.⁷

Three stages can be discerned in the process of delimiting a frontier:

1. an agreement must be reached on the precise description of territory;
2. the delimitation takes place;
3. the results of the delimitation are put down in a treaty.⁸

When a frontier dispute evolves between states, and territory is claimed on historical grounds, it is important to take the rules as they existed at that particular period as a point of reference. This is the principle of intertemporal law.

The function of a boundary is to allocate territory among states. A boundary takes the form of a line, which can be natural or artificial.

⁵ Brownlie, 48.

⁶ Duursma, 46.

⁷ Shaw, 140, Duursma, 116, P. Malanczuk, *Akehurst's Modern Introduction to International Law*, (London: Routledge, 1997), pp. 75–76.

⁸ Brownlie, 151.

A boundary can be described in a treaty or agreement, and often is accompanied by a map.

The Paris Pact of 27 August 1928, also known as the Kellogg Briand Pact, banned war as an instrument of national policy. It did however not include a provision for an enforcement mechanism. A right to self-determination remained permitted. The acquisition of territory through force was now prohibited. Article 1 condemns the recourse to war as a means to solve international controversies. All disputes should from now on be solved by pacific means. The ban on the use of force is now a principle of customary international law, as was made clear in the Nicaragua Case. The International Court of Justice then argued:

185. In the present dispute, the Court, while exercising its jurisdiction only in respect of the application of the customary rules of non-use of force and non-intervention, cannot disregard the fact that the Parties are bound by these rules as a matter of treaty law and of customary international law.⁹

After the Second World War the prohibition on the use of force was included in Article 2(4) of the UN Charter. The Security Council became a responsible organ in maintaining the peace. Threats to peace, breaches of peace and acts of aggression would be reported to the Security Council, which could take action, ranging from the adoption of resolutions in which it asked the parties to stop their armed activities, to asking member states of the UN to take economic measures (art. 39 jo. 40 UN Charter) and even military measures (art. 39 jo. 41 UN Charter) in order to stop a violent international conflict. From that time on it was not only war was prohibited but also a threat to peace.

Government

Peter Malanczuk mentions that the governments of states must exercise effective control over their territory. When the government loses control over part of its territory due to internal problems this does not directly affect the statehood of this state.¹⁰

⁹ ICJ Rep. 1986, p. 14.

¹⁰ See also Malanczuk, 77, Shaw, 141.

In order to speak of an effective government, this government has to have effective control over the major part of the territory.¹¹ When a government was effective, but loses control over part of its territory due to internal struggle, this does not automatically mean that the government stops being effective and that recognition would be affected.

A government which is not capable or willing to maintain the rule of law on its territory will observe problems in getting recognized. The same holds for governments which do not observe human rights on the territory or do not hold periodic free and fair elections. Originally respect for human rights and self-determination was linked to the requirements of effective government.¹²

The concept of sovereignty is important in deciding whether a government is effective or not. Sovereignty is not equal to independence. Sovereignty only regards the plenary competence that states possess. The term sovereignty is also used to address the plenary power that a state has in internal and external affairs. Crawford defines sovereignty as the “totality of international rights and duties recognized by international law”.¹³

Recognition

The capacity to enter into relations with other states, differs from the other three, because it is not a necessary criterion. This does not mean that a state which has declared unilateral independence, and is not recognized, can not be held responsible for its actions. Duursma states:

Even if a State is not recognized, it will have international rights and duties opposable to the international community. Whether an entity is a State is a matter of fact, not of recognition.¹⁴

When the first three criteria are met, one can speak of a (*de facto*) state.¹⁵ However, the capacity to enter into relations with other states shows recognition from the part of the states, the capability to have

¹¹ Brownlie, *Principles of Public International Law*, (Oxford: Oxford University Press, 1998), p. 71, J. Crawford, *The Creation of States in International Law*, (Oxford: Oxford University Press, 2006), pp. 46–47.

¹² C.J.R. Dugard, *International Law, A South African Perspective*, (Juta: Kenwyn, 2000), p. 78.

¹³ Crawford, 32.

¹⁴ Duursma, 111.

¹⁵ This is called the declaratory theory.

relations on a legal level. This criterion is regarded as vital for concluding that a 'state' indeed has statehood.¹⁶ This view is underlined by Oppenheim:

According to Oppenheim, '[a] State is, and becomes, an International Person through recognition only and exclusively'. The formation of a State remained a question of fact, but whether it could become a subject of international law was a question of law, that is of recognition.¹⁷

Official recognition by a number of states means a willingness to deal with the new state as a member of the international community.¹⁸ Recognition has both legal and political elements. A further differentiation that should be made is between recognition of states and recognition of governments.

Recognition of a state by other states implies that this state is regarded as having legal personality in international law and that the state complies with all criteria of statehood. Reasons to delay recognition are often related to questions whether the new state is viable, really independent from another state, or was established in violation of Article 2 (4) of the UN Charter (prohibition of the use of force).¹⁹ Non-recognition as a state however does not mean that international law is not applicable to the entity which seeks recognition.

In international law two theories concerning recognition are found.

The first is the *constitutive theory*, which considers a state or government non-existent until it is officially recognized by other states and international intergovernmental organizations such as the League of Nations or the United Nations.²⁰

The second is called the *declaratory theory*, which recognizes the existence of a state or government as a matter of fact. Recognition is just an acknowledgment of the facts.²¹

Usually, a state recognizes another state or government explicitly, for example by exchanging ambassadors. Diplomatic relations imply

¹⁶ This is called the constitutive theory. Malanczuk, 79–80, G. Gottlieb, *Nation Against State*, 1992, p. 131, P.H. Kooijmans, *Internationaal Publiekrecht in Vogelvlucht*, (Dordrecht; Kluwer, 2002), p. 33, Crawford, 48–71.

¹⁷ Duursma, 110–111 and L. Oppenheim, (H. Lauterpacht, ed.), *International Law: A Treatise*, Vol. I, Longmans, London, 1955, p. 125).

¹⁸ Malanczuk, 82–83.

¹⁹ Malanczuk, 85.

²⁰ Malanczuk, 83.

²¹ Crawford, 17–23 and P.H. Kooijmans, 33.

recognition, but the exchange of trade missions, even permanent trade missions, does not.²²

Even if a state fulfils the criteria of statehood, there can be reasons not to recognize the entity as a state. When there is a UN decision collectively not to recognize an entity, this often is not based on the meeting of criteria for statehood but rather on the principle of non-recognition in the cases of illegal change of title or as a result of aggression.

Non-recognition by the United Nations follows as a result of applying the following principles:

1. the prohibition of aggression
2. the prohibition on the acquisition of territory by means of force
3. the prohibition of systematic racial discrimination and the suppression of human rights
4. the prohibition of the denial of self-determination.²³

Article 4 of the UN Charter describes which states can apply for membership:

Membership of the United Nations is open to all peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

The admission of any such state to membership of the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 18 of the Charter requires a two-third majority vote in the General Assembly with respect to the admission of new members to the United Nations and with regard to a recommendation of the Security Council, article 27(2) states that procedural matters shall be decided by an affirmative vote of nine members.

What are the obligations mentioned in Article 4? These are found in Articles 1 and 2, which describe their aim as:

²² M. Akehurst, *A Modern Introduction to International Law*, (London, Allen & Unwin, 1984), p. 66, *Reparations for Injuries Case*, ICJ, 1949.

²³ Dugard, 89–90.

1. Maintaining international peace and security;
2. Develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character and promote respect for human rights and fundamental freedoms;
4. A member shall refrain from the threat or use of aggression against the territorial integrity or political independence of another state.

According to the rules of the General Assembly of the United Nations, the procedure for application is described in rules 134 to 138. The International Court of Justice came to the conclusion that “to be admitted to membership in the United Nations, an applicant must be a state;

1. be peace-loving;
2. accept the obligations of the Charter;
3. be able to carry out these obligations;
4. be willing to do so.²⁴

The conditions prescribed in Article 4 are exhaustive of character and a member state:

is not legally entitled to make its consent to the admission dependent on conditions not expressly provided in paragraph 1 of the said article, and that, in particular, a member of the organization cannot, while it recognizes the conditions set forth in that provision to be fulfilled by the State concerned, subject its affirmative vote to the additional condition that other states be admitted to membership in the United Nations together with that State.²⁵

Additional Criteria Developed by James Crawford in 1979

During the second half of the twentieth century advocacy for the rights of minorities and individuals gained momentum. Respect for other states was an important criterion in official state recognition, as was

²⁴ Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter), Advisory Opinion, International Court of Justice, consideration 62.

²⁵ <http://www.icj-cij.org/icjwww/idecisions/isummaries/iasunsummary480528.htm>.

the importance of legitimate democratic rule. This made it necessary to create additional criteria to those of the Montevideo Convention.

The most important scholar in this field is James Crawford, who in *The Creation of States in International Law* adds to the criteria of the Montevideo Convention:

1. independence;
 - a) permanence
 - b) willingness and ability to observe international law
 - c) a certain degree of civilization
 - d) legal order.

According to Crawford there is no statehood when a state is not factually independent or does not indicate a willingness to form a sovereign state through a formal declaration of its independence. A state ought to show 'reasonable' proofs of permanence as a guarantee for the future. If a state is not willing to observe international law this does not affect the statehood of the state, but it can have consequences for the recognition or withdrawal of recognition of the state. When an entity which meets the first three criteria for statehood is not recognized, this impairs its international relations. The government in a state should obey the rule of law. It could be said that this is a completely reasonable test to measure adherence to the criteria of effective government as a prerequisite of statehood. A state should respect international law, because this is necessary for the relations between states.²⁶

Badinter Commission

In order to face the new political scene and decide on whether or not to recognize new states, the European Union in 1991 installed the Badinter Commission, named after its president the French politician Robert Badinter, to analyse which requirements should be met by new states in order to be recognized by the European Union.

The Badinter Commission adopted three opinions and formulated additional criteria to the Montevideo Convention, more in line with

²⁶ Crawford, 72–75.

present day expectations of states. They were published on 16 December 1991, just at a moment when the Socialist Yugoslav Republic and the Soviet Union were in the process of disintegration, and new entities were waiting for recognition by the international community.

The additional requirements were:

1. Respect for the provisions of the Charter of the United Nations and the commitments subscribed to in the Final Act of Helsinki and in the Charter of Paris, especially with regard to the rule of law, democracy and human rights;
2. Guarantee the rights of ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE;
3. Respect the inviolability of all frontiers which can only be changed by peaceful means and by common agreement;
4. Acceptance of all relevant commitments with regard to disarmament and nuclear non-proliferation as well as to security and regional stability;
5. Commitment to settle by agreement, including where appropriate by recourse to arbitration, all questions concerning State succession and regional disputes.²⁷

The declaration underlines that the EC and its members will not recognize new entities which are the result of aggression. The rules are designed to be able to see whether states shall be recognized, and are not criteria for statehood.

Remarks on the Right to Self-Determination

In order to evaluate the wish for self-determination, a differentiation between internal self-determination and external self-determination first has to be made.

Internal self-determination is enjoyed within a state and includes the right to democracy for citizens. It mostly covers the right to use one's own religion, language and culture, and, possibly, also several forms of institutional autonomy. One can think of cultural autonomy,

²⁷ Declaration on the Guidelines of New States in Eastern Europe and in the Soviet Union, 16 December 1991, ILM 31, (1992), pp. 1485–1487.

political parties for a nation or a people, certain forms of decentralization. Even the creation of a federal state might be an option. This right can be found in Article 27 ICCPR.

Those concerned, be they a minority or not, ought to be consulted before a decision is taken on their political status. Three aspects with regard to internal self-determination can be distinguished in this light:

1. The right of a people to decide on their own political system;
2. The right of a people to be consulted when changes in the constitution occur, as well as the right to oppose tyranny and suppression;
3. The right of a people to govern and to participate in public affairs as well as the right to participate in elections and referenda.

As a rule in international law and international relations, historical claims to territory are not granted.

Secession

External self-determination is also called secession. This is the break-away of a unit to form a new state out of part of an existing state, which is nearly always the result of a violent conflict. There are several definitions of secession.

Peter Radan, a specialist on state building on the Balkan, defines it as: "Secession is the creation of a new state upon territory previously forming part of, or being a colonial entity of, an existing state."²⁸ James Crawford defines secession as: "The creation of a State by the use or threat of force without the consent of the former sovereign."²⁹

The Declaration on Friendly Relations defines external self-determination as

the establishment of a sovereign and independent state, the free association or integration with an independent state or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.³⁰

²⁸ A. Pavkovic, P. Radan, *On the Way to Statehood, Secession and Globalisation*, (Ashgate: Aldershot, 2008), p. 18.

²⁹ Crawford, 375.

³⁰ Supreme Court of Canada (re Secession of Quebec) in *Rechtspraak Volkenrecht*, (The Hague: TMC Asser Instituut, 2000), pp. 303–310.

Though in principle the international law takes a neutral position towards the concept of secession, there may in practice be problems if the metropolitan state does not approve of the secession.

According to Jorri Duursma,

Contrary to what some distinguished writers have maintained, international State practice does accept a right of secession. Secession is inherent in the right of self-determination. It is not prohibited by international law to seek secession if one constitutes a people and/or fraction of a people and if in addition one inhabits a certain territory delimited by international and/or internal administrative borders. The latter condition is reflected by the principle of *uti possidetis juris*.³¹

Criteria which may result in a possible lawful unilateral secession are:

1. Recognition for a right of secession under national law or approval by the central government;
2. Gross and persistent violations of individual human rights;
3. Minority people;
4. A direct or indirect violation of the right of internal self-determination.³²
5. Exhaustion of all effective judicial remedies and realistic political arrangements for the purpose of realizing the right of internal self-determination must have taken place.
6. Therefore, secession shall always be an *ultimum remedium*.

Secession may lead to the creation of an independent state, or may be the formalization of the *status quo* (some republics are *de facto* independent for a considerable period of time, before officially seceding, such as Abkhazia and South Ossetia), or it may be done in order to merge with another state (where the unit ethnically, culturally or on grounds of religion has an affiliation with).

³¹ Duursma, 99–100.

³² D. Raic, *Statehood and the Law of Self-Determination*, (The Hague: Kluwer Law International, 2002) chapter 7. In the case of *Secession of Quebec* the Supreme Court found that a right for external self-determination and secession was applicable in traditional colonial situations and by a people which is subject to alien subjugation, domination or exploitation outside the colonial context.

These criteria give some guidance as to when to recognize an entity created through an act of secession, and when not. It also fine-tunes the rather general rule that secession is not allowed, unless certain situations occur. Later in this book we will analyze Caucasian cases of (attempted) secession.

Uti Possidetis

The principle of *uti possidetis* implies that frontiers or boundaries of a state are “sacred” and can only be changed by common accord. This principle was developed in the 19th century in Latin America when the Spanish Empire withdrew. The newly independent states were seeking to avoid frontier wars, and therefore concluded that no changes could be made in existing frontiers, unless it was by common accord and this proved important during the process of decolonization. The boundaries of the former colonies, which had often been drawn artificially by the colonizers, thereby dividing peoples over different states, were not to be changed upon reaching independence.

In 1991 the question arose whether this principle would also apply outside the colonial context. The guidelines for recognizing states of the Badinter Commission state that boundaries of new states in the former Soviet Union and in the former Socialist Federative Republic of Yugoslavia were not to be changed. The Declaration states the following:

[...] therefore, they adopt a common position on the process of recognition of these new States, which requires: respect for the inviolability of all frontiers which can only be changed by peaceful means and by common accord.

Thus we can conclude that the principle of *uti possidetis* applies both in and outside the colonial context.

Theory in Practice

Rules Concerning Secession from the Soviet Union

The law on secession from the Soviet Union was adopted in 1990 and provided that a Republic could secede after a referendum was

requested by the Republic's Supreme Soviet or by at least ten percent of the USSR citizenry permanently resident on the Republic's territory and possessing the right to vote under USSR legislation (Article 2(1)).³³

Such a referendum was to be held by secret ballot no sooner than six months and no later than nine months after the request of the Republic's Supreme Soviet (Article 2 (3)). The USSR, other Republics or the United Nations could send observers (if the USSR Supreme Soviet deemed it necessary), according to Article 5. Secession required a two-third majority of the Republic's electorate (Article 6 (1)). Complete independence could only be obtained after a transition period of a maximum of five years, during which time "matters arising in connection with the Republic's secession from the USSR must be solved" (Article 9(1)). Moreover, a confirmation referendum requiring a two-third majority could be requested at the end of the five-year period by the Republic's Supreme Soviet or by ten percent of the USSR citizenry permanently resident on the Republic's territory and possessing the right to vote under USSR legislation (Article 19(1)). If a two-third majority in favor of secession was not reached, the decision on secession was to be regarded as 'repealed' and the 'procedures envisaged by the Law terminated', (Article 19 (2)). If the required two-third majority for secession was reached, the USSR Congress of People's Deputies was to adopt

a resolution confirming the completion of the process for co-ordinating the interests and satisfying the claims of the seceding Republic, on the one hand, and of the USSR, union republics or autonomous republics, autonomous formations and ethnic groups referred to in Article 3(2) of this Law, on the other hand (Article 20 (1)).

The law also stipulated that, if a referendum in a Republic failed to endorse secession, a new referendum could only be held ten years later (Article 10).

Furthermore, the law provided that an autonomous Republic or District within a Republic had the right, subject to referendum, to remain within the Soviet Union should the rest of the Republic choose to secede (Article 3 (1)).³⁴ Similarly, areas within a seceding Republic

³³ This law was published in *Pravda* on 1 April, 1990.

³⁴ This article (and Article 3 (2)) also applied to the Ingush situation of 1991, when Chechnya-Ingushetia, an ASSR in the Soviet Union, declared unilateral independence.

populated predominantly by ethnic groups that formed the majority there, but a minority in the Republic, and which did not enjoy regional autonomy, were allowed, subject to a referendum and negotiations, to remain within the Soviet Union (Article 3(2)).

Border Changes in the Soviet Context

The Russian Constitution of 1978 in Article 131 paragraph 2 stated the following with regard to frontier changes:

changes in borders of territories in which local self-government is administered are allowed with consideration of the opinion of the population of the corresponding territories.

This implied that a referendum had to be organized to resolve such questions.

The new Constitution of the Russian Federation, which came into force on 25 December 1993 stated the following with regard to border changes: "The Russian Federation is a democratic federative state with a republican state form" (Article 1). Article 4 defines sovereignty as covering the whole territory of the Russian Federation and declares that the territory is inviolable. Article 66 deals with the status of subjects of the Russian Federation. The status of a subject can only be changed in mutual agreement between the Russian Federation and its subject (Article 66 (5)). The internal borders between subjects can only be changed with mutual agreement between those subjects (Article 67). Defining borders belongs to the exclusive jurisdiction of the Russian Federation (Article 71 (m)).

Transition Processes

Another of the requirements for declaring independence is that the population is asked for its preference in the matter. This is done through the organization of a referendum, in which the population is asked whether it is in favor of or against the independence of the

The Chechens wanted independence, while the leadership of Ingushetia preferred to remain part of the Soviet Union, and later Russian Federation. Chechnya-Ingushetia was split up without bloodshed. No frontier arrangements were made, but common accord resulted in a peaceful frontier line.

republic. Furthermore, this referendum is often preceded by a declaration of sovereignty.

An interesting case is the referendum organized in Georgia on 31 March 1991 on the question of Georgia's independence. One of the entities within Georgia, the ASSR Abkhazia, boycotted the referendum. As a matter of fact, two weeks earlier, on 17 March 1991, a referendum on the New Union Treaty, which would reform the Soviet Union, was held in Abkhazia, but boycotted by the Georgian population in Abkhazia. The Abkhazian population voted in favor of preserving the Union. In Georgia no referendum was held on the New Union Treaty. The effect has been that Abkhazia has indicated it did not want to leave the Soviet Union, while at the same time Georgia prepared for its departure from the Union. After the armed conflict between Georgia and Abkhazia in 1992, Abkhazia has been *de facto* independent from Georgia since 1992. Since Russia has recognized the independence of the region as of 26 August 2008, the question now arises whether this means the law on secession of April 1990 is applicable, providing for Abkhazia the option to secede from Georgia and join the Russian Federation, or retain its independence.

After the population has declared its wish to live in an independent state through referendum, the presiding government can declare independence, followed by national and presidential elections. Often election monitors will assist in the organization of the elections, and control the objectivity of the elections. The OSCE has ample experience with election monitoring, and uses representatives from participating states as observers. Some of these monitors are regional specialists; others have knowledge of election systems and processes. Some of them are short term observers, on the spot only during the elections and the counting of the votes, some of them are long term observers, arriving well in advance to monitor aspects such as free press, respect for the opposition, and equal time and resources allotted to all parties. They may also stay after the elections to monitor the follow up.

After a declaration of independence, an important question for governments is the choice between organizing national, local or regional elections. The advantage of national elections is the fact that this can (re)unite a people or population right after secession from the mother country. It emphasizes the feeling of togetherness. Often the new state will go through a period of nationalist policy. Apart from obvious positive consequences, this can also lead to instability. If the state consists

of one or more minorities, which may feel threatened by the nationalist majority, and in turn become nationalist themselves. This may also lead to clashes between other groups in the society.

The advantage of regional and local elections is that the population can get accustomed to the grassroots political process of elections and political parties. This can prepare the population for participation in the political process on the larger national or regional level, and in that way strengthen the feeling between the new polity and the state.³⁵

Many political parties from other countries will assist the new state through training in the management of the political process. In the Netherlands the social-democrat PvdA, Christian-democrat CDA and conservative-liberal VVD jointly train political parties and NGO's in aspects of Western style democracy. International organizations like the Council of Europe and the OSCE have similar programs. The OSCE assist in drafting legislation, drafting of a constitution, the training of lawyers and judges in a Western European style rule of law, and in similar decision-making processes. The organization also has programs to train police officers in handling detainees, in order to fight corruption and to avoid torture as a tactic of getting evidence. The Council of Europe also gives advice on the political process, including lawmaking and law enforcement, outlined in the Venice Commission.³⁶

Another important aspect is the creation of non-governmental organizations which are concerned with civil society initiatives. The OSCE is also known for assisting in the preparation of elections. It sends long-term monitors to help with giving logistical advice and monitoring the freedom of press and freedom of gathering for political opponents in the run up to elections, and it often also monitors the follow up of the election results in the weeks and months afterwards. Short term monitors are sent to control the fairness of the election process, which includes both the possibility to vote (only once), and the fairness of the vote counting.³⁷

³⁵ S. Chesterman, *You, the People. The United Nations, Transitional Administration, and State-Building*, (Oxford: Oxford University Press, 2004), pp. 206–210.

³⁶ <http://www.venice.coe.int/>, accessed 09–09–08.

³⁷ <http://www.osce.org/activities/13036.html>, accessed 09–09–08, and <http://www.osce.org/activities/13049.html>, accessed 09–09–08, and <http://www.osce.org/activities/13045.html>, accessed 09–09–08, and <http://www.osce.org/activities/13039.html>, accessed 09–09–08.

A question which has to be raised with these newly independent states is whether or not they want to have a written constitution. Most European states have a written constitution, but the United Kingdom does not have a written constitution. And if the decision is taken to draft a constitution, then the question arises whether it should be based on some blueprint. Many states since 1945 have taken the Universal Declaration of Human Rights as an inspiration, and this has continued after the dissolution of Yugoslavia and the Soviet Union.³⁸

A second question which has to be addressed with regard to the constitution, and the political make up of the country, is whether there will be a unicameral or bicameral system. Best is to leave as much of the existing political system intact as possible. Furthermore, a unitary state will be completely at ease with a unicameral system, while a state which harbors more minorities or peoples on its territory, might opt for a bicameral system, in which the minorities will be represented in one chamber, while the political parties, regardless the ethnicity or religion of different groups, are represented in the other. Examples of bicameral systems which are designed to accommodate the minorities (or former under-represented groups) are the Netherlands, the former Soviet Union and the United States of America.

Another question which has to be answered and included in a constitution is whether there will be proportional representation in elections, or whether it is better to opt for a district system, like the United States and Great Britain have. In the case of minorities it is better to opt for equal representation, since minorities are more easily represented in such a system. If it is important that the people really feel represented in parliament, than a district system might be better, where the representative of a specific district has the power to fully represent the interests of his constituency, and needs to do so, in order to be re-elected.

A more general question is whether the state will be a unitary state, or whether minorities or peoples within the state will have more or less internal self-determination, like the right to speak their own language, profess their religion, and to enjoy their culture. One can also decide that the minorities need specific political rights, such as the right to have their own political parties and governors, or even the right to have republics within a federation, where they have their own

³⁸ Chesterman, 210–212.

government which is responsible to the central government. Self-determination also depends on the fact whether those constructing the constitution consider it better to give minority rights to specific groups in order to accommodate them, or to stress the unity of the state in order to keep the country together. This choice will depend not only on the experiences of those who draw up the constitution and the political system, but also on political systems in the region and the culture in the country. The more patriarchal the culture, the more likely it will be to opt for a unitary state.

A decision should be taken on whether there should be a presidential system or a parliamentary system. The advantage of a presidential system is the fact that the president can smooth out serious differences between parties in the government, and the advantage of a parliamentary system is that it avoids a president with autocratic tendencies, and strengthens democracy.

Though there are different choices to be made, there is no magic formula, as these choices are dependent on the specific case at hand. All depends on the region, the state, the make up of the population, and the preferences at that time worldwide.

CHAPTER THREE

STATE BUILDING IN THE NORTH CAUCASUS

Introduction

The North Caucasus has been conquered by many. Many bloody wars ensued and many invaders failed to conquer the territories sought. This has also been due to the population living in the mountains, whose knowledge of the region is unique, due to the fact that they have inhabited the area for centuries, sometimes millennia. The fact that the areas were not easily accessible also resulted in the preservation of old religions and old cultures. Some peoples, like the Circassians, converted to Christianity in the 12th century, and converted to Islam in the 18th century.¹ In the meantime, they switched religion as often as was practical with regard to the powers struggling in the region. The majority of the population however kept their animist religion. It was only at the end of the 18th century that the last groups in Chechnya became Islamic.²

The state building process in the North Caucasus since the domination of the Russians in the area started in the 19th century is helpful in understanding territorial claims of North Caucasian peoples since 1991. It also clarifies the relation between the central authorities in Moscow and the authorities in the North Caucasus.

The Russian Advances in the Caucasus in the 18th–19th Century

The Period of 1813–1827

In the North Caucasus, the Russians were expanding their territory at the beginning of the 19th century. Derbend was captured in 1796, neighboring Tabasaran submitted during the same year. In 1803

¹ Jaimoukha, *The Circassians*, 46 and 137.

² Jaimoukha, *The Chechens*, 106 and 117.

Avaria, the most important of the khanates of Daghestan came under Russian rule.³

During the first half of the 19th century areas and cities in the North Caucasus changed hands frequently, which led to several cases of cession.⁴ In 1818 General Ermolov, who held the post of Russian chief commander in the Caucasus, gave order to construct a stronghold in the North Caucasus, in order to subdue the Chechens, who were almost constantly fighting Russian troops. This new fortress was called Groznaya, which means "threatening fortress". In 1819 several of the more important free communities of Daghestan acknowledged Russian power. In the summer of 1819 the Russians conquered Tabasaran.⁵ On 29 August 1819 Sheki was proclaimed a Russian Province.⁶ In June 1820 Kazi-Kumukh fell in Russian hands.⁷ The free people of the Kubachi, living in the mountains of Kaitagh, joined the Russian Empire. In 1820 the khan of Kazi-Kumukh instigated an uprising amongst his neighbors, but was beaten by the Russians at Khozrek, his capital taken and his khanate incorporated with Kiurin. In 1824, the community of Kusu-bu, including Ghimri exchanged hostages as part of a peace-deal, where hostages were given on a word of honor.⁸ On 30 August 1829 Shirvan became a Russian Province.⁹

The Murid War, 1829–1859

In 1829 the Murid war started in the North Caucasus. Daghestani and Chechen clans fought against the Russian conqueror. Their leaders, Kazi-Mullah, Hamzad Bek and Shamil, were clergymen, who favored Muridism, which combined religion and politics. Their aim was to create a Muslim state in Daghestan, Chechnya and other Muslim North Caucasian territories.

³ Baddeley, 58, 295–296.

⁴ Cession is the transfer of territory from one state to another state through a treaty, see Malanczuk, 148, Brownlie, 153.

⁵ Baddeley, 129.

⁶ Note that this territory had been ceded to Russia already six years earlier, in the Treaty of Gulistan, Baddeley, 130.

⁷ Baddeley, 136.

⁸ Baddeley, 236.

⁹ Once again this is a confirmation of the Treaty of Gulistan, in which Shirvan had already come under Russian rule, Baddeley, 139.

In 1832 Dargo was taken by the Russians and destroyed.¹⁰ On 13 September 1834 Ghimri was taken, and in October the cities of Gherghebil and Gotsatl fell.¹¹ In 1837 Circassia was ceded by the Ottoman Empire to Russia, after it had been occupied by Russian troops.¹² In 1837 Shamil and the Russian Emperor signed a peace treaty, which would not last long. On 21 March 1838, General Golovin was appointed the new Russian chief commander for the Caucasus. His plan of action for the Caucasus was comprising:

1. A descent on the Black Sea coast;
2. The final subjugation of the Upper Samur communities;
3. The conquest of Chechnya and Northern Daghestan.

In the period from 1828 to the capture of Shamil in 1859, Circassian emissaries were frequently sent to Shamil in order to get his advice on planned uprisings against the Russians. This strengthened Shamil's position in the whole Northern Caucasus.¹³ In 1846 the Murids (mostly Chechens and Daghestani) invaded Kabarda, which officially accepted Russian domination. An understanding was reached that Kabardians would support their fellow North-Caucasians against the Russians.¹⁴ In October 1846, Shamil was defeated by the Russians. His Darghi confederacy and its capital Akusha, which he had occupied earlier, were lost. Shamil was now reduced to rear guard actions only.

In 1857 the Russians formulated a new plan for the submission of the Northern Caucasus. After a successful war, lower Chechnya was completely occupied by Russian troops. In 1858 Shamil still held a portion of Northern Daghestan and the adjoining district of Andi and Ichkeria (South East Chechnya). During 1858 the Russians occupied more and more territory while Shamil lost support of several clans, which turned to Russia and were incorporated in the Russian Empire. Finally, on 25 August 1859, Shamil had to surrender. In 1864 Circassia was the last entity to be placed under Russian domination in the

¹⁰ Baddeley, 275.

¹¹ Baddeley, 286–287.

¹² A.L.P. Burdett, *Caucasian Boundaries*, (Slough: Archive Editions, 1996), pp. 41–66, FO 97/344.

¹³ Baddeley, 413.

¹⁴ Baddeley, 425–426.

Caucasus. During the following decades incidental skirmishes occurred between Russian troops and Caucasians.

Circassians and Abkhazians Seek Refuge in the Ottoman Empire

Around half a million of Circassians, Abkhazians, Abazas, Chechens, Ingush and Ossetes, fled the Russians and went to Turkey.¹⁵ The Turks resettled them in areas with a Muslim minority or population that was troublesome to the Ottoman rulers, in order to disperse the warrior Circassians and minimizing a possible danger they could be to the Ottoman Empire. The Circassians are thus one of the biggest minorities in the former Ottoman Empire. Amjad Jaimoukha estimates that there are about 600 Circassian villages in Central and Western Anatolia.¹⁶

Since 1878, many Circassians settled in Jordan. The sultan decided to settle the Circassians as buffer against Bedouin attacks, says Amjad Jaimoukha.¹⁷ Around 1900 Chechens and Ingush also fled to Jordan. They fell under the same denomination of "Circassian" and had a joint council to solve tribal issues.¹⁸ The Circassian group nowadays has three seats in parliament. The Circassian Diaspora in Syria has preserved its language and culture, adhering to their original tribal structures, and most of them still speak their mother tongue.¹⁹ The Circassian Diaspora in Egypt differs from the other groups in claiming that they did not settle near the end of the 19th century, but claims they are descendants of the Mamluks that ruled Egypt and Syria from 1382 to 1517.²⁰

¹⁵ Jaimoukha, *The Circassians*, 102.

¹⁶ Jaimoukha, *The Circassians*, 103.

¹⁷ Jaimoukha, *The Circassians*, 106.

¹⁸ Jaimoukha, *The Circassians*, 111.

¹⁹ Jaimoukha, *The Circassians*, 111.

²⁰ Jaimoukha, *The Circassian*, 113.

CHAPTER FOUR

STATE BUILDING IN THE NORTH CAUCASUS AFTER THE RUSSIAN REVOLUTION

Introduction

The Russian Revolution caused a good deal of anarchy and unrest, forcing the peoples in the North Caucasus to install their own political organs. Later on, state building activities led to a united North Caucasus. However, due to inefficiency, internal division, and attacks by both the Red and the White armies, the area stabilized slowly. A remarkable role was played by Turkey, which was the only state to recognize the Confederation of North Caucasian Mountain Peoples as a sovereign state. The North Caucasus in the end was not able to withstand the Bolshevik's army. The political situation was partly put down in treaties, which will be discussed in this chapter in order to evaluate the strength of the early state building process.

The Caucasus in Turmoil: the Years 1917–1921

The First World War, in which Russia participated on the Allied sides, was the backdrop for a series of momentous changes in the Caucasus. In the course of the war, Russia sent its soldiers both to the Western (i.e. Germany) and the Southern fronts (i.e. Turkey). Shortly after the Russian Revolution, Red Army troops had invaded Turkish territory. Parts of the Russian political movements were promises to the Province of Armenia to annex the areas in Turkey where Armenians lived.

The revolution which broke out on 8 March 1917 forced Czar Nicholas II to abdicate.¹ At first, Prince Lvov became the actual leader of the country as the Prime Minister of the interim Provisional Government. The actual Provisional Government had not yet been elected, and also did not derive from the old imperial parliament (the Duma).

¹ There were two calendars, the Gregorian (used in Western Europe), and the Julian calendar (used in Russia). Though the Julian calendar was used until February 1918, the Gregorian dates are mentioned in the text.

Immediately after assuming power, this Provisional Government issued decrees that abolished all restrictive legislation imposed on minorities by the Czarist regime and established full equality for all citizens. The new government also introduced the principles of national self rule by placing the administration of territories that formed an outside border of the former Empire in the hands of local committees. The Transcaucasus was put under the jurisdiction of a Special Committee, composed of four Duma deputies, a Georgian, an Armenian, an Azeri and a Russian Duma deputy, to replace the Viceroy—who had formerly governed the Transcaucasus, although real power was vested in the government in Tiflis after the Revolution.² Because the population wanted land and peace, the Bolshevik party's support grew considerably in the first six months after the February Revolution. Prince Lvov was succeeded after some months by A.F. Kerenskii as head of the government.³

On the evening of 7 November 1917 a second Revolution took place.⁴ It soon became clear that the Council of People's Commissars (Sovnarkom), a council of ministers, would govern without being controlled by a parliament. After this second Bolshevik Revolution, a power vacuum emerged in many parts of Russia. In this new scenario the organs of self-governance, which had been established by the Kerenskii government, did not have any support lead from the central government in Moscow.

Certain peoples decided to declare independence, like those in the Transcaucasus, and in other cases co-operation with the central government, now transferred from St. Petersburg to Moscow, was restored or there was the aim to restore this (like in the case of the peoples of the North Caucasus).⁵ On 15 November 1917, the Declaration of the Rights of the Peoples of Russia was adopted by the Soviet government.

² The Czar had appointed Viceroys for certain territorial entities. For more on the changes after the Russian Revolution see R. Pipes, *The Formation of the Soviet Union*, (Cambridge (Mass): Harvard University Press, 1964), p. 50.

³ This period is described in great detail in L. Shapiro, *The Russian Revolution of 1917*, (New York: Basic Books, 1984), E.H. Carr, *The Russian Revolution from Lenin to Stalin (1917–1929)*, (London: Mc Millan Press Lt., 1979), G. Hosking, *A History of the Soviet Union*, (London: Fontana Press, Collins, 1985), N.V. Riasanovsky, *A History of Russia*, (Oxford: Oxford University Press, 1933).

⁴ A.F. Kerenski, *The Catastrophe, Kerenski's Own Story of the Russian Revolution*, (New York: D. Appleton & Company, 1927).

⁵ Pipes, 52.

This document proclaimed the following principles:

1. The equality and sovereignty of all the peoples of Russia.
2. The abolition of all national and religious privileges and restrictions.
3. The free development of the national minorities and ethnic groups, inhabiting Russia;
4. The right of the peoples of Russia to free self-determination, even to the extent of secession and the formation of independent states.

At that same date another declaration was adopted in which minorities, including Muslims, were encouraged to fight for their cultural rights. In January 1918, Lenin dissolved the lawfully chosen Constituent Assembly, which had been elected in November 1917, to adopt a new Constitution after the installation of the Kerenski government. According to Pipes the main reason for the failure of the Provisional Government lay in their aim to keep the Czarist constitution and legislation intact until elections were held.⁶

Treaty of Brest-Litovsk

When on 3 March 1918 Russia on the one side, and Germany and Turkey on the other side, signed the Treaty of Brest-Litovsk, marking the end of World War I for Russia, a civil war was going on in the country to decide the fate of Russia. This civil war would last until 1920 and raged mainly between the Red Army (Bolsheviks) and the White Army (Monarchists). The Treaty of Brest-Litovsk was a formal cease-fire agreement and marked the end of the war for Russia. The delegation of the Transcaucasus was allowed to be present but was not regarded as serious enough to engage in the signing of the Treaty of Brest-Litovsk and therefore, peace was established between Turkey and Russia. For the Transcaucasus it meant the loss of Kars, Ardahan and Batum to Turkey. This affirmed that Turkey and Russia could decide on territorial matters regarding the Transcaucasus without taking into account the Trans Caucasian delegates.

In the summer of 1918 a constitution was adopted for a country which was to be called the Russian Socialist Federative Soviet Republic (RSFSR), which safeguarded the aims of the Revolution. Moscow's central government now started a fight for the preservation of regions

⁶ Pipes, 51.

which used to belong to the Russian Empire that were now either declaring independence or found themselves in anarchy.⁷ In 1920 Russia started to conclude bilateral treaties with Ukraine, White Russia, Georgia, Armenia, Azerbaijan, Bukhara, Khorasan and the Far Eastern Republic. Riasanovski remarks that,

In some respects they were worded like treaties with separate sovereign states, yet in others they were more like Articles of a federation [...] they began as military treaties, offering guarantees in case of external attack.

Later economic treaties that gradually placed decisive authority in the hands of the Moscow government were added. Although some of the republics retained a separate diplomatic service, and foreign representation, this was lost in 1922, when the RSFSR claimed and secured the right to negotiate for all the republics at the European Conference in Genoa.

Confederation of Mountain Republics of the North Caucasus and Daghestan

When central power fell away after the fall of the Russian Empire, this was thought to be due to the fact that the viceroyalty for the Caucasus was disbanded.⁸ On 27 March 1917 the Chechens founded a Chechen Council and nominated Tapa Chermoev as chairman. In Ingushetia a similar Ingushetian Council was installed in March 1917 under the leadership of Vasan Giray Jabaghi.⁹ Between 14 and 23 May 1917 a meeting was convened in Vladikavkaz (North Ossetia) to unite the Mountain Peoples in the Alliance of the United Mountaineers of the North Caucasus, also called the Confederation of North Caucasian Mountain Peoples or Union of the Peoples of the North Caucasus. They adopted a constitution and a Central Committee, as well as a political program.¹⁰ The Chairman of the Congress became Basiyat

⁷ Carr, 9.

⁸ M. Gammer, *The Lone Wolf and the Bear, Three Centuries of Chechen Defiance of Russian Rule*, (London: Hurst and Company, 2006), p. 119, C. Hille, *State Building in the Transcaucasus Since 1917*, (Leiden, 2003), p. 51.

⁹ Gammer, *The Lone Wolf and the Bear* 120.

¹⁰ M. Gammer, *The Lone Wolf and the Bear*, 120 and *Soiuz ob'edinenykh gortsev Severnogo Kavkaza i Dagestana (1917–1918gg)*, *Gorskaia Respublika (1918–1920gg)*, Makhach-Kala, 1994, pp. 23–24 (letter from Shakhnov concerning the institution of the Alliance of the North Caucasian Mountain Republic and Daghestan), pp. 47–50

Shakhanov, but Tapa Chermoev and Vasan Giray Jabaghi also participated. The aim was to hand power back to the central government in St. Petersburg once the peace was restored. In the winter of 1917, on 2 December, the Union of Nations of the North Caucasus declared that it would secede from Russia.¹¹ This was a first step towards independence.

On 11 May 1918 the independence of the Republic of the North Caucasus was declared. The government sought international recognition and when on 8 June 1918 a Treaty of Friendship was signed with Turkey this implied recognition of the new Republic. The Republic also aimed at closer cooperation with the (Con) Federation (Federative Republic) of the Transcaucasus, in order to create a unified Caucasian State.¹² The politicians in the Transcaucasus however thought nothing of cooperation, and were too busy preserving their own independence and territorial integrity. A problem for the Republic of the North Caucasus was the fact that part of its territory was in hands of the communists, and that there were also frequent attacks by the White Army of Denikin.

At the armistice of Mudros in the fall of 1918 the North Caucasian Republic had moved its seat to Temir-Khan-Shura. In March 1919 a new government of the North Caucasian Republic was formed under Pshemakho Kotsev. The reason a new government had to be formed was that Chermoev, Bammate and Gaidarov had left for Paris to attend the Peace Conference. The President of the Confederation of North Caucasian Mountain Peoples was a Chechen, Tapa Chermoev, while his Minister of Foreign Affairs, Haidar Bammate, was a Kumyk from Daghestan.¹³ The Confederation had a government and an army, and was not successful, either politically or military. This was partly due to

(political platform and program of the North Caucasian Mountain Republic), pp. 50–53 (constitution), H. Bammate, “The Caucasus and the Russian Revolution (From a Political Viewpoint)”, in *Central Asian Survey*, Vol. 10, No. 4, 1991, p. 14.

¹¹ V. Giray Jabagi, “Revolution and Civil War in the North Caucasus—End of the 19th-Beginning of the 20th Century”, in *Central Asian Survey*, Vol. 10, No. 1, pp. 121–122.

¹² Most documents refer to the republic as a federation, but French sources speak of a confederation, F. Kazemzadeh, *The Struggle for Trans Caucasia, 1917–1921*, (Oxford: Templar Press, 1951), p. 103–108, and A. Poidebard, “Le Transcaucase et la République d’Arménie dans les textes diplomatiques du traité de Brest-Litovsk au traité de Kars, 1918–1923”, in *Revue des études arméniennes*, Paris, 1923, Bammate, 15.

¹³ Bammate, 21–22.

problems in communication between the government and areas where fighting was going on, and due to the fact that the North Caucasus were attacked both the Reds (the Bolshevik army) and the Whites (the army of Denikin, trying to restore the Russian Empire).

The government of Kotsev was not able to defend its territory, and in May 1919 the White Army of Denikin conquered the territory of the Mountain Republic in Chechnya and Daghestan, and the Mountain Republic ceased to exist.¹⁴

In 1919 Sheikh Uzun Haji, Pshemakho Kotsev and Sheikh Akushinskii called for a fight against the White or Volunteer Army of Denikin and in September 1919 the Emirate of the North Caucasus was proclaimed, comprising the North of Daghestan, Chechnya and part of Ingushetia. To secularist nationalists the Emirate was seen as the successor of the Mountain Republic.¹⁵ In August 1920 however, the Bolshevik army attacked Chechnya from the north, and the leaders of the emirate called for a jihad, asking the grandson of Imam Shamil, Sait Shamil, to lead the fight. He was one of the two survivors of this fight and later fled to Turkey.¹⁶

The uprising was led by a sheik from Daghestan, Sheikh Najmuddin of Hotso (Gotsinskii), who had been elected Sheikh of Chechnya and Daghestan in 1917. A fellow Naqsbandi, Sheikh Uzun Haji of Salty supported him.¹⁷ The area which rose up corresponded to the area of support by Imam Shamil in the period from 1834 to 1854.

In 1919 Uzun Haji founded a theocratic state in Upper Chechnya, the Emirate of the North Caucasus, modeled on Imam Shamil's Imamate. It controlled Avar and Andi territories in Daghestan and was placed under the Suzerainty of the Ottoman Sultan Khalif.¹⁸ The uprising in 1920 which should have resulted in the state Uzun Haji longed for was realized a few months after his death at the age of 90. In this fight, the rebels fought to the last, there were no survivors. It was also the clearest example where the Confederation of Mountain Peoples proved unable to send extra troops, due to bad communication lines and a shortage of military, which was also needed in and

¹⁴ Gammer, *The Lone Wolf and the Bear*, 128.

¹⁵ Gammer, *The Lone Wolf and the Bear*, 130.

¹⁶ Gammer, *The Lone Wolf and the Bear*, 133.

¹⁷ M. Bennigsen Broxup, "The Last Ghazawat: The 1920–1921 uprising", in A. Avturkhanov (ed.), *The North Caucasus Barrier*, (London: Hurst and Company, 1992), p. 114.

¹⁸ Bennigsen Broxup, 115.

around Chechnya. It took the Russians until 1925 to arrest and kill Gotsinskii.¹⁹ The uprising was *inter alia* successful because the Caucasians obeyed the requests of the Sufi clerics who organized the revolt. In April 1921 a Mountain ASSR, of which Chechen territory was part, was established within the RSFSR. On 20 January 1921 the Daghestan ASSR was declared. On 30 November 1922 a Chechen Autonomous Oblast was created.²⁰

Soviet Mountain Republic

Between 1920 and 1921 and again between 1920 and 1924 there were two separate experiments to form an Islamic state, in eastern Chechnya and northern Daghestan. The first, from 1920 to 1921, was regarded with suspicion by the Russians, who abolished it as soon as they could. The second was more successful and even benefited from official recognition by Moscow, having the name Mountain Soviet Republic. However, once Joseph Stalin came to power, the republic was again abolished, and new territorial divisions were made.

State Building in the North Caucasus between 1921 and 1936

On 30 December 1922, the First Congress of Soviets unanimously approved the Declaration and Treaty establishing the Union of Soviet Socialist Republics (USSR). The federal government of the USSR possessed authority over the formation of new subordinate units, internal boundaries, local administration, laws, social and economic policy, education, the union budget, war and peace, state security, international relations, foreign trade and other union-wide matters (Article 1 Constitution 1924).

The idea was that various peoples joined the Soviet Union on a voluntary basis, and this sentiment is vested in Article 2 of chapter 1 of the Constitution. The reality as we are often seeing was very different. The principle that peoples have a right to free self-determination, without the right to annexation is found in Article 4 of chapter 3.

Formally, the Soviet Socialist Republic (SSR) had its own Constitution, participated in the deliberation of union-wide bodies, governed lower-level administrative units within its borders, and coordinated

¹⁹ Bennigsen Broxup, 121.

²⁰ Gammer, *The Lone Wolf and the Bear*, 139.

the activity of internal economic enterprises.²¹ The SSRs were allowed their own symbols such as a flag, national anthem and a state seal. Articles 9, 15, and 34 of the Constitution of 1924 ensured the SSRs representation in the Chamber of Nationalities and the right to publication of decrees and resolutions in their native language. In reality, the real decision making took place within the Party apparatus, which was partially staffed by functionaries running the state institutions.

Below the SSRs came the Autonomous Soviet Socialist Republic (ASSR), which possessed a Constitution subordinate to the Constitution of the SSR in which the ASSR was located along with a Supreme Court. The ASSR was represented in union-wide bodies and had to consent to any change in its territory (Articles 3, 6 and 15). Territories in which the majority of the population consisted of a minority nationality of the Union Republic concerned, would qualify for the status of an Autonomous Republic (ASSR). The Autonomous Republic was named after that nationality. As a part of a Union Republic, such an Autonomous Republic did not have the right to secede.

The Autonomous Republics (ASSRs) established within the RSFSR in the Constitution of 1924 were: The Bashkir Republic, the Tatar Republic, the Kirghiz Republic, the Daghestan Republic, the Gorsky (Mountain) Republic, the Turkestan Republic, the Crimean Republic, the Yakutsk Republic, and the Karelian Republic.

The Autonomous Oblast (AO) or province came next, and was subordinate to its parent SSR or kray. An Autonomous Oblast was also inhabited by the members of a minority nationality, after which it was named. An AO had no right of secession.

The autonomous oblasts passed some of their own laws, and their governmental structures were supposed to function both in Russian and in the language of the ethnic groups after which the unit was

²¹ In the 1924 Constitution these were the RSFSR, the Ukraine SSR, the White Russian SSR, the TSFSR, consisting of the Georgian SSR, the Azerbaijan SSR, the Armenian SSR. The republics were nominally independent, but bound by treaty, were the Bokhara People's Soviet Republic and the Khorezm People's Soviet Republic. Although Abkhazia was at this time a treaty-SSR, it is not mentioned in historical literature as a separate SSR entering as an original member the USSR. Therefore it must have entered the USSR as part of the Georgian SSR. See for the rights of SSRs chapter II, Articles 3–7 and chapter X, Articles 64–69, Preamble, British Foreign Service, *Soviet Russia, a Description of the Various Political Units Existing on Russian Territory*, London, 1924.

named. AOs in the Transcaucasus were located in the Georgian SSR and the Azerbaijan SSR.

The Autonomous Oblasts in the RSFSR in 1924 were: the German Volga Labor Commune, the Chuvash Oblast, the Votyak Oblast, the Kalmyk Oblast, the Mari Oblast, the Ziryen (Komi) Oblast, the Kabardino-Balkar Oblast, the Buryat-Mongol Oblast, the Karachaevo-Cherkess Oblast, the Oiratsk Oblast, the Adigheevsko-Cherkess Oblast, and the Chechen Oblast.

The Period 1943–1945: Deportations and Frontier Changes

During World War II Stalin ordered the deportation of several peoples from the North Caucasus as a punishment for their alleged collaboration with Nazi Germany. In 1943–1944 the entire Karachay, Balkar, Chechen, and Ingush peoples were deported, as well as the Meskhetian Turks, living in Georgia. They were exiled to Central Asia and Siberia. It is estimated that about 25% of the population died in the operation, mostly due to hardship.²² During this period, the Soviet Republic of Georgia obtained territory from the RSFSR, situated in the territory of the deported peoples, which it later had to cede again to the RSFSR and its lower entities.

The Balkar people were deported on the order of Stalin on 8 March 1944. The ASSR was turned into the Kabardian ASSR. After the Balkar people got the right to return to their former places of residence, the Kabardino-Balkarian ASSR was restored by decree on 9 January 1957, which was put down in a law adopted on 11 February 1957.²³

The Chechen people were deported in 1943, the Ingush in 1944.²⁴ As a result, nothing remained of the Chechen-Ingush ASSR. By a ukase of the USSR of 25 June 1944, Georgia obtained 2500 square kilometers of the territory in the south of the former ASSR.²⁵ Another part of the territory was added to the North Ossetian ASSR. The remaining part became the south-western part of a new area which was named after its capital Grozny, Grozny province. The ASSR status was only

²² D.M. Lang, *A Modern History of Georgia*, (London: Wiedenfeld and Nicholson, 1962), p. 260.

²³ *Ved. Verkh. Sov. SSR*, 1957–4–78.

²⁴ M. Fincke, *Handbuch der Sowjetverfassung*, part II, (Berlin: Duncker & Humblot, 1983), p. 813.

²⁵ G. Geilke, *Das Staatsangehörigkeitsrecht der SU*, (Frankfurt am Main: Metzger, 1983), p. 127.

abolished shortly after the Second World War by an administrative act and approved by an RSFSR law on 25 June 1946.²⁶ Georgia had to return the territory to the RSFSR when the Chechen-Ingush ASSR was reinstated on 9 January 1957, although the Chechen-Ingush ASSR was not restored to exactly the old frontiers.²⁷ The Chechen-Ingush ASSR obtained the following territory from Georgia: the former Itum-Kale rayon, the southern part of the former Galancha, Galashkin and Prigorodny rayon, and the western part of the former Saroev rayon.²⁸ On 11 January 1957 the Dushet and Kazbek rayons were taken from Georgia and returned to the RSFSR.²⁹ A law concerning this question was adopted on 11 February 1957.³⁰

By RSFSR decree of 29 April 1957 North Ossetia obtained from Georgia the southwestern part of the former Georgian Gizeldon rayon. An area in the south-west, populated by Ingush, east of Vladikavkaz, remained within the North Ossetian ASSR (Prigorodny rayon). This resulted in 1992/1993 in bloodshed: Ingush claimed the land and the houses which their families had owned before the deportations, and for which no compensation had been paid. As we see, Prigorodny rayon was divided between the North Ossetian ASSR and the Checheno-Ingush ASSR.

On 11 May 1926 the Karachai-Cherkess AO was divided. One part of it, the Karachai AO, was abolished in October 1943, and the Karachai people were deported on 2 November 1943.³¹ Some 6700 square kilometers of its territory was ceded to Georgia.³² The territory obtained by Georgia was situated south of Klukhori until the mountain chain of the Caucasus (and the Klukhori pass). The area was populated by the Turkic speaking Karachai. South of the mountain chain lived the Kartvelian Svans. A certain amount of Svans moved to the area which was emptied by the deportations of the Karachai.

The territory was returned to the RSFSR in 1955 when on 14 March 1955 a decree concerning this subject was approved.³³ The Karachai-Cherkes AO was re-instated on 9 January 1957, and this was legalized

²⁶ *Izvestia*, 26 June 1946.

²⁷ *Ved. Verkh. Sov. SSR*, 1957–4–78.

²⁸ Geilke, 128, *Ved. Verkh. Sov. SSR*, 1957–399.

²⁹ Geilke, 128.

³⁰ Article 2, see Geilke, 128, *Ved. Verkh. Sov. SSR*, 1957–4–78.

³¹ *Malaia Sovietskaiia Encyclopediia*, s.v. “Karachai-Cherkes AO”.

³² Geilke, 127.

³³ *Ved. Verkh. Sov. SSR*, 1955–117, Geilke, 128.

by a law adopted on 11 February 1957.³⁴ Between 1944 and 1957 the Adygea AO, the Cherkas AO, the Kabardian ASSR, the North Ossetian ASSR, the Grozny area, and the Daghestan ASSR remained part of the North Caucasus.³⁵

³⁴ *Ved. Verkh. Sov. SSR*, 1957–4–78.

³⁵ R. Smeets, “Territoriale en statusconflicten in de Kaukasus; enige achtergronden en voorbeelden”, in: *Conflicten in de Kaukasus en de Rol van de Internationale Gemeenschap*, (The Hague: Clingendael, 1995), pp. 10–11.

CHAPTER FIVE

STATE BUILDING IN THE SOUTH CAUCASUS BEFORE 1917

Introduction

In the 18th and 19th century the power of Russia in the South Caucasus was established. This was done through the use of extensive and disproportionate violence. Since the South Caucasus was divided in small kingdoms, princedoms, and khanates, some areas decided to join the Russian Empire voluntarily, enabling them to find an ally against neighboring rulers. Since 1878, the division in the South Caucasus as part of the Russian Empire was a fact.

The 18th and 19th Century

In the Transcaucasus in the mid-eighteenth century a number of entities existed, which were either under Turkish or Iranian suzerainty, and which enjoyed various degrees of autonomy or independence.¹

Georgian Kingdoms Incorporated

In 1769 king Erekle II, who ruled over Kartli-Kakheti, asked the Russian Empress Catherine the Great for help.² Erekle wanted the Russian Empress to stop the Ottoman Empire from gaining more territory in Georgia. He also wanted the return of the city of Akhaltsikhe from the Ottoman Empire.³ The kingdom of Kartli-Kakheti was placed under Russian protection, whereby Erekle's throne was guaranteed. This was confirmed in the Treaty of Georgievsk, signed on 24 July 1783.⁴

The last king of Kartli-Kakheti, Giorgi XII (1798–1800), was forced to ask the Russian Czar for his country to be incorporated into the

¹ R.G. Suny, *The Making of the Georgian Nation*, (London: I.B. Tauris, 1989), p. 55.

² Kartli-Kakheti was the historical nucleus of present-day Georgia, comprising the central and eastern parts of the country.

³ Suny, 58.

⁴ www.westminster.edu/staff/martinre/Treaty.html.

Russian Empire. On December 18, 1800, Czar Paul (1796–1801) declared Kartli-Kakheti's annexation to Russia. This was validated by a Russian Proclamation dated 28th January. Paul's son, Czar Alexander I (1801–1825) abolished the kingdom of Kartli-Kakheti in 1801.⁵

After the incorporation of Kartli-Kakheti in 1801, the Russians annexed the West-Georgian principality of Mingrelia in December 1803 and forced King Solomon II of Imereti to accept Russian sovereignty in 1804. In 1812 Guria became part of the Russian Empire.⁶ The mountainous region of Svanetia was the last major part of present-day Georgia to be incorporated into Russia, in 1858. In 1846 Georgia was divided into two *gubernii* (provinces): Tiflis and Kutaisi. In 1878 Ajaria and Artvin became *okrugs* (districts).

Abkhazia had become under nominal Ottoman dependency during the 18th century. During the Russian-Turkish war of 1806–1812, the cities of Poti, Sukhum-Kale, and Akhalkalaki were captured by Russian troops. In 1810 Safar Bey Shervashidze (Chachba) of Abkhazia placed his principality under Russian protection. Especially during the Crimean war (1853–1856) the position of Russia in Abkhazia weakened. Only in 1864 the area was under firm Russian control, and the Abkhazian principality was abolished. Abkhazia became first part of the military district of Sukhum-Kale, and in 1883 became an *okrug* in the Kutais *guberniya*.

Armenia

In 1801, the Pambak, Shansahdil, Borchalo, and Kazakh districts and the Lori district—which were then part of Georgia, also went to Russia.⁷ The Karabakh, Zangezur, and Shuragel' district (eastern Shirak) became part of Russia in 1805. The remaining areas of Eastern Armenia, the Yerevan and Nakhichevan khanates, became part of the Russian Empire by the Treaty of Turkmanchai in 1828. In March 1828 an Armenian Province was created, of which Yerevan and Nakhichevan khanates were part.

A year later, during the Russo-Turkish war of 1828–1829, the Russian army occupied part of Western Armenia, including Kars,

⁵ Suny, 59 and Burdett, *Caucasian Boundaries*, 9.

⁶ For the text of this declaration see S.Z. Lakoba, *Istoriia Abkhazii*, (Sukhum: Alashara, 1994), page at the inside of the cover.

⁷ These were the northern areas of present Eastern Armenia.

Ardahan, Bayazid and Erzerum. In 1829 all of these territories were returned to Turkey by the Treaty of Adrianople, with the exception of the Akhaltsikhe Pashalik. In 1849 administrative reforms were made by Russia, resulting in the establishment of Yerevan Province.⁸

In 1877 Russia expanded its territory, especially in Armenia, during the Russo-Turkish military campaign from 1877 until 1878.⁹ In a British document dated 16 December 1877 from the British Embassy in Constantinople to the Foreign Office, it was noted that it was Russia's wish to convert the Black Sea into a Russian lake, so depriving the Ottoman Empire of its naval strength.¹⁰

Nagorno-Karabakh

In 1805 the Karabakh khanate came under Russian rule. This was formally confirmed by the Treaty of Gulistan, signed in 1813. In 1822 the Karabakh khanate was abolished, and a province with a military administration was formed. In 1840 the territory now occupied by Nagorno-Karabakh Autonomous Oblast became part of Shusha District in the Caspian Oblast. In 1846 Nagorno-Karabakh became part of Shamakha Province, which was renamed Baku Province in 1859. In 1868, with the formation of Elisavetpol' Province, Nagorno-Karabakh was divided between Shusha and Zangezur districts.¹¹

Azerbaijan

In 1803 the Gandzha khanate was annexed by Russia, and in 1804 it was renamed Elisavetpol' Province. In 1806 the Kuba and Baku khanates came under Russian control. The Talysh khanate was incorporated in 1809. The Treaty of Gulistan, signed in 1813, legally confirmed the *status quo*.

In this treaty Iran abandoned its claims to the Karabakh, Gandzha, Shirvan, Sheki, Baku, Derbent, Kuba, Talysh khanates as well as to eastern Georgia and Daghestan. According to the Treaty of Gulistan, all southern khanates of Azerbaijan remained under the Shah's rule.¹²

⁸ *Great Soviet Encyclopedia*, part II, 1973, pp. 326–327.

⁹ Burdett, *Caucasian Boundaries*, 279–282, FO 881/4012.

¹⁰ A.L.P. Burdett, *Armenia: Political and Ethnic Boundaries, 1878–1948*, (Slough: Archive Editions, 1998), pp 101–102, FO 881/3410.

¹¹ *Great Soviet Encyclopedia*, part XVII. 1978, p. 301.

¹² *Great Soviet Encyclopedia*, part. I, 1970, p. 553.

Nakhichevan

The Nakhichevan khanate was incorporated in the Russian Empire in 1828 by the Treaty of Turkmanchai. In 1849 Nakhichevan became the administrative center of Nakhichevan District of Yerevan Province.¹³

¹³ *Great Soviet Encyclopedia*, part XVII, 1978, p. 307.

CHAPTER SIX

STATE BUILDING IN THE SOUTH CAUCASUS AFTER THE RUSSIAN REVOLUTION

Introduction

The Russian Revolution created unprecedented possibilities for the peoples in the South Caucasus. For the first time they were united in the (con)federation of the Transcaucasus. This (con)federation did not last long, and was soon replaced by the three independent states of Georgia, Azerbaijan and Armenia. The state building process in the three republics was difficult, due to the devastation from the fighting during the last months of the war. The first priorities for the new government were to improve the infrastructure, create democratic structures such as elections and strengthen the power of the governments. This was especially important with regard to the unstable frontier areas, where skirmishes abounded. The independence of the South Caucasus republics did not last long. Between 1920 and the beginning of 1921 Russia (re)conquered the republics, which first became SSRs in the RSFSR, then joined in a TSFSR in the Soviet Union, and from 1936 onwards were separate SSRs in the Soviet Union. In this period we recognize the roots of the territorial conflicts that arose after 1991. Legal documents were drafted that would be used by parties to legalize their territorial claims once they regained their independence in 1991. This period showed the first efforts to create democratic structures and is therefore of importance for state building after 1991.

The South Caucasus in Turmoil: The Period 1917–1921

Until 1917, Trans Caucasia was under the authority of an Imperial Russian Viceroy, the last of whom was Grand Duke Nikolai Nikolaevich. When the Czar abdicated, the Grand Duke also resigned his post. His military functions were assumed by General Iudenich, and his civil powers reverted to the Special Transcaucasian Committee, the Osobyi Zakavkazskii Komitet or Ozakom, which the Provisional Government

of Kerenskii installed on 22 March 1917, just a few weeks after the March Revolution. The Ozakom, which was based in the Georgian capital Tiflis, was directly responsible to the Provisional Government. However, Ozakom was the real governing power in the Caucasus. One of the tasks of the Ozakom, which had executive but no legislative power, was introducing local self-rule in the Transcaucasus. That same day, 22 March, the Bolsheviks formed a government in Baku, which opposed the landowners, who were primarily organized in the town of Gandzha.

On 11 November 1917, a few days after the October Revolution in St. Petersburg, an Assembly consisting of several political and revolutionary organizations of Transcaucasian background, unanimously proclaimed the independence of the Transcaucasus. This was because the Russian Bolshevik government was not recognized by the Transcaucasian political leaders who joined in the declaration. Moreover, a Transcaucasian Commissariat, the Zakavkazskii Kommissariat (the Zavkom), was created on 14 November 1917 as a temporary government to replace the Ozakom. The task of this temporary government was to maintain order until the All-Russian Constituent Assembly had established a new government for the entire Russian State. Although the Transcaucasian territories had their own political leaders, they had not declared independence separately but jointly through the Ozakom. It is clear that from the moment there was a declaration of independence, the Transcaucasian republics did form a federation, although still linked to Russia, or more precisely, the Russian Empire, which had disintegrated. This new Bolshevik government in Russia was not recognized by the Transcaucasian leaders.

By forming a federation of Georgia, Armenia and Azerbaijan, the Transcaucasian leadership opted for a partial continuation of the situation as it had been under the Russian Empire, when the three Transcaucasian territories were ruled by the Viceroy, who implemented central decisions from the capital St. Petersburg. The North Caucasian peoples did not join in.

In November 1917, elections were held for the Constituent Assembly (Seim) in Transcaucasia. Following the outcome of these elections, a government was established on 23 February 1918. Thus, at the beginning of February 1918 Transcaucasia possessed a legislative body, the Seim, and an executive body, the Commissariat, which had replaced the Zavkom.

The government of the Transcaucasus consisted of a collation of the three principal national parties, the Georgian Menshevik, the Armenian Dashnaktsutiun, and the Azeri Musavat. According to Richard Pipes, the Transcaucasian Federal Republic was neither Transcaucasian nor Federal nor a Republic. The government controlled no more than the central region adjoining Tiflis. Baku was ruled by Bolsheviks, while considerable parts of Armenia were under Turkish occupation. Pipes asserts: "During its brief existence neither the federal relations nor the republican institutions had been worked out".¹

On 15 November 1917 the Russian Bolsheviks published the Declaration of the Rights of Working and Exploited People.

The content of this Declaration opened the way to a claim for individual self-determination for Georgia, Armenia and Azerbaijan separately. Nothing of the kind happened, however. The nations preferred a political system in which they joined forces. Russian and Transcaucasian military units formed a front in Turkey. One of the first acts of the Transcaucasian Commissariat was to engage in negotiations with the Turkish Army, forced into this by Turkey, which on 30 November contacted the Zavkom in Tiflis to negotiate a cease fire. On 4 December 1917, the Commissariat met to consider the Turkish proposal, made by Vehib Pasha, Turkish commander on the Turkish-Caucasian front, to conclude an armistice. The Commissariat decided to accept the proposal on condition that no strategic regroupings would take place. On 18 December 1917 the armistice was concluded in Erzincan. The agreement stated that military activities were to stop immediately and a demarcation line would mark the positions of the two armies on the day of the signing of the armistice.

The Turkish high command had proposed peace to Russia on 21 November 1917. On 5 December 1917 an armistice was signed between Turkey and Russia at Erzincan, where Turkish authorities stressed the importance of an independent Transcaucasus. This shows that, although Turkey negotiated with the Transcaucasian Commissariat, assuming that the Commissariat had sovereignty, at the same time it regarded the Transcaucasus as belonging to Russia and held separate negotiations with Russia. This happened just after the Russian

¹ Pipes, 193.

Revolutions, and showed the uncertainty concerning sovereignty in this tumultuous period.

On 14 January 1918 the Transcaucasian Commissariat received a proposal from Turkish Commander Enver Pasha to negotiate a lasting peace. This proposal was addressed to the government of the independent Caucasus, the first time the Transcaucasus and its government was recognized as an independent entity by another state. The temporary government answered that it formed part of Russia, and that only the newly elected, but not yet working government of Russia could decide upon this question. The Transcaucasian delegates in the meantime waited for a mandate from the Russian government. While the Transcaucasian Commissariat felt free to sign an armistice agreement, it did not feel responsible enough to sign peace with the Turkish authorities, although independence had already been declared. It seems as if no unity could be reached on the question whether this declaration on independence was sufficiently lawful or enforceable. The same ambiguous position was taken by Turkey, which negotiated both with Russia and the Transcaucasian Commissariat at the same time on Transcaucasian matters.²

On 22 April 1918 the Seim of the Transcaucasus, put under pressure by Turkey, voted in favor of independence and proclaimed the Republic of the Transcaucasus. The government of the Transcaucasus decided to restart the negotiations with Turkey on the same day. Kars, until this moment in the Transcaucasus, was ceded to Turkey. The next day, on 23 April 1918, a new government was constituted, led by Akaki Chkhenkeli, who accepted the decisions taken at the Conference of Brest-Litovk, including the ceding of Batum to Turkey. The condition that the frontiers should follow the 1914 situation was dropped.

The Turkish army at the same time took position on the lines set before the war between Turkey and Russia in the Treaty of Berlin of 1878.³ Although Turkey nominally recognized the Transcaucasian Republic, the Turkish army did not stop expanding Turkish territory.⁴

² Z. Avalishvili, *The Independence of Georgia in International Politics, 1918–1921*, (London: Headley Brothers, 1940), p. 26.

³ A. Manvelishvili, *Histoire de Géorgie*, (Paris: Nouvelles Editions de la Toison d'Or, 1951), p. 421.

⁴ Burdett, *Caucasian Boundaries*, 479–480, and British War Office Memorandum, FO 371/3321, dated 12 August 1918.

This means that Turkey did not comply with the declarations and treaties it ratified or subscribed to, either between them and the Transcaucasus, or between them and Russia, concerning the Transcaucasus. The Turkish commanders preferred a divided Transcaucasus split up in small entities, since the more divided the region was, the easier for Turkey to capture the Caucasus.

From the 11th to the 26th May 1918 delegates of the Transcaucasus were in Batum to attend a conference. The aim of the conference was to work out what had been achieved at the signing of the Treaty of Brest-Litovsk. Therefore, the parties to the Treaty of Brest-Litovsk did also attend the Conference of Batumi. The treaty which resulted from these talks, the Treaty of Batumi, was signed between Turkey and the three Transcaucasian republics united in the Transcaucasian Federal Republic. It comprised inter alia the demarcation of the borders between Turkey and the Transcaucasus.⁵

On 24 May 1918 an agreement was reached between the Georgians and the German representative to the Conference of Batumi, von Lossow, thus by-passing the government of the Transcaucasian Federation, in which Georgia became a German protectorate with German guarantees concerning protection of its frontier. The Georgian side agreed to this decision in order to avoid further loss of territory to Turkey. Shortly before this event the Turkish side had proposed a Peace and Friendship Treaty in which Georgia ought to cede Akhaltsikhe and Akhalkalaki.⁶ In order to avoid this, Georgian political leaders agreed to put Georgia under German protection. Following this agreement, signed on the 26th of May 1918 under pressure from Germany, Georgia declared independence on 27 May 1918.

The members of the National Council of Georgia ousted the Transcaucasian government from the parliament building in Tiflis. The National Council had been elected by a National Congress which represented all Georgian political parties, the Soviets, the army, co-operatives, trade unions, minority groups (Muslims, Jews), and various other organizations. The National Congress elected Noe Jordania as Chairman of the National Council. He opened the first session on 26th May. One day later the Azeris also constituted their government

⁵ Burdett, *Caucasian Boundaries*, 512–513, Annex II, Extraits des pourparlers de Batoum, 11–26 mai 1918.

⁶ S. Yérasimos, "Caucase, la grande mêlée", in *Hérodote*, Paris, 1989, p. 168.

in Tiflis and left for Gandzha, where they would be protected by the ruling khans because the official capital, Baku, was ruled by a Bolshevik government, consisting mainly of Russians and Armenians.⁷ On 28 May, a further day later, Armenia declared independence and founded a government in Tiflis which soon moved itself to Yerevan.

Georgia, convinced that the nations of the Transcaucasus could attain independence only if they stood united in a confederation, invited Armenia and Azerbaijan to a conference in Tiflis which was to begin at November 3, 1918. Each republic was to send two delegates to solve the following questions:

1. The mutual recognition of the independence of the nations whose governments are invited to the conference.
2. The settlement of all controversies, not inclusive of boundary-disputes, by agreement of the interested governments, or in the absence of such agreement, through arbitration.
3. The reciprocal obligation not to conclude pacts of any kind with other governments to the detriment of any one of the peoples participating in the conference.
4. The establishment of a solid front and mutual support at the world peace-congress for the purpose of securing recognition of the republics independence and of defending their common interests.⁸

Armenia did not participate, thinking it would be more successful in fulfilling its objectives by bilateral peace-arrangements. But half a year later, on 24 May 1919, the three Transcaucasian states came to the following understanding with regard to their borders: The internal boundaries of Transcaucasia were to be drawn in conformity with the right of peoples to determine their own destiny. Only border districts were to be subjected to litigation or partition. The partition of borderlands has to result from mutual agreement of the interested republics, or failing this, from arbitration.⁹

⁷ R.G. Suny, *The Baku Commune, 1917–1918*, (New Jersey: Princeton University Press, 1972), pp. 234–324.

⁸ R.G. Hovannisian, Part I, [1967: 94].

⁹ R.G. Hovannisian, *Armenia on the Road to Independence, 1918*, (Los Angeles: University of California Press, 1967), p. 350.

CHAPTER SEVEN

GEORGIA BETWEEN 1918 AND 1921

Between 1918 and 1921 Georgia was relatively successful in finding recognition by the international community. Georgia did have problems concerning its territorial integrity; there were disputes with Armenia and Azerbaijan. During this period Ajarians, South Ossetians and Abkhazians revolted against the government in Tiflis, trying to protect their own interests. Foreign states played a role in Georgia's decision to declare independence. Germany and Turkey put pressure on Georgia to declare independence. The British after the end of the First World War controlled Georgia as part of their sphere of influence. Between 1920 and 1921, with the consent of the Allies, Russia re-established its sphere of influence over the Transcaucasian territories, as had been the situation before the Revolution and in 1921 Georgia was incorporated in the RSFSR.

In the period between the Revolution of 1905 and the Revolutions of 1917 Georgian nationalism grew, as well as did membership within leftist parties.¹ There was no sign that Georgian political groups aimed at self-determination, either internal, by striving for autonomy, or external, by aiming at secession.² Their main aim was the destruction of autocracy and the adoption of institutional reforms. Georgian politicians, notably Noe Jordania, Georgia's first elected president, wanted Georgia to benefit from reforms in the Russian political system.

During the First World War fighting affected Georgian territory, when Turkey tried to gain territory from the Russian Empire along the Georgian and Armenian border.³ On 17th December 1917 an

¹ Literature which covers this period extensively: R.G. Suny, *The Making of the Georgian Nation*, (London: I.B. Tauris, 1989), L. Shapiro, *The Russian Revolutions of 1917*, (New York: Basic Books, 1984), E.H. Carr, *The Bolshevik Revolution 1917–1923*, (New York: W.W. Norton, 1985), R. Pipes, *Russia Under the Bolshevik Regime*, (New York: Charles Scribner's Sons, 1964).

² No political party had territorial claims, see Pipes, *The Formation of the Soviet Union*, 18.

³ Turkish troops invaded south Transcaucasia in late 1914, and the Transcaucasus became a front-line zone until the end of the First World War. See R.G. Suny, *The Making of the Georgian Nation*, 178–181.



Map 4 Georgia

armistice was signed between the Russian and Turkish armies fighting on the Caucasian-Turkish front. The signing took place in Erzincan. It contained an act concerning demarcation lines, supplementing the Russian-Turkish armistice, which had been signed on 5 December 1917. The armistice was replaced on 15 December 1917 in Brest-Litovsk between Russia and the Central Powers. The act entered into force on signature.⁴ The armistice was extended from 17 December through 14 January 1918, with automatic continuation until 7 days after denunciation by either side. Notice of termination was given by the German military headquarters on 17 February 1918, and fighting restarted before the Treaty of Brest-Litovsk was signed on 3 March 1918, which also contained an armistice agreement.⁵

After the Russian October Revolution, a Menshevik dominated National Council came to power on 22 November 1917, which was regarded as the principal organ of the Georgian nation. It was dominated by the National Congress. Manvelichvili speaks from this time on of the new Georgian State ("Etat").⁶ Noe Jordania became chairman. His position was confirmed by popular vote in February 1919.

At the same time a Transcaucasian Commissariat for the Transcaucasus had been installed by the temporary government of Kerenskii, while waiting until the situation in Russia had stabilized. The Commissariat consisted of 3 Armenians, 3 Georgians, 3 Azeri and 2 Russians. E. Gegechkori became its chairman.⁷

Before Georgia formed part of the Transcaucasian Federation, two important treaties were concluded affecting Georgian territory.⁸

Treaty of Brest-Litovsk

By the Treaty of Brest-Litovsk Germany, Austria-Hungary, Bulgaria and Turkey, on the one side, and Russia, on the other side, confirmed that

⁴ R.M. Slusser, J.F. Triska, *Calendar of Soviet Treaties*, Vol. I, 1917–1957, (Stanford: Stanford University Press, 1959) p. 2 and Shapiro, 1.

⁵ *Calendar of Soviet Events*, 1959, 1. Remember that the agreement was signed between Russia, representing the Transcaucasian states, and the Central Powers, to which Germany belonged.

⁶ Manvelishvili, 424–425.

⁷ Kazemzadeh, 56–57 and *Dokumenty I Materialy Po Vneshnei Politike Zakavkazia I Gruzii*, Tiflis, 1919, pp. 3–7.

⁸ From 22 April 1918 to 26 May 1918.

there was no longer war between them. In accordance with Article 4, Turkey had to give the people of Ardahan and Batum, ceded to Turkey on 3 March 1918, the possibility to decide their own destiny through a referendum. A referendum was organized in Batum in June 1918, in which the population expressed its wish to stay under Turkish rule.⁹

The Treaty of Brest-Litovsk was signed on 3 March 1918 and ratified by the RSFSR on 15 March 1918, by Germany on 26 March 1918, and entered into force after the exchange of acts of ratification in Berlin on 29 March 1918. The other states ratified later. The treaty was annulled by Soviet decree on 13 November 1918, an annulment which also covered the supplementary treaties and agreements, and by Article 116 of the Treaty of Versailles of 28 June 1919.¹⁰

Conference of Trebizond, 4 March 1918–31 March 1918

The Conference of Trebizond with, on the one side, delegates of the Transcaucasus and the Republic of North Caucasian Mountain Peoples, as observer, and on the other side, Turkey, aimed to execute the arrangements of Article 4 of the Treaty of Brest-Litovsk with regard to Batum.¹¹

During the session of 26 March the Turkish delegates put pressure on the delegates of the Transcaucasian Federation: they would only sign a treaty when the Transcaucasus was independent from Russia. The delegates reported to the Seim in Tiflis that the Turkish delegates refused to change the articles of the Treaty of Brest-Litovsk in which Kars, Ardahan, and Batum were ceded to Turkey. The Transcaucasian Seim called the representatives back from Trebizond on 31 March and 22 April 1918—complying with Turkish demands—proclaimed the independence of the Federative Republic of the Transcaucasus.

There are no signs that the Transcaucasian regions themselves wished for independence at that moment. The reason they complied with Turkey's wishes was that Turkey at that time had a strong military

⁹ Kazemzadeh, 1951: 152.

¹⁰ *Calendar of Soviet Events*, 3.

¹¹ The government of the Confederation of North Caucasian Mountain Peoples strove for joining the Transcaucasian Federative Republic. According to Avalishvili, 35, all parties were in favor of this option, though it never materialized.

presence and continued an uninterrupted advance on Transcaucasian territory.

Georgia Turns to Germany for Help

The Turkish army intensified its military activities on the Transcaucasian territories. In order to continue pressure on the Transcaucasian delegates in Trebizond the Turkish side came with an ultimatum of 72 hours to evacuate Akhaltsikhe and Akhalkalaki, cities on Georgian territory, as part of a "Peace and Friendship Treaty".¹² Note that these territories were already occupied by Turkish troops. The ultimatum ended on 29 May 1918. Georgia asked Turkey whether this message was meant for Georgia, in order to gain time and ask Germany for help.¹³ The part concerning friendly neighborliness could be signed, but Georgia stated that military matters between Georgia and Turkey had to be discussed also with Turkey's allies. At the same time, secret negotiations started in Poti between Georgian and German representatives.¹⁴

The outcome of the negotiations was that while the Turkish diplomats waited in Batum, the Georgian government signed on 28 May 1918 agreements with General von Lossow that established a German protectorate over the Georgian republic, on condition that Georgia would declare independence.

In exchange for diplomatic recognition and protection against territorial demands from Turkey, the Georgians gave the German government three supplementary agreements:

¹² Burdett, *Caucasian Boundaries*, 499–508, FO 371/3315.

¹³ The Peace and Friendship Treaty comprised three texts: an agreement on friendship and peace, a special convention on military questions and agreements concerning friendly and neighbourly relations, see Avalishvili, 39 and Burdett, *Caucasian Boundaries*, 512–513, FO 371/3661.

¹⁴ The Germans did not take part in the negotiations, nor were they a party at the Conference of Batumi but were there as observer. The Conference of Batumi gathered after the Conference of Trebizond and will be discussed a little later, the accompanying treaty was signed on 4 June 1918. The Georgian international lawyer Zurab Avalishvili was one of the members who held discussions with the Turkish and German representatives, and he has described this in detail in his memoirs *The Independence of Georgia in International Politics*, London, 1941.

1. Use of their railroads;
2. Free circulation of German money in Georgia;
3. All ships in Georgian ports;
4. A monopoly over mining;
5. The export of raw materials.¹⁵

The Germans provided the Georgians with military units to stop Turkish troops. These units arrived on 10 June 1918.

Another demand of the Germans, in order to give military assistance, was that Georgia declared independence. This demand was similar to the Turkish demand, which wanted to continue negotiations with three independent Transcaucasian states. Mainly due to the threat of losing Akhalkalaki and Akhaltsikhe, Georgia saw herself forced to comply with the German demands, and independence was declared on 26 May 1918. The help from the Germans was however not sufficient to save Akhaltsikhe and Akhalkalaki. On 31 May 1918 Georgia was forced by Turkey in the Treaty of Peace and Friendship to accept the loss of Akhaltsikhe and Akhalkalaki and permit Turkish use of Georgian railroads. The political maneuver with Germany had not been completely successful.

This created the peculiar situation that both Turkey and Germany had a right to use the Georgian railroads, thereby from the start limiting Georgia's sovereignty. Another remarkable move was the request to Germany to protect Georgia against Turkey, since Germany and Turkey were allies in the First World War.

*Preliminary and Supplementary Agreements between Georgia
and Germany*

On 28 May a preliminary agreement, regulating relations between Germany and Georgia, was signed. It contained five articles which can be summarized as follows;

1. Georgia recognized the Treaty of Brest-Litovsk as the basis for her relations with Germany.
2. Germany was given the right to use Georgian railways for the trans-

¹⁵ Suny, *The Making of the Georgian Nation*, 193, Avalishvili, 57–58, and Kazemzadeh, 123.

portation of men and materials, for which purpose the port of Poti as well as all railroad stations were to be occupied by German troops.

3. The exchange of diplomatic representatives is regulated.
4. Consular relations are established.
5. The treaty would be effective from the moment it was signed, but as soon as possible it would be replaced by a new and more detailed agreement.¹⁶

Economic matters were dealt with in a special treaty. The Georgian government was to receive a loan for which the railways and the port of Poti would serve as guarantees. The Georgian government declared;

1. That the above mentioned railways and the port were government property and would be managed by a joint German-Georgian commission (Article 1)
2. A German-Georgian mining company would be established with a monopoly on the exploitation of Georgia's mineral wealth (Article 2).¹⁷

These agreements implied the recognition of Georgia by Germany.

In a secret letter, dated 28 March 1918, the German General von Lossow wrote that

“the German government should state their readiness to support Georgia in her negotiations with the Russian government with regard to Georgia's withdrawal from the Russian Empire, and this separation having been effected, to recognize Georgia as a free and independent state.”¹⁸ Concerning state delimitation the letter held the following recommendation: “Germany should help Georgia with regard to securing her frontiers and to settling her relations with neighboring states.”¹⁹

The letter mentions the provinces of Tiflis (including South Ossetia), Kutais and Sukhumi, which means Abkhazia, as being part of Georgia. Batum district was excluded, because in the Treaty of Brest-Litovsk

¹⁶ Kazemzadeh, 123 and Avalishvili, 57. The preliminary agreement was never replaced, since only some months later Germany was defeated in the war and Georgia entered into the sphere of influence of Britain.

¹⁷ Suny, *The Making of the Georgian Nation*, 193, Burdett, *Caucasian Boundaries*, 491 and FO 371/3321.

¹⁸ Avalishvili, 59–60.

¹⁹ Avalishvili, 59–60.

it had been ceded to Turkey. Sukhum region (including Gagra) was part of Georgia as long as Georgia remained a separate state. Should Georgia form a confederation with other Caucasian states, the population of Sukhum region could decide on their status.²⁰ From this letter we can deduce that for the Germans the Sukhum region was part of Georgia. It was understood that the population of the Sukhum region at the moment that Georgia was (no longer) an independent state, it might prefer an allegiance involving the North Caucasus. Thus Germany enjoyed huge economic benefits from these agreements while Georgia must have been regarded more as a colony-like protectorate than a co-equal to Germany.

Problems between Bolsheviks and Georgians

At the end of May 1918 border problems emerged between the Russian Bolsheviks, who had reached the North Caucasus, and the new Georgian Republic. A Bolshevik army tried to break through from Vladikavkaz, at the border of the North Ossetian and Ingushetian territories, with the aim of overthrowing the government in Tiflis. Some days later they tried again to attack, this time from the Black Sea and conquered the district of Sukhum, by which name Abkhazia was called. The Georgian militia managed to expel the Bolsheviks, when asked to do so by the Abkhazian government, even gained some territory from the Kuban district as far as Sochi.

Treaty of Batumi, 4 June 1918

During the Conference of Batumi, which held its one and only session on 11 May 1918, a treaty was prepared between Turkey and the three Transcaucasian states which was signed on 4 June 1918, in which Turkey formally recognized the Georgian state. This meant recognition *de iure*, as the Turkish troops kept fighting in the Caucasus.

In the Treaty of Batumi, a city lying in Georgian speaking territory, but factually in Turkish hands, and Kars, lying in Armenia, the districts of Akhaltsikhe, Akhalkalaki and Borchalo were ceded to Turkey.

²⁰ Avalishvili, 59–60.

This must be seen as a reconfirmation, since Akhaltsikhe and Akhal-kalaki had been already ceded on 3 March.

The supplementary treaty held the following clauses:

1. Since the size of her army was to be determined by an agreement with Turkey, Georgia was partly disarmed (Article 1)
2. Georgia promised to expel from her territory all officers, whether military or civilian, of the countries at war with Turkey (Article 2)
3. The Georgian railroads, which had already been ceded to Germany by the Poti agreement, were to be used by Turks also (Article 3). The latter reserved the right to protect the railways with their own troops if Georgia should prove unable to maintain law and order along the lines.²¹

According to a Foreign Office Document, the treaty was signed but not ratified on 4 June 1918. Ratification would have to wait until certain clauses had been worked out, for which the Conference of Constantinople was organized.²²

Frontiers had not been fixed definitively. However, Georgia claimed as territory all Georgian kingdoms and principalities which since 1801 had been placed under Russian protectorate, as well as the Georgian territories which had been ceded to Russia by the Ottoman Empire under the Treaty of Adrianople and the Treaty of Berlin.²³ This means that Georgia claimed the districts of Tiflis, Kutais, Sukhum, Zakataly and Batum. These claims could not be upheld, since they did not meet the factual situation.

Conference of Constantinople

German troops arrived in Tiflis on 10 June. On 11 June 1918, the German government expressed the wish of Germany, Bulgaria and Turkey

²¹ Burdett, *Caucasian Boundaries*, 485–486, FO 371/3321.

²² Memorandum in French, dated 25th September 1918, Enclosed in Sir M. de C Findlay's Despatch No. 142, in: Burdett, *Caucasian Boundaries*, 482–486, FO 371/3321.

²³ http://encarta.msn.com/encyclopedia_761584140/treaty_of_adrianople.html, accessed 09-09-08, and <http://www.britannica.com/EBchecked/topic/62090/Congress-of-Berlin#tab=active~checked%2Citems~checked&title=Congress%20of%20Berlin%20—%20Britannica%20Online%20Encyclopedia>, accessed 09-09-08.

to revise the Treaty of Batumi which gave Batum to Turkey. Georgia, Armenia and Azerbaijan were invited to send delegates to Constantinople. This Conference of Constantinople was interrupted by the armistice of 11 November 1918, without any official meeting having been held.²⁴ This means that Batum remained under Turkish rule.

Treaty of Berlin, Supplement to the Treaty of Brest-Litovsk

The Treaty of Berlin was concluded on 27 August 1918 between Germany and Russia and was ratified on 6 September 1918, also in Berlin.

This treaty was complementary to the Treaty of Brest-Litovsk. Under conditions laid down in Article XII, Germany evacuated the Russian territories along the Black Sea coast, with the exception of the Caucasus (part V). The independence of Georgia, which had been recognized already by Germany, was now also recognized, although indirectly, by Russia in Article 13.

In section VI of the Supplement to the Treaty of Brest-Litovsk it was stated that Russia would not oppose German recognition of Georgia and that Germany would refuse to assist military operations of a third power—being Turkey—in areas beyond the borders of Georgia (Article 14).²⁵

Germany would only give military assistance to Georgia and the districts of Batum, Kars and Ardahan if necessary, but would not assist Turkey in military operations. Turkey was not allowed to cross a specified line around Baku. Russia accepted conditions not to hinder the production of oil and granted Germany 25% of oil revenues. A Memorandum of the British Foreign Office of 12 August 1918 indicated that Georgia by that time had been recognized officially by Turkey and Germany.²⁶

End of the First World War

On 30 October 1918 the Treaty of Mudros and on 11 November 1918 the Armistice of Rethondes were signed between Turkey, Russia

²⁴ Avalishvili, 118–128 describes the general political situation under which the conference should have taken place.

²⁵ *Calendar of Soviet Events*, 1959, 23–25.

²⁶ War Office Memorandum defining Georgian territory, FO 371/3321, in: Burdett, *Caucasian Boundaries* 479–480.

and the Allies, while the Treaty of Brest-Litovsk was annulled on 13 November, together with all the agreements which derived from it.²⁷ This meant that Batumi, Kars and Ardahan were no longer by treaty part of Turkey and could be claimed by Georgia and Armenia. Nevertheless, it is more appropriate to take the *status quo* as the legal situation. The Russian repudiation of the Treaty of Brest-Litovsk also meant the withdrawal of the implied recognition of Georgia by the supplementary Treaty of Berlin of 27 August 1918. On 24 December 1918, Russia proclaimed:

Due to the fact that Georgia at present is not recognized by the Soviet Government of the RSFSR as an independent state, all persons who consider themselves Georgian citizens are recognized as Russian citizens and as such are subject to all the decrees and the enactments of the Soviet authority of the RSFSR.²⁸

The German troops, who had lost the war, were replaced by British troops under Major General William M. Thomson in November 1918. The Armistice of Mudros also arranged that Batumi would be occupied by the Allies.

Manvelishvili states that the German army would stay another five months in Georgia, to be replaced by the British army representing the Allies. On 30 October Turkey and Great Britain signed a Convention, in which the independence of the Transcaucasus was not mentioned, but the factual situation was taken as a point of discussion.²⁹ The strategic railways would go from the Turks to the English. With the retreat of the Germans after the armistice of Rethondes two weeks later, Georgian railways were now only under the responsibility of Georgia and Great Britain.³⁰

It was decided by the British that Akhalkalaki would go to Georgia, while Borchalo became a neutral zone under the control of the British. In an interim report dated 6 June 1918 concerning the Caucasus, Georgian territory was to include the Gubernia of Tiflis, the District of Zakataly, the Gubernia of Kutais, the Gubernia of Sukhum, and part

²⁷ The supplement to the Treaty of Brest-Litovsk, the Treaty of Trebizond, the Treaty of Batumi and the Treaty of Berlin.

²⁸ Avalishvili, 138, and Kazemzadeh, 161.

²⁹ This document concerns the armistice between the Allies and Turkey. Point 15 mentions the legality of the occupation by the Allies of Batumi, to which Turkey may not raise an objection. See Burdett, *Armenia*, 378–381.

³⁰ Manvelishvili, 429.

of the District of the Black Sea as far as Tuapse, but excluded the town and District of Batum.³¹ The Covenant was signed by the French, British, and the Georgians, at the end of 1918.³² The Armenians, whom it also affected, did not sign the Covenant. Although before the war Borchalo had been part of Georgia, since Armenia was one of the claimants, it should have been given the possibility of participating in the negotiations.

The British had based their headquarters in Baku and hoped to unify the anti-Bolshevik forces in the Caucasus and Russia. Their aim was to prevent Transcaucasia from being ruled by Communists. They failed, because they first supported the North Caucasian Mountain Republic, which was anti-Bolshevik, anti-Denikin, and later supported Denikin and his Volunteer Army, which strove for the restoration of the Russian Empire. These two sides were engaged in armed conflict. By changing sides, and because North Caucasian warriors and Denikin soldiers had different goals, the British became unpopular with Mensheviks, as well as with Bolsheviks and Socialists. In the end more of the groups that the British supported managed to stay in power and this political failure, among others, resulted in an early withdrawal of British troops from the Caucasus in August 1920.

Unrest in the South of Georgia

When the Turks left South Georgia following the armistice of Mudros, both Armenia and Georgia tried to establish power over Borchalo.³³ Georgian troops moved in first on 4 December 1918, and when Armenian troops arrived on 6 December, fighting broke out.

The Georgian government proposed to the Armenian government to solve this territorial conflict peacefully or through mediation, including delimitation, in compliance with the Treaty of Rethondes, signed in France by the Allies and the Axis-powers on 11 November 1918, and with the Treaty of Mudros. Following British mediation, the fighting between Georgia and Armenia ended on the night of 31 December 1918–1 January 1919. The exact background of the conflict

³¹ Burdett, *Armenia*, 387–390.

³² Kazemzadeh, 181.

³³ Manvelishvili, 430.

concerning Borchalo will be discussed in the paragraphs dealing with territorial disputes of the region.

Other territorial conflicts between Georgia and Armenia concerned the border regions of Akhalkalaki and Lori, which were at that moment mainly populated by Armenian refugees. In the 19th century Muslims had held the majority, but the Armenians had killed a considerable number of them in the First World War.

When Turkish armies withdrew, Georgian forces occupied parts of Northern Lori and Akhalkalaki, while Armenians moved into southern Lori and Pambak. No treaties concerning the acquisition of these territories were signed. Due to the military unrest described above, the frontiers between Turkey and Georgia remained a problem.

Now that we have looked at some frontier disputes in the south of Georgia, let us see what happened in the north of Georgia at that time, where the Georgian army tried to fight the Volunteer Army of Denikin. We go back then to September 1918.

Denikin Attacks South Russia and North Georgia

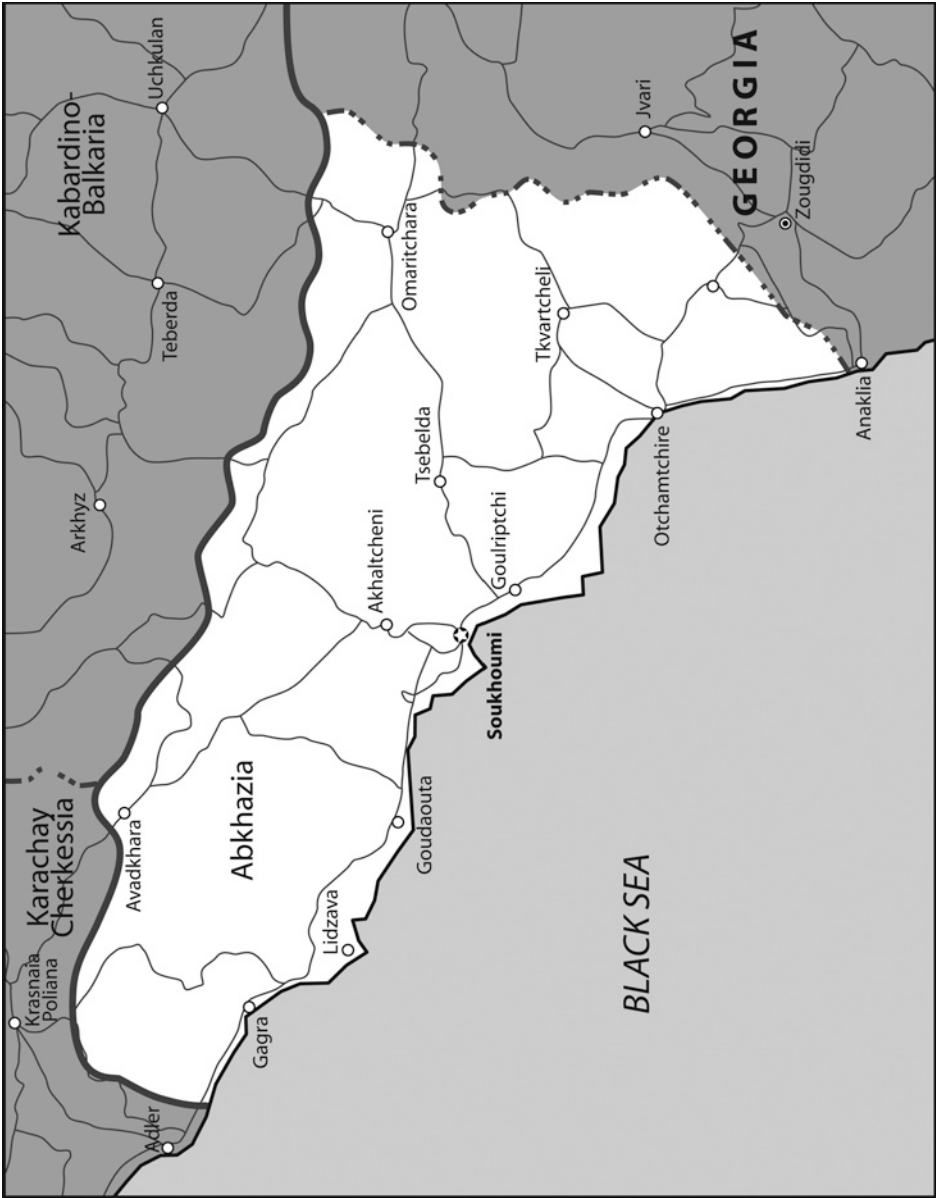
General Denikin had been attacking the Kuban District and the North Caucasus since the beginning of 1918. His troops attacked the cities of Sochi and Gagra frequently.³⁴ On 25 September 1918 representatives of the Georgian and Kuban armies met to discuss frontiers.³⁵

The British several times mediated in border disputes between Denikin and the Georgian government, but after the failure of these efforts, Denikin's Volunteer Army forces attacked Georgian troops in the Sochi region in February 1919.³⁶ On 11 February 1920 Denikin recognized the three Transcaucasian republics. Frontiers still had to be fixed. Georgia had gained territory by occupying Gagra and the territory as far as Sochi and Tuapse. Although the Soviet in Sochi accepted Georgian rule, Sochi and the surrounding territory was also claimed by Cossacks, North Caucasians and Denikin. Georgia's troops were stationed along the river Mekhadir in Western Abkhazia. The British

³⁴ At times lying in or just outside Georgia, see Manvelishvili, 431.

³⁵ The Kuban okrug (district) was mainly populated by Cossacks, and had already in late 1917 decided to form with other okrugs the South-Eastern Soviet (see also under the section on Abkhazia, in the chapter on territorial disputes).

³⁶ Georgia had occupied these areas, as is described in the chapter on territorial disputes.



Map 5 Abkhazia

mediated and on 11 June 1919 drew a line along the river Bzyb. This implied that the Georgians were to retreat beyond the river Bzyb. If Georgia should not comply, Britain would not defend Georgia from the invading Georgia.³⁷

The Georgian government replied that they preferred the region between the Mekhadir and Bzyb to be neutral territory, protected by British troops, until the Peace Conference had decided on the territory.³⁸ The British War Office proposed to the British Foreign Office, in a Memorandum dated 2 April 1919 (FO371/3662), that the Georgian troops would withdraw up to a line between Sochi and Gagra, and

...that his [Denikin's] troops will not operate south of a line drawn as follows: -From east to west, from a point 5 miles south of Petrovsk north-westwards, parallel to about 5 miles south of the Petrovsk-Vladikavkaz railway to the frontier of Dagestan Province. Thence westwards along the northern frontiers of the Provinces of Dagestan, Tiflis, Kutais, Sukhum and Black Sea, to the Pseashkha pass, thence due south to the Mzimta River, thence along the right bank of this river to the Black Sea.³⁹

Mutual Defense and Border Pact with Azerbaijan

Recognizing the military successes of Denikin, and to protect Georgia and Azerbaijan against the regular Russian army, Georgian and Azeri politicians decided to sign a mutual defense pact in order to secure their territory.

On 16 June 1919 a treaty was signed between Georgia and Azerbaijan concerning a defense alliance. This was to last three years. Armenia was given two weeks to join the alliance. Armenia refused to join.⁴⁰ The Armenians preferred instead to conclude bilateral agreements. This is remarkable, since multilateral treaties, especially defense treaties, would have generated more military support should Armenia be attacked, and Armenia had been attacked constantly since the

³⁷ Avalishvili, 178.

³⁸ Avalishvili, 178.

³⁹ See also FO 371/3661 GOC Constantinople to War Office, 9 February 1919, reporting General Denikin's arguments for possession of Sochi district; British delegation, Paris to Foreign Office, 11 February 1919. The general conclusion is that Georgia has no right to the territory of Sochi. In Burdett, *Caucasian Boundaries*, 511–519.

⁴⁰ Kazemzadeh, 246.

beginning of hostilities with Turkey. On the other hand, Armenia may have genuinely been afraid that the Azeri, who held a pan-Turanian view, would violate such a treaty in favor of Turkey. The Ottoman Empire wanted to establish a state in which all peoples speaking a language related to the Turkish language family were united. Such a state would comprise Turkey, Azerbaijan, Central Asia and several areas in the North Caucasus. The Armenians were afraid that Georgia would remain passive if Armenia would be attacked by a third state.

Azerbaijan Claims Georgian Territory

In a letter to the Peace Conference in Paris, dated 31 March 1920, Azerbaijan claimed Batum and Kars. Since Azerbaijan had no outlet to the Black Sea, Batum had great importance in the oil trade.⁴¹

But Georgia also claimed Batum and the adjacent districts of Ardahan and Olti.⁴² Georgia had formulated the following delimitation in the north, dated 12 February 1919:

“The frontier must run from the mouth of the river Mekhadir flowing into the Black Sea, along this river to its source and further along the watersheds as far as the main Caucasian range”. [...] “Further the frontier must run south-east along the main Caucasus range to the Mountain Adai-Khokh”. [...] “From the mountain Adai-Khokh the frontier must run along the nearest spur towards the Mountain Arkhon and further along the main Caucasian range to the mountain Kazbek.”⁴³

Treaty between Georgia and Armenia

On 3 November 1919 Georgia and Armenia signed a treaty concerning arbitration in case of disputes. Georgia, in line with the arbitration treaty offered to mediate. This offer was accepted and on 23 November 1919 representatives from Armenia and Azerbaijan gathered in Tiflis to negotiate under the auspices of the Georgian Minister of Foreign

⁴¹ Burdett, *Caucasian Boundaries*, 643–645, *Secret Memorandum from Azerbaijan to the President, Supreme Council*, London, 31 March 1920, and Foreign Office response, 10 April 1920, FO 371/4934.

⁴² Burdett, *Caucasian Boundaries*, 649–653, FO 371/4933.

⁴³ Burdett, *Caucasian Boundaries*, 656–661, FO 371/4933.

Affairs, Gegechkori. It was decided that an Armenian-Azeri Conference would be organized to come to a lasting peace.

On 27 April 1920 the Azerbaijani Government informed Georgia that the Russian Federation had attacked Azerbaijan. According to the mutual defense treaty of 1919, which was not to expire until 1922, Georgia was under an obligation to help Azerbaijan (Article 1). But Georgia did not give any assistance, because it feared a Russian invasion of Georgian territory. This fear of the Russian Bolsheviks eventually led to a strangling treaty between Georgia and Soviet Russia, in May 1920, which will be analyzed later.⁴⁴

Around the same time, however, Armenia also made a claim concerning Batum, claiming it needed it as an outlet to the Black Sea. Otherwise, Armenia would be land-locked. This claim was not granted.

The Georgian Delegation at the Paris Peace Conference

An important element in the building of an independent Georgian state was its recognition by the world community, notably the League of Nations. To see how Georgia applied for membership we will go back to March 1919.

Georgia presented in March 1919 a Memorandum with its frontiers to the Peace Conference, thus fulfilling one of the demands of a country if it wished to be recognized and admitted to the League of Nations.⁴⁵ This preceded the official application of 21 May 1919.

On 1 September 1920 Georgia asked again to be admitted to the League of Nations.⁴⁶ It is remarkable that membership was sought twice, and publications around this period mention either of the dates as genuine. Avalishvili explains the second request as a result of talks between Armenia, Azerbaijan and Georgia, which had taken place in Paris with the mediation of the British parliamentarian Vansittart. When these talks came to a deadlock, Vansittart advised the Georgian

⁴⁴ P. Gentizon, *La Résurrection Géorgienne*, (Paris: Ed. E. Leroux, 1921), pp. 270–280, and Kazemzadeh, 296.

⁴⁵ République de Géorgie, *Documents présentés par le Gouvernement de la République de Géorgie à la première Assemblée de la Société des Nations*, 1920, pp. 25–27.

⁴⁶ *Documents relatifs à la question de la Géorgie devant la Société des Nations*, Ed. De la Légation de Géorgie en France, 1925, p. 7, *Documents présentés par le Gouvernement de la République de Géorgie à la Première Assemblée de la Société des Nations*, London, 1920, Manvelishvili, 430 follows the first date.

delegation to ask as soon as possible for recognition by the League of Nations, since the momentum of interest for the Caucasus was waning.⁴⁷

The following questions however had to be examined before Georgia could be admitted to the League of Nations:

1. Was the application for admission to the League completed correctly?
2. Was the government applying for admission recognized *de iure* or *de facto*, and by which states?
3. Was the applicant a nation with a stable government and settled frontiers? What was its size and population?
4. Was it fully self-governing?
5. What had been its conduct, including in acts and assurances with regard to
6. international obligations;
7. prescriptions of the League regarding armaments?⁴⁸

If we try to answer these questions, the following facts are important:

There was a dual request for admission. There is, from the publications of the League of Nations, reason to belief that the Council took the first request as the valid one.

On 10/11 January 1920 the League of Nations recognized Georgia *de facto* in a written statement, adopted during a closed meeting.⁴⁹ In a Memorandum from the Secretary-General of the League of Nations, dated 20 November 1920 it is stated that Georgia is *de facto* recognized by the following states:⁵⁰

France	11 January 1920
Great Britain	11 January 1920
Italy	11 January 1920
Japan	7 February 1920
Belgium	26 August 1920

⁴⁷ Avalishvili, 283.

⁴⁸ Avalishvili, 271.

⁴⁹ Avalishvili, 220–221. Lord Curzon was in favour of recognition of Georgia, and influenced the decision by the League of Nations to recognize Georgia and Azerbaijan *de facto*, see Avalishvili, 252.

⁵⁰ This memorandum assumes the request for admission to have been in May 1919. *Documents relatifs à la question de la Géorgie devant la Société des Nations*, 1920, p. 8 and E. Milhaud, *La Géorgie, la Russie et la Société des Nations*, (Genève: Imprimerie du Journal de Genève, 1926), p. 8, and Manvelishvili, 433.

By the same date Georgia had been *de iure* recognized by:

Argentina	13 September 1919
RSFSR	7 May 1920
Germany	24 September 1920

Georgia had a government, but no settled frontiers. A map of Georgian territory had been provided in March 1919, but since that time the territory had changed due to border disputes with Armenia concerning Borchalo (December 1918).⁵¹

The question whether Georgia was fully self-governing cannot be answered with certainty. Although the Georgian government created its own policies, it needed German troops to keep Abkhazia.⁵² In addition to the mediation by the British in conflicts with the government of Armenia over Borchalo and problems with Denikin and his army, while Russia operated as additional party to the conflict between Georgia and Azerbaijan concerning Zakataly (Zakatala), which was solved in the summer of 1920.⁵³

Georgia had been forced to cut its military forces, due to treaties with Turkey.⁵⁴ It should, after acceptance, have complied with Article 8 of the Covenant with regard to reduction of military forces.

On 10/11 January 1920, the members of the Georgian delegation in Paris received from the Supreme Council of the League of Nations the *de facto* recognition of their government. Note that the government is recognized *de facto*, and not the state. This might imply that in case this government lost power, the *de facto* recognition of Georgia would expire.

That same day the Allied heads of government, who dominated the League of Nations, decided that no troops would be sent to the

⁵¹ Information concerning size and population was available, See Burdett, *Armenia*, 449–527, FO 371/4952.

⁵² The German troops arrived in June 1918, but at the end of the First World War they had to be withdrawn and the Caucasus became part of the sphere of influence of Great Britain.

⁵³ According to a document of the Azeri there were in Zakataly (Zakatala) 43,356 Turco-Tatars, Persians, Tats and Talysh and no Georgian Muslims. Another graph gives 85,136 Muslims (which is another name in this period for Azeri), 2530 Armenians, 4664 Georgians and 368 others as inhabitants for Zakataly (Zakatala), see Burdett, *Armenia*, 464 and 468–469, FO 371/4952. The claims are those of Armenia.

⁵⁴ Art. 8 of the Covenant deals with the “reduction of national armaments to the lowest possible point consistent with national safety and the enforcement by common action of international obligations”. The Council was to formulate the plans of reduction.

Transcaucasus to prevent a Bolshevik invasion. Only arms, munitions, and food would be available. This meant in practice that the League of Nations agreed that the Transcaucasus would come back in the Russian sphere of influence. Britain wanted to leave the Caucasus in the summer of 1920. The war was over, and the Transcaucasus had no high priority for either the League of Nations or the Allied Powers.

On 16 December 1920 the request for membership of the League was rejected.⁵⁵ The reason was that France and Great Britain felt unable—and were unmotivated—to help Georgia militarily in case of aggression.⁵⁶ Italy also refused to send troops to Georgia. This was a continuation of their position since January 1920. Now it was indicated that the member states of the League of Nations were positive towards *de iure* recognition of Georgia, provided it applied for this kind of recognition.⁵⁷

Georgia Recognized De Iure by the League of Nations

On 10 December 1920 a favorable decision was made with regard to *de iure* recognition. In a report of the 5th Commission to the Assembly the advice was given to wait regarding the recognition of Georgia by the League of Nations but to allow Georgian participation in technical committees. On 27 January 1921, coincidentally the nameday of Georgia's national saint Nino, Georgia was recognized by the League of Nations *de iure*.

Conference of San Remo

The League of Nations organized in April 1920 a Conference in San Remo, where Georgia as well as Armenia claimed sovereign rights over the city and District of Batum. Both Georgia and Armenia had *de facto* recognition by the League of Nations in January 1920. According to Georgian maps, Batum belonged to Georgi. The Armenians stated that Batum would be their only outlet to the sea, therefore they

⁵⁵ Manvelishvili, 434, *Doc. Relatifs à la question de la Géorgie devant la SdN*, pp. 12–15.

⁵⁶ One of the duties of Member States of the League of Nations was to assist each other in case of aggression.

⁵⁷ Avalishvili, 283.

demanded part of the port and railway leading to it. Moreover, this railway, running across Georgian territory, had to be under Armenian control and enjoy extra-territorial rights. The Georgians did not agree to this. In addition to their demands on Batum and the railway leading to it, the Armenians insisted that the frontier between Armenia and Georgia should follow the river Chorokh, while the Georgians claimed both banks of that river. Armenia finally gave up its claims to the left bank of the Chorokh, but kept its claims on the railway, over which it demanded absolute control.

The Allies advised the Georgian and the Armenian delegations to settle their disputes in bilateral negotiations before addressing themselves to the Supreme Council of the League of Nations. The two delegations did not find a solution and went ahead with their claims, none of which were honored.

In May 1920, Georgia concluded an agreement concerning peace and recognition with Russia, primarily because the Georgians feared a Russian invasion, after the defeat of Azerbaijan on 27 April 1920.

Peace Treaty with the RSFSR

The preparations for a peace treaty with the RSFSR were performed in secrecy by a special commission, the Uratadze commission, named after its leader, Grigol Illarionovich Uratadze, who was a member of the Constituent Assembly of Georgia. The Russian government signed the peace treaty with Georgia on 7 May 1920, in which it recognized Georgia *de iure* (Article IV (1)). In the treaty, the hills situated along the frontier in the north of the country were declared neutral until 1 January 1922. Until this date, no troops would be allowed on these hills. This implied safety for Georgia, since Russian troops would probably invade from this area.

Article 1 granted unconditional recognition of Georgia.⁵⁸ In Article 2 Russia promised to abstain from any interference in Georgia's internal affairs. Article 4 defined Georgian territories and declared that Russia would recognize as belonging to Georgia any territory the latter might acquire by treaty from her neighbors. This implied that Russia recognized the region Batum and the districts Zakataly and Sukhum as well

⁵⁸ Milhaud, 7.

as part of the Black Sea Province as part of the Georgian state (paragraph 4). This regulated the frontier along the north in the environs of Sochi and Gagra, and implies that Russia accepted South Ossetia and Abkhazia as parts of Georgia, from the moment that Georgia would have treaties with these entities (indeed Georgia performed military activities in these regions, as we shall see later, and concluded treaties in both Abkhazia and South Ossetia). This leads to the conclusion that Russia would allow expansionism, as a formalization of the *status quo*. This was a dangerous stipulation, since a peace treaty and expansionism in principle was mutually exclusive.

In Article 5 Georgia promised to disarm and intern all military and naval units which antagonized the government of Russia or of the states allied with her, as well as those persons, organizations, and groups whose purpose it was to depose the Government of Russia or of her allies. Georgia promised to surrender to Russia all detachments, organizations and groups mentioned above, thus leaving no possibility either for the Volunteer Army or Azerbaijan nationalist groups to engage in organized anti-Soviet activities on Georgian territory. This looks like a capitulation rather than a peace clause, if one considers that the Georgian government was of Menshevik composition which was generally opposed to Bolsheviks.

In return, the Soviet government promised not to allow the presence on its territory of any groups and organizations aimed at the overthrow of the Georgian government. Russia promised to exercise her influence with her allies so that they too would not allow any anti-Georgian activities within their boundaries. Thus this formed a reciprocal clause.

In Article 10 Georgia undertook to exempt from punishment and further administrative or judicial prosecution all persons who had in the past been working in favor of the RSFSR in the Communist party. This gave Bolsheviks in Georgia the possibility of continuing and increasing their activities for the overthrow of the Menshevik government.

Most Favored Nation treatment was to be accorded to each country on a reciprocal basis (Article 12). A commercial treaty was scheduled to conclude in the near future (Article 13).

Article 16 stated that the treaty would come into force from the moment it was signed and would not require ratification. It was signed

by Uratadze for Georgia and Karakhan, Commissar for Foreign Affairs for Russia, and on 7 May 1920 came into force.⁵⁹

Supplement to the Russian-Georgian Peace Treaty

The Russo-Georgian peace treaty contained a supplement dealing with the war between Georgia and Azerbaijan concerning Zakataly. It was made clear that Russia did not have any plans for military action on the frontier of Azerbaijan and Georgia. A reason for this, of course not stated by Russia, was that Russia did not have enough troops. Fighting in Poland demanded all of Russia's attention.⁶⁰

The first Article of the supplement stated that a mixed commission composed of Georgian and Azerbaijani members, with a Russian as chairman, would investigate the dispute in the Zakataly District and render a binding decision. Prior to the solution of the Zakataly conflict neither Georgia nor Azerbaijan were allowed to bring reinforcements into Zakataly.⁶¹ Article III defined the supplement as an integral part of the Treaty which, signed with the Treaty on 7 May 1920, entered into force *ipso facto* from the moment of signature and was not subject to special ratification.

Secret Agreement in the Russian-Georgian Peace Treaty

This treaty also contained a secret supplement. It was not included in the text published in Moscow in 1920.

The first article of the secret supplement stated:

Georgia undertakes to recognize the right of free existence and activity of the Communist organizations throughout her territory, and in particular the right of free assemblies and free meetings and publications (including organs of the press).⁶²

⁵⁹ "Rossiiskaia Sotsialisticheskaia Federativnaia Sovetskaia Respublika i Gruzinskaia Demokraticheskaia Respublika ikh vzaimootnosheniia", Moscow, 1922, In: Kazemzadeh, 298–299.

⁶⁰ W.E.D. Allen, P. Muratoff, *Caucasian Battlefields, A History on the Turko-Caucasian Border, 1828–1921*, (Cambridge: Cambridge University Press, 1953), p. 500.

⁶¹ Shapiro, 4, and Kazemzadeh, 299.

⁶² Shapiro, 44–46.

No repressive measures could be taken against private persons because they engaged in propaganda and agitation in favor of the Bolshevik program, or against groups and organizations based upon it.

The secret agreement was in practice an annulment of Article 2 of the Russo-Georgian treaty, in which Russia had promised not to interfere in the internal affairs of Georgia. Article 1 of the secret supplement guaranteed freedom for the Georgian Bolsheviks. The secret supplement was not based on reciprocity, as the rest of the treaty was, since Russia did not grant any privileges to Mensheviks in return. Georgia signed this clause because it was frightened by the fall of Azerbaijan, which had been invaded by Russian troops on 27 April 1920, and feared that Georgia would be attacked if it would not give in. The secret supplement was signed on 7 May 1920 and entered into force on signature.

British troops leave Georgia, British-Russian Secret Accord

On 4 June 1920, British troops left through Batum, following their plan to withdraw from the Caucasus.⁶³ Zurab Avalishvili, a delegate of the Georgian diplomatic mission in Great Britain, mentions other data. He was notified confidentially on 11 June 1920 that the British would leave, and his date for the departure of the British is 4 July 1920.⁶⁴ Batum was immediately occupied by Georgian troops. Turkey at the same time prepared to attack Batum, which was of great strategic importance, because from that location, ports on Turkish territory could easily be attacked. The Soviets, represented by Krassin, signed a secret accord with Great Britain, represented by Lloyd George, in which Russia was given 'carte blanche' in the Caucasus.⁶⁵

Constitution of 1921

In the meantime, a Georgian constitution had been drafted, which was adopted on 21 February 1921 by the Constituent Assembly. It dealt

⁶³ Manvelishvili, 439.

⁶⁴ Avalishvili, 263.

⁶⁵ Manvelishvili, 439.

among other things with delimitation of borders, regional autonomy, and minority rights.

Rules concerning Georgia's territorial integrity and division of powers were as follows:

Article 6. The territory of the state may neither be ceded, divided, nor sold. The enlargement of the territory or the rectification of the frontiers which may be contested is only possible by virtue of law.

Article 67. The President of the Government is elected by Parliament for the period of one year. The same president can only be re-elected once.

This article meant that a president could hold office no longer than for two years, while it is common in constitutions that the term for a president is 4 or 5 years, and re-election criteria are not always present.

Article 70. The president of the government is the supreme representative of the Republic. [...] In the absence of a government decision which may find itself obstructed, the president may by exceptional right have recourse to the armed forces of the Republic, but he must inform parliament immediately.

This clause opened the way for a dictatorial regime.

Chapter XI Autonomous Administration

Article 107. Abkhazia (District of Sukhum), Muslim Georgia (District of Batum), and Zakatala (Zakataly), which are integral parts of the Georgian republic, enjoy autonomy in the administration of their affairs.

Article 108. The statute concerning the autonomy of the districts mentioned in the previous article will be the object of special legislation.

These articles do not specify the status of Abkhazia, Ajaria and Zakataly (Zakatala). The special legislation mentioned in Article 108 was not adopted, due to the arrival of the Red Army. Therefore the only conclusion at this moment is that Abkhazia, Ajaria and Zakataly had a special, though as yet undetermined, status within the borders of Georgia.

Chapter XIV Rights of Ethnic Minorities

Article 129. It is forbidden to place any obstacle before the free social development, economic and cultural, of the ethnical minorities of Georgia, especially before the teaching in their mother language and the interior management of their affairs concerning their own culture. Everybody has the right to use his mother tongue in writing, printing and speech.

Article 130. All local ethnic minorities formed into united administration enjoy the right to group themselves and form national unions for organizing and directing their cultural matters within the light of

the constitution and the law. The local ethnic minorities which do not belong to united administrations may constitute themselves independently into an ethnic union, enjoying the competences mentioned in this article. One is under the jurisdiction of an ethnic union by virtue of the language one speaks. The cultural needs of the ethnic minorities are met by sums levied on the budget of self-government in proportion to the number interested.

Article 136. In a circumscription submitted to a body of self government where the proportion of the ethnic minorities exceeds 20 percent of the whole of the citizenry and where the administration of communal and state affairs run concurrently, the official language, if the minority desires it, shall be the language of the said minority. An article where the rules of getting effect were formulated was lacking.

The constitution looked very modern, with its special clauses for minorities and its non-discrimination clause. The right of peoples to self-determination was added, which was one of the major principles of Woodrow Wilson's policies at the Peace Conference. It is in this light that one must see the autonomous rights for Zakataly (Zakatala), Abkhazia and Ajaria. A minor point was the earlier mentioned danger for a dictatorial regime.

Russia Invades Georgia

On 11 February 1921 a rebellion broke out in the Lori district, which had been occupied by Georgia. At the same time a revolt broke out in Shulaveri. In both cases the insurgents were Armenian and Russian Bolsheviks. They disarmed several Georgian military detachments and called upon the peasants to rise against Menshevik rule.⁶⁶

The Central Committee of the All-Russian Communist Party in Moscow consented to an invasion of Georgia on 14 February 1921. On 15 February the 11th Army crossed the border from Azerbaijan into Georgia.⁶⁷ The Georgian government tried in vain to negotiate with the Russian government. The Bolsheviks had already set up a Revolutionary Committee (Revkom) for Georgia, which functioned as a government. On 16 February the Revkom of Georgia was established

⁶⁶ Kazemzadeh, 318.

⁶⁷ Manvelishvili, 430.

in Shulaveri and the Georgian SSR was proclaimed.⁶⁸ The Revolutionary Committee was to govern Batum.

While the Bolshevik armies started their attack on 14 February, Turkey attacked Georgia on 15 February, using the opportunity to ask for Artvin and Ardahan, referring to secret arrangements they had made with the Soviet government.⁶⁹ On 25 February 1921 Tiflis fell and the Menshevik government of Jordania fled to Batum. Turkey offered Georgia help against the Soviets. They wanted Batum as reward, but ceding Batum would not have saved Georgia from the Bolsheviks. Turkish troops entered Batum on 16 March 1921, and officially annexed it on 17 March.

Georgian troops were able to reconquer Batum. The Russians—by the Treaty of Moscow of 16 March 1921—had ceded to Turkey the territories of Ardahan, Artvin, and the regions in the neighborhood of Batum and Akhaltsikhe.⁷⁰ From this one can conclude that Batum at that time was still part of Georgia following its occupation after the British had left some months earlier. On 18 March 1921, the Georgian Menshevik government went into exile in Paris.

The ceding of territory by Russia was not lawful, since no peace had yet been concluded nor had the legitimate Menshevik government left the country. This happened only on 18 March. Already on 8 March 1921, the Revolutionary Committee had proposed to the Georgian Menshevik government in Batum to end military operations, recognize the Bolshevik regime and discuss the possibility of forming a coalition government. This proposal was rejected. On 17 March, due to heavy losses, the Georgian Menshevik government sent its representatives to meet with the delegates of the Revkom and the representatives of Russia. On 17/18 March 1921, an agreement was concluded between Georgia and the RSFSR in Kutaisi.⁷¹

⁶⁸ *Great Soviet Encyclopedia*, 1980, 7, 193b and 200.

⁶⁹ These treaties were signed in 1915, one of them is the Sykes-Picot agreement. See Manvelishvili, 441, M. Terzian, *The Armenian Minority Problem*, (Atlanta: Scholars Press, 1992), p. 91, F.S. Cocks, *The Secret Treaties*, (London: Union of Democratic Control, 1918), p. 15, H.W.V. Temperley, *History of the Peace Conference*, part IV, (London: Henry Frowde, Oxford University Press, 1924), p. 2.

⁷⁰ In his testament, Lenin regrets this[]brutal annexation: "In such circumstances, it is quite natural that the freedom of exit from the Union with which we justify ourselves, will prove to be nothing but a scrap of paper, incapable of defending the minorities in Russia from the inroads of that hundred percent Russian chauvinist in reality—the scoundrel and violator which the typical Russian bureaucrat is." From *Le Combat, Organ of the Socialist Georgian Party*, no. 29–30, Paris, and Pipes, 283.

⁷¹ RSFSR I GDR, pp. 99–100, in Kazemzadeh, 326–327 and Shapiro, 105.

As we saw, in the Russian-Georgian treaty of 7 May 1920, Russia had recognized the Georgian state *de iure*. The letter in which this is stipulated was issued the day after the recognition of Georgia by the League of Nations on 21 February 1921 and in fact at a moment when the overthrow of the Menshevik government had already started.

Under Soviet rule Russia represented Georgia in international forum, and concluded the Treaty of Moscow of 16 March 1921 and the Treaty of Kars of 13 October 1921.

Treaty of Moscow

The Treaty of Moscow was signed on 16 March 1921 by Turkey and Russia. This treaty was aimed at assuring friendly and brotherly relations between Turkey and Russia. At the moment of signing the Treaty of Moscow, both Russia and Turkey claimed Batum and territory in Armenia. The treaty contained 3 annexes.⁷²

The Treaty of Moscow recognized the frontiers as fixed in the Turkish National Pact. Batum remained under the sovereignty of the Georgian SSR, as well as the territory north of the Turkish frontier. Ajaria would have a large measure of autonomy under the protectorate of Georgia. The right of free transit was assured for Turkey in the port of Batum.

The signing of the Treaty of Moscow on 16 March 1921 replaced all previous peace treaties. Concerning the transfer of territory from Turkey to Georgia, Article 2 of the treaty stipulated the following: Turkey would cede to Georgia the territory mentioned in Article 1 as well as the city and port of Batum, on condition that the population would enjoy a considerable amount of autonomy for the different nationalities and would enjoy the possession of land which was revindicated. Turkish imports and exports through Batum city and port would be free of taxes.⁷³

Article 12 stipulated that territories which before the Armistice belonged to Russia and were at this moment part of Turkey could freely decide to cede from Turkey. One is inclined to think that this clause was primarily meant for certain parts of Russian Armenia of the period 1878–1917, which had lost a considerable amount of terri-

⁷² *Calendar of Soviet Treaties*, 20.

⁷³ Poidebard, 60 [74].

tory. The citizens of Batum did benefit from this right. In March 1921 however, although Russia had previously ceded territory of Ajaria to Turkey, Ajaria formed part of Georgia.⁷⁴

Appendix 10 to the Treaty of Moscow was a declaration of the representatives of the republics of Armenia, Azerbaijan, the Confederation of North Caucasian Mountain Peoples and Georgia. It was signed in Paris on 10 June 1921 and dealt with friendly relations between states, non-interference in internal affairs and arbitration in case of a dispute. This was a sign that the Transcaucasian Republic still had some form of sovereignty. Article 3 contained a clause for mediation in case of frontier disputes between the Caucasian Republics.⁷⁵ Furthermore, this Appendix in Article 5 installed a military defense alliance, while Article 6 created a customs union and an area of free transit for international commerce.

Treaty of Kars

The Treaty of Kars was signed on 13 October 1921 between the Transcaucasian SSRs, the RSFSR and Turkey. It was ratified by the RSFSR (signing for the three Transcaucasian SSRs) and Turkey on 16 March 1921. Article 6, 14, 15, 16, 18 and 19 entered into force on signature; the remainder of the treaty entered into force on 11 September 1922, on exchange of acts of ratification in Yerevan. The treaty was modified by protocol of 31 May, 1926.⁷⁶

The clauses were the same as in the Treaty of Moscow. Furthermore, all treaties signed prior to the Treaty of Moscow between Turkey and the Transcaucasian Republics were annulled (Article 1). In the preamble to the Treaty of Kars the concluding parties stipulated the principle of the brotherhood of nations and the right of self-determination for peoples in order to come to friendly relations of a lasting nature, based on reciprocity. Turkey promises that it will not accept any treaty with regard to Armenia, Azerbaijan and Georgia which has not been approved by the present Soviet governments of these three republics.⁷⁷ The North-East frontier, bordering the Transcaucasus, was

⁷⁴ Poidebard, 62 [76].

⁷⁵ Poidebard, 65 [79].

⁷⁶ *Calendar of Soviet Treaties*, 25.

⁷⁷ Poidebard, 70 [84].

delimited in Article 4.⁷⁸ Article 6, just like Article 2 of the Treaty of Moscow, concerned the return of the city of Batum from Turkey to Georgia under certain conditions.⁷⁹ The treaty also comprised territorial clauses.⁸⁰

Georgia under Soviet Rule

From the middle of February 1921, if one considers the moment of invasion, or 16 March, if one considers the moment of surrender, to December 1922 Georgia was a separate republic (SSR) bound by treaty, under RSFSR rule. On 3 December 1922 Georgia merged with Armenia and Azerbaijan into the Transcaucasian Socialist Federative Soviet Republic (TSFSR). The TSFSR entered the Soviet Union in 1922 as one of the founding members. In 1936, with the adoption of the new USSR Constitution, the TSFSR was dissolved and Georgia became an independent part of the USSR as an SSR. Until the promulgation of the Constitution of 1936 no major frontier changes occurred. Although some uprisings occurred, there were no changes of external frontiers. From the sovietization of the Transcaucasian states onwards treaties were concluded between these parties and the RSFSR in order to strengthen bonds. These comprehensive treaties stipulated co-operation in such fields as railways, post and financial matters.

Constitutions of 1922 and of 1925

On 28 February 1922 the Constitution of the Socialist Soviet Republic of Georgia was approved by the First Congress of Soviets of the Socialist Soviet Republic of Georgia.⁸¹ A remark in the text of Article 1 enumerated the parts of Georgia with a special status: the ASSR Ajaria, the Autonomous Oblast South Ossetia and the treaty-SSR Abkhazia, which was linked with Georgia through treaties.⁸²

⁷⁸ *Soviet Treaty Series*, 136.

⁷⁹ Poidebard, 71] and *Soviet Treaty Series*, 136.

⁸⁰ Poidebard, 15.

⁸¹ *Istoriia' Sovetskoi Konstitutsii (v dokumentakh), 1917–1956*, 1957, pp. 339–357.

⁸² *Istoriia' Sovetskoi Konstitutsii* [1957: 339], *Soiuz Ob'edinennykh Gortsev Severnogo Kavkaza i Dagestana (1917–1918gg)*, *Gorskaia Respublika (1918–1920gg)*, 1994, pp. 374–375 and 377, B.E. Sagaria, *Natsional'no-Gosudarstvennoe Stroitel'stvo v Abkhazii (1921–1931gg)*, (Sukhum: Alashara, 1070), pp. 27–29, G. Lakoba (ed.), *Istoriia Abkhazii*, 330.

After a new constitution had been adopted for the TSFSR in 1924, the members of the TSFSR, the Georgian SSR, the Armenian SSR and the Azerbaijani SSR, had to change their constitutions in order to make them compatible with the TSFSR Constitution. This resulted in a new Georgian Constitution, which was adopted in March 1925. No major changes occurred.

Treaties Signed by Georgia under Soviet Rule

On 21 March 1921 three treaties between the RSFSR and the SSR Georgia were signed:

1. A Workers and Peasants' Treaty of Union.
2. An agreement on Financial Matters.
3. A treaty of Alliance.

This was only a few days after Georgia had capitulated.

As a preliminary to the adoption of the USSR Constitution of 1924 the Second All-Georgian Congress of Soviets on 3 January 1924 adopted a resolution "On the Report on the Constitution of the USSR."

From the moment that Georgia as an SSR had ties with the RSFSR, and later Soviet Union, it was the RSFSR, later USSR, which signed international treaties on its behalf.

Georgia under the 1936 Constitution

In Article 13 of the USSR Constitution, adopted in 1936, Georgia was said to be part of the USSR as an SSR. Article 25 established Abkhazia and Ajaria as ASSRs, and South Ossetia as an Autonomous Oblast (AO) in Georgia. Abkhazia's status had in 1931 been changed from treaty-SSR with Georgia to ASSR in Georgia.

Disputed Territories

The main territorial disputes between 1917 and 1920 in Georgia were situated in Borchalo, in the South-Western Caucasian Republic, Ajaria in the South, in South Ossetia in the North and in Abkhazia in the West.

Borchalo

Borchalo had been part of the district of Elisavetpol before the outbreak of the Russian Revolution.

Near the end of the First World War Borchalo was claimed by both Georgia and Armenia. By the Treaty of Batumi of 4 June 1918 Borchalo had been ceded from Georgia to Turkey, which after its defeat had to withdraw its troops, following agreements with the Allies. The Turks played an active policy of cat and mouse. Knowing that both Georgia and Armenia claimed the territory, they gave both Georgia and Armenia the possibility of occupying Borchalo, but with different timescales.⁸³ The Turks had installed a pro-Turkish Muslim government before they left. When the Georgians occupied Borchalo, they were confronted with this government, which did not want to co-operate with the Georgians. A few days later Armenian troops arrived.

The conflict between Georgia and Armenia over Borchalo was solved by British mediation on 31 December 1918 and 1 January 1919, and Borchalo became a neutral zone under British supervision. When the British left Borchalo in 1920, the territory came under Georgian sovereignty.⁸⁴ After fighting had stopped, Armenia presented its claims concerning Georgian-Armenian frontiers to the British Foreign Secretary on 26 March 1920.⁸⁵

The South-Western Caucasian Republic

The South Western Republic was a puppet state created by the Turkish military commanders after they had had to withdraw their troops following agreements with the Allies.⁸⁶ The rulers of the South Western Republic called it an independent Republic which claimed the districts of Kars, Batum, Akhaltsikhe, Akhalkalaki, Sharur, and Nakhichevan.⁸⁷ It covered parts of territory effectively under Georgian and Armenian authority. Delegates were elected and sent to Kars, where they formed a National Council during the night of 17–18 January 1919. The National Council became the Provisional National Government of the

⁸³ Georgia was notified that the Turks were leaving on 4 December 1918, while the Armenians were told that the Turks would leave on 6 December 1918.

⁸⁴ Avalishvili, 148.

⁸⁵ Burdett, *Caucasian Boundaries*, 723, FO 371/4955.

⁸⁶ Allen, Muratoff, 497–500.

⁸⁷ Allen, Muratoff, 497.

South Western Caucasian Republic. It claimed authority over all Turkish or Muslim areas between Batum and Nakhichevan. These were the territories just evacuated by Turkish troops following the armistice of Mudros. It did not contain any territory belonging to Azerbaijan.⁸⁸

The government of the Republic pronounced equal rights for all its citizens irrespective of national origin, religion, or social standing. The Armenians however, were excluded from these rights. The Republic appealed to the Allies for recognition and declared itself ready to send a delegation to the Paris Peace Conference.⁸⁹ The government was created in accordance with the Fourteen Points of President Wilson, thus implying that it was in accordance with the right to self-determination for all nations until now under foreign occupation.⁹⁰

Both Georgia and Armenia claimed parts of the territory occupied by the South Western Caucasian Republic. It was only supported by Azerbaijan, who's Minister of Foreign Affairs wrote to the British General Thomson that the Muslims of South Western Transcaucasia had a right to self-determination, which the Azeri's expected the Republic to achieve at the Paris Peace Conference. The British promised Azerbaijan to maintain the status quo and protect the new Republic until the Paris Peace Conference had decided whether the people had a right to self-determination.

In March 1919 Georgian troops had already invaded and occupied Atskhur, Akhaltsikhe and Akhalkalaki, when on 19 April 1919 the British arrested the leaders of the government.⁹¹ Consequently Armenia occupied Kars in May 1919.

The South-Western Caucasian Republic did not exist longer than four months. During this period the frontiers were not stable, the government changed, there was no permanent population due to wandering groups of refugees, and there was *de facto* recognition by Azerbaijan and Turkey. The other Transcaucasian territories did not recognize the Republic, nor did the British, who held this area under their sphere of influence. The South-Western Caucasian Republic, thus, did not meet the requirements for acceptance as a viable state.

⁸⁸ Allen, Muratoff, 498.

⁸⁹ The Ministry of Foreign Affairs of Azerbaijan, Dossier XV, "South Western Caucasus", in Kazemzadeh, 199.

⁹⁰ R. Stannard Baker, W.E. Dodd (ed.), *War and Peace Presidential Messages, Adresses, and Public Papers (1917-1924) by Woodrow Wilson*, Vol. 1, (New York: Harper & Brothers, 1970), pp. 155-162.

⁹¹ Allen, Muratoff, 498.

Ajaria

Ajaria was incorporated in the Russian Empire as a Province in 1878 by the Treaty of Berlin. Before 1878 Ajaria had been part of the Ottoman Empire. Ajarians are ethnic Georgians, who in majority profess the Muslim faith. The history of Ajaria since 1917 was fairly similar to the fate of its capital, Batum, which has been described extensively earlier in this chapter.

The demography of the Province of Batum in 1919 was as follows: 86,320 Muslims; 15,182 Armenians; 8,598 Georgians; 12,721 others.⁹² Another graph from the same period, presented by the Azeri, gives the following demographic composition: 15,182 Armenians; 8,598 Georgians, 70,241 Muslim Georgians; and 15,065 Turco-Tatars.⁹³

On 20 June 1918 the Georgian Minister of Foreign Affairs, Isidore Ramishvili, wrote to the German diplomatic representative in the Transcaucasus, Count von der Schulenberg, that Turkey was oppressing the Ajarians.⁹⁴ According to Ramishvili, the Ajarians wanted to exercise their right to self-determination through the organization of a referendum, a possibility included in Article 4 of the Treaty of Brest-Litovsk.

The referendum was held, and showed a clear majority in favor of closer ties with Turkey. Consequently, the Georgian government made nine objections with regard to the organization of the referendum:

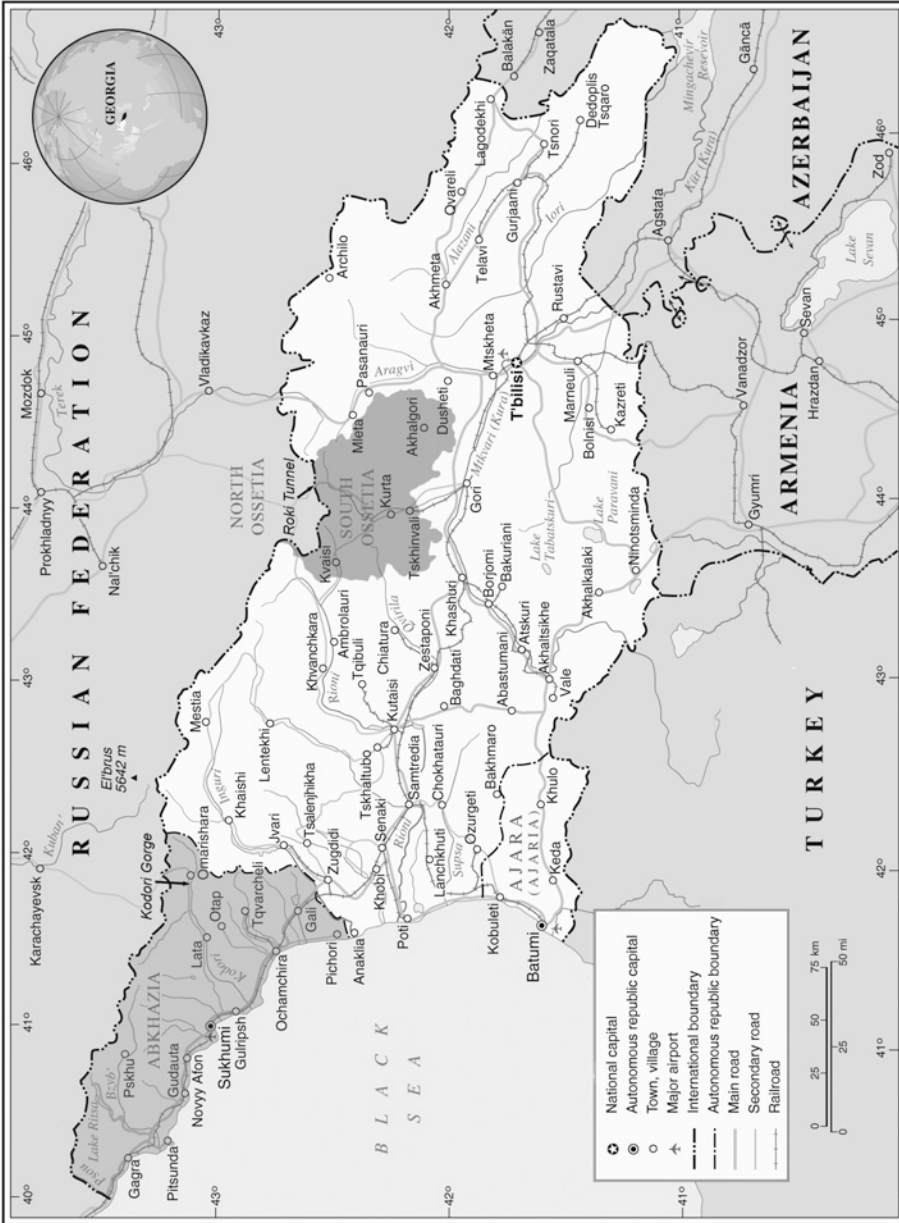
1. The referendum had been concluded while a state of siege was in force;
2. The preparatory work had been badly handled.
3. The referendum had been announced unexpectedly, and in only two languages, making it impossible for the Georgians even to learn about it.⁹⁵

⁹² FO 371/4952 and Burdett, *Caucasian Boundaries*, 468–469. The Azeri population was also described as Muslim in the texts of the early 20th century.

⁹³ FO 371/4952 and Burdett, *Armenia*, 470–471.

⁹⁴ Germany was supposed to protect the interests of the Georgians since May 1918, when Georgia became a German protectorate.

⁹⁵ Apparently the referendum had not been announced in Georgian, the language of most Ajarians, which means that the languages used most likely were Turkish and Armenian (for the many Armenians living there, and the language of the neighbouring region) or Russian (the lingua franca since the occupation in 1878).



http://upload.wikimedia.org/wikipedia/commons/9/91/Georgia_high_detail_map.png

Map 6 Ajaria

4. At the time of the referendum a large proportion of the inhabitants were not in Batum since they had fled and were not able to return because of a prohibition by the Turkish authorities.
5. The vote had not been secret;
6. The Turks had influenced and even intimidated voters;
7. Many citizens had not been allowed to vote;
8. Temporary residents, the Persians for instance, had been allowed to vote;
9. Ballots had been cast by nationality, thus restricting the freedom of voters.

On 28 July 1918 in answer to the above mentioned letter from Ramishvili, General von Kress, Commander of the German forces in Georgia, wrote that, since Turkey had conducted the Batum plebiscite without an agreement with the neighboring states, thereby violating Article 4 of the Treaty of Brest-Litovsk, the German government would consider a Georgian *démarche* against this referendum justifiable. The letter did not make explicit what form such a *démarche* could take, but one may assume ultimately a military attack. Batum was occupied by the British after the Turkish troops withdrew in the autumn of 1918, after losing the First World War.⁹⁶

On 18 December 1919 Prime Minister Lloyd George of Britain declared before the House of Commons that British troops would be withdrawn from Batum in conformity with the plan to leave the Transcaucasus. The city had been formally occupied by the British since 19 October 1919. On 23/24 February, however, the evacuation was cancelled.

The Supreme Council of the League of Nations intended to make Batum a free port and a free city, while the province of Batum (being Ajaria) would be divided between Armenia, which would get the Artvin District in the south, and Georgia, which would get the northern and eastern part of Ajaria. The adjoining Lazistan would have autonomy under the sovereignty of Armenia.⁹⁷ Batum would be occupied by mixed French, English and Italian troops, and the International Commissioner would reside in Batum. Georgia did not agree, and the Georgian delegation to Germany presented on 10 March 1920 the following points:

⁹⁶ Kazemzadeh, 200 and Burdett, *Armenia*, 841–842, FO 371/4958.

⁹⁷ Avalishvili, 233.

1. The Batum region, consisting of Batum and Artvin districts with a majority of Georgian Musulman population must be united with the territory of the Georgian Republic.
2. The dismemberment of the Province of Batum, with the attachment of any of its parts to another state, and not to Georgia, will not fail to give rise to profound dissension and friction among the neighboring peoples in Transcaucasia.
3. If it is proved that, for geographical, topographical or other reasons, the access of Armenia to the sea must unavoidably cover part of a territory which the Georgian people consider to be their own national inheritance, and which therefore they claim—the rights of the Georgian people must be respected.
4. The above-mentioned access to the sea, i.e. the linking up of Armenia's railways with her projected outlet to the Black Sea, can be organized on the basis of special agreements, with no detriment to Georgia's sovereignty over the territories concerned.
5. The creation of an autonomous Republic in Batum, including also part of the Province of Batum, will inevitably result in a still greater complication of the already sufficiently complicated mutual relations of the Transcaucasian Republics. This decision, bringing disappointment to the point of view of the commercial and economic needs of the countries bordering on Georgia, or the goods transit requirements of international importance of which the Georgian government fully appreciates, can be satisfied, and the necessary guarantees secured, by means of special agreements concluded between the interested parties, either direct, or with the co-operation of the Supreme Council of the League of Nations.
6. The Georgian government maintains its claims [...] to the two districts of the Province of Kars: Ardahan and Olti.
7. It is possible that for considerations of general policy, and in order to secure the application of the peace treaties, the Great Powers shall consider it necessary to have a military and naval base at the port of Batum. For this purpose the necessary facilities must be given to the Great Powers, and the easiest way to do this is to conclude the necessary agreements and conventions with Georgia.⁹⁸

In a letter dated 21 June 1920 the Armenian representative in Georgia complained to the chief of the British mission in the Caucasus that

⁹⁸ Avalishvili, 235–236.

Batum had been given to Georgia, thereby depriving Armenia of a certain part of the river Chorokh, which Armenia needed for a railway to Kars.⁹⁹ On 7 July 1920, the British left Ajaria and the Georgians entered Batum.¹⁰⁰ The ASSR Ajaria, within Georgia, was established in Moscow on 16 July 1921 in a treaty “On Friendship and Brotherhood” between the Russian Federation and Turkey. On 13 December 1922 Ajaria became part of the TSFSR as part of Georgia and remained so until 1936, when the TSFSR was dissolved.¹⁰¹

Ajaria under the Constitutions of 1921, 1922 and 1936

Article 107 of the short-lived Georgian Constitution of February 1921 granted Ajaria autonomy, comparable with Abkhazia and Zakataly. This autonomy covered the administration of internal affairs.¹⁰² What this autonomy meant in practice was not made clear, and it is noteworthy that three weeks after this constitution came into force, Georgia became an SSR, and subject to the RSFSR Constitution of 1918.

Ajaria was mentioned as an ASSR in a remark in Article 1 of the 1922 Constitution of the Georgian SSR. Since it was Georgia that entered the TSFSR, the constitutions of the TSFSR of 1922 and 1925 do not mention Ajaria as such. Article 25 stipulates that Ajaria forms part of the Georgian SSR. This is a continuation of the situation as it existed following the Georgian Constitution of 1922.

South Ossetia

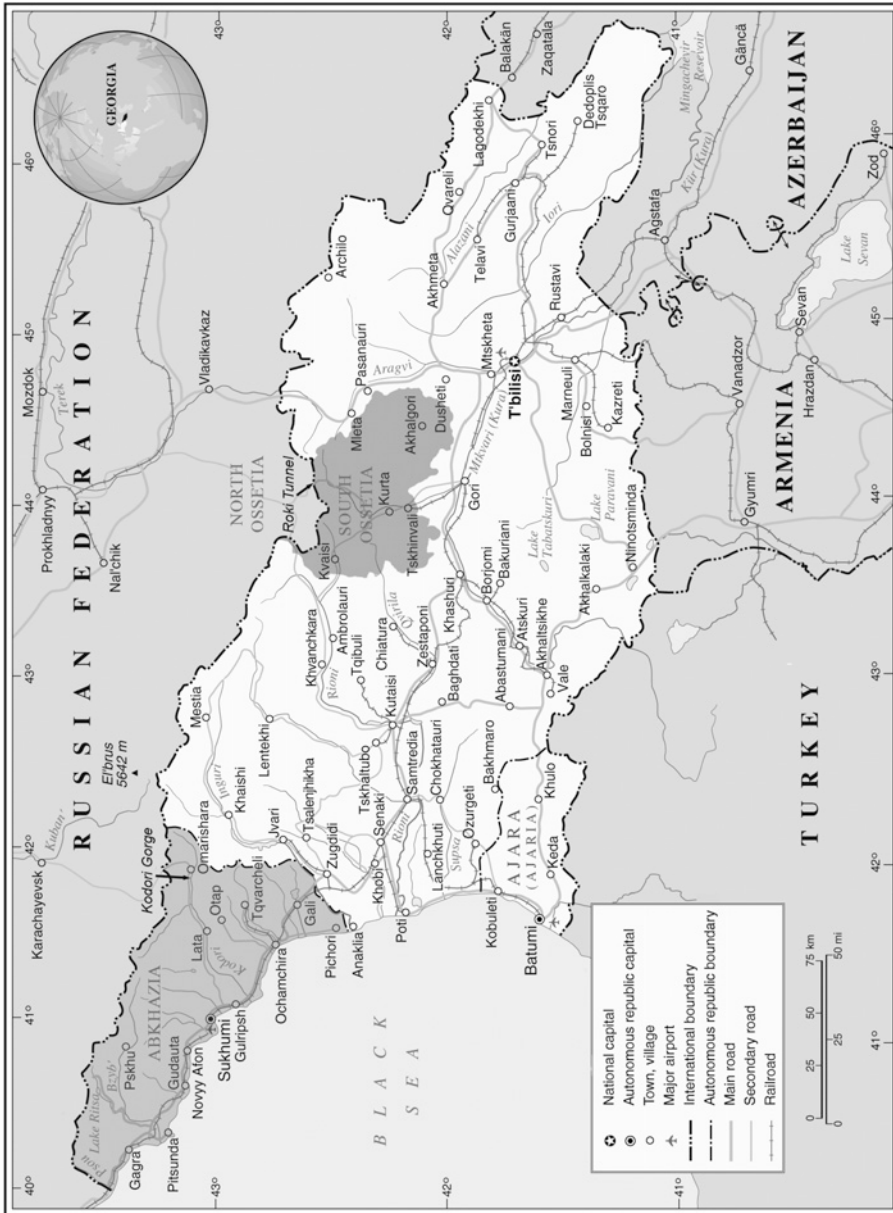
In 1801 South Ossetia joined the Russian Empire. South Ossetia had been part of the Tiflis Province in Georgia before the Revolution. South Ossetia’s importance lies in the fact that it has a military mountain road (Voennaia Gruzinskaia Doroga) connecting Georgia with the North Caucasus and Russia. Furthermore, it guaranteed Georgia a frontier tracing the Caucasus mountain range.

⁹⁹ Burdett, *Armenia*, 841–842.

¹⁰⁰ Kazemzadeh, 202.

¹⁰¹ *Great Soviet Encyclopedia*, 1980, No. 1.

¹⁰² Article 107: Abkhazia (District of Sukhum), Muslim Georgia (District of Batum), and Zakataly (District of Zakataly), which are integral part of the Georgian Republic, enjoy an autonomy in the administration of their internal affairs.”



http://upload.wikimedia.org/wikipedia/commons/9/91/Georgia_high_detail_map.png

Map 7 South Ossetia

Political History of South Ossetia

South Ossetia politics have from the Revolution onwards been primarily pro-Bolshevik and anti-Georgian oriented. The Ossetians are of Iranian descent and therefore ethnically different from Georgians. They speak Ossetian. Very soon after the Revolution the South Ossetian leaders expressed their wish to unite with North Ossetia in Russia. This was not met with enthusiasm in Tiflis, since it would infringe upon Georgian territorial integrity.

A Bolshevik meeting of representatives hosting the intellectuals and workers from South Ossetia was held in the first half of March in Tiflis. A committee of 9 persons was chosen. After this meeting their newly elected leader went to the North Caucasus.¹⁰³ On 25 September 1917 an Executive Committee was formed in the South Ossetian capital Tskhinvali. In June 1918 a peasants' Soviet was instituted, supported by the Akhlagoriysky and Lekhurska rayons.

One month later, on 30 July 1918, an Orgburo was organized by the South Ossetian Bolsheviks in the village of Dzhava. In early 1919 local party committees had been set up throughout the region. The National Soviet was outlawed on 27 April 1919 by the Tiflis government, which was at that moment composed chiefly of Menshevik persuasion, and national self-determination was denied to South Ossetia.¹⁰⁴

On 12 May 1919 a Bolshevik Soviet was created in South Ossetia. A District Committee was elected on 12 June 1919, at the First Conference of Bolshevik Organizations of South Ossetia. On 7 June 1920 Bolsheviks took Tskhinvali, and on 8 June 1920 a mass meeting was in favor of the Bolsheviks, but the uprising was put down and Menshevik rule re-established. The Soviet of South Ossetia signed a peace treaty with Georgia in 1920.¹⁰⁵ The Ossetians however favored the new politics of the Soviet Union, since it kept North and South Ossetia within one state. On 20 April 1922 the South Ossetian Autonomous Oblast was created within Georgia.¹⁰⁶

¹⁰³ *Ocherki Istorii Iugo-Osetinskoi Avtonomnoi Oblasti* I, 1959, p. 262.

¹⁰⁴ *Ocherki Istorii Iugo-Osetinskoi Avtonomnoi Oblasti* I, 280.

¹⁰⁵ *Bor'ba Trudiashchikhsia Iugo-Osetii za Sovetskuiu Vlast', 1917-1921gg., Dokumenty I Materialy*, p. 72.

¹⁰⁶ *Great Soviet Encyclopedia*, Vol. 30, p. 459 (1982) and *Ocherki Istorii Iugo-Osetinskoi Avtonomnoi Oblasti*, I, 1959, p. 295.

In May 1925 representatives of South and North Ossetia discussed in Moscow the possibility of a reunification. The outcome was negative, since it would either infringe upon Georgian or Russian territorial integrity, and probably both, even though both North and South Ossetia were part of the USSR and had in 1925 both AO status.

South Ossetia under the Georgian Constitutions

Article 1 of the 1922 Constitution of the Georgian SSR mentioned South Ossetia as an Autonomous Oblast. The Constitution of the TSFSR, adopted in December of the same year, did not say anything about the status of South Ossetia, but it was clear that it entered the TSFSR as a part of Georgia. There was no change of status.

When the TSFSR Constitution in 1925 was adapted to the new USSR Constitution, which had entered into force in 1924, no changes in the status of South Ossetia occurred. South Ossetia was an AO in the SSR Georgia, which in turn was part of the TSFSR, which was a constituent part of the USSR. In Article 25 of the USSR Constitution of 1936 South Ossetia was an Autonomous Oblast in the Georgian SSR, a continuation of its status since 1922.

Abkhazia

In 1810 the Abkhazian principality had entered the Russian Empire, after a "protectorate" treaty was signed between the ruling Prince Georgy Safarbey Shervashidze (Chachba) and the Czar. From 1810 to 1864 Abkhazia remained a principality and protectorate within the Russian Empire. In 1864 the Principality was abolished and the Prince exiled. The territory was transformed into the Sukhum Military District and Russian administration was introduced. Abkhazia held the status of a province in the Russian Empire.

Ethnic Composition in Abkhazia since 1917

A basic point of conflict between the Abkhazian population in Abkhazia and the government in Tiflis between 1917 and 1936 was the influx of Georgians and their alleged discrimination of the native, Abkhazian, population. During this period the population was constituted as follows:

	1897	1926	1939
Abkhazians	58,697	55,918	56,147
Kartvelians (Georgians, Mingrelians, Laz, Svan)	25,875	67,494	91,067
Russians	5,135	20,456	60,201

As we see Abkhazia was populated by minorities. The composition of the population changed considerably over time.

Events after the Russian Revolution

On 10 March 1917, only a few days after the First Russian Revolution, a temporary government of Abkhazia was installed in Sukhum under the leadership of the Abkhazian Prince Alexander G. Shervashidze (Chachba). On 3 July 1917, there were rumors that a Gudauta Republic had been proclaimed. Nothing else of this republic is seen or heard of in literature on this period.¹⁰⁷

On 20 October 1917 the government of Abkhazia signed a treaty with the South-Eastern Union to accede to it. The Council (Soviet) would, apart from Abkhazia, also include the Don, Kuban, Terek, Astrakhan, Ural Cossacks, North Caucasian Territories, Daghestan, and Zakataly Okrug. This Council declared to aim at democratic changes and independence for its members, as described in a Declaration issued on 16 November 1917. There was a wish to remain in Russia. This seems contradictory, but given the political instability and anarchy at that time, this decision was taken to protect the territory until central authority was restored.

Abkhazia's Constitution of 1917

Abkhazia strove to co-operate with the Confederation of North Caucasian Mountain Peoples, according to Article 4 (d) of the 1917 Constitution. In September 1917, during the second meeting of the Confederation, Abkhazia became a member of the Confederation of North Caucasian Mountain Peoples.

¹⁰⁷ G.A. Dzidzaria, *Bor'ba za Oktiabr ' v Abkhazii, Sbornik Dokumentov i Materialov 1917–1921*, (Sukhum: Alashara, 1967), p. 28, *Gazeta Sukhumskaia Vestnik*, 4 July 1917.

On 8 November 1917 the Abkhazian People's Council (Parliament) adopted a Constitution.¹⁰⁸ Article 1 stated the role of the constitution to unite the Abkhazian people, thus not taking into account the rights of other peoples living on the territory of Abkhazia. Although Abkhazia did not declare independence, the aim of the constitution was to pave the way for the realization of the right to self-determination.¹⁰⁹ The National Council was composed of representatives of the population.¹¹⁰ That same day, 8 November, Simon Basaria was chosen head of the Abkhaz National Council. This Council ruled until April 1918, when the Council was dissolved. Abkhazia sought co-operation with Russia (the RSFSR) and the neighboring Sochi Soviet to strengthen its position.

The Abkhazian National Council was recognized by the Transcaucasian Seim on the eve of 9 February 1918 and an agreement was concluded between the Abkhazian National Council and the National Council of Georgia concerning the establishment of relations between Georgia and Abkhazia.¹¹¹ These relations were to be goodneighborly and the parties were regarded to be on an equal footing with each other.¹¹²

The second Abkhazian National Council had a North Caucasian orientation, maintained contacts with the North Caucasian Mountain Confederation, of which it formed a part, and was, unlike its predecessor, more nationalistic, just like the other members of the Confederation.

Turkish politicians said on 8 November 1918 about Abkhazia:

Abkhazia does not want to enter [in] the group of Transcaucasian states, but ascribes itself to the Confederation of North Caucasian Mountain

¹⁰⁸ *Soiuz Ob'edinennykh Gortsev Severnogo Kavkaza I Dagestana (1917–1918gg), Gorskaia Respublika (1918–1920gg)*, 1994, pp. 79–80, S.Z. Lakoba, *Istoriia Abkhazii*, 1993, p. 281, B.G. Hewitt (ed.), *The Abkhazians, a Handbook*, (London: Curzon Press, 1999), pp. 263–264.

¹⁰⁹ This situation is remarkable similar to that of Abkhazia since 1989. After statements that Abkhazia wanted to use its right to self-determination in 1989, an armed conflict with Georgia erupted in 1992–1993. An Abkhazian constitution was adopted in which Abkhazia is called sovereign. Nevertheless, at that moment Abkhazia did not formally declare independence.

¹¹⁰ S.Z. Lakoba, *Ocherki Politicheskoi Istorii Abkhazii*, 1990, p. 62.

¹¹¹ Lakoba, *Ocherki Politicheskoi Istorii Abkhazii*, 64.

¹¹² S.Z. Lakoba, "History: 1917–1989", in: Hewitt, 90.

Peoples, which is constructing its own government under the protection of Turkey.¹¹³

On 9 February 1918 A. Shervashidze of Abkhazia and the Georgian Minister of Foreign Affairs A. Chkhenkeli, discussed the question of whether Abkhazia should leave the North Caucasian Mountain Republic. Negotiations also concerned co-operation between Georgia and Abkhazia. Three points were reached between Abkhazia and the Georgian National Council:

1. To reconstitute a single undivisible Abkhazia within the boundaries from the river Ingur unto the river Mzimta, which would include Abkhazia proper and Samurzakan, or, which is the same, the present Sukhum okrug.
2. The form of the future political construction of a single Abkhazia will be worked out in accordance with the principles of self-determination by the Constituent Assembly of Abkhazia, convened on a democratic basis.
3. In the case of Abkhazia and Georgia wishing to enter with other national states in political treaty relations, they will have to enter into negotiations on that matter.¹¹⁴

When at the end of March 1918, the Russian Bolshevik forces attacked the Black Sea coast and reached Sukhum, the Abkhaz National Council appealed to the Georgian leaders and the Transcaucasian Seim for military help. At the same time Abkhazian workers began an armed uprising under Russian Bolshevik leadership. On 8 April Sukhum was taken and Soviet power was proclaimed. Troops were sent and on 17 May 1918, the forces of the Transcaucasus entered Sukhum and suppressed the uprising. Eventually the Russians were forced back to Tuapse.¹¹⁵ In May 1918 a split occurred in the Abkhazian National Council. One part had a pro-North Caucasus orientation, while the other was pro-Georgian.

With Georgia's declaration of independence on 26 May 1918, the frontiers had not been put down on paper. General von Lossow on 28

¹¹³ Lakoba, *Istoriia Abkhazii*, 291.

¹¹⁴ Lakoba, *Istoriia Abkhazii*, 285, J. Loris-Mélikoff, *La Révolution Russe et les Nouvelles Républiques Transcaucasiennes: Bolchevisme et Anti-bolchevisme*, (Paris: Librairie Félix Alcan, 1920), p. 123.

¹¹⁵ Kazemzadeh, 233.

May 1918 had in a secret letter to the Georgian government declared that Sukhum okrug would be the outer border of Georgia, including Gagra.¹¹⁶ This was part of the negotiations that had been held in Poti and Batum, and which were later completed in Sebastopol.¹¹⁷

Georgian and German troops enter Abkhazia

Following agreements between the Georgian and German governments, German troops arrived in Georgia on 11 June 1918 to protect their territorial integrity against Turkish aggression. Georgian forces entered Abkhazian territory in order to restrain the Volunteer Army troops of Denikin from entering Abkhazia, after having received a request from the Abkhazian government for help. The entering of Abkhazia by Georgian troops was lawful, although this does not mean that the subsequent occupation of Abkhazia by Georgian troops was what the Abkhazian politicians had in mind.

On 13 June 1918 the Government of the Mountain Republic, of which Abkhazia still formed part, protested strongly to the German diplomatic mission in the Caucasus against the presence of German troops in Sukhum. A letter was sent in the name of the Mountain Republic to protest against the 'occupation' of Abkhazia by Georgian and German troops.¹¹⁸ This shows the duality of Abkhazia's policy. On the one hand they themselves had asked for Georgian military assistance, and on the other hand, they wanted to distance themselves from the Georgians and show their allegiance to the Confederation of North Caucasian Mountain Peoples.

Treaty with Georgia of 8 June 1918 and 11 June 1918

On 8 June and 11 June 1918 treaties were signed between Abkhazia, represented by Varlam Shervashidze, and Georgia, represented by Akaki Chkhenkeli. The treaty of 11 June was a broader version of the treaty of 8 June, having eight points, which comprised the definition of the political system, co-operation with Georgia, powers of Georgia on

¹¹⁶ Lakoba, *Istoriia Abkhazii*, 293, Kazemzadeh, 123.

¹¹⁷ Kazemzadeh, 123, R.G. Suny, *The Baku Commune, 1917–1918*, (New Jersey: Princeton University Press, Princeton, 1974), pp. 192–193.

¹¹⁸ *Soiuz Ob"eninennykh Gortsev Severnogo Kavkaza I Dagestana (1917–1918gg)*, *Gorskaia Respublika (1918–1920gg)*, 1994, Document 70, p. 132, and Document 172, pp. 133–135, and Loris-Mélikoff, 142, in which it is stated that Abkhazians protested strongly against their incorporation in Georgia.

Abkhaz territory, and internal policy, which would be part of Abkhaz national sovereignty, while foreign affairs would be part of Georgian sovereignty (resembling the federative model). Georgia would send troops to Abkhazia to protect its territory.¹¹⁹

This is the moment where Abkhazia allegedly transferred a part of its sovereignty to Georgia, albeit temporarily, as the Abkhazian politician Khasaia stresses.¹²⁰ Khasaia claimed that “according to point 1 the concluded treaty is examined by the National Meeting [Council] of Abkhazia which determines its political organization and fate of Abkhazia”. Point 3 stressed that the interior administration of Abkhazia belonged to the Abkhazian Council.

A similarity between the two treaties was that Article 7 of the Treaty of 8 June depicted the temporary nature of the Treaty, something that was also applicable to the Treaty of 11 June. Article 4 of the Treaty of 8 June was similar to Article 6 of the Treaty of 11 June, stationing detachments of the Georgian Red Guard to Abkhazia as long as needed. Article 1 of the Treaty of 8 June was similar to Article 2 of that of 11 June, nominating an Abkhazian plenipotentiary to the government in Tiflis.¹²¹

The reason that within three days two treaties were signed, which had a broad overlap, lay in the fact that the Abkhazian delegation signing the 8 June treaty did not have plenipotentiary powers to do so, which meant that this treaty is null and void. This goes back to the split in the Abkhazian National Council from May 1918. The pro-Georgian faction had signed the 8 June accord, without consulting the other faction.

After Georgian troops had stopped the advance of the Volunteer Army, and did not leave, on 23 June 1918 the Georgian General Mazniev (his Georgian name was Mazniashvili) appointed himself General-governor of Abkhazia, without the Abkhazian National Council being asked for approval. Mazniev declared Abkhazia a “general gubernia” in Georgia. The Abkhazian government protested against this decision. As a reaction the Georgian government twice (in August 1918 and again in October 1918) forcefully dissolved and dismissed

¹¹⁹ Lakoba, *Istoriia Abkhazii*, 295, Khasaia claims as date for the second treaty 11 July 1918, see Burdett, *Caucasian Boundaries*, 543, FO 371/3661. Since most literature mentions the month of June, this is taken as the correct date.

¹²⁰ Burdett, *Caucasian Boundaries*, 534, FO 608/84.

¹²¹ Lakoba, *Istoriia Abkhazii*, 296.

the Abkhazian government (National Council), deputies were arrested and imprisoned in the Met'ekhi castle in Tbilisi.¹²²

On 24 July 1918 the pro-Georgian part of the Abkhaz National Council and the Georgian government concluded a treaty in which the district of Sukhum temporarily became part of Georgia. Article 3 of this treaty proclaimed that the Abkhazian National Council would continue to govern as before until an Abkhaz National Assembly might decide on the future status of Abkhazia.¹²³ According to Lakoba on 15 August 1918, the Abkhazian National Council was dissolved by a minority which favored ties with Georgia and which was assisted by Georgian troops. The election for the new Council was boycotted by the Abkhazian population, and consequently the Georgians dominated the election process.¹²⁴ The third National Council ruled until 10 October 1918, when the Georgian government dissolved it.

The Russian forces in the mean time attacked the city of Tuapse, north of Abkhazia, in September 1918 and threatened to invade Abkhazia.

Between October 1918 and March 1919 Abkhazia was ruled by Special Commissar V. Chkhik'vishvili and Political Representative Isidore Ramishvili, nominated by the Georgian government.¹²⁵

The elections for a third Abkhazian National Council were subject to restrictive measures for participation: "as deputies to the Abkhazian National Council only subjects of Georgia, not resident in Abkhazia may be elected." Only after a request by the British were the Abkhazian deputies held in the Met'ekhi prison released.¹²⁶

Georgian Policy Concerning Abkhazia

Georgia not only feared attacks from Russian Bolshevik armies but also by the Volunteer Army of Denikin, especially on Abkhaz territory, which was, because of its coastline, of strategic importance. There were clashes along the north of the Abkhaz border, and the Georgian government decided to hold Sochi and Sukhum. The ruling Socialist Council in Sochi asked the Georgian government unanimously for

¹²² Lakoba in Hewitt, 90.

¹²³ Lakoba, *Istoriia Abkhazii*, 296–297.

¹²⁴ Lakoba, *Istoriia Abkhazii*, 301–302.

¹²⁵ Lakoba, in Hewitt, 90.

¹²⁶ Lakoba, in Hewitt, 91.

the annexation of the Sochi district.¹²⁷ Georgian Minister of Foreign Affairs, Gegechkori, and General Mazniev negotiated with the Volunteer Army and the Cossack government of Kuban. Alekseev, the representative of Denikin, said that the Volunteer Army recognized the independence of Georgia and had made no plans against her.¹²⁸ Nevertheless the parties could not agree on who was to hold power on the strip of territory between Sochi, Tuapse and Gagra.

On 26 September 1918, a meeting was organized where the borders of Georgia were discussed. The representative of the Kuban government asked the Georgians to evacuate the town of Gagra with its district, claiming that the majority of the population was not Abkhazian or Georgian.¹²⁹ In response the Georgian Minister of Foreign Affairs, Evgenii Gegechkori, answered that the Volunteer Army was a private organization that was not authorized to discuss frontiers.¹³⁰

Denikin's Volunteer Army in Abkhazia

At the beginning of 1919 the Volunteer Army of Denikin entered the Gagra region, which at that time belonged to the Sochi government, and not to Abkhazia, since the demarcation of the British along the river Bzyb was still in force. Denikin's aims were to hold some outlets to the Black Sea and establish control over the northern part of the Caspian Sea.

After the occupation of Gagra, Denikin declared Abkhazia neutral territory. A. Shervashidze in a letter to Denikin consented to Denikin's army being on Abkhazian territory. Georgian president Jordania held discussions on 1 February 1919 with the British General Walker concerning Abkhazian autonomy.¹³¹

Denikin wanted Abkhazia as a neutral zone and discussed this with the British military representatives in the Caucasus, Forest, Walker and Milne. The British agreed with the proposal with regard to a

¹²⁷ Kazemzadeh, 234, and *Dokumenty i Materialy po Vneshnei Politike Zakavkaz'ia i Gruzii*, No. 193, 1919, p. 388.

¹²⁸ Kazemzadeh, 235.

¹²⁹ The representative claimed that the population was as follows divided: 12,000 Turkish subjects (Greeks, Armenians, Turks), more than 8,000 Russians, about 6,000 Estonians, 1,500 Moldovans, 1,000 Georgians and the rest (4,500) Abkhazians, making the total population of this area 33,000. Kazemzadeh, 236.

¹³⁰ Kazemzadeh, 236 and *Dokumenty i Materialy po Vneshnei Politike Zakavkaz'ia i Gruzii*, No. 197, 1919, pp. 409–410.

¹³¹ Lakoba, *Istoriia Abkhazii*, 311.

neutral zone. The British delimited this territory as being between the rivers Bzyb and Ingur and the Black Sea. General Denikin claimed the following:

1. Immediate declaration of the Sukhum okrug (Abkhazia) as neutral.
2. Withdrawal of the Georgian army beyond the river Ingur.
3. Removal from Abkhazia of the Georgian administration.
4. "Place the maintenance of order under Abkhazian authorities, freely elected by themselves".¹³²

The Georgians, however, did not support the idea of a neutral zone and on 20 March 1919 Georgia issued a declaration, the Act of Autonomy, in which Abkhazia was declared autonomous within Georgia.

It stated:

1. Abkhazia enters the Democratic Republic of Georgia, as an autonomous unit, about which to inform the government of the Republic of Georgia and its Constituent Assembly.
2. For the elaboration of the Constitution of an autonomous Abkhazia and the determination of interrelations between the central and autonomous power a mixed commission will be chosen from an equal number of members of the Constituent Assembly of Georgia and the Abkhaz People's Council and the decisions worked out by this commission after the adoption by the Constituent Assembly of Georgia and the Abkhaz People's Council must be introduced into the Constitution of the Democratic Republic of Georgia.¹³³

Sukhum okrug was declared a neutral zone, and the Georgian armies would not be allowed to cross the river Bzyb.¹³⁴

In February 1919 General Denikin telegraphed the British Generals Milne and Walker that on the Black Sea coast the Georgians were oppressing the Abkhazian population. The Georgians had dispersed the Abkhazian National Council and were conducting new elections under military pressure, to secure a National Council which would be

¹³² Lakoba, *Istoriia Abkhazii*, 311, and Lakoba in Hewitt, 91. Lakoba mentions Colonel Briggs as passing the same message on to the Georgian Minister of Foreign Affairs.

¹³³ Lakoba, 314.

¹³⁴ Kazemzadeh, 241.

favorable to Georgia.¹³⁵ The British General Walker told the Georgian Prime Minister Jordania on 23 January 1919, that the British Command had declared the territory of Georgia inviolable.¹³⁶ Since Denikin had occupied Gagra after the British declaration, the British would send one of their detachments to serve as a barrier between Georgia and the army of Denikin.¹³⁷

In May 1919 Georgia was willing to come to an agreement with Denikin on the following conditions:

1. The Georgian troops would stay on the river Mekhadyr (north of Gagra).
2. Georgia would guarantee Russian property and resume trade with the Volunteer Army.
3. The final settlement of the frontier dispute would be made at the Paris Peace Conference.¹³⁸

Denikin had the following proposals:

1. The Georgians must retreat behind the river Bzyb (south of Gagra).
2. Sukhum may temporarily remain under the Georgian administration, provided that Russian property there, and in Georgia, was safeguarded.
3. In the areas occupied by Georgia lands may be expropriated if the people supported such steps and compensation was given to the owners.¹³⁹

Denikin declared that he could only accept points 2 and 3 of the Georgian proposal, while the Georgian representatives were willing to accept point 2 and 3 of Denikin's proposal. This means that point 1, the northern frontier of Georgia, remained a problem. No party wanted to give up its claims to Sochi.

The British Commander in the Caucasus, Major-General Corey, drew a demarcation line, which the Volunteer Army was prohibited to

¹³⁵ Kazemzadeh, 237–238.

¹³⁶ Kazemzadeh, 238.

¹³⁷ Kazemzadeh, 23.

¹³⁸ Kazemzadeh, 239–240.

¹³⁹ Kazemzadeh, 240.

cross. It ran from the mouth of the river Bzyb¹⁴⁰ northward, following that river until it reached the border of the Sukhum District, then east along the borders of the Kutaisi and Tiflis guberniia and the Dagestan region, to a point five miles south of the Petrovsk-Vladikavkaz railway, subsequently southeastward, parallel to the railway, ending on the shore of the Caspian sea five miles south of Petrovsk (Makhachkala). On 11 June 1919 the Georgian government was informed of the British decision. This time Denikin respected the new frontier.¹⁴¹

Bolshevik Russian Occupy Abkhazia and Georgia

At the end of February 1921 the frontier between the Russian XI Red Army and the army of the Georgian Mensheviks was at the river Psou.¹⁴² On 22 February 1921 the Russian Bolshevik army arrived in Gagra, and on 25 February they reached Tiflis. On 4 March 1921 the Red Army occupied Sukhum, and Soviet power was proclaimed. On 10 March 1921 the Abkhaz Revkom sent a telegram to Lenin that the Abkhaz government recognized Bolshevik power.¹⁴³ The SSR Abkhazia, independent from Georgia, was proclaimed on 31 March 1921.¹⁴⁴

On 26 March 1921 the Revkom of Abkhazia had sent a telegram to Lenin and Stalin about the status of Abkhazia as an independent Republic within the RSFSR. This was followed on 31 March 1921 by a radiogram of the Revkom of Abkhazia about the creation of the Abkhaz SSR. On 21 May 1921 the Revkom of the SSR Georgia issued a declaration in which it recognized the SSR Abkhazia.¹⁴⁵

Nestor Lakoba and Efrem Eshba, the principal Bolshevik politicians in Abkhazia, had visited the Turkish leader Kemal Atatürk and his advisor Rauf Orbay (his Abkhaz name was Askharawa) who was an ethnic Abkhaz, at the request of Lenin. This paved the way for

¹⁴⁰ The old Georgian frontier.

¹⁴¹ Kazemzadeh, 245, and *Bor'ba za Pobedu Sovetskoi Vlast'i v Gruzii*, 1958, pp. 168–169.

¹⁴² Comparable to the situation in 2000.

¹⁴³ Dzidzaria, 205 document 223, but here it is 4 March and p. 214, document 236, the date is 10 March. A similar text was sent to Georgia, document 237, p. 214.

¹⁴⁴ *Soiuz Ob"eninennykh Gortsev Kavkaza i Dagestana (1917–1918gg), Gorskaiia Respublika (1918–1920gg)*, 1994, p. 373, Document 219. Dzidzaria, 220, Document 243.

¹⁴⁵ This declaration can be found in *Soiuz Ob"edinennykh Gortsev Severnogo Kavkaza i Dagestana (1917–1918gg), Gorskaiia Respublika (1918–1920gg)*, 1994, p. 374, Sagaria, 27–29.

the Treaty of Kars, in which Turkey ceded Batum to Georgia. Lakoba also founded a communist party in Turkey. The proclamation of the Abkhaz SSR was tolerated by Lenin as a reward for the work of Lakoba and Eshba in Turkey. Stalin was against recognition of Abkhazia as an SSR, since he preferred the idea that 'lower developed areas' would be incorporated into bigger ones, which would mean that Abkhazia would form part of Georgia, which in turn formed part of Russia. There was no unity at the top on this matter, and this later resulted in confusing situations (in the Constitution of the Georgian SSR in 1922 Abkhazia was an SSR, in the USSR Constitution of 1924 Abkhazia was called an ASSR, although its status had not changed). Abkhazia did not become a regular SSR like Georgia, Armenia and Azerbaijan, but a so-called treaty-SSR. In the treaties concerning the TSFSR it is not mentioned on an equal basis with Georgia, Armenia and Azerbaijan, which indicated that the SSR status was only a formal matter, while Georgia represented Abkhazian interests. Maps of this period show Abkhazia as an SSR, but within the borders of Georgia. So, although Abkhazia had in theory equal status with the other Transcaucasian SSR's, and it was recognized by Georgia, Abkhazia had never been accepted as such in the Russian Federation and later in the Soviet Union. Stalin's decision in 1931 to change the status of Abkhazia to an ASSR was a *de facto* formalization of the existing situation since 1921.

Friendship and Cooperation Treaty

On 16 November 1921 two points were drafted concerning the relation between Abkhazia and Georgia:

1. To regard the existence of an independent Abkhazia economically and politically inexpedient;
2. To propose to comrade Eshba to present his final conclusions on the entering of Abkhazia into a federation with the Georgian Federation on the basis of a treaty or into the RSFSR as an autonomous region.¹⁴⁶

On 16 December 1921 a Friendship and Cooperation Treaty was signed between the SSR Georgia and the SSR Abkhazia in which the

¹⁴⁶ Lakoba, *Istoriia Abkhazii*, 330, and Sagaria, 35.

following political activities were decided centrally by the Georgian parliament:

1. The SSR Georgia and the SSR Abkhazia enter into a military, political, financial-economic union between each other;
2. For the realization of the goal mentioned in the preceding article both governments declare the following Commissariats as united: a) military, b) financial, c) national economy, d) post and telegraph, e) extraordinary commission, f) workers-peasant inspection, g) national commissariat of justice, h) sea transport;
Note: Foreign affairs remain completely in the jurisdiction of the SSR Georgia.
3. The railways fall directly under the control of the direction of the Transcaucasian railways. The external commerce will be under the jurisdiction of the united military trading consortium of the republics of Georgia, Azerbaijan and Armenia;
4. The order and form of government of the united commissariat(s) are established by a special agreement of both governments;
5. At all regional unifications, in particular the Federation of the Transcaucasian Republic, Abkhazia enters through Georgia, which it gives it one third of its seats;
6. The present treaty comes into effect from the moment of its signing.¹⁴⁷

Abkhazia in the Constitutions

The Constitution of the SSR Georgia of 2 March 1922 mentioned Abkhazia as an SSR with Georgia.¹⁴⁸ This was in conformity with the treaty signed on 16 December 1921. Although nominally similar in status (treaty-SSR instead of SSR) to Georgia, Armenia and Azerbaijan, Abkhazia is not mentioned in the TSFSR Constitution. It entered the TSFSR as part of Georgia. The same held for the TSFSR Constitution of 1925.

As we saw, Abkhazia became part of the TSFSR through Georgia, in conformity with the Georgian Constitution of 1921.¹⁴⁹ On 30 December 1922 Abkhazia became a party to the treaty establishing the USSR as a sovereign republic within Georgia, just as in Article 4

¹⁴⁷ *Soiuz Ob"edinennykh Gortsev Severnogo Kavkaza i Dagestana (1917–1918gg), Gorskaiia Respublika (1918–1920gg)*, 1994, p. 377, and Lakoba, *Istoriia Abkhazii*, 330, Sagaria, 36.

¹⁴⁸ Lakoba, in Hewitt, 93.

¹⁴⁹ According to Lakoba (in Hewitt, 92, this clause contradicted the Act of Autonomy of 20 March 1919, which at that time had been ratified by the Constituent Assembly. For Abkhazia, at least in theory, its status had already been worked out.

of the Union Treaty of 16 December 1921.¹⁵⁰ In the Abkhazian Constitution of 1925, Abkhazia was presented as independent from the former Georgian Democratic Republic, which meant the Menshevik government that had already been in exile for four years. The Constitution continued to mention that the treaty- SSR Abkhazia had special links with the SSR Georgia, which was still the case. Article 5 declared Abkhazia a sovereign state, which meant in terms of general principles of international law that it could enter the international community. It is doubtful whether this is what the Georgians had in mind when they recognized Abkhazia in the Peace- and Friendship Treaty of 1921.

The Georgian Constitution of 1921 mentioned Abkhazia as an integral part of Georgia, which meant that sovereignty belonged to Georgia. Finally, national minorities were protected. Another point is that Georgian sovereignty had passed to the TSFSR, which in turn had given it up to the central government in Moscow. Therefore, it is very doubtful whether this sovereignty was more than just a word on paper. A new Constitution had been adopted in Georgia in March 1925; in April Abkhazia and the TSFSR issued new Constitutions, all as a result of the adoption in 1924 of the USSR Constitution, which required modifications in subordinate constitutions. Chapter V, in the Articles 87, 88 and 91, of the Georgian constitution dealt with the special treaty status of Abkhazia. In 1926, following approval of Georgia's 1925 Constitution, Abkhazia modified its Constitution, changes which came back in the Georgian Constitution of 1927.¹⁵¹

Abkhazia Loses Treaty-SSR Status

At the beginning of 1931 the ruler over Abkhazia, the Abkhaz Bolshevik leader Nestor Lakoba, was given the choice by Stalin either to enter Georgia as an ASSR, or introduce collectivization of individual farms. Lakoba then decided to choose the lesser of two evils. In February 1931, the VI Session of the Soviet of the SSR Abkhazia met to discuss and approve the decision "On the inclusion of the Socialist Soviet Republic Abkhazia in the Socialist Soviet Republic Georgia as an autonomous republic". This decision taken by Stalin annulled the treaty of 16 December 1921 that created the treaty-SSR Abkhazia.

¹⁵⁰ J. Colarusso, *Abkhazian Legal Synopsis*, p. 8, and *USSR: Sixty Years, 1922–1982*, p. 164.

¹⁵¹ Lakoba, in Hewitt, 93.

Abkhazia under the 1936 Constitution

Article 25 of the 1936 Constitution declared that Abkhazia formed part of the Georgian SSR as an ASSR, a continuation of the situation established by the treaty of 19 February 1931.

CHAPTER EIGHT

ARMENIA BETWEEN 1918 AND 1921

The Armenian-populated areas in the Russian Empire changed dramatically in the years after the Russian Revolution. They were part of the Transcaucasian Federative Republic, became independent in 1918, lost their independence on 30 November 1920, becoming an SSR in the RSFSR, and finally merged in 1922 with the other Transcaucasian republics in a federation as part of the emerging Soviet Union. In this chapter an overview will be given of the changing boundaries of Armenia from the time of the Russian Revolution until the promulgation of Stalin's Constitution in 1936.

Turkish Armenia and Russian Armenia

According to the last figures before the Armenian genocide in 1915–1917, which date from 1912, the Armenians in the Turkish Empire (especially Eastern Anatolia) were geographically distributed as follows:¹

Turkish Armenia	1,018,000
Other parts of the six vilayets (provinces) ²	145,000
Cilicia	407,000
European Turkey and the remainder of the Empire	530,000

¹ See for the Armenian genocide J. Lepsius, *Massacres d'Arménie, Rapport Secret*, (Paris: Payot & Cie, 1918), H. Morgenthau, *Ambassador Morgenthau's Story*, (New York: Garden City, 1918), H. Morgenthau, *The Tragedy of Armenia*, (London: Spottiswoode, Ballantyne & co., ltd, 1918), D. Bloxham, *The Great Game of Genocide* (Oxford: Oxford University Press, 2005), R. Kévorkian, *Le génocide des arméniens* (Paris: Odile Jacob, 2006), T. Akçam, *A Shameful Act: The Armenian Genocide and the Question of Turkish Responsibility* (New York: Metrolitan Books, 2007), the Bryce Report by Lord James Bryce, http://www.firstworldwar.com/source/brycereport_armenia.htm, Hovannisian, 36.

² Erzerum, Bitlis, Van, Diarbakir, Kharput and Sivas.



http://en.wikipedia.org/wiki/File:Armenia_template.png

Map 8 Armenia

In the Russian Empire, Armenians were distributed as follows over the provinces:³

Tiflis	411,000
Baku	120,000
Elisavetpol	419,000
Yerevan	670,000
Kars	125,000

As we see, the majority of the Armenians lived in the Ottoman Empire, and more particularly in the northeast of it, while for the Armenians in the Russian Empire the majority lived outside the area we today call Armenia, and in other parts of the Transcaucasus.

Turkish Armenian Nationalism

The Armenian nationalist politicians first worked towards autonomy, but during the First World War this changed to a desire for complete independence. The Turkish massacres of Armenians in Turkey had significant influence on this shift. In May 1917, after the First Russian Revolution, Armenian politicians developed a plan according to which the six Turkish provinces of Erzerum, Bitlis, Van, Diarbakir, Kharput and Sivas, Cilicia, with the ports of Mersina, Alexandretta on the Mediterranean Sea, and the port of Trabzon (Trebizond) on the Black Sea would become autonomous. Armenians since before the First World War had traditionally inhabited these areas. Nothing was said with regard to claims on Russian Armenia. The Armenian politicians hoped to gain the protection of the Allied Powers. There were no plans to unite Turkish and Russian Armenia.

In June 1916 the Russian Czar had issued a decree that the administration of Turkish Armenia came under military rule.⁴ This was followed on 26 April/9 May 1917 by an “Arrangement about Turkish Armenia”, issued by the Provisional Government:

1. The land of Turkish Armenia, in so far as the civil administration taken over by the Russian forces is concerned, is removed from the jurisdiction of Caucasian administrative bodies and of the military

³ “The Armenian Question Before the Peace Conference” and “L’Arménie au point de vue géographique, historique, statistique et culturel”, in Hovannisian, 92.

⁴ Hovannisian, 78–79.

authorities of the Caucasian front, and is subject directly to the Provisional Government.

2. The powers mentioned in Article 1, as well as the prerogatives granted to the governor-general for the administration of these Turkish Armenian regions by the temporary law of June 5/18 June 1918, are entrusted by the Provisional Government, to its appointed General Commander for Turkish Armenia.
3. The General Commander of Turkish Armenia will have an assistant to deal with civil affairs.
4. The General Commander, in pursuance of a report from his assistant for civil affairs, will immediately submit to the Provisional Government his proposals for desirable additions to, or changes in, the 5/18 June 1918 temporary law concerning the administration of Turkish Armenian regions”.⁵

Nothing was said in this decree about autonomy, either in the present or the future.

During the First World War the Russian Czar had issued promises to the Armenians for more autonomy. These promises lost all of their value after the Russian Revolution. Soon after the October Revolution, in December 1917, the Council of People's Commissars (Sovnarkom) in Petrograd issued a decree “On Turkish Armenia”, which allowed self-determination for the Armenians.⁶ This can be regarded as a sign that again Russia supported Armenian claims to Turkish territory.

Around 1918 Armenia formed several political parties, some originating in Turkish Armenia, some in Russian Armenia. The oldest party was the Hunchak party. This Social Democratic Party was founded in Geneva in 1887. Its aim was to gain Armenian independence from the Ottoman Empire. The second oldest political party in Armenia is the Armenian Revolutionary Federation (ARF), also known as the Dashnaktsutun (also called Dashnaks). This political party was created in Tbilisi in 1890. The aim of the party was to unite Turkish and Russian Armenia. Another political party was the Socialist Revolutionaries (Young Dashnaks), who left the ARF in 1907. From 1919 onwards

⁵ Hovannisian, 79.

⁶ Dated 29 December 1917/11 January 1918, FO 371/3449, in: Burdett, *Armenia*, 373.

their political program differed only slightly from that of the ARF.⁷ The Social Democrats comprised Bolsheviks, Mensheviks, and Specifists. Important Armenians in this group were Stepan Shaumian, who headed the Baku Commune, and was shot by the White Army; And Anastase Mikoyan who in 1919 gained influence for the Bolsheviks. The Armenian Populist Party was created in 1917, and was a reforming and liberal party. After 4 November 1918 they ruled in Armenia in a coalition with the ARF.⁸ The Constitutional Democratic Party of Armenia or Ramgavar Party was the merger of the Hunchak Party and the Armenakan Party, which had been created in Van in 1885. This new political Party was created in 1908. The party's aim was to fight for equal rights and liberty and to democratize the Ottoman Empire.⁹

Among right wing parties in Armenia were the Populist Armenian Party, founded in 1917 by Armenian members of the Democratic Constitutional Party of Russia. This party enters in a coalition with the Dashnaks in 1918. Another right wing party is the Ramgavar Party, created in 1908 through a fusion of the Hunchak party and the Armenakan party. Its aim was to democratize the Ottoman Empire.

Armenia in the Treaty of Brest-Litovsk

In Article 4 of the Treaty of Brest-Litovsk, Russia ceded the provinces of Eastern Anatolia to Turkey. Russian troops would leave Kars, Ardahan and Batum and Russia would not interfere in constitutional matters and public law regarding Kars, Ardahan and Batum. This latter territory would have the possibility to sort out on its own its relationships with neighboring states, most notably with Turkey.¹⁰ In order to implement the Treaty of Brest-Litovsk, a conference specifically for the Transcaucasus was organized in Trabzon (Trebizond), which began on 12 March 1918.

⁷ A. Ter Minassian, *La République d'Arménie*, (Brussels: Editions Complexe, 1989), p. 144.

⁸ Ter Minassian, 149.

⁹ Ter Minassian, 150.

¹⁰ A. Poidebard, *Appendices Textes Diplomatiques*, (Paris: Imprimerie Nationale, 1924), pp. 19–20.

Armenian Independence

From 11 April 1918 to 28 May 1918 Armenia formed part of the independent Transcaucasian Federal Republic, which started to disintegrate on 26 May 1918 when Georgia declared its independence and left the Federation. After the declaration of independence of Armenia on 28 May 1918 in Tiflis, the Armenian National Council published on 30 May 1918 a declaration of independence, and with it the Dashnaktsutiun (nationalist) party came to power.¹¹

Armenia was more or less forced into treaties like Brest-Litovsk and Batumi by military pressure from Turkey. Nevertheless, the fact that these treaties were signed, either by Russia on Armenian behalf, as in the case of Brest-Litovsk, or by Armenia proper, as in the Treaty of Batumi, caused Armenia to be bound by the treaties. The declaration of independence was again imposed. The separation of the Transcaucasian nations gave Turkey even more space to maneuver itself into a favorable position to extend its territory to Russian Armenia. The territory of Armenia was at this moment similar to its composition in the Treaty of Batumi.

Delimitation of Armenian-Turkish Borders

Both Turkey and Armenia were signatories to the Treaty of Batumi. Frontiers were delimited. Kars, Akhaltsikhe, Akhalkalaki and Borchalo (Gubernia of Tiflis), the whole eastern part of the districts of Alexandropol and Echmiadzin, the south of Yerevan and of Sharur, and the major part of Nakhichevan were ceded to Turkey. The railway of Alexandropol-Julfa, and the railways of Erzerum and Van (Shakhtakhti) also became Turkish territory. The ceding of territory is legal, insofar as it is done through a treaty which is signed by both parties concerned.

In the Treaty of Batumi the peace between Turkey and Armenia was underscored, friendly relations and principles of goodneighborliness were established, as well as co-operation in the field of politics, law, economics and the intellectual fields. According to Poidebard the sign-

¹¹ Conseil National Arménien, in: Poidebard, *Appendices Textes Diplomatiques*, 23.

ing of the Treaty of Batumi by Turkey and Armenia signified Turkish recognition of Armenia.¹²

Article 2 of the treaty described the frontier between the Ottoman Empire and Armenia. According to Article 3 of the Treaty of Batumi the frontier between Armenia and Azerbaijan would be delimited by a special commission. Article 4 gave Turkey the possibility of coming to the help of the Armenians if the internal situation required intervention. Armenia promised to do whatever it could to disband and disarm armed groups on its territory, even in cases where these bands were only on its territory to seek refuge (Article 5). This clause was meant to prevent the Republic of Armenia from training groups, or even allowing groups that sought a greater Armenia including Turkish territory. Article 6 concerned the rights of the Muslim population in Armenia who would have the possibility to practice their religion officially.

Armistice of Mudros

The end of the First World War in this region became a fact when the armistice of Mudros was signed on 30 October 1918 between the Allies and Turkey. It contained several clauses concerning Turkey and Armenia. Article 1 of the Armistice concerned territory claimed by the Armenians, but under Turkish control. Armenians at that time did not form a majority in any of these areas. Article 15 would give the territories, occupied by the Turks, a certain protection with regard to the population living there; the clause by which the Allies wanted the population to choose their own fate was typical of the promotion of self-determination propagated just after the War.

Armenian Government Convened

Just after the parliamentary elections of June 1919, in August a new government was created, dominated by the Dashnaks, with Alexander Khatisian as minister-president.¹³ An important point on the political agenda was the preservation of Armenian territory and sovereignty.

¹² Poidebard, *Le Transcaucase et la République d'Arménie dans les textes diplomatiques*, 6.

¹³ Ter Minassian, 151.

There was also a desire for unification of Armenian lands now held by Turkey to be returned to the Armenian state. The possibility of becoming a mandate state under the League of Nations system was regarded as favorable. The good relations with Georgia, Azerbaijan, Persia, and Russia had to be preserved.¹⁴

Secret Treaties

Near the end of the First World War, negotiations between the Allies, on the one side, and Turkey and Germany on the other side, were held in order to divide territory. Only then did it turn out that during the war secret arrangements had been made between the Allies and Russia, which narrowed the scope of the negotiations. Russian Armenia had been promised autonomy by the Czar, if it would fight against the Turks. In the spring of 1916 Britain, France and Russia came to an agreement regarding spheres of influence and territorial acquisitions. This was laid down in a memorandum published on 6 March 1917 with the following clauses:

The general principles of the agreement are as follows:
Russia obtains the provinces of Erzerum, Trebizond, Van, and Bitlis.
[...] The limit of Russian acquisitions on the Black Sea coast will be fixed later on at a point lying west of Trebizond.¹⁵

Another secret agreement was signed between Britain and France on 23 December 1917, where the Cossack territories, the territory of the Caucasus, Armenia, Georgia (and) Kurdistan were awarded to Britain as its zone of influence.¹⁶

Kars Oblast and Nakhichevan to Armenia

At the end of the First World War the British government acquired the Transcaucasus as its sphere of influence. The British troops tried to keep the warring sides apart. In April 1919 the British were to implement the following policy:

¹⁴ Ter Minassian, 154–155.

¹⁵ Cocks, 45.

¹⁶ Chr. Walker, *Armenia: Survival of a Nation*, (London: St. Martin's Press, 1980), p. 259.

Kars Province and Nakhichevan Area will be handed over to the Armenian government for administration pending the settlement by the Peace Conference. The Military Governorship of Borchalo will be done away with, and this area will be taken over for administration by either Georgia or Armenia and divided between them; this question has yet to be settled. Repatriation up to the old Russian Frontier will be commenced, and the Armenians gradually re-instated, the whole to be completed by 30th April 1919.

The Kars Shura (government) will be dispersed as soon as possible and its leaders deported. The Turks of whom you have the least suspicion will be arrested and sent to Tiflis. The above arrangements will be completed by April 30th and the British troops withdrawn leaving only a Mission with the Armenian Government.¹⁷

Because the British government was responsible for the Caucasus, one could argue that the ceding of Kars and Nakhichevan to Armenia was lawful. On the other hand, the fact that the population and local rulers from these areas were not involved in this decision, and that there was no treaty however, makes legality doubtful. Yet another way of looking at it is that this decision was only temporary, until the Peace Conference had made a decision, and therefore it might not have been regarded as apt to put decisions in a treaty.

Nakhichevan held a majority of Azeris, and it is therefore surprising that the British ceded it to Armenia, even if only temporarily. The reason for this was that Nakhichevan was strategically important in order to secure the Armenian territory near Nakhichevan, which would be too vulnerable to Turkish or Azeri attacks. Kars was traditionally populated by Armenians, and was at that moment under Turkish authority. Borchalo was claimed both by Armenia and Georgia.

The Southern Command, the British command which had come from Persia and was now stationed in the Azerbaijan capital Baku, was directed to follow this policy with regard to Kars:

1. To transfer there at once for the dispersal of the Shura and for the deportation of its leaders, this to be accomplished before either the introduction of an Armenian administration or the repatriation of refugees; [...]
3. To apprehend, in addition to the Shura leaders, any other persons deemed prudent and to deport both groups immediately to Tiflis; [...]

¹⁷ R.G. Hovannisian, *The Republic of Armenia, Vol. I, The First Year, 1918–1919*, (Berkeley: University of California Press, 1971), pp. 215–216.

5. To instruct Lieutenant Colonel Preston, the military governor, to manage provincial affairs through whatever kind of local council considered advisable or procurable until such time as the Armenian administration was introduced and the whole province eventually governed and garrisoned by the Armenian Republic; [...]
8. To accomplish all the above measures in time to allow the withdrawal of British troops from the Province by April 30, 1919.¹⁸

The mention in this document of the pre-war Russian-Turkish frontiers indicated that the British were pro-Armenian, or at least anti-Turkish, since it seemed to be their intention to return the territory Turkey had gained to Armenia. The Shura in Kars was the Turkish governorship, which in accordance with the above documents had to be deprived of its functions. The return of refugees was an important issue. Since there were so many, and in such a bad condition due to war and famine, that return to their former homes was critical. Since large groups of wandering refugees formed a security risk. Another problem was that humanitarian help was needed in the short term, but due to logistic and political problems around Batum this was difficult to arrange.

Transcaucasian Borders

On 24 May 1919, the following was decided by the representatives of the three Transcaucasian states with regard to border disputes:

1. The internal boundaries of Transcaucasia were to be drawn in conformity with the right of peoples to determine their own destiny.
2. Only border districts were to be subject to litigation or partition.
3. The partition of borderlands was to result from mutual agreement of the interested republics, or, failing this, from arbitration.¹⁹

These rules reflected what was happening at the Paris Peace Conference. The right to self-determination of peoples was a central issue, and with that in mind frontiers were drawn with consent of the relevant parties.

¹⁸ R.G. Hovannisian, *The Republic of Armenia, Vol. I, The First Year, 1918–1919*, 216.

¹⁹ R.G. Hovannisian, *The Republic of Armenia, Vol. I, The First Year, 1918–1919*, 350.

The American government decided to send a fact-finding mission to the Caucasus to see what risks there would be in accepting a mandate for Armenia.

The King-Crane Commission

From 10 June 1919 to 21 July 1919 the American delegates King and Crane visited the Caucasus in order to see what possibilities there were for a future policy. They recommended that three new units should be formed on the territory of the former Ottoman Empire: Armenia, an international state in Istanbul, and Turkey. All three should be placed under a mandatory power. The United States was asked whether it wanted to accept a mandate over Armenia. The King-Crane Commission stated that should the US accept a mandate over Armenia, three requirements had to be fulfilled:

1. Such a mandate should be desirable to the Turks. The Turks should be prepared not only to surrender territories for the formation of an Armenian state but even encourage the return of the Armenians to their homeland;
2. That Russia relinquish any aspirations to Caucasian Armenia;
3. That the Allies gave up their ideas of zones of influence.²⁰

In order to complete the results of the King-Crane Commission, a new mission was sent to the Caucasus, headed by US General James Harbord.

The Harbord Commission

In that same month May 1919, Britain announced that it intended to terminate its military occupation in the Caucasus. The British Foreign Secretary Lord Curzon approached the Americans to see whether they were willing to accept a mandate for Armenia. The American Congress

²⁰ G. Gorganian, "From Brest-Litovsk to Lausanne: the Memoirs of General Gorganian, in: *Armenian Review*, Vol. 29, No. 2, 1976, pp. 118–119. More information on the King-Crane Commission in H.N. Howard, *The King-Crane Commission*, (Beirut: Khayats, 1963). In page 359–361 the recommendations of the Commission are given.

was unwilling to do so. President Wilson was in favor, and dispatched a commission, led by Major-General J.G. Harbord, called the Harbord Commission, to investigate the possibility of an Armenian mandate for the USA that would convince Congress. Harbord's task would also be to take charge of the repatriation and rehabilitation of Armenian refugees from Turkey.²¹

Harbord's instructions were to "investigate and report on political, military, geographical, administrative, economic and other considerations involved in possible American interests and responsibilities in that region."²²

The Harbord Commission favored a mandate over all of Asia Minor and Constantinople rather than one over Armenia alone.²³ Thus the conclusions of the King-Crane Commission and the Harbord Commission coincided for the greater part.

The report of the Harbord Commission reached President Wilson in November 1919. In April 1920 it was submitted to the Senate, which rejected the proposal of a mandate.

Armenia at the Paris Peace Conference

On 28 May 1919 the government of the Armenian Republic adopted a declaration on the independence of a unified Armenia, which meant the annexation of Turkish Armenia. This document was signed by the president of the Armenian government, Alexander Khatisian.²⁴ This was in line with the Declaration on Turkish Armenia, which the Bolsheviks had issued in 1917. The Armenian government sent a delegation to Paris to present Armenian claims to the Peace Conference.

At the opening of the Peace Conference in Paris in January 1919, the Armenian republic was not admitted.²⁵ The reason was that neutral

²¹ Hovannisian, *The Republic of Armenia, Vol. I, The First Year, 1918–1919*, 334.

²² Hovannisian, *The Republic of Armenia, Vol. I, The First Year, 1918–1919*, 334–335.

²³ The Harbord Commission concluded that the United States had obligations nearer home (both internal and in the American region), Hovannisian, *The Republic of Armenia, Vol. I, The First Year, 1918–1919*, 356–357.

²⁴ "Le Gouvernement de l'Arménie fait cette proclamation en vertu de la résolution du 2 Avril 1919 du parlement, qui lui a conféré un mandat special.", in: Poidebard, *Appendices Textes Diplomatiques*, 43–44.

²⁵ Boghos Nubar, who presented Armenia at the Peace Conference, wrote to President Wilson of the USA to ask for Armenia to be allowed to be represented. President

states and those in the process of formation were only heard either orally or in writing, and only when questions which directly concerned them were examined. These new states or states in formation could not participate in the proceedings. The leader of the Armenian mission, Aharonian, declared that the government of the Armenian Republic had charged him to bring the following to the attention of the Peace Conference:

1. By signing the Treaty of Brest-Litovsk, which ceded Kars and Ardahan to Turkey, Russia had severed the ties which united her (i.e. Armenia, Ch.H.) with Russia;
2. Since Armenia had participated in the war on the sides of the Allies, it claimed an equal status at the Conference with newly formed countries as Poland, or Czecho-Slovakia.²⁶

The territorial claims of Armenia before the Peace Conference, as presented by the Armenian delegation, led by Mr. Aharonian for the Caucasian Armenians and Mr. Boghos Nubar Pasha for the Armenians in Turkey, on 26 February 1919, were as follows:

...the regions which should form part of the Armenian State are the following:

1. The 7 vilayets of Van, Bitlis, Diarbakir, Kharput, Sivas, Erzerum and Trebizond (in conformity with the Reform Act of February 1914), excluding the regions situated beyond the South of the Tigris and to the West of the line between Ordu-Sivas.
2. The four Cilician Sandjaks, i.e. Marash, Khozan (Sis), Djebel-Berekt and Adana with Alexandretta.
3. All the territories of the Armenian Republic of the Caucasus, including: the whole province of Erivan, the southerly portion of the former Government of Tiflis, the southwesterly part of the Government of Elisavethpol; the provinces of Kars, with the exception of the region to the north of Ardahan.²⁷

Wilson and French Minister of Foreign Affairs Pichon expressed their sympathy for the Armenian cause.

²⁶ Kazemzadeh, 259.

²⁷ A. Aharonian and B. Nubar, *The Armenian Question before the Peace Conference*, (Paris: Impr. P. Dupont, 1919), p. 5 and in another translation, Hovannisian, *The Republic of Armenia, Vol. I, The First Year, 1918-1919*, 278. Also reprinted in *Armenian Review*, Vol. 27 (1974), No. 3, pp. 228-259.

The other Armenian claims included:

1. The recognition of an Independent Armenian State, formed by the union of the seven vilayets and of Cilicia with the territories of the Armenian Republic of the Caucasus;
2. That the Armenian State, thus constituted, be placed under the collective guarantee of the Allied Powers and the United States or under that of the League of Nations of which she requests that she may form a part;
3. That Special Mandate be given by the Peace Conference to one of the Powers to lend the necessary assistance to Armenia during a period of transition. The Armenian Conference, gathered at the present moment in Paris, and representing the whole Armenian nation, should be consulted about the choice of the Mandatory Power. The mandate to be of a maximum duration of twenty years;
4. that an indemnity be fixed by the Peace Conference for making good the damages of all kinds suffered by the Armenian Nation through massacres, deportations, spoliations, and devastations of the Country;
5. That the assisting Power have particularly as her mandate:
 - a. To obligate the Turkish, Tatar, and other authorities who still occupy these territories to evacuate them;
 - b. To carry out the general disarmament of the population;
 - c. To expel and to punish those who have participated in the massacres, done violence to the population, taken part in plunders or benefited from the spoils of the victims;
 - d. To drive out of the country the elements of disturbance and disorder; and to expel the nomadic tribes;²⁸
 - e. To send away the muhadjirs, Musulman colonists, implanted under the Hamidian rule and that of the Young Turks;
 - f. Lastly to have all necessary steps taken everywhere, in Armenia and outlying districts, for the return to their former Christian Faith of all women, young girls, children and others converted by force to Islamism or kept captive in Harems.²⁹

²⁸ By 'nomadic tribes' were meant Azeri and Kurdish shepherds.

²⁹ Aharonian, Nubar, 7–8.

De Facto Recognition of Armenia

Georgia and Azerbaijan had been recognized *de facto* by the League of Nations on 10 January 1920 in order to keep influence in the Caucasus.³⁰ *De facto* recognition of Armenia followed 9 days later, on 19 January 1920. The head of the Armenian Delegation, Aharonian, was informed of the decision on 27 January. The resolution, adopted at the Peace Conference read as follows:

It is decided,

1. That the Government of Armenia shall be recognized a *de facto* government,
2. That this recognition shall not prejudice the question of the eventual frontiers of that State.³¹

The Second Assembly of the League of Nations adopted on 21 September 1921 a resolution in which the League Council stressed the need to safeguard the future of Armenia and to create an Armenian National Home before the Supreme Council of the Allied Powers. The League resolution called for an Armenian Home entirely independent of Turkish rule.

Mr. Aharonian formally asked the League of Nations, on 25 September, to admit Armenia as a member to the League of Nations and recognize Armenia *de iure*. This decision was taken after it had become clear that neither the United States nor any of the European Powers would accept a mandate for Armenia as had been asked for by the Armenian delegation. As a member of the League of Nations Armenia would be recognized as a state by the world community, and have military protection (as limited as it was) from the member states of the League of Nations.

³⁰ *Documents présentés par le Gouvernement de la République de Géorgie à la première Assemblée de la Société des Nations*, pp. 10, 37–39. R.G. Hovannisian, *The Republic of Armenia, Vol. II, From Versailles to London, 1919–1920*, II, (Berkeley: University of California Press, 1982), p. 499.

³¹ British FO 371/3660, 172323/512/518. Another translation can be found in R.G. Hovannisian, *The Republic of Armenia, Vol. II*, 512.

The following questions had to be examined before Armenia could be admitted to the League of Nations:

1. Was the application for admission to the League as required?
2. Was the government applying for admission recognized *de iure* or *de facto*, and by which states?
3. Was the applicant a nation with a stable government and settled frontiers? What were its size and population?
4. Was it fully self-governing?
5. What had been its conduct, including in acts and assurances with regard to
 - a) its international obligations;
 - b) the prescriptions of the League as to armaments?³²

- Ad 1. No information on the request could be found to evaluate this.
- Ad 2. Armenia had been recognized *de facto* since January 1920 by the League of Nations and had been recognized *de iure* since December 1920 (for what it was worth, since this coincides with the Sovietization of Armenia and its loss of statehood) by the League of Nations.
- Ad 3. There were different views on where the frontiers of the Armenian state would be. According to some this should include parts of Turkish Armenia as well. As has been stated above this would result in territories where the Armenians would be only a minority. The frontiers as they had been in the Russian Empire had been changed many times during the war, and were porous, seeing huge masses of Armenian refugees entering from the Ottoman Empire. In the years of independence the government was not capable to put a halt to the Turkish troops and conflicts with neighbors Azerbaijan and Georgia over territory did not strengthen the influence of the government on the whole of the territory. The conclusion must be that the government was weak, and the borders point of discussion. Therefore, it was difficult to assess the precise size and population of the proposed area.

³² Avalishvili, 271.

- Ad 4. Armenia was legitimately self-governing, having a government ruling from Erevan. However due to the huge amount of Armenian refugees from the Ottoman Empire, and the ongoing attacks by Turkey the government ruled over a weak state.
- Ad 5. a. Due to the difficult security situation Armenia rather needed support from other states than that anything could be said about its international obligations.
- b. No information is available to answer this question.

In December the Allies had sent a telegram to the League of Nations that was unfavorable with regard to a possible Armenian admission to the League. On 16 December 1920, the Assembly formally denied Armenia admission and recognition *de iure*.³³

On 19 December 1920 the 5th Commission of the Assembly recommended to postpone a definite decision on Armenian membership and to allow the Republic to participate in technical organizations of general interest to the League. In fact this was a denial of membership with the promise that things might change in the future.³⁴ However, as we shall see later in this chapter, at that moment Armenia had already been invaded and occupied by Russian forces, which makes the recommendations to postpone a decision on membership empty.

Arbitration Treaty between Armenia and Georgia

After the declaration of independence, the Armenian government started to sign arbitration and trade treaties with its Transcaucasian neighbors Georgia and Azerbaijan in order to secure its position in the region. An arbitration treaty between Armenia and Georgia was signed on 3 November 1919.³⁵

³³ Records of the First Assembly, Plenary Session, 1920, 28th Session, p. 589 and in Terzian, 165, Hovannisian, *The Republic of Armenia*, Vol. II, 500 and FO 158836/1615/58.

³⁴ Burdett, *Armenia*, 707, and Terzian, 165.

³⁵ *Consolidated Treaty Series*, 1919, p. 297.

Agreement between Armenia and Azerbaijan concerning Zangezur

Armenia and Azerbaijan had several territorial disputes. One of them was about sovereignty over the district of Zangezur, which at that moment belonged to Azerbaijan.³⁶

In an agreement Armenia and Azerbaijan left a decision on the fate of Zangezur to the Allies at the Peace Conference. At the same time, they allowed self-governance by the local government of Zangezur. The local government in the spring of 1920 consisted of Armenians. This government was replaced by the Azerbaijani Khosrov Bek Sultanov, who was accepted by both the governments of Azerbaijan and Armenia, awaiting a decision by the Paris Peace Conference.

This agreement had an arbitration clause, indicating the willingness of Armenia and Azerbaijan to return to peace and reconstruct their respective countries. Again this meant a bilateral recognition *de iure* of the other state, even though it might have been implied recognition.

The day after the agreement on Zangezur had been signed, a similar agreement was concluded, which could be interpreted as a mere declaration of intent. The prime ministers of Armenia and Azerbaijan signed this agreement; with the American General Rhea and the Georgian Minister of Foreign Affairs Gegechkori as witnesses.³⁷

London Conference

Britain and France convened a Conference in London, with the aim of working out a peace treaty with Turkey. The Conference took place from December 1919 to March 1920. The Armenian borders would be settled and in the least encompass parts of the provinces of Bitlis, Van, Erzerum and (to enable Armenia to have a coastline) Trabzon (Trebizond). This was similar to the recommendation of the King-Crane Commission in its report of March 1920.³⁸

³⁶ Burdett, *Caucasian Boundaries*, 586, British FO 608/84, Memorandum to the Entente Powers by the Azeri Delegation, no date, c. December 1918, on the frontier of independent Azerbaijan, outlining the divisions under former Russian administration, and noting subdivisions of "Karabagh, Gandje, Chaki, Chirvan, Derbent, Kuba, Bakou and Talische", ceded to Russia in 1813. Note that the Republic of Azerbaijan was proclaimed on 28 May 1918, but the frontiers were not yet agreed.

³⁷ Hovannisian, *The Republic of Armenia*, Vol. II, 223.

³⁸ Burdett, *Caucasian Boundaries*, 721–735, FO 371/4955 and FO 371/4949.

National Turkish Pact

The Ottoman Parliament proclaimed on 28 January 1920 the National Turkish Pact. One of its aims was to solve territorial problems of former Turkish territory now occupied by the Allies. The Pact included the possibility of a referendum for the population of Kars, Ardahan and Batum, as well as the 'liberation from the Russian yoke'. There was also a possibility to return to the 'mother country', being Turkey.³⁹ The frontier between Turkey and the Caucasus was delimited as indicated in the Treaty of Batumi.

The Armenian delegation to the Paris Peace Conference was invited, with the other Transcaucasian delegations, to discuss border issues, under the aegis of the Allied facilitator Vansittart. They met several times in Paris and London but could not come to a lasting understanding.⁴⁰

A Mandate for Armenia

In April 1920, the League of Nations met in San Remo, to discuss inter alia the Armenian question and the possibility of placing Armenia under a mandate of the League of Nations.

In order to protect Armenian territory against its neighbors after the departure of the British in August 1920, the Armenian government began to look for a power which would accept a mandate over Armenia. The mandatory Power should have the following obligations:

1. To force the Turks, the Azerbaijanis, and others, to evacuate all Armenian territories.
2. To disarm the population.
3. To disarm and punish those who had participated in the massacres, done violence to the Armenian population, plundered, or profited from the spoils of the victims.
4. To drive out of the country the elements of disturbance and disorder, and to expel the nomadic tribes.

³⁹ Poidebard, *Le Transcaucase et la République d'Arménie dans les textes diplomatiques*, 10 and Poidebard, *Appendices Textes Diplomatiques*, 44–45.

⁴⁰ Avalishvili, 154–159.

5. To expel the mohajers, Muslim colonists who had settled in the eastern vilayets in the last quarter century.
6. To take the necessary steps for the return to Christianity of all women and children kept in Turkish harems or forcibly converted to Islam.⁴¹

This idea failed because no country was willing to accept the mandate after the US Congress had voted against it. The conclusion of these talks was that the League had neither the money nor the armed forces to assist Armenia, either directly or indirectly.⁴²

The nomadic tribes mentioned in the text were Azeri herdsmen. The plan for expulsion of Muslim colonists looks like what we would now call 'ethnic cleansing'.

Communism in Armenia was not popular. Nevertheless, after a military campaign, on 10 May 1920, a communist-dominated Revolutionary Committee (Revkom) in Alexandropol proclaimed the Sovietization of Armenia. Shortly after this however, the new communist government was suppressed with the Armenian army.

The Levon Shant Mission

The security situation in Armenia remained fragile. At the end of the San Remo Conference it became clear that the League of Nations would not give military assistance. As a consequence the Armenian government decided to open negotiations with the Russian government. This would be the only chance against the invasions by Turkey. The aim of the negotiations was to obtain recognition and protection from Russia.

On 30 April 1920 an Armenian delegation went to Moscow led by Levon Shant. The delegation met with the Russian Commissar for Nationalities Grigori Vasilevich Chicherin. The mandate from the Armenian government was to sign a treaty along the following lines:

1. Soviet Russia will recognize the independence of Armenia, including Karabakh.
2. Russia will accept at least in principle the notion of the annexation of Turkish Armenian provinces to Armenia.

⁴¹ Kazemzadeh, 262.

⁴² "The Armenian Question Before the Peace Conference", in Kazemzadeh, 260.

3. Russia will not interfere in the internal policy of Armenia, either directly or indirectly.
4. Soviet Russia will permit the return to Armenia of Armenians stranded in the North Caucasus and Russia.
5. Armenian workers would receive some compensation for their hardships during the 'imperialistic' war.⁴³

In Mid-June the Levon Shant mission had another meeting with Russian Commissar Chicherin. The mission declared that they would accept the Soviet proposal to mediate. Chicherin replied that he would secure certain territories for Armenia, including an outlet to the Black Sea. Zangezur and Nakhichevan would be assigned to Armenia (which was in conformity with the ideas of the British), while Nagorno-Karabakh's final status would be determined by a referendum. Soviet Russia would provide Armenia with large sums of money to rebuild her shattered economy.⁴⁴

At the end of June Commissar Chicherin proposed that Nakhichevan would go to Armenia, Nagorno-Karabakh to Azerbaijan, and the status of Zangezur would be decided by the Russian plenipotentiary in Armenia, B.V. Legrand.

Levon Shant did not want to sign such a treaty since he was not authorized to give up Nagorno-Karabakh. The mission decided to ask the Armenian government for an additional mandate. It took a month before the answer came. At that moment Chicherin declared that the negotiations in Moscow had ended and would be continued at a later date in Yerevan between the Russian plenipotentiary and the Armenian government.⁴⁵

On 5 July 1920 a division of the Russian XI Red Army invaded Zangezur, via Nagorno-Karabakh, and reached Goris. On 10 August the Armenian government and the Russian plenipotentiary Legrand signed an agreement, which was to be followed by a final peace settlement. Armenia agreed to the occupation of Zangezur and Nagorno-Karabakh and of Nakhichevan south of Shakhtakhti, stipulated

⁴³ Walker, 288, and H. Terterian, "The Levon Shant Mission to Moscow", in: *Armenian Review*, Vol. 8 (1955), p. 6.

⁴⁴ Walker, 89.

⁴⁵ Chr. Walker, *Armenia and Karabagh, the Struggle for Unity*, (London: Minority Rights Publications, 1991), p. 290.

as 'temporary' by the Russian side.⁴⁶ This was a formalization of the actual situation on the ground.

In a letter from the British Commander Luke to British Foreign Secretary Lord Curzon, dated 11 August 1920, the accord between the Armenian and the Russian government is mentioned in which the provisional occupation of Nagorno-Karabakh, Zangezur and Nakhichevan by Russian Bolshevik troops was confirmed. This means that, while British troops were withdrawing from the Caucasus, they had already accepted that their role would be taken over by the Russian government. Under the agreement Armenia retained Shakhtakhti, access to the Maku-Bayazid railway, control of the railway up to Julfa. The Russian government stated that Nakhichevan would be evacuated in the near future. Apparently on 31st July, before signature of the agreement, the Russian troops had already advanced by rail to Tabriz, Maku and Bayazid.⁴⁷

Treaty of Sèvres

The Treaty of Sèvres was signed on 10 August 1920 by Great Britain, France, Italy, Japan, Armenia, Belgium, Greece, the Hedjaz (Saudi Arabia), Poland, Portugal, Rumania, the state of Serb-Croat-Slovenia and Czechoslovakia, on the one hand, and Turkey, on the other hand. The text of the treaty confirmed peace among its signatories. The frontiers of North Turkey and Armenia were delimited.⁴⁸ The Conferences of London (December 1919–March 1920), which aimed at working out a peace treaty with Turkey, and the Conference of San Remo (April 1920) had laid the basis for this treaty.⁴⁹

The frontiers between Armenia and Georgia and between Armenia and Azerbaijan would be decided between these states. In case the states did not manage to reach an accord on the delimitation of their territory, while the frontier between Armenia and Turkey should

⁴⁶ Burdett, *Armenia*, 631–632, FO 371/4999 and 636–637, Letters of Commander Luke to Lord Curzon.

⁴⁷ Enclosure 2 gives the text of the agreement, see Burdett, *Armenia*, 632, FO 371/4999. Maku lies in Persia, Bayazid in Armenia.

⁴⁸ Poidebard, *Appendices Textes Diplomatiques*, 50.

⁴⁹ *Armenian Review*, Vol. XXX, 1977, No. 3, pp. 227–255 and *Armenian Review*, Vol. XXX, 1977, No. 4, pp 398–413.

already be fixed, the states could ask the Allies to delimit the frontiers for them (Article 92).

The treaty however never entered into force. The Treaty of Sèvres would have implied *de iure* recognition of Armenia as a state.⁵⁰ The arguments for this assumption are:

1. Armenia was mentioned in the preamble of the treaty;
2. In the wording of Article 88 of this Treaty Turkey, in accordance with the action already taken by the Allied Powers, thereby recognized Armenia as a free and independent state;
3. Armenia signed the Treaty of Sèvres on 10 August 1920, along with the principal Allied powers, as well as a treaty on the protection of minorities. In reality no Turkish recognition materialized.⁵¹

There was however uncertainty as to whether *de iure* recognition had been granted to Armenia by Great Britain. On 4 September 1920, barely a month after the signature of the Treaty of Sèvres, it was mentioned in a letter to N. Henderson (a British representative in Turkey) that, "giving Armenia *de iure* recognition as a sovereign independent state, has not come before us". British Secretary of State Lord Curzon, Mr. Berthelot (a senior French diplomat) as well as President Millerand of France were against recognition *de iure*.⁵² Apparently the Armenian protection of Minorities Treaty was signed by Great Britain without approval of the Foreign Office. Furthermore, Boghos Nubar was not regarded as being in a position to sign the Minorities Treaty but nevertheless was allowed to do so. Or otherwise he simply signed the Treaty without the other parties being aware that he was not a legal signatory. All this does not change the conclusion that the Armenian signature under the Treaty of Sèvres implied *de iure* recognition by Great Britain.⁵³ Although again, no recognition materialized because the treaty was not ratified and never entered into force.

⁵⁰ See for the text Armenian Review, 1970, Vol. XXIII, No. 3, pp. 32–41.

⁵¹ Burdett, *Armenia*, 717, FO 371/10385, no date (c. 1921), outlining key points.

⁵² Burdett, *Armenia*, 626, FO 371/5112.

⁵³ Burdett, *Armenia*, 627, FO 371/5112.

Turks Resume Fighting

Just before the signing of the Treaty of Sèvres, Russia and Turkey had concentrated their troops along the frontiers of Armenia. Azerbaijan attacked Nagorno-Karabakh and Zangezur, while the Armenian Bolsheviks actively instigated an uprising inside Armenia. In September, Turkish troops under the command of General Kiazim Kara Bekir attacked Armenia and occupied Kars, Alexandropol, and Surmalu up to the river Araxes. Toward the end of September 1920, the Turkish eastern army at Erzerum launched a surprise attack upon the territory of the Armenian Republic.⁵⁴ In October the Turkish troops advanced in the direction of the Ardahan-Olti road and towards Novo Selim on the Sarakamish-Kars road. Russian and Azeri troops fought the Armenian troops in Zangezur and Nakhichevan. On 30 October the Armenians were forced to evacuate Kars.

Second Draft Russian-Armenian Treaty

On 11 October 1920 B.V. Legrand, the Russian plenipotentiary, arrived in Yerevan to continue the talks which had ended in Moscow in June/July. The Russian conditions were:

1. Armenia must repudiate the Treaty of Sèvres;
2. Armenia must allow the Bolsheviks to use her roads and railways;
3. All Armenian border disputes must be solved through the mediation of Soviet Russia.⁵⁵

A second draft Russian-Armenian Treaty, following the one discussed by the Levon Shant Mission, included that:

1. Soviet Russia recognizes the independence and integrity of Armenia. Zangezur will go to Armenia; the fate of Karabakh and Nakhichevan will be settled by arbitration.
2. Russia is to intervene immediately and stop the Armenian-Turkish war. A neutral zone is to be established on the 1914 frontier, and Armenian-Turkish frontier disputes are to be solved by Russia.

⁵⁴ Burdett, *Armenia*, 652–653, FO 371/6265.

⁵⁵ Walker, *Armenia: Survival of a Nation*, 308.

3. Free passage through Armenia was to be granted to Communist forces en route for Turkey. Thirty percent of the munitions passing through would be left for Armenia.
4. Armenia accepts the mediation of Russia in solving her territorial disputes.
5. Soviet Russia is to give assistance to Armenia to enable her to recover economically.⁵⁶

Due to the war with Azerbaijan this treaty never came into force. It was already outdated by the time it was signed. At that moment Azerbaijan had occupied Karabakh and Zangezur.

On 6 November the Armenian government received from the Turkish General Kiazim Karabekir terms for an armistice, which was signed the following day. These were that:

1. Armenian forces were to withdraw to positions 15 km east of the Arpa Chai.
2. Turkish forces would occupy the fortress and the railway station of Alexandropol (but not the city itself), and Turkish forces would occupy the vicinity of the city for a radius of 10 km.
3. The Turks would guarantee order in Alexandropol.⁵⁷

It is remarkable that the Turks would give a guarantee that there would be order in Alexandropol (Article 3) while they were not to occupy the city (Article 2). The Armenian government accepted these terms. But on 9 November, Armenia received a new ultimatum. Akhmed Mukhtar, Turkey's Commissar for Foreign Affairs, had overruled Karabekir's terms, and made new demands. These were:

1. Armenia was to give Turkey a vast quantity of war material.
2. Armenian forces were to withdraw to a line from Araxes station to the north end of Lake Gokcha;
3. Turkey was to be in control of the railway line as far north as Sanahin on the Alexandropol-Tbilisi railway.⁵⁸

⁵⁶ Walker, *Armenia: Survival of a Nation*, 308.

⁵⁷ Walker, *Armenia: Survival of a Nation*, 313, another translation in Burdett, *Armenia*, 652–653, FO 371/6265, Minutes, 24 November 1920, explaining the 2nd wave of hostilities.

⁵⁸ Burdett, *Armenia*, 653.

The Armenian government could not accept these terms and fighting resumed. On 18 November a new armistice came into force and negotiations could continue.

President Wilson's Armenia

President Wilson on 22 November 1920 published a document that delimited the territory as stipulated under Article 89 of the Treaty of Sèvres. Armenia would get 42,000 square km from Ottoman Armenia, including a 400 km coastline, consisting of Kerasunt and reaching to the Georgian frontier. Due to the military operations of Turkey and the unwillingness to cooperate with the Armenians, it was impossible to implement these frontiers.⁵⁹

The Turkish General Karabekir told the Armenian government that the Armenian claims were unrealistic and a week later, on 30 November, he presented new Turkish demands to the Armenian government: Kars and Surmalu had to be ceded to Turkey, while Nakhichevan and Zangezur would become Azerbaijani protectorates.⁶⁰

Treaty of Alexandropol

The Treaty of Alexandropol was signed on 2 December 1920 between Turkey and Armenia. This treaty comprised inter alia the delimitation of the frontier between Turkey and Armenia.⁶¹

Articles 4 and 5 reduced Armenia to the size previously determined by the Treaty of Batumi in 1918, depriving it of Kars, Ardahan and Alexandropol. Armenia was disarmed and demilitarized, being allowed 1500 soldiers and a small police force to keep internal order (Article 6). In compensation the Grand National Assembly of Turkey promised military assistance whenever Armenia should require it (Article 7).

⁵⁹ Walker, *Armenia: Survival of a Nation*, 316–318 and 1991: 33.

⁶⁰ What is remarkable in this claim is the fact that Turkey wants to secure territory for Azerbaijan, while Azerbaijan at that time is already Sovietized.

⁶¹ Burdett, *Armenia*, 661–662, FO 371/6265, “Armenia”, Memorandum by the Secretary-General of the League of Nations, 23 February 1921, evaluating territorial definitions in various treaties. Ratification has probably not materialized, since within a month Armenia was sovietized. This means that this treaty probably never entered into force.

Turkey received the right of transit through Armenia (Article 13), and the right to use Armenia's territory for military purposes in case of a threat to the independence of Turkey (Article 14). Armenia was forced to repudiate all the treaties between her and other powers whenever such treaties contained clauses in any way detrimental to Turkey.

Note that the clauses in Articles 7, 13 and 14 are quite similar to those in the second draft of the treaty between Russia and Armenia. Even if that treaty had entered into force, it would have been annulled by the entering into force of the Treaty of Alexandropol, in conformity with the stipulation that all treaties detrimental to Turkey had to be annulled. Armenia in the draft treaty with Russia as well as in the Treaty of Alexandropol had to give up part of its territorial sovereignty.

While both the Armenian president and prime minister signed the Treaty of Alexandropol, the Bolsheviks used the opportunity of their absence from Yerevan to install a Soviet government in Armenia.

Armenia as a Bolshevik SSR

On 27 November 1920 Stalin instructed Ordzhonikidze, the Commissar who held responsibility over the sovietization of the North Caucasus and Georgia, to begin operations against Armenia. Two days later the Russian plenipotentiary to Armenia Legrand informed the Armenian government that "the Central Committee of the Russian Communist Party has decided to establish a Soviet regime in Armenia. Any delay is detrimental."⁶²

On 2 December, while premier Khatisian signed the Treaty of Alexandropol in that city, the Armenian Council of Ministers in Yerevan published this proclamation:

Having in view the situation which has been created in the country due to external conditions, the Government of the Armenian Republic at its session of 2nd December of the current year has decided to renounce authority and to transfer all military and civilian power to the commander-in-chief, to which office the War minister, Dro, is hereby appointed.

⁶² Walker, *Armenia: Survival of a Nation*, 317.

The hand-over of power was concluded on 2 December 1920 by an 8-point agreement:

1. Armenia is an independent socialist republic.
2. Power is temporarily vested in a Provisional Military Revolutionary Committee.
3. Soviet Russia recognizes as Armenia: the province of Yerevan; part of Kars province (to ensure military control of the railway from Jajur (Dzhadzhur) to Araxes stations); the Zanghezur district part of the Kazakh and Tiflis Districts;
4. The army command is not held responsible for the army's actions prior to Sovietization;
5. Members of Dashnaktsutiun and other socialist parties will not be victimized for belonging to their parties;
6. The Military Revolutionary Committee will consist of 5 Communists and 2 left Dashnaks appointed with the approval of the Communist Party;
7. Soviet Russia will immediately introduce military forces into Armenia for its defense;
8. On the signature of this agreement the authority of the Armenian republic ends and until the arrival of the Revkom power is transferred to a Military Command, headed by Comrade Dro. Comrade Celine (Silin) is appointed Soviet Russian Commissar for the Military Command in Armenia.⁶³

General Dro (Kanayan), who had first been an Armenian nationalist,⁶⁴ became military leader in 1918 and Minister of Defense in 1920. After Soviet troops arrived, he became commander in chief ad interim of the Armenian forces. With the Russian representative in Yerevan, Silin, he issued an order, proclaiming the Sovietization of Armenia and informing the population that until the arrival of the Red Army, Dro and Silin would exercise authority over Armenia. On the same day a treaty was signed between the—until then ruling—Dashnak party and the representative of Russia in Armenia, B.V. Legrand, stipulating that the Dashnaktsutiun, this being the name of the nationalist party, would remain a legal party, the Soviet Government of Armenia would be

⁶³ Walker, *Armenia: Survival of a Nation*, 318.

⁶⁴ Armenian nationalist parties like the Hunchak, Ramzagar and Dashnaktsutiun strove for an Armenian state comprising parts of Asia Minor and the Transcaucasus.

organized on the basis of a coalition of communists and Dashnaks and that Russia would restore the territorial integrity of Armenia.⁶⁵ This implied that Russia would defend Armenia against Turkish attacks.

Nariman Narimanovich Narimanov, Chairman of the Council of People's Commissars of Azerbaijan, read on 1 December 1920 a declaration during a session of the Azeri Parliament that Azerbaijan was giving up in favor of Soviet Armenia the disputed districts of Nakhichevan, Zangezur, and Nagorno-Karabakh.⁶⁶ A day earlier the Revolutionary Committee of Azerbaijan had issued a declaration concerning the ceding of territory.⁶⁷

A Dashnak Counter-Revolution

In February 1921, hardly two months after the Bolsheviks had taken control of Armenia, a Dashnak counter-revolution began which drove the Bolsheviks out of Armenia. Soon after a Dashnak government was created. The Council of People's Commissars of Soviet Armenia had declared that Zangezur would be annexed to Armenia, after being liberated from the Dashnaks. The Russian troops re-occupied Armenia on 2 April. The Dashnaks fled with their armed forces to Zangezur. In the spring and summer of 1921 there was still resistance against the Soviets in Nagorno-Karabakh and Zangezur. The Dashnaks continued their struggle with the Bolsheviks until their defeat at the beginning of July 1921.⁶⁸

Treaty of Moscow

Turkey and Russia, representing Armenia, signed the Treaty of Moscow on 16 March 1921. This treaty was aimed at assuring friendly and

⁶⁵ As we saw earlier, Armenia was factually in the hands of Russian and Turkish troops.

⁶⁶ *Documents on the Victory of Soviet Power in Armenia*, doc. 293, p. 437, Yerevan, 1957, and in *Kommunist*, Baku, 2 December 1920. A translation can be found in L. Chorbajian, *The Caucasian Knot, The History of Geo-Politics of Nagorno Karabakh*, (London: Zed Books, 1994), p. 178.

⁶⁷ *Kommunist*, Yerevan, 7 December 1920, in Chorbajian, 178.

⁶⁸ Délégation de la République Arménienne, *L'Arménie et la question Arménienne*, p. 41 and H. Simonian, "The Last Try: The Dashnak-Bolshevik Talks in Riga, 1921" in: *Armenian Review*, Vol. 44 (1991), No. 2/174, pp. 53–70.

brotherly relations between Turkey and Russia. In Article 1 the territory of Turkey, bordering Armenia, was delimited.⁶⁹

The treaty recognized the frontiers as delimited in the National Turkish Pact, and consequently, as stipulated in the Treaty of Batumi. The territory of Nakhichevan was declared autonomous and placed under the protectorate of Azerbaijan. Armenia was partly occupied by Turkey, which resulted in the loss of Kars and Ardahan.⁷⁰ The Treaty of Moscow was signed at a moment of tension between Turkish nationalists and Soviets. There was competition between them with regard to Batum and the frontiers of Armenia.

On 10 June 1921 the government in exile of Armenia signed an agreement in Paris in which a confederation of the Transcaucasian Republics of Azerbaijan, Georgia and Armenia was established. Customs duties were cancelled (Article VI) and a military defense alliance established, as well as a co-ordinated general foreign policy. Disputes between signatories would be settled by arbitration (Article III). This agreement had no practical effect since it was signed by governments in exile.⁷¹

A National Home

On 21 September 1921 the General Assembly of the League of Nations decided unanimously to create an Armenian National Home.⁷² Armenia was represented at the League of Nations by the government in exile and the former delegation to the League. The High Council of the League of Nations had to revise the Treaty of Sèvres in order to create a National Home for the Armenians.⁷³ Of course this was only a theoretical step. The Treaty of Sèvres had never come into force and the creation of a National Home could not be implemented since Armenia was part of the Russian Federation.

In two annexes the issue was elaborated: The National Home was envisaged (partly) on Turkish territory notably “on the borders of the eastern vilayets of Turkey in Asia or in the more southerly regions

⁶⁹ The French translation of this text can be found in Poidebard, [1924: 59].

⁷⁰ Burdett, *Armenia*, 718, FO 317/10385.

⁷¹ Burdett, *Caucasian Boundaries*, 761 and 173–168, FO 371/6273.

⁷² Burdett, *Armenia*, 848.

⁷³ Burdett, *Armenia*, 847.

bordering on the Mediterranean". Due to the political situation, final decisions had to be postponed.⁷⁴

Treaty of Kars

The Treaty of Kars was signed on 21 October 1921 between the Transcaucasian Socialist Soviet Republics, represented by the RSFSR, and Turkey. The clauses were the same as in the Treaty of Moscow. All treaties signed prior to the Treaty of Moscow between Turkey and the three Transcaucasian Republics would be annulled. The treaty contained territorial clauses that affected Armenia.⁷⁵ Russia limited the claims of Turkey to territory discussed in the Treaty of Brest-Litovsk and the Treaty of Batumi. The city of Batum went to Georgia, Alexandropol and the railway as far as Yerevan went to Armenia. As compensation for the loss of Batum, Turkey obtained Armenian territory up to the Araxes River (District of Surmalu) while Nakhichevan became an Azerbaijani protectorate. As in the Treaty of Moscow, territorial changes for Armenia, approved by the signatories were valid, since Russia decided for Armenia, and Armenia had—at least theoretically—the possibility to articulate its desires. Annexes 1, 2 and 3 delimited the territory of Armenia. For the boundaries of Turkey the Turkish National Pact was taken as the valid delimitation (Article 2). Thus Turkey obtained the territory as stipulated in the Turkish National Pact, with the exception of Batum. Russia kept the railways that connected it with the Black Sea, the Caspian Sea and Persia.

Article 4 roughly delimits the Turkish-Armenian frontier, installing a boundary commission of equal members of each party, with the participation of the RSFSR, to investigate on the spot the exact boundary line. Article 4 stated that in case of a difference between the text of the treaty and the map, the text of the treaty would prevail.⁷⁶ The district of Nakhichevan and its surroundings would form an autonomous territory, under the protection of Azerbaijan (Article 5). The delimitation of Nakhichevan can be found in Annex III of the Treaty of Kars.⁷⁷

⁷⁴ Burdett, *Armenia*, 874, FO 371/7858, Minutes of the 4th Meeting of Foreign Ministers (in Paris), 24 March 1922, discussing a national home, and the evacuation of Anatolia, with Annex.

⁷⁵ Poidebard gives a very good summary of the treaties, *Le Transcaucase et la République d'Arménie dans les textes diplomatiques*, 15.

⁷⁶ Poidebard, *Appendices Textes Diplomatiques*, 70.

⁷⁷ Poidebard, *Appendices Textes Diplomatiques*, 77.

Constitution of 1922

The Russian Constitution of 1918 had been in force in Armenia from the time of sovietization until 4 February 1922. The First Congress of Soviets of Armenia convened on 30 January 1922 and adopted the Constitution of the SSR Armenia three days later. This Armenian Constitution had to be in line with the Constitution of the RSFSR.

Article 1 of the Constitution referred to the fact that Communist rule had been established in Armenia on 29 November 1920. This was three days earlier than the document issued by the non-Bolshevik Armenian government. Lands from the church were confiscated, as well as the railways and banks (Article 4 (a) and (b)). There was no article that delimited the territory.

Discussions on an Armenian Home

The Third Assembly of the League of Nations opened in September 1922. It again passed a resolution favoring the creation of an Armenian National Home, but it said nothing about the independence of this home. The statement read:

The Assembly... recommends that in the negotiations for a peace with Turkey, the necessity to providing a National Home for the Armenians should not be overlooked and requests the Council to take all steps which it may think useful to secure this result.⁷⁸

A British Foreign Office Document dated 16 June 1923 gave three reasons why the creation of a National Home for the Armenians failed:

1. While the Allies had occupied parts of Anatolia they had done nothing to create a National Home for the Armenians;
2. The new Armenian state in the meantime had become part of Russia ('s sphere of influence);
3. Armenians were scattered all over Turkey, but nowhere formed a clear majority, while many had fled abroad.⁷⁹

⁷⁸ Records of the Third Assembly, Plenary Sessions, 1922, 14th Session, pp. 204–208, in Terzian, 166.

⁷⁹ Burdett, *Armenia*, 888, British FO 371/9110.

Armenia Joins the TSFSR

Together with Georgia and Azerbaijan, Armenia became a constitutional member of the Transcaucasian Socialist Soviet Republic on 3 December 1922. The Constitution of the Federation provided that the supreme bodies of the Federation had the powers of establishing the general economic plan and budget; regulating internal commerce; establishing the principles of land and other natural resources; and establishing the general principles of law, judicial organization, education, health protection, and labor regulation in the Transcaucasus. In order to “widen the revolutionary base”, the Communist party tolerated the existence of other political parties in Armenia until November 1923. That same month the Dashnaktsutun was officially abolished.

Armenia in the 1936 Constitution

In the Constitution of 1936 Armenia no longer formed part of the TSFSR, but appears as a separate SSR without lower tributaries.

In the period between 1922 and 1936 no changes of external borders occurred.

CHAPTER NINE

DISPUTED TERRITORIES: NAGORNO-KARABAKH, NAKHICHEVAN AND ZANGEZUR

Nagorno-Karabakh and Zangezur

After the Russian February Revolution in 1917, the Provisional Government recognized Nagorno-Karabakh as part of Armenia.¹ Nagorno-Karabakh was *de facto* independent since October 1917. It was governed by an inter-party council consisting of Tatars (Azeri) and Armenians. The Council nominally recognized the authority of the Transcaucasian Commissariat and Seim in Tiflis. After the Transcaucasian Federation had disintegrated and Azerbaijan had declared independence, the Musavat government asked Turkey for military assistance in obtaining sovereignty over the Baku guberniia (province), comprising Nagorno-Karabakh and Zangezur. Thus, in the summer of 1918 Ottoman forces invaded Nagorno-Karabakh.²

In June 1918, at the signing of the Treaty of Batumi, the contested regions between Armenia and Azerbaijan were mainly Zangezur and Nagorno-Karabakh. On 5 August 1918 at the First Congress of Karabakh Armenians declared independence in Shusha, the capital of Nagorno-Karabakh. A National Council was established, which rejected Musavat authority.³ Then Turkish troops invaded Nagorno-Karabakh in October 1918. In accordance with Article 11 of the armistice of Mudros, signed on 30 October 1918, Turkish troops left Nagorno-Karabakh in November 1918.

That same month, the Armenian General Andranik captured Shusha (Stepanakert) and Zangezur. The English General Thomson, Commander in the Caucasus, was opposed to this idea, because he held the opinion that all territorial differences should be solved at the Peace Conference.⁴

¹ Chorbajian, 114.

² Hovannisian, *The Republic of Armenia*, Vol. I, 83 and map 84.

³ Chorbajian, 116.

⁴ Hovannisian, *The Republic of Armenia*, Vol. I, 87–89.



http://nl.wikipedia.org/wiki/Bestand:Location_Nagorno-Karabakh.png

Map 9 Nagorno Karabakh

After Turkish troops started to leave in November 1918, Nagorno-Karabakh was governed by a self-appointed Armenian administration. Upon their arrival in December the Armenian Council of Nagorno-Karabakh was recognized *de facto* by the British.⁵

Thomson, who had occupied the Batum-Baku railway at the end of the war, did however support the temporary appointment on 15 January 1919 of the Azeri Khosrov bey Sultanov as the Governor-General of Nagorno-Karabakh and its neighboring districts, including Zangezur by the Azerbaijani government in Baku.⁶ His successor Colonel Shuttleworth also supported this policy. This caused problems since Khosrov bey Sultanov was not accepted by the Armenian majority of Nagorno-Karabakh, and subsequently their National Council continued its meetings.

At the end of March 1919 a meeting of district leaders gathered in Goris. The local governing body was renamed the Regional Council of Zangezur and Karabakh. Its primary objective was to integrate the two

⁵ Hovannisian, *The Republic of Armenia*, Vol. I, 89.

⁶ Chorbajian, 120 and Hovannisian, *The Republic of Armenia*, Vol. I, 157 and 192.

districts into the Armenian Republic. In effect, the Regional Council held power only over Zangezur. At the same time, the British lobbied for the recognition of the Azerbaijan General-Governor in an attempt to pacify the situation.⁷

The British forced the Armenian National Council of Karabakh to stop all political activities in April 1919.⁸ At the same time a local Azerbaijani detachment encircled the Armenian quarter of Shusha. They demanded the surrender of the inhabitants. The British mediated between the two parties, and the Armenians agreed to surrender to the Azerbaijani, while the British exiled some of the Armenian leaders who refused to surrender. The Armenian National Council and the Seventh Assembly of Nagorno-Karabakh worked out a compromise accord with the Azerbaijani government.⁹ The Armenian population of Nagorno-Karabakh would acknowledge temporary Azerbaijani jurisdiction pending a final decision by the Allied Powers at the Paris Peace Conference, based on the granting of "territorial autonomy for all Karabakh and national-cultural autonomy for its Armenian population".¹⁰ In return Azerbaijan gave guarantees relating to the rights and autonomy of the Armenian inhabitants.¹¹ At the same time the United States General Gaskell had paid a visit to Baku to mediate in the conflict.

In April 1919 a conference on border-issues had been convened in Tiflis in which Armenia, Azerbaijan and Georgia participated. It was decided that there should be an internal right to self-determination, and that frontier disputes would be resolved by way of negotiation or mediation. This did not lead to a resolution of disputes.¹²

In fact, Zangezur remained outside the control of the Governor-General. The Azeri government acknowledged this and confirmed it in a provisional accord of 22 August 1919. The *uezds* of Shusha,

⁷ Hovannisian, *The Republic of Armenia*, Vol. I, 192.

⁸ Hovannisian, *The Republic of Armenia*, Vol. I, 175.

⁹ Hovannisian, *The Republic of Armenia*, Vol. I, 184–185.

¹⁰ A.L. Altstadt, *The Azerbaijani Turks: Power and Identity Under Russian Rule*, (Stanford: Hoover Institution Press, 1992), p. 102.

¹¹ An English version of the document can be found in Hovannisian, *The Republic of Armenia*, Vol. I, 186–187. The French version in *L'Europe Orientale*, No. 5, 1919, pp. 155–156.

¹² Altstadt, 101 and p. 41, where 24 May is given as concluding date of the Conference.

Jevanshir, and Jebrail, but not Zangezur, were placed under Azerbaijani Governor-Generalship.¹³

According to the policy of the Allies, Nagorno-Karabakh and Zangezur should be confirmed as part of Azerbaijan, but Nakhichevan, Sharur, and Daragalaz should be made a 'neutral zone' between the Caucasian republics and Turkey pending a final decision by the Paris Peace Conference. The resolution was based on the granting of "territorial autonomy for all Karabakh and national-cultural autonomy for its Armenian population".¹⁴

On 23 October 1919 the decision was taken to appoint a General Governor for Sharur-Daragalaz and Nakhichevan, published on 25 October 1919. United States representative Gaskell led the negotiations with the Musavat government. Already on 1 September 1919 a letter was sent in which the following was said concerning a neutral zone:

1. A neutral zone will be established for Nakhichevan and Sharur-Daragalaz.
2. The Americans will be represented by Gaskell.
3. Power will be divided between Azeri, Armenians and Americans.
4. There will be no war in the neutral zone.
5. Amnesty will be given to Azeri, Armenian and British rulers.
[...]
8. The Azerbaidzhan government will appease the Azeri population in the neutral zone of Erevan rayon.
9. The Armenian government will appease the Armenian population in the neutral zone of Zangezur.
[...]
11. The railway between Erevan and the Persian frontier passing Sharur-Daragalaz and Nakhichevan province should be opened and under the control of the Americans.
[...]
15. The railway Baku-Djulfu will be under Azeri control.¹⁵

¹³ Hovannisian, *The Republic of Armenia*, Vol. I, 195.

¹⁴ Altstadt, 102.

¹⁵ An American general-governor for Nakhichevan was appointed on 23 October 1919, Commissar was US Representative Gaskell, the general staff was guided by James Rhea, in: *Bor'ba za Pobedu Sovetskoi Vlasti v Azerbaidzhane 1918-1920, Dokumenty i Materialy*, p. 313.

Gaskell reported to the Paris Peace Conference in December 1919 that Armenia and Azerbaijan agreed to settle all their differences by negotiation, or, failing that, to accept Gaskell's arbitration.

A few months later, in April 1920, Azerbaijan came under Russian rule. Gaskell's arbitration was never sought. Early in 1920 the Paris Peace Conference recognized Azerbaijan's claim to Nagorno-Karabakh.

In November 1919 the Armenians of Zangezur repelled an Azerbaijani offensive.¹⁶ On 23 November 1919 an agreement was signed between the Prime Minister of Armenia (Khatisian) and the Prime Minister of Azerbaijan (Usubekov), while the Minister of Foreign Affairs of Georgia and United States Colonel Rhea were present as witnesses. The text of the agreement was as follows:

1. That the government of Armenia and Azerbaijan pledge themselves to stop the present hostilities and not resort to force of arms.
2. That the Governments of Armenia and Azerbaijan agree to take effective measures for repairing and re-opening, for peaceful traffic, the roads leading into Zangezur.
3. That the Governments of Armenia and Azerbaijan pledge themselves to settle all controversies, including boundaries, by means of peaceful agreements pending the decisions of the conference convened in the following paragraph. In case this is not possible, then to select a neutral party as arbiter, whose decisions, both governments agree to abide by, said neutral party for the present being col. James C. Rhea, U.S. Army.
4. That the Governments of Armenia and Azerbaijan pledge themselves to immediately appoint an equal number of delegates to meet in conference in Baku on Wednesday, November 26, and to sojourn to Tiflis on December 4, where the meetings of the conference will discuss all questions which are the cause of dispute or friction between the two Governments and will have full authority to settle all such questions by agreement or arbitration.
5. That this agreement becomes effective on the date of signing and becomes permanent when ratified by the parliaments of the two

¹⁶ R.G. Hovannisian, "Mountainous Karabakh in 1920", in *Armenian Review*, (1993), p. 5 and "Col. James Cooper Rhea (USA) and Zangezur Agreement Nov. 23, 1919: A Documentary Interpretation", in *Armenian Review* Vol. XXXV (1982), No. 3, p. 261 and p. 251 (original text in English).

governments, and the prime ministers of Armenia and Azerbaijan hereby bind their respective governments to faithfully support and carry out all the details of the above agreement, in evidence of which they place their respective signatures to this agreement, etc.

Under instructions from the Bolshevik leader Ordzhonikidze the Eleventh Army on 11 May 1920 occupied the Shusha-Nakhichevan-Ordubad region.¹⁷

In July of 1921, when both Armenia and Azerbaijan had already been incorporated in the Russian Federation, the Kavbiuro (Bureau for the Caucasus in Moscow) gathered to decide the status of Nagorno-Karabakh. On 4 July 1921, it was decided that Nagorno-Karabakh would be unified with Armenia, and that a referendum would be organized in Nagorno-Karabakh.¹⁸ The next day, on 5 July 1921, after consultations with Stalin (Commissioner for Nationalities), Ordzhonikidze and Nazaretian asked for a re-examination of the decision. Nagorno Karabakh was left in the Azerbaijani SSR, with the status of Autonomous Oblast. The Central Committee of Azerbaijan would delimit the borders of Nagorno-Karabakh, to be submitted to the Central Committee of the Communist Party of Russia. After negotiations between the Kavbiuro and representatives of Armenia and Azerbaijan, a Special Commissioner for Nagorno-Karabakh would be appointed. And finally, Azerbaijan would decide on the degree of autonomy for Nagorno-Karabakh.¹⁹ The decision was taken without deliberation or vote. Both Stalin and Narimanov are said to have used a certain amount of pressure to guarantee this outcome.

V. Mikaelian and L. Khurshudian, two Armenian historians, dispute the validity of this decision on the following reasons:

1. The will of the Armenian population, being 94% of the population in the region, was denied;
2. Peace between Muslims and Armenians...[and] the indispensability of economic ties with Azerbaijan was not a convincing argument.
3. There had not been a vote on the issue.²⁰

¹⁷ Hovannisian, "Mountainous Karabakh in 1920", 7.

¹⁸ Institute for Marxism-Leninism, Central Committee Archives, Fonds 85, inv. 18, d. 58, f. 18. An English translation can be found in Chorbajian, 178–179.

¹⁹ Institute for Marxism-Leninism, Central Committee Archives, Fonds 85, inv. 18, d. 58, f. 18. An English translation can be found in Chorbajian, 179.

²⁰ V. Mikaelian and L. Khurshudian, "Several Issues Concerning the History of Mountainous Karabakh", in *Armenian Review*, Vol. 43 (1990), No. 2–3, p. 62.

According to Mikaelian and Khurshudian claims over territory should be solved on the basis of national, ethnic, and historic factors. In this case economic arguments had been decisive. Baku was the most important economic city, both for the Transcaucasian states and for foreign powers.²¹ Therefore, Moscow was more eager to have good relations with Azerbaijan than with Armenia.

In December 1922, there were still armed clashes between Armenian and Azerbaijani armies in Nagorno-Karabakh. The Presidium of the Azerbaijan Communist Party appointed a seven-man committee to pursue the creation of an Autonomous Oblast in Nagorno-Karabakh.²² In November 1924 the Autonomous Oblast of Nagorno-Karabakh (AONK) was officially proclaimed and confirmed, as a constituent part of the Azerbaijani SSR. It was mandated, however, that "all business, legislation and instruction in schools in the AONK will be conducted in the native [Armenian] language".²³

The Nagorno-Karabakh AO comprised from north to south of Javanshir, Shusha, Kariaginsk (formerly Jebrail), and a small portion of Kubatlinsk (formerly part of the Zangezur *uezd*).²⁴ In the early 1930s, the borders were changed so that no part of the oblast touched Armenia anymore.²⁵ The territory that came between Armenia and Nagorno-Karabakh was the Lachin corridor, a corridor that forms the shortest route from Armenia to Nagorno-Karabakh.²⁶ The name was changed to the Nagorno-Karabakh Oblast in 1937.²⁷

²¹ Ibid.

²² Altstadt, 126.

²³ Altstadt, 126 and *K Istoriia Obrazovaniia Nagorno-Karabakhskoi Avtonomnoi Oblasti Azerbaidzhanskoi SSR: Dokumenty i Materialy*, 1989, pp. 268–270.

²⁴ Altstadt, 127.

²⁵ According to Altstadt 127 the *Bolshaia Sovetskaia Encyclopedia* of 1926 showed Nagorno Karabakh linked to Armenia, while the *Bolshaia Sovetskaia Encyclopedia* of 1930 shows Nagorno Karabakh not linked to Armenia. As opposed to Altstadt, I did not find in the BSE of 1926 a map showing any of these territories. I did find a map in the *Bolshaia Sovetskaia Encyclopedia* of 1929 and 1930 showing Armenia and Nagorno Karabakh linked to each other. Only the *Bolshaia Sovetskaia Encyclopedia* of 1949 showed both entities not linked. The question is whether we can deduce from this that the borders were changed, or that a mistake was made in one of the two maps. See also *Istoriia Azerbaidzhana* 1979, 3(1), pp. 305–306. The decree was published in *Bakinskii Rabochii*, 26 November 1924 and comprised a list of towns and villages incorporated in Nagorno Karabakh.

²⁶ The Lachin corridor was mainly inhabited by Kurds.

²⁷ Altstadt, 127.

The Great Soviet Encyclopedia of 1929 shows Armenia and Nagorno-Karabakh still touching. One year later, in the Great Soviet Encyclopedia of 1930, the frontiers did no longer touch. The Lachin Corridor must be passed to travel from Armenia to the closest border with Nagorno-Karabakh.

Nakhichevan

In the cities of Nakhichevan and Julfa and at Shkhtakhti railroad station Soviets were created after the February Revolution of 1917. From March to November 1917, Nakhichevan was in fact under the control of the Transcaucasian Committee. From November 1917 to March 1918, the administration of the Transcaucasian Commissariat, the successor of the Transcaucasian Committee, officially ruled over Nakhichevan. In June 1918, Turkish troops occupied Nakhichevan, and in November, after the armistice, British troops replaced them. In the same year, 1918, the Musavatists proclaimed the Araz Republic on part of the territory of Nakhichevan.²⁸

At this time, a British Military Governor governed Nakhichevan. In February 1919 British officers (notably Forestier-Walker and Colonel Laughton) and Armenian government officials approved a proposal to expand the governorship of Nakhichevan.²⁹ The expansion would include the southern part of the Yerevan *uezd* from the County line near Wolves Gate and the village of Sardarak northward to the Vedic-chai tributary of the Araxes and be managed by Armenian officials, who would not get any armed support.³⁰

General Thomson prepared a recommendation for the British Empire Delegation at the Peace Conference. The accompanying maps showed Nagorno-Karabakh as included in Azerbaijan, but Kars, Surmalu, Sharur, Nakhichevan, and Zangezur in Armenia.³¹

At a strategy-conference held in Batum on 2 and 3 April 1919 the Commander in Chief of the Army of the Black Sea, and the leader of

²⁸ *Great Soviet Encyclopedia*, No. 17, 1978, pp. 308–309.

²⁹ Captain F.E. Laughton was military governor. He was replaced by John Chalmers Simpson in April 1919.

³⁰ Hovannisian, *The Republic of Armenia*, Vol. I, 232, Britain WO 95/4880, 27th Division War Diary, February 1919, Appendix 1.

³¹ Hovannisian, *The Republic of Armenia*, Vol. I, 237.



<http://en.wikipedia.org/wiki/File:Azerbaijan-Nakhichevan.png>

Map 10 Nakhichevan

his forces in the Caucasus, formulated the following instructions for the Yerevan region:

The Military Governorship of Nakhichevan will be abolished and the district handed over to the Armenian Government so as to allow the withdrawal of British troops by 30th of April 1919.

This should be done in consultation with the Armenian Government and be subsequent to the arrest of the Kars Shura.³²

On 6 April 1919 it was decided that Nakhichevan would be ceded to Armenia. This was effectuated on 6 June 1919.³³

The United States, Great Britain, France and Italy decided to appoint a General-Governor for Sharur-Daragalaz and Nakhichevan okrug, and this was approved by the governments of Armenia and Azerbaijan. The General Governor would be an American national, Edmond

³² Hovannisian, *The Republic of Armenia*, Vol. I, 237.

³³ Burdett, *Caucasian Boundaries*, 687, British FO Doc. 608/84.

Daily. Elections would be held and Armenia and Azerbaijan would withdraw their armies from Sharur-Daragalaz and Nakhichevan okrug. Although this decision was taken on 25 October 1919, it was published in the *Gazeta Azerbajjana* only on 14 November 1919. It was signed by then United States High Commissioner for the Caucasus Gaskell and the United States Military Representative James Rhea, but not by any Transcaucasian party.

On 28 July 1920 Soviet authority was proclaimed in the territory, and a Revolutionary Committee was established.³⁴ At the same time, the Nakhichevan SSR was formed, in a close military and economic alliance with the Azerbaijan SSR and the RSFSR. The Nakhichevan Oblast Committee of the Communist Party of Azerbaijan was chosen in early 1921, at the first Krai Party Conference. On the basis of a resolution of the Third All-Nakhichevan Congress of Soviets in February 1923, the Nakhichevan Autonomous Krai was created within the Azerbaijani SSR. In June 1923 during the final stages of the Nagorno-Karabakh debate, the status of Nakhichevan as an autonomous but indivisible part of the Azerbaijani SSR had been confirmed by organs of the Transcaucasian Federation, the third All-Nakhichevan Congress of Soviets (February 1923) and Azerbaijani authorities. Not only administrative but also political autonomy for Nakhichevan within the Azerbaijani SSR was demanded. On 9 February 1924, the Nakhichevan ASSR was created. Moscow accepted the demand, and political autonomy was secured in March 1924 with the formation of the Nakhichevan ASSR. The first constitution of the Nakhichevan ASSR was adopted on 18 April 1926.³⁵

We see that Nakhichevan changed status four times in barely 5 years. It starts as a krai, a low entity, then became a treaty-SSR, changed to an Autonomous Oblast (AO), a notable degradation, and finally became an ASSR.

The Araz Republic

After the defeat of Turkey at the end of the First World War, the Ottoman forces had to leave Nakhichevan in December 1918. They left behind the “Araz Republic”, which was apparently founded by the

³⁴ *Great Soviet Encyclopedia*, No. 17, 1978, p. 307.

³⁵ *Great Soviet Encyclopedia*, No. 17, pp. 308–309.

local National Council with Ottoman support. The Araz Republic was united with the South-West Caucasian Democratic Republic, which we discussed earlier. The Republic was formed from a strip of territory that linked Nakhichevan with the Black Sea Coast. The idea behind the new Republic was to compensate the residents of the area for the Allied plans to make the same strip a buffer between Turkish forces, Georgia and Armenia.

When the British had occupied Nakhichevan in January 1919, they did not recognize the Araz Republic, because they regarded it as an Ottoman political ploy to hamper the Allies upon their forced withdrawal. The Araz Republic survived for hardly four months, and existed mainly on paper.

In the summer of 1919 the American Colonel James Rhea arrived in Nakhichevan. After discussions with various parties, he suggested that an American General-Governor would have supervision over the territory. Colonel Gaskell suggested the same in a letter dated 1 September 1919 to the Azeri government.³⁶ He traveled through Nakhichevan and Sharur-Daragalaz and, in his report to the Peace Conference, supported 'neutral zone' status for these areas under an American General Governor. The forces of Turkish general Karabekir occupied Nakhichevan in March 1920.³⁷

Their support would assist Azerbaijan in reclaiming Nakhichevan after the establishment of Soviet power. In October, Azerbaijan published notices signed by Rhea and Gaskell that the United States Army Colonel Edmond D. Daily would be the United States General Governor of Nakhichevan. Daily never assumed the post because Nakhichevan was already incorporated in the Azerbaijani SSR.

³⁶ The US Colonel Gaskell was the official Governor for Armenia.

³⁷ *Great Soviet Encyclopedia*, No. 17, pp. 300–301.

CHAPTER TEN

AZERBAIJAN BETWEEN 1918 AND 1921

Introduction

The borders of Azerbaijan at the moment of the Russian Revolution were similar to those of 1878. The First World War had not much effect on Azerbaijan, since Muslims did not have to fight in the Imperial Army, and the First World War had not spread to the territory of Azerbaijan until around 1918.¹ After the Russian Revolution part of the Azeri political elite hoped that they could gain more autonomy from Russia. They favored a policy in which nationalism and religion played a role. Another faction however preferred the creation of a Soviet government.

From the declaration of independence of Azerbaijan on 27 May 1918 there were two governments in Azerbaijan: a Musavat government in Ganja, which held tight relations with the Ottoman authorities, and a Bolshevik government in Baku, headed by Stepan Shaumian, which favored a good relationship with the central government in Moscow. From 25 April until July 1918 the Baku Commune was a fact. In May elections took place, after which the government constituted 8 Bolshevik Ministers, 3 left Socialist Revolutionary Ministers and 1 Hummet Minister. The Dashnaks and Right Socialist Revolutionaries refused to accept positions in the government. Shaumian on the other hand wanted these parties to recognize the central Soviet government.² Ronald Suny provides the composition of the Baku Soviet during mid-April. The most important political groups were represented as follows: Bolsheviks 58, Left Socialist Revolutionaries 46, Right Socialist Revolutionaries 47, Mensheviks 28, Dashnaks 36, and Musavatists 23.³

¹ The rulers of the Russian Empire found their Muslim nationals not trustworthy enough, which, in the case of a war between Russia and Turkey, would have been a reasonable argument, since Azeri were pro-Turkish.

² R. Suny, *The Baku Commune, 1917-1918*, (New Jersey: Princeton University Press, 1972), p. 231.

³ Suny, *The Baku Commune* 231.

The Russian Sovnarkom issued a Declaration of the Rights of Peoples of Russia on 15 November 1917, which was the Council of People's Commissars. The equality of peoples, their right to self-determination, secession, and the right to the formation of independent states were underlined. The document thus created possibilities for the free development of national minorities and ethnic groups in Russia.⁴ Azerbaijan did not (immediately) use the opportunity provided by this declaration to secede and create an independent state.

On 26 October 1917, after the fall of the Provisional Government and a few days after the Bolshevik coup, the first Congress of the Musavat (nationalist) party met in Baku.⁵ The party's main aim was to strive for autonomy and was formulated as follows:

1. The unity of all Muslim peoples without regard to nationality or sect.
2. Restoration of the independence of all Muslim nations.
3. Extension of material and moral aid to all Muslim nations which fight for their independence.
4. Help to all Muslim peoples and states in offence and in defense.
5. The destruction of the barriers which prevent the spread of the above-mentioned ideas.
6. The establishment of contact with parties striving for the progress of the Muslims.
7. The establishment, as need might arise, of contact and exchange of opinion with foreign parties which have the well-being of humanity as their aim.
8. The intensification of the struggle for the existence of the Muslims and the development of their commerce, trade, and economic life in general.⁶

The Musavat party enjoyed large support among the Azeri population. The Azeri Bolshevik party, whose membership mostly consisted of Armenians and Russians, were strong in Baku; it was orientated towards the Bolshevik government in Russia.

⁴ USSR: *Sixty Years of the Union, 1922–1982*, 1982, p. 34.

⁵ The Kerenskii government had come to power after the February Revolution in 1917 in which the Czar had been forced to abdicate.

⁶ Kazemzadeh, 21.

On 7 December 1917 the Council of People's Commissars in Petrograd published a Manifesto addressed to the "Toiling Muslims of Russia and the Orient", an appeal to use the promised freedom and right to self-determination.⁷ The secret treaties signed in 1915 and 1916 between Russia and the Allies, which divided Turkey and Persia, were from now null and void.⁸ This new proclamation was signed by both Lenin and Stalin.

Azerbaijan Declares Independence

From 22 April 1918 until 28 May 1918 Azerbaijan had formed part of the independent Transcaucasian Federal Republic.⁹ When this Republic disintegrated, the Muslim, mainly Musavat representation in the Transcaucasian Seim constituted itself into the Azerbaijani National Council and on 28 May 1918 proclaimed independence.

After the proclamation of independence, Fat'h Ali Khan Khoiski became leader of the Musavat government, and was nominated Prime Minister. The government had been formed in Tiflis, the capital of Georgia, where it could not remain. Khan Khoiski established his government in the temporary capital Ganja. The reason that Ganja was chosen, and not Baku, was that the government got military protection from former local rulers in Ganja. Establishing a government in Baku, where a Bolshevik Soviet ruled, was too dangerous. Both governments claimed legitimate power over the territory we now call Azerbaijan.

In June Turkish troops invaded Ganja, and the Musavat government hoped with the help of Turkey to conquer Baku.¹⁰ A treaty on this matter, including military and economic assistance, was concluded in early June. But before that time, in mid June, Nuri Pasha, a Turkish military leader, dissolved the Azerbaijan National Council and government in Ganja. He formed a right wing government, excluding all socialists.¹¹ This implied that Turkish political influence in Azerbaijan was stronger than that of the Azerbaijani politicians. One

⁷ T. Swietochowsky, *Russian Azerbaijan*, (Cambridge: Cambridge University Press, 1985), p. 101.

⁸ Kazemzadeh, 64, Cocks, 15–26 and 43–48.

⁹ See chapter VI.

¹⁰ Pipes, 205.

¹¹ Pipes, 205.

can thus question the strength and territorial power of the Musavat government.

Turkey aspired to create a Turanian Empire, which would incorporate all Turkic peoples of Central Asia and the Caucasus. Apart from Azerbaijan it would also include the North Caucasus, northern Persia, and Turkestan.¹²

To realize this aim the Turkish Commander Enver Pasha formed an Ottoman-Azerbaijani-Daghestani force, the "Army of Islam". Its commander was Enver Pasha's half-brother, Nuri Pasha.¹³ This idea for a big Turanian Empire was also shared by the Musavat government.

Nuri Pasha was permitted to commence military operations in order to liberate the Muslims from Bolshevik rule on request of the Musavat government by 2 June 1918, just before the replacement of the Musavat. In the meantime in the summer of 1918 German economic interests shifted from Georgia, which was a German protectorate, to Baku because of its oil reserves. The German government proposed to Russia to use its influence to prevent the Ottomans from entering Baku if Soviet Russia in return would supply Germany with oil shipments. This suggestion was accepted by Lenin and laid down in Article 14 of the Treaty of Berlin, signed on 27 August 1918.¹⁴

The Turkish Army of Islam advanced towards Baku. This meant that Germany, in accordance with the Treaty of Berlin had to respond militarily. On 4 August 1918 the German General Ludendorff threatened Enver Pasha with withdrawal of German officers from the Ottoman high command unless the operation of the Army of Islam was called off.¹⁵ At that moment however fighting had stopped temporarily, while Turkish forces waited for reinforcements.

¹² In the North Caucasus the following peoples were of Turkic descent: Balkars, Karachai, Kumyk, Nogay. With Turkestan is meant Central Asia, and part of China.

¹³ Enver Pasha was the commander of the Turkish divisions which fought in the Caucasus, more in particular in Armenia. Enver and Nuri Pasha were influential Turkish military leaders, who were active on Azeri and Armenian territory. The Army of Islam was built around the Ottoman Fifth Infantry Corps, elements of the Savage Division, and bands of irregulars.

¹⁴ *Calendar of Soviet Events*, 1959, pp. 23–25, and Poidebard, *Le Transcaucase et la République d'Arménie dans les texts diplomatiques*, 41.

¹⁵ Germany and Turkey were allies in the First World War, this explains why German officers gave assistance to the Ottoman army.

*Treaties Concerning the Status of Azerbaijan**The Treaty of Batumi*

Azerbaijan in the Treaty of Batumi retained all its territory. Under Article IV of the Treaty it received the promise of Turkish military assistance for the restoration of security and order if needed. The treaty, however, did not recognize Azerbaijan as an independent state.

Treaty of Berlin

German-Soviet talks resulted on 27 August 1918 in the signing of the Treaty of Berlin, which was supplementary to the Treaty of Brest-Litovsk. Part IV of the agreement contained the following provisions for Azerbaijan:

1. Germany would take measures to prevent any third power from crossing the boundary line of the *uezds* (sub-provinces) of Shemakha and Baku.
2. Russia would deliver to Germany one quarter of the oil extracted at Baku or a specified monthly quota.¹⁶

Note that Russia represented Azerbaijan, which meant that Azerbaijan was still seen as under the sovereignty of Russia, notwithstanding the fact that Azerbaijan had declared independence some months before.

According to Article 11, Germany should withdraw all its troops from Russian territories along the Black Sea Coast, with the exception of the Caucasus. Meanwhile all concerned had declared independence. In Article 13 Russia agreed not to hinder the production of oil and to cede to Germany a certain amount of the oil produced.

The wording of this treaty shows that although there were nominally three independent Transcaucasian states, the major powers simply did not recognize them as such.

¹⁶ See for the text of this Article Poidebard, *Le Transcaucase et la République d'Arménie dans les texts diplomatiques*, 41, and *Calendar of Soviet Events*, 23–25.

Azerbaijan at the Paris Peace Conference

The Azerbaijani Musavat delegation to the Paris Peace Conference addressed a note to President Wilson (which is remarkable, since he was by no means the only person to decide on recognition by the League of Nations), making the following requests:

1. That the independence of Azerbaijan be recognized;
2. That Wilsonian principles be applied to Azerbaijan (which means, the right to self-determination);¹⁷
3. That the Azerbaijani delegation be admitted to the Peace Conference;
4. That Azerbaijan be admitted to the League of Nations;
5. That the United States War Department extend military help to Azerbaijan;
6. That diplomatic relations be established between the United States of America and the Republic of Azerbaijan.¹⁸

President Woodrow Wilson advised the Azerbaijanis to develop a confederation with Armenia and Georgia. This was a curious suggestion, since only a year before co-operation in a federation (the Transcaucasian Federal Republic) had failed. Only such a confederation as this could receive the protection of some Power on the basis of a mandate granted by the League of Nations, according to Wilson.¹⁹ The Azerbaijani question, Wilson concluded, could not be solved prior to the general settlement of the Russian question.²⁰ In so doing Wilson held the way open for the possibility that Russia planned to regain its influence in the Transcaucasus.

¹⁷ Wilson had at the end of the First World War published a speech in which he set out his ideas concerning self-determination for nations which had not formerly been independent and which became known as Wilson's Fourteen Points. See L.S. Turnbull, *Public Papers of Woodrow Wilson*, (Princeton: Princeton University Press, 1948), pp. 155–162.

¹⁸ Kazemzadeh, 266 and Swietochowsky, 155–156. See also *Claims of the Peace Delegation of the Republic of Caucasian Azerbaijan Presented to the Peace Conference*, Paris, 1919, p. 49.

¹⁹ This would have meant a mandate by either Russia or Turkey, as they were neighbours, or another power.

²⁰ Kazemzadeh, 266.

The official claims Azerbaijan put forward at the Peace Conference were as follows:

1. The Peace Conference approves the separation of Caucasian Azerbaijan from the former Russian Empire. Azerbaijan shall form an absolutely independent state under the name of the Democratic Republic of Azerbaijan;
2. The representatives of the Republic of Azerbaijan shall be admitted to the work of the Peace Conference and its Committees;
3. The Republic of Azerbaijan shall be admitted among the members of the "League of Nations", under the high protection of which this Republic wishes to be placed like other States.²¹

Remember that these were merely the claims, not what was granted.

The Azeri delegation to the Peace Conference in a secret Memorandum dated 31 March 1920 claimed Batumi as their outlet to the Black Sea. Their main arguments were of an economic nature, since the oil from Baku was going largely through Batumi to Western Europe.²²

On 15 January 1920, the Supreme Council of the League of Nations, in a closed session, granted Azerbaijan *de facto* recognition. In the *Bulletin d'information de l'Azerbaïdjan* it was stated that

The Supreme Council at one of its last sessions recognized the *de facto* independence of the Caucasian Republics; Azerbaijan and Georgia, and Armenia. The delegations of Azerbaijan and Georgia have been notified of this decision by M. Jules Cambon at the Ministry of Foreign Affairs on 15th January 1920.²³

With regard to the questions for admission for membership of the League of Nations the following questions had to be answered:

1. Was the application for admission to the League in order?
2. Was the government applying for admission recognized *de iure* or *de facto*, and by which states?

²¹ *Claims of Azerbaijan*, [1919: 49], and Kazemzadeh, 267–268.

²² Burdett, *Caucasian Boundaries*, 643–645, and FO 371/4997, Commander H.C. Luke to Foreign Secretary Lord Curzon, 21 June 1920, enclosing French version of Treaty, which in Article 3 defines frontiers.

²³ Bulletin d'Information de l'Azerbaïdjan, No. 7, January 1920, p. 1.

3. Was the applicant a nation with stable government and settled frontiers? What were its size and population?
4. Was it fully self-governing?
5. What had been its conduct, including acts and assurances with regard to a) its international obligations, b) the prescription of the League as to armaments?

If we apply these requirements to the situation in Azerbaijan we come to the following conclusions:

- Ad 1. The application for admission was in order.
- Ad 2. On 16 January 1920 Azerbaijan was recognized *de facto* by the League of Nations. The *de iure* recognition never materialized, because three months later, on 27 April 1920, Azerbaijan became part of the Russian Federation.
- Ad 3. Azerbaijan certainly did not have a stable government. The Musavat and Bolshevik parties first operated separately with their own governments, while the governments needed constant support from foreign powers, notably Turkey and Britain to protect their territory and government in Baku. Due to border conflicts with Armenia and Georgia there were no settled frontiers.
- Ad 4. The British were invited to restore peace—and they governed for a short time. General Bicherakhov, an old Czarist officer, was invited. Turkey had a considerable influence on the Musavat government, and even dissolved it at one point. The Russians gave the Bolshevik government considerable political and financial support. Consequently, the Azeri governments were not at all self-governing.
- Ad 5. On the question whether Azerbaijan had complied with international obligations and the prescription of the League of Nations with regard to armaments no information on this is available.

The conclusion must be that Azerbaijan did not meet all of the requirements for membership to the League of Nations. Therefore, there was no reason to believe that Azerbaijan would have been recognized *de iure*, even if the Russian invasion had not taken place.

At the Fourth Meeting, on 1 December 1920, the Fifth Committee of the League of Nations decided that it was impossible to admit the Republic of Azerbaijan as a member of the League of Nations. The decision was based upon the following facts:

1. That it is difficult to determine precisely the extent of the territory over which the Government of this State exercises its authority.
2. That, owing to the disputes with neighboring States concerning its frontiers, it is not possible to determine precisely the present frontiers of Azerbaijan.²⁴

This decision was untimely, and did not take into account the real situation in Azerbaijan, since Azerbaijan's admission to the Russian Federation earlier in 1920.

More on Azerbaijan's Borders

The Azerbaijani government in Baku asked the British to send troops in order to secure Baku from an invasion by Turkey.²⁵ The British forces, which were led by General Dunsterville, landed in Baku between 9 and 17 August 1918. This operation however was not successful. The Azeri government had expected more military aid, while the British blamed the Azeri forces' lack of discipline and the demoralization of the local soldiers.²⁶ General Dunsterville was convinced that Baku could not be saved even with British support, and he decided to leave on 1 September 1918 in order to minimize casualties before Turkish troops would attack. The Azeri government tried to prevent this by threatening to open fire on any British ship leaving port. As a result British troops held on until the final attack on Baku by Turkish troops.

The British finally departed Baku on 15 September 1918. At the same time, the members of the Baku government, as well as part of the Armenian population of Baku, fled to Enzeli or to Astrakhan.²⁷ The leadership was later murdered in Krasnovodsk.²⁸

The Ottoman forces entered Baku on 16 September. In the period between the departure of the British troops and the arrival of the

²⁴ Burdett, *Caucasian Boundaries*, 715, and FO 371/4949.

²⁵ Pipes, 199–204.

²⁶ M.H. Donohoe, *With the Persian Expedition*, (London: Edward Arnold, 1919), pp. 212–213.

²⁷ Astrakhan at that time was ruled by Bolsheviks. The most important members of the former Baku government were sentenced to death, notwithstanding their appeals to the British to ask the Bolsheviks to save their lives. See T. Swietochowsky, [1985: 139].

²⁸ C.H. Ellis, *The British Intervention in Transcaspia, 1918–1919*, (Berkeley: University of California Press, 1963), p. 61.

Turkish troops; Azeris and Turks inflicted heavy bloodshed on the Armenians.²⁹

They signed an armistice with the Allies at Mudros on 30 October 1918. Two provisions dealt with the Transcaucasus:

1. Article 11 required the evacuation by the Ottomans of the entire region, and
2. Article 15 stipulated that the Allies would take over the control of the Transcaucasian railways and occupy Baku.
3. There were some internal territorial changes introduced as well. Two guberniia (provinces) were broken up into four: Baku, Ganja, Karabakh and Zakataly. There were no changes in the delimitation of the *uezds*.

On 30 November 1918, General Thomson landed in Baku. During most of 1919 the Volunteer Army under General Denikin, operating from the North Caucasus and Daghestan, threatened Azerbaijan's safety. Denikin, who fought for the restoration of the Russian Empire, did not respect the aims to self-determination of what he called secessionist states.

General Thomson's Delimitation

After the collapse of the Russian Empire, the borders of Azerbaijan had not been respected. From June 1918 Turkish troops on several occasions had invaded Azeri territory.

Due to the advance of the Volunteer Army of General Denikin towards Daghestan and Azerbaijan, it became important to delimit the borders of Azerbaijan. Since the Transcaucasus officially formed part of the British sphere of influence, the military representative of Great Britain in Transcaucasia performed this delimitation, at that time this person was General Thomson.

In January 1919 General Thomson drew a demarcation-line, running along the main range of the Caucasus Mountains and the northern frontier of Daghestan, including its capital Petrovsk (Makhachkala), that the Volunteer Army was not to cross.³⁰ Denikin did not respect

²⁹ Swietochowsky, 139.

³⁰ Swietochowsky, 152.

Thomson's demarcation-line and in the spring of 1919 occupied the northern part of Daghestan.

In May 1919 the Volunteer Army occupied the territory up to the line Kizil-Burun, Zakataly (Zakatala), Caucasus range, resulting in the occupation of Daghestan, including the seaports of Petrovsk (Makhachkala), and Derbent.³¹ A letter was sent to Azerbaijan's Prime Minister, Usubekov, that the Volunteer Army did not aspire to attack Azerbaijan, but the Azeris did not take this seriously, since the Volunteer Army had violated demarcation lines already twice.³²

The Volunteer Army continued its advance, and the Azerbaijani government delivered a protest note to General Thomson stating that it would be "compelled to come to the aid of the Mountaineers with all the means at its disposal".³³

The British in a way rewarded the advance of Denikin by drawing a demarcation line on 11 June, running south of Petrovsk (Makhachkala).³⁴ Denikin held his conquests in Daghestan, since the *status quo* was taken as a starting point for discussions.

Denikin did not have any intention of complying with British-imposed territorial restrictions and advanced down to the frontiers of Azerbaijan and Georgia. The government of Azerbaijan complained to the Allied Commandment in the Caucasus about this violation of the demarcation line.³⁵ The British again started discussions concerning the border of Azerbaijan, in which Denikin again could keep his newly acquired territory, and on 4 August drew a line.³⁶ Brinkley dates

³¹ G.A. Brinkley, *The Volunteer Army and the Allied Intervention in South Russia*, (Notre Dame: University of Notre Dame, 1966), p. 160, A. Denikin, *Ocherki Russkoi Smuty*, Vol. 4, (Paris: J. Povolozky & cie), 1922, p. 134.

³² Brinkley, 160, Denikin, 171.

³³ On 13 December 1919 the head of the English Mission in Baku communicated to the Musavat government that a British Commissar had been appointed to General Denikin, in I.A. Guseinov, *Borb'a za Pobedu Sovetskoi Vlasti v Azerbaidzhane 1918–1920, Dokumenty i Materialy*, (Baku: Izdatel'stva Akademii Nauk Azerbaidzhankoi SSR, 1967), p. 350, and Swietochowsky, 153. This implicated 'treason' from the British, since the Musavat government had shortly before signed a defence treaty with Georgia, with the special aim to defend the territory against Denikin.

³⁴ This letter was published on 15 June 1919 in the *Gazeta Habat*, in Guseinov, 168–169, Denikin, 135, Brinkley, 162–163.

³⁵ "Note de l'Azerbaïdjan au Commandement Allié", in *L'Europe Orientale*, No. 3, October 1919, p. 94.

³⁶ Daghestan came in the hands of Denikin and his Volunteer Army. The demarcation was published in a letter signed by Major-General Corey, in Guseinov, 247, Swietochowsky, 153.

this document to 17 July, referring to “Documents on British Policy”, III, p. 451.³⁷ Only then did Denikin call for a temporary halt to his operations in Transcaucasia in order to concentrate on fighting the Bolsheviks in the North.³⁸

Military Convention between Azerbaijan and Georgia

On 16 June 1919 Azerbaijan signed a mutual defense treaty with Georgia, where it renounced claims to the Muslim parts of western Transcaucasia.³⁹ In a joint letter to the president of the Peace Conference this Convention was notified and it mentioned the possibility of Armenia to joining in the Convention.⁴⁰

The Convention was signed in order to be able to stop Denikin. The Convention would be concluded for three years, after which it had to be renewed. Even before the Convention’s first three years expired, both Georgia and Azerbaijan had lost their independence.

Agreement between Armenia and Azerbaijan Concerning Zangezur

Zangezur lies in the south of the Transcaucasus, being divided between Armenia and Azerbaijan. Zangezur is of political and strategic importance due to its geographical position. Since 1918 there were clashes between Armenian troops and Muslim troops in Zangezur. In the spring of 1919 Armenia held jurisdiction over Sharur-Nakhichevan and on this ground held claims to Zangezur. The position of the British was that the Peace Conference should decide about Zangezur. Regardless, both Armenia and Azerbaijan continued to press their claims over the sovereignty of Zangezur from June 1919 onwards.

On 22 November 1919, representatives of Armenia and Azerbaijan signed an agreement in which it was stated that they would lay down weapons until the Peace Conference decided the fate of Zangezur.⁴¹ The region was at a later stage given to Armenia as a buffer between Armenia and Nakhichevan.

³⁷ Brinkley 163.

³⁸ Swietochowsky, 153.

³⁹ The text can be found in *L’Europe Orientale*, No. 5, 1919, pp. 156–157, and *Revue du Monde Musulman*, Vol. XXXVI, p. 42.

⁴⁰ “Note de l’Azerbaïdjan et de la Géorgie à la Conférence de la Paix”, in *L’Europe orientale*, No. 3, October 1919, pp. 94–95.

⁴¹ *L’Europe orientale*, 1920, Nos. 9–10, pp. 41–42, and *Consolidated Treaty Series*, 327–328.

The Americans, represented by Colonel James Rhea, had proposed the conditions of this agreement. At the request of the Azeri delegation, the third point had been changed so that the administration of Zangezur remained under the control of the representative of the United States of America, until the question could be decided by the Armenian-Azeri Conference, mentioned in Article 6. This accord would enter into force after the approval by the parliaments of Azerbaijan and Armenia.⁴²

Azerbaijan at the Peace Conference

As we saw in earlier chapters, at the Paris Peace Conference the Allies were not willing to invest extensively in the Transcaucasus, and had even negotiated secret accords with Russia.

At the Peace Conference in Versailles the Allies (France, Britain, and the United States *inter alia*), had extensive discussions as to what had to happen with the separate Transcaucasian states.⁴³ After the war the internal support for long-term adventures abroad had diminished since the Allies were busy rebuilding their own countries and Russian interests in Transcaucasia were acknowledged. There was a real possibility that all the Transcaucasian states would be occupied by Soviet Russia, and therefore the Allies decided to withdraw because the costs of remaining in the Caucasus would be too high in comparison to the benefits of withdrawal.

In a letter dated 26 May 1919 by Louis Mallet, Minister of Foreign Affairs of France to Lord Curzon, British Foreign Secretary, it was mentioned that Mallet hoped that four separate governments of the Caucasus, Georgia, Armenia, Azerbaijan and Daghestan, could form a kind of confederation in the future "on the lines of that formed in 1917 and destroyed by the Turkish invasion of the Caucasus".⁴⁴ It is remarkable that the Transcaucasian temporary government, formed after the November Revolution of 1917 was regarded as a confederation. Although the major peoples in the Transcaucasus were represented, there was not a correct and intended declaration of independence, nor

⁴² *Consolidated Treaty Series*, [1959: 327–328].

⁴³ The minutes of their discussion have been published in R.S. Baker, W.E. Dodd (eds), *War and Peace, Presidential Messages, Public Papers (1917–1924) by Woodrow Wilson*, Vol. I, (New York: Harper & Brothers Publishers, 1970), pp. 155–162.

⁴⁴ Burdett, *Caucasian Boundaries*, 613–614, and FO 608/84.

were other criteria of state building complied with, as we saw in an earlier chapter. Daghestan had not been included.

Persian Claims on Azerbaijan Territory

The claims of Persia on Azerbaijani territory at the Paris Peace Conference included the restoration of the “cities and provinces wrested from Persia after the Russian wars” (This referred to the Russian-Iranian wars of the 19th century), which included all of the Azerbaijani Republic and a part of Daghestan.⁴⁵

The claim was as follows:

In the North, the cities and provinces wrested from Persia after the Russian wars. We will cite Baku, Derbent, Chakki, Chemakha, Gandzha (Elisabethpol), Karabakh, Nakhichevan, Erevan. These provinces must be returned to Persia, for they had already formed part of Persia. The large majority of their inhabitants are Musulmans, and the generality of them are Persians in origin and race. In fact, from every point of view, historic, geographic, economic, commercial, religious, cultural, they are attached to Persia. Furthermore, a large portion of the inhabitants of these provinces have lately appealed to the Government of Teheran, to protect them, and they have expressed the wish to be restored to Persia.⁴⁶

The Persian claims on Azeri territory were not taken seriously at the Peace Conference, because Persia had not been one of the belligerents in the First World War. Therefore, Persia knew beforehand that its claims would not be taken into consideration.

Anglo-Persian and Azeri-Persian Agreement

The signing of the Anglo-Persian Agreement on 9 August 1919 might have motivated the ruling Baku government to conclude a similar, mainly economic, pact with Britain.⁴⁷

The British government respected the independence and integrity of Persia in Article 1, re-organization of Persian administrative departments and help with Persia's military build-up were guaranteed in

⁴⁵ Swietochowsky, 155, and *Claims of Persia before the Conference of the Preliminaries of Peace at Paris*, 1919, 9–10.

⁴⁶ *Claims of Persia before the Conference of Preliminaries of Peace at Paris*, 1919, 9.

⁴⁷ P. Sykes, *A History of Persia*, (London: McMillan & Co, 1930), pp. 520–521.

Article 2 and 3, while the British government promised a considerable loan to finance the reforms (Article 4).⁴⁸

While many Persians opposed the Agreement out of patriotism, the Azerbaijani government, which was weak and did not have enough military power to defend itself, saw in the Agreement a chance to regain British protection since Persia was a British protectorate. Here we have to remember that Persia had a province called Azerbaijan that was even bigger than the state of Azerbaijan in the Transcaucasus.

On 1 November 1919, Ali Merdan Bey Topchibashev, who was head of the Azeri delegation to the Paris Peace Conference, submitted to the Persians a proposal for a pact including an economic and political union, and a common foreign policy. For the Baku regime the most essential element was that Azerbaijan would receive the same military assistance from Britain as Persia did. Thus a "Treaty of Friendship and Commerce" was signed in March 1920.⁴⁹

In a secret Memorandum to the President of the Supreme Council, dated 31 March 1920, the Azerbaijan Delegation to the Paris Peace Conference vied for the cities of Kars and Batum. The response of 10 April 1920 only mentioned that the letter had been received in good order. The Azeri claims were not realistic, and furthermore, only less than two weeks later Azerbaijan lost its external sovereignty to Russia when it became an SSR. Consequently, nothing of these claims was heard of again.

Russian Bolsheviks Seize Power in Azerbaijan

In late March and early April 1920 the Russian Bolshevik Eleventh Army consolidated its occupation of the North Caucasus and Daghestan. A special organ, the Kavbiuro, was established on 8 April to coordinate military and political aspects of a Russian invasion in Azerbaijan.⁵⁰

On 23 March 1920, a large Armenian uprising broke out in Nagorno Karabakh, at that time ruled by the Azeri Sultanov. The Azerbaijani high command had to use nearly all the available army forces against the insurgents. The government therefore did not have any military

⁴⁸ Sykes, 520–521.

⁴⁹ Swietochowsky, 157, Pipes, 226.

⁵⁰ With Ordzhonikidze as chairman, Kirov as his deputy, and two Georgian Communists, Budu Mdivani and Aleksandr Stopani, as members.

strength left to fight the Russian Bolshevik Eleventh Army, which from the end of March on entered from Daghestan.⁵¹ On 27 April 1920, the Central Committee of the Azerbaijan Communist Party announced the overthrow of the government of the Musavat Party and declared that the only lawful authority was the Provisional Azerbaijani Military-Revolutionary Committee (Azrevkom).⁵²

On 27 April 1920, the Central Committee of the Azerbaijan Communist Party announced the overthrow of the government of the Musavat Party and declared that the only lawful authority was the Provisional Azerbaijani Military-Revolutionary Committee (Azrevkom).⁵³

That same day the Azerbaijan Parliament voted, with one deputy opposing and one abstaining, that it had accepted the following conditions from the Communists:

1. Full independence of Azerbaijan under Soviet power will be maintained.
2. The government formed by the Communist Party of Azerbaijan will have provisional authority.
3. The final system of government of Azerbaijan will be determined without any outside pressure, by the supreme legislative organ of Azerbaijan, the Soviet of Azerbaijani Workers, Peasants and Soldiers.
4. All functionaries of the governmental agencies will retain their posts and only persons holding positions of responsibility will be replaced.
5. The newly formed provisional Communist government guarantees the life and property of the members of the present government and parliament.
6. It will take measures to prevent the entry of the Red Army under battle conditions.
7. The new government will resist, using strong measures and all the means at its disposal, all outside forces, from whatever quarter, aiming at the suppression of Azerbaijani independence.⁵⁴

⁵¹ H.B. Agaev, "Pis'mo Enver Pashe" in *Kavkaz*, No. 9 (45), 1937, p. 27, and Swietochowsky, 177.

⁵² Swietochowsky, 181.

⁵³ Swietochowsky, 181.

⁵⁴ Swietochowsky, 182. The Russian text is in: Guseinov, 461–462. "Postanavlenie zasedaniia musavatskogo parlamenta azerbaidzhana o peredache vlasti kommunistam", in *Gazeta Kommunist*, 6 May 1920.

During the night of 25 to 26 May 1920, a major rebellion against the Soviet regime broke out in Ganja, which soon spread to Nagorno-Karabakh and Zakataly and most of Western Azerbaijan.⁵⁵ Only at the end of June was Soviet rule again firmly established in Azerbaijan.

Azerbaijan Membership of League of Nations Rejected

On 1 December 1920 the 5th Commission of the League of Nations decided that it was impossible to admit the Republic of Azerbaijan as a member to the League of Nations, as:

it is difficult to determine precisely the extent of the territory over which the Government of Azerbaijan exercises authority” and as “owing to disputes with neighboring states concerning its frontiers, it is not possible to determine precisely the present frontier of Azerbaijan.”⁵⁶

It must be clear that the fact that Azerbaijan had become an SSR, where Russia held external sovereignty, meant that the whole discussion in the 5th Commission was irrelevant. Azerbaijan could only be represented in the international arena by Russia, which at that time was not a member of the League of Nations.

Treaties Signed by Russia on Behalf of Azerbaijan

Treaty of Moscow

The Treaty of Moscow was signed on 16 March 1921 between Russia and Turkey. This treaty was aimed at assuring friendly and brotherly relations between the two states. The treaty recognized the frontiers as delimited in the Turkish National Pact. The territory of Nakhichevan was declared autonomous and placed under the protectorate of Azerbaijan. Article 3 of the Treaty of Moscow dealt with the autonomy of Nakhichevan. This explicitly stated that no other state could become protector of Nakhichevan.⁵⁷ The treaty had in Article 12 a clause on the free transit of people and their property.⁵⁸

⁵⁵ Ganja after all had since 1918 been the stronghold of the Musavat party. Pipes, 228.

⁵⁶ Burdett, *Caucasian Boundaries*, 715, and FO 371/4949.

⁵⁷ Poidebard, *Le Transcaucase et la République d'Arménie dans les texts diplomatiques*, 60.

⁵⁸ Poidebard, *Le Transcaucase et la République d'Arménie dans les texts diplomatiques*, 62.

Appendix 10 was a declaration of the representatives of the Republics of Armenia, Azerbaijan, the North Caucasus and Georgia concerning friendly relations among states, non-interference in internal affairs and arbitration in case of a dispute. It was signed in Paris on 10 June 1921. Article 3 contained a clause concerning compulsory arbitration in case of frontier disputes and other differences between the Transcaucasian republics.⁵⁹ This declaration (Appendix 10) incorporated in Article 5 a military defense alliance and in Article 6 a customs union and a territory of free transit for international commerce.

Treaty of Kars

The Treaty of Kars was concluded on 21 October 1921 between the Turkish government and the government of the RSFSR. The aim of the Treaty was similar in nature to the Treaty of Moscow. In the Preamble the concluding parties stipulated the principle of brotherhood of nations, the right of self-determination for peoples in order to come to friendly relations of a lasting nature, based on reciprocity.

Article 1 of the Treaty of Kars declared all previous treaties on this subject void, with the exception of the Treaty of Moscow, concluded on 16 March 1921. Article 2 described what had to be regarded as the total territory of then Turkey.⁶⁰

Describing the Turkish borders, the Turkish-Transcaucasian borders were also delimited. Annex III defines the borders of Nakhichevan.

Other Treaties

On 30 September 1920 a Treaty between the RSFSR and the Azerbaijan SSR "On Military and Economic Union of the Two Republics" was signed.

An agreement "On a Common Economic Policy" was signed on 30 September 1920 between the RSFSR and the government of Azerbaijan. On the same date, 30 September 1920, an agreement "On Matters of Foreign Trade" was signed between the government of the RSFSR and the government of the Azerbaijan SSR. Finally, also on 30 September 1920, an agreement "On the Merger of Administration

⁵⁹ Poidebard, *Le Transcaucase et la République d'Arménie dans les textes diplomatiques*, 65.

⁶⁰ Poidebard, *Le Transcaucase et la République d'Arménie dans les textes diplomatiques*, 70.

of Postal, Telegraph, Telephone, and Radiotelegraph Services” was signed between the government of the RSFSR and the government of the Azerbaijani SSR.

Constitutions of Azerbaijan

Until 1921 Azerbaijan could be characterized as a country in chaos, which was ruled without a new constitution, while the old Czarist Constitution was no longer valid since the Empire had ceased to exist. No information is available as to whether the governments in Azerbaijan had decided to keep the Czarist Constitution temporarily, or to adopt the constitution of the Communists in Moscow, which had been adopted in 1918. At the time Azerbaijan was aligned with Russia from 27 April 1920 onwards, the Constitution of Russia of 1918 became applicable to Azerbaijan, since it was from that moment part of the Russian Federation.

On 19 May 1921 the First Congress of Soviets of the Azerbaijan SSR approved the Constitution of the Azerbaijan Socialist Soviet Republic. The Constitution did not give any delimitation of territory. Its content was very clearly structured, better than the Constitutions of Armenia and Georgia, which were published a little later. Article 2 defined Azerbaijan as a free (independent) republic. The first part of the Constitution includes such rights as the freedom of religion (Article 4), free press (Article 5), freedom of assembly (Article 6), freedom to form labor unions (Article 7), and the recognition of other nationalities (Article 10). The second part of the Constitution described the structure of Soviet power; the third part concerned elections to the various political organs. This section also had a chapter on active and passive voting rights.⁶¹ The constitution came into force on 30 September 1921.

In the Constitutions of the TSFSR of 1922 and 1925 no changes of Azerbaijani territory occurred, and no delimitation was given. According to Article 13 of the 1936 Constitution, the Azerbaijan SSR formed part of the USSR on a voluntary and equal basis with other SSRs. Article 24 indicated that the Azerbaijan SSR comprised the Nakhichevan ASSR and Nagorno-Karabakh Autonomous Oblast.

⁶¹ The fact that the whole population, without regard to status, nor with regard to sex, had the right to vote was revolutionary.

CHAPTER ELEVEN

THE SOUTH CAUCASUS AS PART OF THE SOVIET UNION: THE PERIOD 1921–1936

By the end of 1921 Georgia, Armenia and Azerbaijan had all come under Bolshevik governance. In Moscow discussions went on with regard to the future representation of the three Transcaucasian states. It was decided that a Transcaucasian Socialist Federative Soviet Republic (TSFSR) would be constructed, which represented the three republics in Moscow, while they retained their own national governments. Only Georgia rebelled against the directives from Moscow. At least until 1923 there were still some other political parties that the Bolsheviks tolerated, but by 1923 and 1929, in all Transcaucasian republics, other political parties were abolished by decision of the authorities in Moscow.

Treaties between the Transcaucasian republics were centralized, and treaties between the Transcaucasian Federation and the RSFSR, later Soviet Union, were encouraged. In this period the fate of Nagorno-Karabakh and Nakhichevan was decided. In 1931 Abkhazia's status was downgraded from a treaty SSR to ASSR.

At the political level nationalism was strongly discouraged because this could impede the realization of the Soviet Union, and politics were 'cleansed' of bourgeois elements. This resulted in the 1930s purges, which struck the Transcaucasus as hard as they did other parts of the Soviet Union.

The Creation of the Transcaucasian Socialist Federative Soviet Republic

After all the Transcaucasian states had come under Soviet rule in May 1921, the declaration establishing the Transcaucasian Federation of 7 November 1921 underlined, apart from the ongoing goal of Sovietization, including the signing of common treaties, the possibility of unifying the economies of the three Transcaucasian republics.¹

¹ See *Istoriia Konstitutsii (v Dokumentakh) 1917–1956, O Federatsii Zakavkazskikh Respublik (Rezoliutsiia Kavkazskogo biuro Ts.K.R.K.P.)*, 1957 and *O Federatsii*

In a secret French, but now declassified, report it is noted that an agreement had been signed between Turkey and Soviet Russia in which “the Bolsheviks have the right to occupy the portions of the Caucasus evacuated by the Kemalists, and it is anticipated that a further clause will assure Bolshevik reoccupation as far as the old Russian-Turkish frontier”.² Another clause indicates that the Kemalist government will not enter into an agreement with the Western Powers without the consent of the government in Moscow. This means that Russia and Turkey would work closely together.

Elections in the three Transcaucasian Republics were held at the end of January 1922. Lenin issued a “Project on the Formation of a Transcaucasian Federative Republic” in which he recognized this Republic (Article 1), and instituted a Committee for Georgia, Armenia and Azerbaijan, the Kavbiuro (Article 2).³ This Kavbiuro on 7 November 1921 “declared the necessity for the organization of a federative union of the republics of the Transcaucasus”.⁴

The Federation would be based on a political, economic and military union.⁵ The agreement to federate was accepted by the plenipotentiaries in the Central.

Executive Committees (CEC) of the Transcaucasian republics in Tiflis on 12 March 1922. A Treaty of Alliance between the Azerbaijan, Armenian and Georgian SSRs establishing the Federative Union of Socialist Soviet Republics of the Transcaucasus was signed.⁶

1. The TSFSR Soviet would have jurisdiction over:
2. military affairs;
3. finances;
4. foreign affairs;

Respublik Zakavkaz'ia (Iz rezoliutsii II kraevogo Zakavkazskogo partiinogo soveshchaniia), pp. 308–310.

² The report is dated 22 June 1921, and an extract is found in Burdett, *Caucasian Boundaries*, 762.

³ *O Federatsii Respublik Zakavkaz'ia (iz rezoliutsii II kraevogo Zakavkazskogo partiinogo soveshchaniia)*, p. 311.

⁴ *Istoriia Sovetskoi Konstitutsii (v Dokumentakh) 1917–1956*, 1957, pp. 309–310.

⁵ Stated in the Preamble.

⁶ A translation of the text can be found in Foreign Office 371/7728, Moscow to Foreign Secretary, 14 August and 5 September 1922, forwarding Treaty of Alliance of Transcaucasian Socialist Soviet Republics of Azerbaijan, Armenia and Georgia of 12 March 1922, and in Burdett, *Caucasian Boundaries*, 799 and 804–805.

5. post and telegraph;
6. external trade;
7. communication and transportation;
8. The battle against counter-revolution.

The nominally independent Republics lost their sovereignty to the TSFSR and subsequently to the USSR. All three Transcaucasian states adopted resolutions on 3 December 1922 in which they recognized the validity and necessity of merging into the TSFSR. Before this federation was realized however, the Central Committee of the Georgian Communist Party expressed serious objections to any merger.

Georgia Does Not Approve of a Federation

Between the Georgian parliament and the Soviet government a conflict broke out over the question of what the power of the *Kavbiuro* was over the Central Committees of the Republican Communist parties.⁷ In April 1921 Lenin ordered Ordzhonikidze to unify the Transcaucasian republics. In this way Lenin could use Georgian transport facilities for the oil from Azerbaijan, while Armenia had traditionally good relations with Russia. In the summer of 1921, the *Kavbiuro* passed a decision that the Transcaucasian republics would be united into a Federation.⁸ In November 1921 the *Kavbiuro* passed resolutions on the formation of a Federation without consulting the republican Central Committees, denying the republics the factual exercise of their sovereignty. Lenin consequently received a Georgian complaint that the Transcaucasus (read: Georgia) would rebel if Ordzhonikidze continued working this way. As a result of this complaint Lenin issued on 28 November 1921 a directive that the Transcaucasian Federation was premature.

Lenin made a distinction between 'Soviet Republics' and 'Autonomous Republics' which had a different kind of sovereignty. Socialist Soviet Republics were Union Republics and as such had the possibility (in theory) to secede from the Soviet Union. An autonomous socialist

⁷ Pipes, 266.

⁸ Pipes, 267 and Suny, *The Making of the Georgian Nation*, 214.

soviet republic had one status lower and formed part of an SSR. As such it did not have the right to secede from the Soviet Union. Under Stalin there was no differentiation between these different formulations. He wanted the republics firmly subordinated to the Russian Federation government. Pipes describes this as follows:

Stalin [...] treated the Soviet domain as a unified, centralized state and the government of the RSFSR as the de facto government of all the six Soviet Republics. In this manner he hoped to eliminate all those difficulties which the legal fiction of 'independence' of the republics had made for those who were running the country.⁹

Budu Mdivani, who represented Georgia, would only approve of the plan for the joining of the three Transcaucasian republics as the TSFSR if Georgia entered the Union as a full member.¹⁰

A new plan, which was subsequently drawn up was that the federal republics would enter the Soviet Union formally as independent states, equal to the RSFSR. The Transcaucasian Republics would, however, enter the Union indirectly (and not directly as Stalin had first proposed) through the TSFSR.¹¹ The Georgians protested, because they did not want a federation in which they would have so little political sovereignty.¹² After consultations with Lenin, which did not solve the matter, the Central Committee of the Georgian Communist party on 22 October 1922 resigned. With the new Central Committee, which was created so as not to obstruct the plans issued from the central government in Moscow, the Union plan could be approved without any difficulty.¹³ So the SSR Georgia, with the treaty SSR Abkhazia, joined the TSFSR.

If the three Transcaucasian Republics would have become ordinary members of the proposed federation, they would have constituted half of the membership (the other three being the RSFSR, Ukraine and Belorussia) and become too powerful. This was undesirable from the point of view of the Soviet leadership. The establishment of the TSFSR offered a reasonable alternative.¹⁴

⁹ Pipes, 270.

¹⁰ Pipes, 273 and R.G. Suny, *The Making of the Georgian Nation*, 215.

¹¹ Suny, *The Making of the Georgian Nation*, 215.

¹² Pipes, 274.

¹³ Pipes, 275.

¹⁴ Suny, *The Making of the Georgian Nation*, 211–218 explains the problems between the Moscow leadership and the Georgians in detail.

Treaty Relations of the Transcaucasian Republics

Although the separate Transcaucasian SSRs kept signing treaties on their own behalf, the RSFSR and later the Soviet Union promoted merging treaties whereby the Soviet Union signed on behalf of the Transcaucasian Federation.

An example of a transfer of power is the protocol regarding the transfer to the RSFSR of Allied representatives at the All-European Economic Conference, signed by Armenia, Azerbaijan and Georgia on 22 February 1922.¹⁵

The resolutions, which paved the way for the introduction of the Transcaucasian Socialist Federative Soviet Republic, had to be approved by the three Transcaucasian SSRs:

1. The Resolution of the Second Congress of Soviets of the SSR Armenia on the Report on the Transcaucasian Federation and the Union of Soviet Socialist Republics, was adopted on 3 December 1922;
2. The Resolution of the Second Session of the Central Executive Committee of the Azerbaijan SSR (Second Convocation) "In Support of the Entry of the Transcaucasian Federation into the Union of Soviet Republics", which was adopted on 9 December 1922.
3. The Resolution of the First Transcaucasian Congress of Soviets "On the Report on the Union of SSRs", was adopted on 13 December 1922;
4. The Resolution of the First Transcaucasian Congress of Soviets "On Calling the General Congress of Soviets of the SSRs" was adopted on 13 December 1922.

In the new 1936 Constitution of the Soviet Union, the Transcaucasian Socialist Federative Soviet Republic cannot be found. Stalin had decided that the three Transcaucasian Republics would enter this Constitution separately. The TSFSR was dissolved. The lower autonomous units within the Transcaucasian Republics retained the status they had before.

¹⁵ These and the following texts can be found in: *Soviet Treaty Series: A Calendar of Soviet Treaties*; and *USSR: Sixty Years of the Union, 1922–1982, A Collection of Legislative Acts and other Documents*, 1982.

The dissolution of the TSFSR had to be approved by the three Transcaucasian Republics. This was done by resolution on the following dates:

1. The resolution of the Extraordinary Eighth All-Georgia Congress of Soviets "On the Dissolution of the Transcaucasian Socialist Federative Soviet Republic", adopted on 13 February 1937.
2. The Resolution of the Extraordinary Ninth All-Azerbaijan Congress of Soviets "On the Dissolution of the Transcaucasian Socialist Federative Soviet Republic", adopted on 14 March 1937.
3. The resolution of the Extraordinary Ninth Congress of Soviet Armenia "On the Dissolution of the Transcaucasian Socialist Federative Soviet Republic", adopted on 23 March 1937.

The Transcaucasian Republics adopted these resolutions at different dates, and all after the 1936 Constitution had come into effect.

Red Kurdistan is Created

In the period from 1923 to 1929, there was an autonomous rayon (*uezd*) called Red Kurdistan in Azerbaijan. Around 1929/1930 the *uezd* Red Kurdistan was dissolved into 3 or 4 smaller rayons. It consisted of about 25 villages in an area of 5200 square kilometers between Armenia and the Autonomous Oblast Nagorno-Karabakh, with Lachin as the main town.¹⁶ Other important cities in Red Kurdistan were Kelbajar, Kubatly, and Zengelan.¹⁷

¹⁶ <http://www.geocities.com/Athens/9479/kur-sov.html>.

¹⁷ <http://kurdish.com/kurdistan/maps/maps-09.html>.

CHAPTER TWELVE

TERRITORIAL CLAIMS AFTER THE SECOND WORLD WAR

Georgia

On 20 December 1945 two Georgian scholars, S. Dzhnashia and N. Berdzenishili published an article in the Tbilisi newspaper *K'omunist'i* in which they claimed for Georgia territories within Turkey.¹ The regions of Ardahan, Artvin, Olti, Thortum, Isgir, Baiburt, Gumushkume and Eastern Lazistan, including the region of Trebizond and Karasoon (Kerasund), were to be given to Georgia. This claim got wide attention in the Soviet press, and subsequently also in the Turkish press. The Soviet Government never officially adopted the claim, and no changes of the frontier occurred. Nevertheless the article gave rise to several diplomatic moves.

The claims were based on history. The area claimed was of strategic importance, since Turkey could not attack Batumi from the South when these territories would form part of the Georgian SSR.

Since there had been no suggestion before the end of 1945 that the Georgians needed or desired any Turkish territory, the claims came somewhat as a surprise. Lazistan (which was the name of the area covered by the claimed regions) was never an irredenta for the Georgians. Nor had the Western Powers broken any pledges to the Georgians on which they could base their claim.²

The territory claimed was of strategic importance to the Soviet Union, according to a document of the British Embassy in Ankara:

Batum is a position of great natural strength, and the state of communications in Lazistan and the Coruh valley is such that it would be impossible to concentrate heavy metal against the fortress from the Turkish side. The possession of Artvin, on the west bank of the Coruh,

¹ "Our Lawful Demands on Turkey", an English translation in Burdett, *Caucasian Boundaries*, 893–897.

² Foreign Office Research paper of 4 April 1946, "Armenian and Georgian Claims to Turkish Territory" (combining paper above of 5 October with an additional paper from 22 December 1945), expanding and correcting detail, especially on historical points, FO 371/59247, in Burdett, *Caucasian Boundaries*, 1030].

would not improve the defences of Batum. On the other hand Artvin is a strong position which is important to the Turks since it blocks an enemy advance up the valley of the Coruh or up the Tortumcay towards Erzurum (The Russians availed themselves of the Tortum route to turn the defenses of Erzurum in January 1916).

Lazistan might well become an important defensive area for the Turks since, in contrast to the Kars plain, it remains impassable to armour, the forests in the seaward slopes of the Pontic Alps provide good air-cover, and the country is open to supply from the sea. Were the Soviet frontier to be advanced to Atina or Rize, it would become difficult, if not impracticable, for the Turks to hold Trabzon and the Trabzon-Erzurum trunk road.³

The claims never materialized, and it was only some 27 years later that a border correction between Turkey and the USSR took place. On 24 March 1972 a Protocol was signed in Ankara between the USSR and Turkey "Concerning the Demarcation of the Line of the State Frontier on Border Rivers and Territorial Compensation".⁴

Armenia

In 1945, just after the end of the World War II, it was the Armenian Diaspora in the United States who pleaded for a return of certain territories in Turkey to the Armenian SSR.

As was the case with the claims of Georgia, the press in Moscow paid considerable attention to this. The claims however were not well founded. Again, as at the Peace Conference some twenty-five years earlier, it concerned territory that did not have an Armenian majority. The Soviet government did not adopt the claim and although the Turkish government feared military reprisals from the Soviets as a result of their attitude towards the Armenian claims, nothing ever happened.

A British Foreign Office document concerning the Armenian claim to Turkish territory gives the following argument against the claim with regard to Kurds living in the area: "One of the strongest arguments against the Armenian demand for the Turkish territory in ques-

³ British Embassy, Ankara to Foreign Secretary, 28 January 1946, forwarding criticism of FORD paper on Georgia claims, FO 371/59426 in: A.L.P. Burdett, [1996: 904]. It concerns a minute which W.E.D. Allen, press attaché at the British Embassy in Ankara has written on the Research Department's memorandum of 22 December 1945 regarding Georgian claims to Turkish territory.

⁴ Ginsburg, Slusser, 647.

tion is that there are no Armenians in it. It is, however, inhabited very largely by the million and a half Kurds of Turkey. Although the Kurds were notoriously used by the Turks to persecute and massacre the Armenians, there is no essential antipathy between Kurd and Armenian. Indeed, in 1919 representatives of the Armenian and Turkish [Kurdish?] independence movements agreed in Paris on a joint policy. The autonomous Kurdistan of the Treaty of Sèvres materialized no more than an independent Armenia. Nevertheless the idea then prevalent that Armenia and Kurdistan might some time form a sort of union is one which the USSR might yet try to realize, thus using the presence of Kurds to make up for the absence of Armenians in the territory demanded".⁵

On the content of this analysis a report was concluded that provided a more precise idea of the population in the areas under consideration. The claims could be used in a territorial policy with the neighboring states of the Soviet Union, but it did not lead to war, and Great Britain as well as the United States declared they were against the claims of the USSR.

On 30 May 1953 and 17 July 1953 the Soviet Union and Turkey exchanged "Notes Concerning Soviet Claims on Turkish Territory and Regulation of the Black Sea Straits".⁶ The USSR sent Turkey a declaration renouncing claims made by the Armenian and Georgian SSRs in 1945 to Turkish territory and stated that the USSR considered it possible to reach a settlement on the problem of the Straits that would be acceptable to both states.

In its reply of 17 July 1953, Turkey noted the Declaration Concerning Renunciation of Territorial Claims and reminded the USSR that the Montreux Convention regulated the question of the straits.

On 28 February 1967 a Protocol was signed in Ankara between the Soviet Union and Turkey concerning the demarcation of the Soviet-Turkish border established by the Treaty of Kars of 1921 and the Protocol of 1926, with supplementary technical Protocols and 2 appendices. It entered into force on 5 November 1968 on exchange of notifications of approval.

⁵ Burdett, *Armenia*, 1004, Foreign Office Research Department Paper of 5 October 1945: "Armenian Claim to Turkish territory", FO 371/48795.

⁶ Slusser, Triska, 298.

Azerbaijan

No claims of Azerbaijan on neighboring territory are known in the period from 1936 to 1953.

On 10 August 1953 an Agreement was reached concerning the convocation in Teheran of a mixed Soviet-Iranian commission to settle disagreements on financial, border and other questions. This was followed on 2 December 1954 by an agreement concerning the settlement of border and financial questions, with related documents. That same date an exchange of notes took place concerning a border rectification.

Ratifications were exchanged in Moscow on 20 May 1955. The frontier disputes arose from imprecise demarcation by a mixed boundary commission, west of the Caspian Sea as early as 1828–1829; and east of the Caspian Sea between 1886 and 1894. Article 3 notes that an Iranian-Soviet Mixed Commission shall be formed within 3 months after the signing of this convention. The Iranian—Soviet Mixed Commission shall complete the demarcation and re-demarcation within a period of one and one and a half years from the date of its formation. A Protocol with this Convention described in detail the frontier between Iran and the Soviet Union.

On 29 January 1955 an exchange of notes took place regarding the above mentioned border rectification. This was followed two years later, on 27 February 1957, by a Joint communiqué concerning work of the Mixed Commission for demarcation and re-demarcation of the state border, as decided on 2 December 1954. On 11 April 1957 final documents concerning the demarcation and re-demarcation of the border were published.

A treaty on the régime of the Soviet –Iranian Frontier and the Procedure for Settling Border Conflicts and Incidents was signed on 14 May 1957 in Moscow. The treaty dealt with the frontier in the water-reservoir of the Araxes hydro station and the Mil-Mugan- water storage dam.

On 3 July 1958 the Soviet Union and Iran exchanged notes “Concerning the Confirmation of the Protocols” on the demarcation of the state border in conformity with the Agreement of 2 December 1954. Twelve years later, on 7 May 1970, an “Additional Protocol to the Agreement on Settlement of Frontier and Financial questions of 2 December 1954” was signed between the Soviet Union and Iran,

Concerning the Line to be Followed by their New Frontier. The protocol was signed in Moscow on 7 May 1970, ratified by the USSR on 3 March 1971, and ratified by Iran on 13 April 1971.

On 5 December 1970 documents on the demarcation of the line of frontier in the water reservoir of the Araxes hydro-station and the Mil-Mugan Dam on the Araxes River were exchanged between Iran and the Soviet Union. Three years later, on 7 August 1973 a Supplementary Protocol to the Treaty on the regime of the Soviet Iranian frontier and the procedure for settling border conflicts and incidents of 14 May 1957, concerning the frontier in the water-reservoir of the Araxes hydro station and the Mil-Mugan water-storing dam was signed in Moscow. It was ratified by Iran on 2 May 1974, on exchange of acts of ratification in Teheran. The Supplementary Protocol remains in force as long as the Treaty of 14 May 1957.

CHAPTER THIRTEEN

PERESTROIKA AND GLASNOST

Introduction

Between the adoption of the 1936 Soviet Constitution and 1985, with the coming to power of Mikhail Gorbachev, relatively little happened in terms of state building and conflict resolution in the USSR. The Soviet Union was firmly established.

The period between 1985 and 1991, when Mikhail Gorbachev was First Secretary of the Soviet Union, is a period of transition towards more openness. There was a call for more internal self-determination in Abkhazia and Nagorno-Karabakh, and this period eventually ended with the dissolution of the Soviet Union.

Gorbachev Comes to Power: The Period 1985–1991

After Mikhail Gorbachev had come to power in the USSR in 1985 politics in the Soviet Union had changed. More openness and transparency would make the ruling of the USSR better. Gorbachev called his policy instruments *perestroika* (reconstruction) and *glasnost* (publicity).¹

While in several areas of politics, internal as well as external, policy changed, this also had an impact on the different laws which held the USSR together.

Perestroika and its Results

A Soviet law, adopted on 3 April 1990, dealt with the procedure for secession of Soviet Republics. Although a right to secession had always been part of the federal structure of the USSR, there had not been lower legislation than the Constitution, giving provisions to effectuate this right. A reason for the creation of this law was the declaration of

¹ M. Gorbatsjov, *Perestrojka, Een Nieuwe Visie voor mijn Land en de Wereld*, (Utrecht: Het Spectrum, 1987).

the independence of Lithuania. In order to make it more complicated to leave the Soviet Union the procedure was labour and time-consuming.

On 12 June 1990 the Russian Federal Congress of People's Deputies adopted the Declaration on State Sovereignty. At the same time discussions were held by the USSR Federal Council on the plan for a new union treaty. On 24 November 1990 a first draft of a USSR Union treaty was published. Its aim was to replace the Union Treaty of 1922. Perestroika and glasnost demanded for modifications of the current political organization. The internal political situation worsened quickly in 1990 and the beginning of 1991. This led to the resignation of Eduard Shevardnadze as Minister of Foreign Affairs, who was frustrated by the lack of support by Gorbachev. On 12 June 1991 Boris Yeltsin was elected as president of the RSFSR. Work on the Union Treaty continued. Two days before the fourth draft of the treaty was published, on 15 August, Prime Minister Pavlov warned of a power vacuum after the treaty would be signed.

A coup d'état started on 18 August 1991 when a delegation of state and party officials confronted Gorbachev in his Crimean retreat. On Moscow Radio Vice President Yanaev and the "State Committee for the State of Emergency in the USSR" had announced that they were taking over power. The coup failed due to Boris Yeltsin, who ordered a general strike and signed Decree No. 59 ordering not to execute orders of the Committee and defining that groups activities as a *coup d'état*. After four days the coup was over, but it had an important political impact. Due to the political developments no Union Treaty was necessary any longer. The role of the communist party was over, and between 20 August and 22 September Estonia, Latvia, Ukraine, Belarus, Moldova, Georgia, Azerbaijan, Kyrgyzstan, Uzbekistan, Tajikistan, and Armenia declared independence. Lithuania had already declared independence in March 1990. A month earlier, on 24 August 1991, Michael Gorbachev had already resigned as General Secretary of the Communist Party of the Soviet Union. He was replaced by Boris Yeltsin.

On 8 December 1991 Russia, Ukraine and Belarus signed in the nature preserve Byeloveskie Pushcha an agreement creating the Commonwealth of Independent States (CIS). This act of separatism led to the disintegration of the Soviet Union. The preamble stated that the Soviet Union "as a subject of international law and geopolitical reality no longer exists". The CIS expanded to 11 members (excluding Georgia

and the Baltic States), who signed the Alma Ata Declaration on 21 December 1991.² In 1993 Georgia joined the CIS. At the present the CIS Charter is in force for all former USSR Republics, with the exception of the Baltic States and Georgia, which withdrew its membership on 12 August 2008, following the fighting in South Ossetia.

As early as December 1991 the CIS members declared themselves willing to take over the international instruments that the USSR had adhered to and accepted the Russian Federation would follow the USSR as member of the United Nations and of the Security Council. On 17 December 1991 Gorbachev and Yeltsin agreed that the Soviet Union would cease to exist on 1 January 1992. On 26 December 1991 the Soviet of Nationalities adopted a resolution recognizing the end of the Soviet Union.

Membership of the CIS gave the former Soviet republics the possibility to build up their respective states, while preserving certain aspects of the infrastructure of the former Soviet Union from which they could all benefit. Article 6 of the agreement creating the Commonwealth of Independent States stated that the common military-strategic space would be under a united command, including unified control over nuclear weapons. Coordination of foreign policy activities would also fall under the joint activities of the CIS members.

Declarations of Sovereignty

The period just after the collapse of the Soviet Union was very turbulent for the region. In many ways it was comparable with the situation some 70 years earlier after the Russian Revolutions. In the power vacuum which emerged the three Transcaucasian Republics declared independence, while the RSFSR saw itself as the successor of the Soviet Union.

Georgia and Armenia based the lawfulness of their declarations of independence and their claims to sovereignty on their independence in the years after the October Revolution. This was a position comparable to the Baltic States, who justified their declarations of independence on the fact that they had been annexed by the Soviet Union in 1939, while at the time being independent states.

² The members which joined were Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Moldova, Turkmenistan, Tadjikistan, Uzbekistan.

Georgia even temporarily installed the old constitution from 1921, which in fact had never been in use due to the overthrow of the Georgian government by the Red Army. Armenia followed the law on leaving the Soviet Union by organizing a referendum. Azerbaijan also declared independence, and also based itself on the assumption that it had been an independent republic between 1918 and 1920. The Russian Federation based its independence and sovereignty on the Declaration of State Sovereignty of 12 June 1990.

The question was how the international community would react to these assumptions. After declaring independence the state structures had to be adapted to their new conditions. It followed that the principle of *uti possidetis* did not only apply in the colonial context, but also outside the colonial context. Therefore, borders remained as they had been at the moment of declaring independence.

Nevertheless, old animosities arose as to territorial claims from the past and the level of autonomy given to parts of the territory because of historical or ethnic reasons. This in a few years time gave rise to conflicts over Nagorno-Karabakh (which had already started in 1988), South Ossetia, and Abkhazia between various players in the region. It also resulted in the return to Georgia of Meskhetian Turks, who had been deported from Georgia during World War II. In the Georgian areas where there was an Armenian majority population unrest broke out, as well as in the east, where there was a Muslim Azerbaijan majority. A last problem for the Georgian authorities was the interpretation of autonomy in Ajaria, which had been able to keep the peace with the central government in Georgia, but now followed its own policy not paying much regard to the ideas in Tbilisi.

We can conclude that the borders of the three Transcaucasian Republics and the RSFSR were not modified at the declaration of independence of these four republics.

CHAPTER FOURTEEN

STATE BUILDING IN THE SOUTH CAUCASUS SINCE 1991

Introduction

The process of state building in the South Caucasus has been much slower than expected by the Western states. The kind of democracy that is taking shape in the Caucasus raises questions as to the expectations placed upon a democracy.

With the fall of communism most formerly communist governments changed over to a more nationalist rhetoric. This in turn created problems for minorities in the South Caucasian states, notably the Abkhaz in Abkhazia, the South Ossetians in South Ossetia, the Armenians in Djavakheti, the Azeri in Samtskhe-Kvartli, the Armenians in Nagorno-Karabakh and Azerbaijan and the Lezgins in the border area between Daghestan and Azerbaijan.

Some of these controversies have resulted in violent conflict, followed by a cease-fire without a resolution to the conflict; some of the various tensions have not reached the pages of the international media.

At the moment the three independent Republics are all in the middle of a transition process, drafting and implementing legislation on human rights, working on the introduction of the rule of law, and the strengthening of state institutions. None of the Republics however are thought capable of organizing fair elections over a longer period of time. The Republics are member of the Council of Europe, Black Sea Economic Cooperation, OSCE, they participate in Partnership for Peace Programs of NATO, and participate in the neighborhood policy of the EU and are member of the United Nations, among others, most of these organizations are critical towards the achievements so far with regard to state building and democratization of the South Caucasian states.

The interests of the United States, Russia, Turkey and Iran in the region brings both chances for help, but also dangers of interference. The military action of Russia in and around South Ossetia and Abkhazia shows that the military power of Georgia is not sufficient to effectively defend its territory, while it is questionable how far the United

States will go in providing security in the region. NATO is interested in expanding its support and influence in the region, with Georgia and Azerbaijan as potentially future members, while Armenia is participating in NATO's Partnership for Peace Program without a direct wish to enter the larger organization in the future. Armenia had declared years ago that it needs Russia to protect its territory, while Azerbaijan is trying to find an equilibrium between keeping friendly with Russia, the United States and Iran. When it comes to security of the region there are many players involved.

Independence

The dissolution of the Soviet Union and the declarations of independence of the South Caucasian republics created the possibility to continue state building activities which were stopped some 73 years earlier. Identities received another meaning, and were used and abused to strengthen the feeling of unity among the population. Issues on minority rights and rethinking relations with neighbors and new allies had to be considered. An important step forward in this respect was the participation of the newly independent States in international global and regional organizations.

Among the most important aspects of the transition for the South Caucasian States are the strengthening of various institutions, transparency, and the fight against corruption. This is the more so given the influence of family and clan influence on society. International intergovernmental organizations could play a prominent role in this process.

Recognition by the International Community through Regional and Global Organizations

United Nations

The three Caucasian States were recognized early after declaring their independences. They had each declared sovereignty in official statements, had subsequently organized referenda on the question of leaving the Soviet Union as well as the question whether or not to form independent states, which after a vote on independence by the population,

was followed by a formal declaration of independence.¹ Georgia, Armenia and Azerbaijan each became members of the UN in 1992.²

The criteria for membership are laid down in article 4 of the UN Charter, and the procedure for application is described in rules 134 to 138. The criteria are:

1. Maintaining international peace and security;
2. A member shall refrain from the threat or use of aggression against the territorial integrity or political independence of another state.

If we look at these requirements it is clear that not all were met. Azerbaijan and Georgia were involved in territorial disputes. In principle the populations were stable within the territories, though at the time of conflict with Nagorno Karabakh, South Ossetia and Abkhazia, there were groups of IDPs passing through the territories, the frontiers were delimited, there was a government in each of the three states, though not all governments had power over the entire territory and were weak with regard to respect for human rights, rule of law and level of democratization. The recognition of the three states by the UN implied multilateral recognition. With regard to the additional criteria on state building as formulated by the Badinter Commission, there were problems with regard to respect of religion, since some groups, such as the Jehovah witnesses, were discriminated.³ Minorities did not always have the possibility to live as safe as the majority, and routinely faced discrimination. The States accepted the Charter of the UN, and agreed to solve their conflicts peacefully. However, this did not withhold Georgia and Azerbaijan from starting conflicts in Abkhazia and Nagorno-Karabakh. Negotiations have been ongoing ever since the outbreak of the conflicts. The three states pledged to

¹ Armenia adopted a statement on sovereignty on 23 August 1990, organised a referendum on 21 September 1991, and declared independence on 23 September 1991. Azerbaijan adopted a statement on sovereignty on 23 September 1989, organized a referendum on, and declared independence on 30 August 1991. Georgia adopted a statement on sovereignty on 18 November 1989, organized a referendum on 17 March 1991, and declared independence on 9 April 1991.

² Armenia and Azerbaijan became member on 2 March 1992, and Georgia on 30 July 1992.

³ Minority Rights Group, *The South Caucasus: Nationalism, Conflict and Minorities*, p. 24, <http://www.minorityrights.org/?lid=1007>

respect prior arrangements with regard to disarmament. The documents of the OSCE were respected. The governments of the states called their regimes democratic, and held regular elections. Membership of the UN also has to be seen as a sign of the respect this Organization has for the ongoing transition process towards democratization in the three independent Caucasian republics. With the support of the organs of the UN the States could further their activities in the field of strengthening the state and transform it from a totalitarian form of governance to a democratic one.

Council of Europe

It took many years before the South Caucasian States could become members of the Council of Europe. This was mainly due to the problematic situation of the human rights in these states, as well as the fact that there were internal conflicts. Eventually the question was whether to admit the States as member of the Council of Europe and have influence on them to better their human rights' record and the implementation of the rule of law, or wait on admitting the states until they met all official requirements; however this carried the risk of losing them altogether. The Council of Europe chose to admit the states in the South Caucasus in 1999 and 2001 (Georgia was admitted on 27 April 1999, followed by Armenia and Azerbaijan on 25 January 2001), with the requirements that they had to improve their human rights record and their democratic reforms in order to meet the standards of democracy expected of member states of the Council of Europe.⁴

The Parliamentary Assembly of the Council of Europe (PACE) sends a delegation on a yearly basis to report to the Assembly on the developments with regard to strengthening democracy in the three states. One of the arguments in favor to admit Armenia and Azerbaijan at the same time to the Council of Europe was the hope that this would convince them to solve their territorial conflicts peacefully.⁵

Another reason to admit the states might also have been the fact that the Russian Federation had been admitted as a member of the Council of Europe. Russia also had problems with respecting human

⁴ see for an overview of documents related to the relation between the Council of Europe and Armenia http://www.coe.am/index.php?cat_id=38 and for the document relating to membership of Azerbaijan <http://assembly.coe.int/Documents/AdoptedText/TA00/eopi222.htm>

⁵ http://www.coe.am/en/docs/pace/opinion_221.pdf page 2.

rights, and was violating them in its war with Chechnya. Might any of the States not live up to the minimum expectations of the Council of Europe, the Parliamentary Assembly and the Council of Ministers could put pressure on that State, even remove a State from the organization, if it would not respect the rights and freedoms the Council of Europe stood for.⁶ In the legal sphere the States oblige themselves upon becoming members to work together with the European Court on Human Rights, and obey the decisions of that Court.

The Committee of Venice assists with the reform of the law, and gives trainings to judges and attorneys with regard to impartiality and independence of the judiciary. Advice is given on the political process, especially on the performance of elections. Gender issues are included, to guarantee that women are represented in politics, by putting women on the voting lists, and assuring that women are represented on all levels in the political process.

Organization for Security and Cooperation in Europe

States which participate in the Organization on Security and Cooperation in Europe⁷ can get support from the organization at holding elections, retraining judges in giving impartial judgments, and support in the transition towards democratic political systems and respect for human rights. Police officers are trained not to torture, and not to take bribes. Georgia was the first of the three South Caucasian Republics to work with the OSCE when it opened an office in Tbilisi in 1992.

Activities which have been undertaken in the field of strengthening the rule of law include:

1. Assisting the Ministry of Justice to implement civil registry reform;
2. Facilitating the development of a professional judiciary and capacity-building of judge assistants;

⁶ Article 8 of the Statute gives the Organisation the possibility to suspend the rights of representation of a Member state in case of violation of the aims of the organization. It can also be asked to withdraw from the Organisation. If a Member does not follow this advice, the Committee of Ministers may decide that the membership of this Member has ceased to exist.

⁷ Organisation for Security and Cooperation in Europe, established in 1973 as the Conference on Security and Cooperation in Europe, aimed to bridge the gap between East and Western Europe, it was renamed OSCE in 1993. Since 1992 the OSCE is involved in the peace process concerning Nagorno Karabakh, with the Minsk Group.

3. Assisting the Georgian Government to promote effective functioning of the probation and penitentiary system;
4. Promoting transparency of the legislative process through setting up public control mechanisms and involving civil society at earlier stages of law-making;
5. Strengthening the capacity of public notaries.

Other issues in which the OSCE supports Georgia are police assisting, border police training, help with democratization and the organization of elections, which includes parliamentary reform, in order to make parliament more transparent and professional. The organization gives support in the strengthening of international human rights standards in Georgia through strengthening legal mechanisms, monitoring human rights, human rights education, and special attention for the promotion of human rights in rural areas. The OSCE opened an office in Armenia in February 2000. Its mandate covers political-military, economic and environmental issues, as well as issues in the human dimension. Some of the priority areas for the OSCE in Armenia are:

Legislative reform, such as elections, freedom of assembly, media, alternative service;
Fight against corruption;
Training of the National Assembly expert staff;
Police assistance programme;
Counter-terrorism measures;
Armed forces reform;
Combating money laundering and the financing of terrorism;
Human rights awareness;
Enhancing the work of the Ombudsperson's institution;
Promoting freedom of the media;
Taking measures against trafficking;
Addressing gender issues, including gender education.⁸

The OSCE is also active in Azerbaijan. The priorities of the office, in cooperation with the Azerbaijani government, are the following:

⁸ <http://www.osce.org/yerevan/13204.html>

Implementation of the commitments undertaken by Azerbaijan after its accession into the Council of Europe;
 Carrying-out of legislative reforms in the fields of elections, mass media, and civil society;
 Rapprochement of the positions of the country's governmental and non-governmental institutions;
 Training of police and penitentiary officers;
 Raising freedom and responsibility of mass media;
 Gender and youth issues.⁹

The OSCE is also involved in the negotiation process concerning Nagorno Karabakh in the Minsk Process and has been active in the negotiation process between the Georgian and South Ossetian authorities through the Joint Control Commission.

The EU in the South Caucasus

In 2006 the EU appointed a Special Representative for the South Caucasus, Peter Semneby. His mandate includes assisting the three republics with their political and economic reforms and contributing to the peaceful settlement of disputes. The aim is to help the South Caucasian republics moving closer to EU values. One of the activities that the EU is performing is the EU Special Representative Border Support Team, which facilitates the Georgian border police in preparing a border management reform strategy.¹⁰ This team was set up in 2005 when the OSCE border monitoring mission stopped its activities. The aim is to come to an effective border monitoring system, with good communication between the regional border guard centers and Tbilisi. Other activities comprise confidence building between Armenia and Azerbaijan with regard to the Nagorno-Karabakh conflict, and activities aimed at judicial reform, such as EUJust Themis, a mission which reformed in cooperation with Georgian jurists the penal code system.¹¹

⁹ <http://www.osce.org/baku/13190.html>

¹⁰ http://consilium.europa.eu/cms3_fo/showPage.asp?id=1319&lang=EN, accessed 02-10-08.

¹¹ http://consilium.europa.eu/cms3_fo/showPage.asp?id=1037&lang=en, accessed 02-10-08.

Following the fighting between Russian and Georgian military, Pierre Morel, Special Representative of the EU for Central Asia, has been asked to establish and represent the position of the EU in the talks which have to implement the agreements of 8 and 12 August 2008.¹² The EU has provided 200 monitors who will monitor the buffer zones between Georgia and Abkhazia, and Georgia and South Ossetia. The mission is deployed as part of the EU Security and Defense policy. The mandate of the mission is to build confidence between groups, facilitate the return of IDP's, and to monitor on compliance with the agreement of 8 August.¹³ The European Union has projects with Georgia, Armenia and Azerbaijan, but also supports projects aimed at Abkhazia and South Ossetia, such as economic rehabilitation and confidence building projects for women, NGO's, and youth, humanitarian assistance and democratization projects. In Georgia the EU has projects aimed at assisting internally displaced persons (IDP's).

Activities of the EU Presidency

After hostilities broke out between Russian and Georgian troops in South Ossetia in the night of 7 August 2008, the EU presidency took the lead in resolving this conflict. On 12 August 2008, only a few days after fighting broke out, President Sarkozy of France, holding presidency of the EU, negotiated a six point cease fire agreement with the Presidents of Russia and Georgia.¹⁴ Both states would withdraw their troops to the positions before hostilities broke out (status quo ante), international discussions on the security of Abkhazia and South Ossetia would start, and free access would be provided for distributing humanitarian aid. When Russia recognized Abkhazia and South Ossetia on 26 August, the EU strongly condemned the recognition.¹⁵ Since 7 May 2009 the European Neighborhood Policy has been replaced by the Eastern Partnership. The European Union has extended its activi-

¹² http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=263&lang=en, accessed 02-10-08.

¹³ http://consilium.europa.eu/cms3_fo/showPage.asp?id=1512&lang=en, accessed 02-10-08. The mission was established in Council Joint Action 2008/736/CFSP of 15 September 2008.

¹⁴ The official French text can be found in S. Cornell, J. Popjanevski, N. Nilsson, *Russia's War with Georgia: Causes and Implications*, (Stockholm: Central Asia Caucasus Institute, Silk Roads Study Program, 2008) at <http://www.isdp.eu/files/publications/pp/08/0808Georgia-PP2.pdf>, accessed 02-10-08.

¹⁵ <http://www.eubusiness.com/news-eu/1219767158.89>, accessed on 02-10-08.

ties in Georgia, sending monitors to control the border region between Georgia and Abkhazia.

NATO and its Partnership for Peace Program

After the dissolution of the Soviet Union NATO developed a program aimed at starting relations with countries which formerly belonged to the Warsaw Pact. The Partnership for Peace Program aims at helping states in their transition process, including security sector reform. There were several additional programs, like the Individual Partnership Plan (IPP), followed by an Individual Partnership Action Plan (IPAP). The furthest programme before being invited to membership of NATO is the Membership Action Plan (MAP). The programs are meant to assist states in preparing themselves for membership of the organization.

NATO has programs with Georgia, Azerbaijan and Armenia. Georgian president Saakashvili had hoped his country would join NATO in 2009. Following the fighting with Russia in August 2008 this is not possible. Within NATO there is a difference of opinion on whether Georgia should only join after the conflict with Russia, Abkhazia and South Ossetia has been solved, or whether Georgia should join also without a solution of the conflicts, in order to diminish Russian influence on NATO's agenda on expansion. This division of opinion goes along the line of 'old' member states and 'new' member states.

Azerbaijan also aims at membership of NATO, but it is not so clear in when this should happen. Finally, Armenia also participates in the Partnership for Peace program, but has no wish to join NATO.

At the NATO meeting in Bucharest in April 2008 Georgia has pressured for admittance to the Membership Action Plan (MAP), a program which is tailored to the needs of the state which seeks admittance to NATO. It was agreed that Georgia will eventually become a member of NATO, but Georgia has not yet been offered a MAP.¹⁶ This can be seen as a serious step forward, taking into account that Georgia still has problematic relations with South Ossetia and Abkhazia.

In March 2008 Azerbaijan had a review of the Individual Partnership Action Plan (IPAP) over the period 2005-2008. The plan envisages a political dialogue on the reform of the defense and security

¹⁶ <http://www.nato.int/docu/pr/2008/p08-049e.html>

sector, democratic institution building, public information and civil emergency planning.¹⁷ The cooperation between NATO and the three South Caucasian republics is a positive step towards stability in the region and an interest of the West in the Caucasus region.

Black Sea Economic Cooperation

Regional organizations are very important to strengthen contacts between neighbors, thus minimizing the risk of armed conflict. Turkey initiated the Black Sea Economic Cooperation (BSEC) in 1992, and aims at more contacts between the states along the Black Sea coast in the field of economic cooperation, support in infrastructure development, and mutual help in case of man-made and natural calamities. The members of the organization also co-operate in the fight against terrorism. Armenia, Azerbaijan, Albania, Bulgaria, Georgia, Greece, Moldova, Rumania, Russia and Ukraine are members of the BSEC.¹⁸ Note that Armenia and Turkey are participating in this regional organization.

In 1999 Ministers of the states participating have adopted a report on cooperation in emergency assistance in which a Plan of Action on Collaboration in Emergency Assistance was recommended.

The BSEC wants to cooperate with the EU, OSCE, WTO, UN/ECE, UNIDO, Central Europe Initiative (CEI), Royaument Process of Stability and Goodneighborliness in South Eastern Europe, and the South-East European Cooperation Initiative (SECI). BSEC has observer status at the UN. The organization has held regular meetings, but has as yet been primarily active in strengthening itself institutionally.

Blackseafor (Black Sea Naval Coordination Task Force)

Another international intergovernmental organization in which Turkey took the initiative is Black Seafor, in which Bulgaria, Georgia, Romania, Ukraine, Russia and Turkey participate. The organization was founded in 1998. The aim of the organization is to cooperate in the field of security, by setting up a search and rescue team, perform humanitarian missions, work on de-mining and the protection of the

¹⁷ <http://www.nato.int/docu/update/2008/03-march/e0307a.html>

¹⁸ Z. Baran, "Turkey and the Wider Black Sea Region", in D. Hamilton, G. Mangott (eds), *The Wider Black Sea Region. Strategic, Economic and Energy Perspectives*, (Washington DC: Center for Transatlantic Relations, 2008), p. 88.

environment. In case of an attack, manmade or natural disaster, the members pledge to come to the help of the state in need. Operations against terrorism and arms trade (including the trade in weapons of mass destruction) can be performed. There have been joint military exercises with the participating states, notably in 2004, when Turkey invited the participating states to the Operation Black Sea Harmony.¹⁹

The six littoral states also cooperate in the fighting of illegal maritime activities through a Black Sea Border Coordination and Information Center (BBCIC) in Bulgaria. This means that exchange of information on activities on the Black Sea have increased significantly.²⁰ The organization is still developing, and is a valuable addition to other regional military organizations.

GUAM

In this regional organization Georgia, Ukraine, Azerbaijan and Moldova participate. The aim of the organization is to have regional contacts in the field of commerce, infrastructure and foreign policy, including conflict resolution and the fight against separatism. The participating states cooperate in the field of security.²¹ The organization was created in 1997 and intensified its dialogue over the years. In 1999 Uzbekistan joined the organization, after which its name was changed into GUUAM. A Charter was drafted in 2001, which stressed cooperation, the promotion of democratic values, international and regional security, European integration and stable development. Russia regards this regional initiative as a way to counter their influence, but the members have denied this. In 2002 Uzbekistan withdrew from GUUAM, which means that its name changed back into GUAM.

Stability Pact for the Caucasus

Shortly after 1992, initiatives for a Stability Pact for the Caucasus were launched, while in 1996 Shevardnadze and Aliev formulated a Declaration on peace, security, and cooperation in the Caucasus. The document underlines sovereignty of the States; recognizes international

¹⁹ www.blackseafort.org/english_main.htm and Baran in Hamilton, Mangott, 89.

²⁰ Baran in Hamilton, Mangott, 89.

²¹ <http://www.guam.org/general/browse.html>

frontiers, the return of refugees, and development of transport and communications.²² In 1999 Turkey proposed the creation of a Stability Pact for the Caucasus under the aegis of the OSCE. Its aim was to avoid the outbreak of hostilities through cooperation, and create good-neighborly relations among states. The Stability Pact could take different forms, in which different groups of neighbors might cooperate. In 2000 the Brussels Center for European Policy Studies performed a research project in which it saw different groups possibly participating in the Pact, as well as different aspects of cooperation.²³

In 2008 cooperation between Georgia, Armenia, Azerbaijan, Russia and Turkey was on the agenda, excluding Iran. With the conflict between Russia and Georgia of August 2008 the need for a Stability Pact was felt even more by Turkey. Azerbaijan however had its doubts, since one of the obstacles for cooperation between the three South Caucasian Republics is the unresolved conflict concerning Nagorno-Karabakh. As long as this conflict has not been solved, additional negotiations about the course of oil and gas pipelines cannot take place with Armenia, according to the Azerbaijani side. It is precisely the necessity for regional stability that will also secure the pipelines, which makes the Stability Pact so attractive. The Baku-Tbilisi-Ceyhan pipeline, the Baku-Tbilisi-Erzurum pipeline, the planned Kars-Tbilisi-Baku railway, the planned Nabucco route, and the protection of the lines to Poti and Batum can only prosper with a guarantee on security on the territories they pass through.

Risks for the project could be the weakness of states involved, active or latent conflicts, economic disparity and social polarization, weak points in the regional security, unconventional threats to security and stability, and geostrategic problems.²⁴

Turkey's new interest in the Stability Pact is coupled with renewed contacts with Armenia over the establishment of formal diplomatic relations which may give a new impetus for the initiative, and lead to yet another regional organization. For the time being however, the

²² S. Serrano, *Géorgie, Sortie d'empire*, (Paris: CNRS Editions, 2007), 189.

²³ http://www.rferl.org/content/Lousy_Timing_Turkey_Caucasus_Solution/1199495.html

²⁴ S. Celac, Brainstorming session: The Future of the Caucasus after the Second Chechnya Conflict, Centre for European Policy Studies (CEPS), Brussels, 27–28 January 2000. http://www.ceps.be/Article.php?article_id=165.

possible participants in the Stability Pact can solidify their contacts through the BSCE.

Confederation of North Caucasian Mountain Peoples

The idea for Caucasian unity came back on the agenda after the dissolution of the Soviet Union, and at the wake of the second Russian-Chechen war. A first stage was the establishment in August 1989 in Sukhum of the Confederation of North Caucasian Mountain Peoples, headed by Musa Shanibov. The organization held its influence until the start of the first Russian-Chechen war. The organization was capable of creating its own forces, which fought alongside the Abkhaz in the 1992 Georgian-Abkhaz war. It had its own parliament and strove for a common Caucasian market.²⁵ The organization did not give military support to the Chechens as it had done to the Abkhaz. Although its intention had been to unite the North Caucasian peoples in a political organization, in the end the organization played a role in reviving North Caucasian culture.

NGO's Active in the Field and Their Activities

Many foreign NGO's are active in the South Caucasus. They often work together with local NGOs in rehabilitation and confidence building projects, political trainings, empowerment and projects that help in strengthening the state through respect for human rights. In this way they provide a bottom up approach, which is in addition to efforts by international intergovernmental organizations, which work top down. In order to have an idea how many organizations there are, the list below gives an indication of the activities in the region, although the list is not exhaustive.

International nongovernmental organizations active in the South Caucasus are: Amnesty International, the International Committee of the Red Cross, International Alert, FEWER, Human Rights Watch, IKV/Pax Christi, NOVIB, Cordaid, Heinrich Boell Stiftung, Berghoff Foundation, the Harvard Project on Negotiation, among others.

In 1992 an NGO called "Caucasian Home" was created. The aim of this initiative was to bring intellectuals and NGO's in the Caucasus

²⁵ Serrano, 186.

together. Other Caucasian NGOs in the region are for Armenia: Armenian Center for National and International Studies, Armenian Sociological Association, Armenian Young Lawyers Association, Conflict Resolution Center of Armenia, Democracy Union, Fund Against Violation of Law, Nagorno-Karabakh Committee of "Helsinki Initiative-92", Union of Non-Governmental Organizations of Shirak Region, Yerevan Press Club.

National NGOs that are active in Azerbaijan are the Azerbaijan Young Lawyers' Union, Committee of Democracy and Human Rights, Human Rights Center of Azerbaijan, Institute of Peace and Democracy, Resource Center on National Minorities and Society for Humanitarian Research.

National NGOs active in Georgia are among others: Assist Yourself (for IDPs), Association of IDP Women, Association of Women of Abkhazia, Caucasian Institute for Peace, Democracy and Development, Caucasus Links, Center for Humanitarian Programmes, International Center on Conflict and Negotiation, Partners-Georgia, South Ossetian Center on Humanitarian Initiatives and Research, Union Public Movement Multinational Georgia, and the United Nations Association of Georgia.²⁶

²⁶ P. van Tongeren, H. van der Veen, J. Verhoeven give an extensive list of NGOs active in the different republics in their book *Searching for Peace in Europe and Eurasia. An Overview of Conflict Prevention and Peacebuilding Activities*, (London: Lynne Reiner, 2002).

CHAPTER FIFTEEN

STATE BUILDING IN GEORGIA SINCE 1991

Introduction

On 20 June 1990 the Georgian government decided to create a legal mechanism for restoring its independence as a state under the 1921 Constitution. This was a first step towards independence, which was to follow one year later.

On 17 March 1991 an all Union-referendum was organized around the question whether or not a reformed Soviet Union should be preserved. A majority in Georgia voted against the preservation of the Soviet Union, although in Abkhazia 52,4% voted in favor of the reformed Soviet Union.¹ Two weeks later, on 31 March 1991, a referendum was held in Georgia on the question of Georgian independence. The majority of the non-Georgian population living in Abkhazia did not participate in this referendum, 98% of the voters in Georgia were in favor of an independent Georgia.² Among them were 86% in Marneuli, where more than 80% of the population is of Azeri ethnicity, and in Akhalkalaki (with a population which is 90% Armenian) 52% voted in favor of independence.³ This means that there were minorities that were in favor of an independent Georgia, while the discontent in Abkhazia was already showing.

The first part of the rules concerning leaving the Soviet Union was thus followed. Elections were held in Georgia and with a vast majority of the vote the ultra nationalist politician Zviad Gamsakhurdia and his Round Table-Free Georgia was elected, who then formed a coalition government. Gamsakhurdia decided not to join the Commonwealth of Independent States (CIS).

¹ V.A. Chirikba, "Georgia and Abkhazia: Proposals for a Constitutional Model", in B. Coppieters (ed.), *Federal Practice*, (Brussels: VUB Press, 2000), p. 241.

² Chirikba in Coppieters, 241, S. Cornell et al., *Regional Security in the South Caucasus: The Role of NATO*, (Washington DC: Central Asia-Caucasus Institute, 2004), p. 163.

³ Cornell, *Regional Security in the South Caucasus*, 163.

The aim of Zviad Gamsakhurdia was to create a unitary state in which the Georgian ethnic group would be dominant. In fact this group was dominant, but since Georgia has several minorities on its territory, this was bound to create problems. The South Ossetians and Abkhazians, who are linguistically different from the Georgians and have their own cultures, were afraid that their autonomy would be infringed. They felt threatened by Georgian nationalist slogans and started to protest. These protests were violently subdued, which only fuelled discontent.

Gamsakhurdia and South Ossetia

The demands of the South Ossetians went back to the period before South Ossetia became part of the Georgian SSR. They wished to unite with North Ossetia. As early as 1988 the South Ossetian Regional Council asked for an upgrade to "Autonomous Socialist Soviet Republic". The Georgian authorities denied this. The South Ossetian Supreme Soviet adopted in September 1990 a law in which it raised its status to an SSR in the Soviet Union. On 11 December 1990 the South Ossetian Soviet voted to subordinate itself to Moscow.⁴ As a reaction the central Georgian government in December 1990 lifted the Autonomous Oblast status in South Ossetia. Fighting followed between Georgian and South Ossetian troops. Many ethnic South Ossetians living in Georgia fled to South Ossetia and North Ossetia, while there were also many Georgian inhabitants of South Ossetia who fled to other parts of Georgia. On 19 January, a referendum on joining the Russian Federation was held, in which 90% of the population voted in favor of joining.⁵ A cease-fire agreement was reached in March 1992. On 24 June 1992 the Dagomys Agreement officially signified the cease fire. In order to strengthen the peace process, on 9 July 1992 a peace keeping force, consisting of Ossetian, Russian and Georgian military was installed in the region. The major part of South Ossetia, which calls itself the South Ossetian Republic, is under Tskhinval control, while the Georgian-populated Akhalkgori district and Georgian enclaves in the Liakhvi valley remain under Tbilisi's jurisdiction.

In 2006 the South Ossetian authorities organized a referendum on the question of independence. Of the 95% of voters that turned up,

⁴ Cornell, *Regional Security in the South Caucasus*, 162.

⁵ Cornell, *Regional Security in the South Caucasus*, 166.

99% voted in favor of independence. This of course limited the room of maneuver at the negotiation table with Georgia to come to a mutual acceptable solution.

Negotiations have been coordinated by the Joint Coordination Council (JCC), in which the OSCE plays a role as mediator. Tensions rose when the Georgian government, soon after the election of Michael Saakashvili in 2004 intensified efforts to bring South Ossetia back under Georgian control. President Saakashvili visited the region and spoke kind words. At the same time, in Tbilisi an alternative South Ossetian government was formed, consisting of mainly Georgians from South Ossetia. They were moved to the frontier with South Ossetia in 2007, further heightening tension.

The situation has changed dramatically since 26 August 2008, when the Russian Federation recognized South Ossetia as an independent state. The desire to unite with North Ossetia was denied in September 2008 by president Kokoity, though the possibility of a request for joining the Russian Federation must still be seen as possible, taking into account the aims of the South Ossetian government in the past.

After Georgian troops attacked Russian peacekeepers in South Ossetia and late in the evening started shelling the capital Tskhinval in the night of 7 to 8 August 2008, fighting between the Russian and Georgian army started. Russia attacked with ground forces, which entered South Ossetia through the Roki tunnel. In Abkhazia ground and naval forces were used. Within a few days Russian troops occupied places in and outside of South Ossetia and Abkhazia.

The justification for this interference was that the Russian Federation wanted to protect the 90% of South Ossetians and Abkhazians with Russian passports. Russia states that it acted in self-defense after its peacekeepers were attacked, in accordance with Article 51 UN Charter which gives every state the right to self-defense. Russia's activities outside of South Ossetia had to be seen in continuity with the military activities of NATO in Belgrade in 1999 (which were out of area, and at the time not covered by a UN Security Council Resolution). Whether this line of argument is completely in accordance with international law is questionable. For a change in level of aggression by peacekeepers, the mandate first has to be changed, though self-defense is always possible. The question of proportionality remains.

On 26 August 2008 South Ossetia was recognized as an independent state by Russia, followed by recognition by Nicaragua on 3 September 2008. A reference to the recognition only half a year earlier by the

Western states over Kosovo comes to mind. Both Kosovo and South Ossetia had been Autonomous Oblasts, and following the rationale of the Badinter Commission, would not have had the right to form independent states. Though the West has stated that there is no precedent in Kosovo, since the situation was remarkable, and the territory had been administered by the UN for a period of years, Russia has taken this as a precedent, and had warned for this long before Kosovo was recognized.⁶ One of the rules of recognition as a state by the UN is that the coming into being of the state did not take place through aggression.

In principle, peoples have a right to a state. That means that if a people in a multi-ethnic state over a prolonged period of time ask for internal self-determination and do not get it, there is a stronger case when the people secede from the state. Recognition will be easier to accept.⁷ The question is whether this applied to the case of South Ossetia and Abkhazia.

The recognition of Abkhazia and South Ossetia by the Russian Federation was a unilateral act. In principle, states have to be cautious to recognize new states, since premature recognition may result in loss of face, and recognition is a onetime act, which will not be reversed.⁸ Therefore, with the recognition of Abkhazia and South Ossetia, they were states in the sense of the Montevideo Convention, and according to the four criteria of state building: territory, population, government and recognition. There are no rules in international law which state how many States have to recognize a subject before the State will be 'recognized', which means that two recognitions are sufficient to create a stature of recognition. There are no rules in international law on how big a State should be, how many inhabitants it should have or whether it is economically viable.⁹ Therefore, Abkhazia and South Ossetia are now independent States, while many states and international organizations such as the UN, NATO, OSCE, EU, and Council of Europe still

⁶ "On the one hand, Putin endorsed Serbia's territorial integrity and urged a "solution mutually acceptable to Kosovo leaders and Belgrade". On the other hand, Putin clearly implied that Russia would officially recognize the secessionist territories in the post-Soviet conflicts if the United States and other Western governments recognize Kosovo's secession from Serbia", Jamestown, 2 February 2006, <http://www.jamestown.org> and www.rferl.org/content/Article/1077075.html, accessed 22 January 2009.

⁷ Raic, 366-372.

⁸ Kooijmans, 25, Malanczuk, 85, Crawford, 416.

⁹ Kooijmans, 20-21, Duursma, 117-118.

recognize the *status quo ante*, and stress their respect for Georgian territorial integrity.

Abkhazia

Discontent in Abkhazia started already in 1989, when in Lykhny a declaration was adopted by the Aidgylara People's Forum, a group Abkhazians who, together with other ethnic groups in Abkhazia, aimed through this declaration at raising Abkhazia's ASSR status to SSR status, separated from the Georgian SSR.¹⁰ They referred to the treaty-SSR status Abkhazia held from 1921 to 1931 in order to justify more autonomy.¹¹

In reaction to the lifting of autonomous status for South Ossetia, and the re-installing by Georgia of its 1921 Constitution, in which the status of Abkhazia was not specified, the parliament of Abkhazia decided to install provisionally the Abkhaz constitution of 1925, when Georgia and Abkhazia were united on the basis of a Union Treaty.¹²

In July 1992 the Abkhazian President Vladislav Ardzinba sent a letter to his Georgian colleague Eduard Shevardnadze, in which he advocated for the official creation of a confederation between the two countries.¹³ According to this proposal both sides would be sovereign states and they would independently conclude treaties and agreements. Both Republics would not cause damage to the other party. Abkhazia and Georgia would be united voluntarily. Abkhazia would possess legislative, executive and judicial power over its own territory. Georgia would also have plenary powers as assigned lying within Georgian jurisdiction in the Georgian Constitution.¹⁴

One month later, on 14 August 1992, Georgian troops invaded Abkhazia under the pretext of freeing two ministers held hostage, though they actually were held hostage in neighboring Mingrelia. In

¹⁰ <http://mdb.cast.ru/mdb/6-2002/ac/rgaac/>, accessed 19 April 2009.

¹¹ D. Lynch, *Engaging Eurasia's Separatist States*, (Washington: US Institute of Peace Press, 2004), p. 28. An Soviet Socialist Republic (SSR) was a member of the Soviet Union, and therefore had the right to secede from the Union, while an Autonomous Soviet Socialist Republic (ASSR) formed part of an SSR and did not have the right to secede.

¹² Chirikba in Coppieters, 234.

¹³ See Lord Ennals et al., *Report of a UNPO Mission to Abkhazia, Georgia and the North Caucasus*, (The Hague: UNPO Publications, 1992), pp. 29–30.

¹⁴ Chirikba in Coppieters, 247.

the months before there had been clashes between Georgians and Abkhazians over the level of autonomy and cultural rights.

The Abkhaz won this armed conflict on Abkhazian territory.¹⁵ In order to be able to leave Sukhumi, which was surrounded by Abkhazian troops, Shevardnadze accepted Russian demands: he promised that Georgia would join the CIS, accept Russian military presence on the territory, as well as the patrolling by Russian troops of the Georgian-Turkish border. Since the cease-fire agreements of 3 October 1992 and 14 May 1993, Abkhazia has been ruled by an independent *de facto* elected government and an elected President.

On 4 April 1994 an agreement was signed between Georgia and Abkhazia, with the participation of the UN and Russia.¹⁶ The aim of the negotiations was to restore the state structure and peaceful reintegration of Georgia and Abkhazia.

On 24 November 1994, the Abkhazian government adopted a Constitution stating that Abkhazia was a “sovereign democratic state based on law, which has historically become firmly established by the right of a nation to self-determination”. Article 3 adds to this the fact that Abkhazia regards itself a subject of international law.¹⁷ That same day, President Ardzinba pledged allegiance to the new Constitution. This Constitution is modeled after West European constitutions, notably the Czech Constitution, and their parliamentary system with due regard for human rights. The Universal Declaration on Human Rights had also been an important inspiration in the formulation of the Constitution. Two years later, in 1996, elections were held and a new parliament was elected, while the seats of those Georgian parliamentarians, which had fled to Georgia in the 1992–1993 war, were left open. The President was elected. Both the adoption of the Constitution and the holding of elections were condemned by the Georgian parliament. On 3 October 1999 a referendum was held in Abkhazia on acceptance by the population on the question of independence. At the same time President Ardzinba was re-elected. A vast majority of 97,7% of the voters was in favor of independence, and gave their support to the Abkhazian Constitution. The Abkhazian government pledged

¹⁵ Cornell, *Regional Security in the South Caucasus*, 170.

¹⁶ UN Doc. S/1994/397 + Annex.

¹⁷ “The Republic of Abkhazia as a subject of international law.” See <http://www.abkhazia.org/home.html>.

allegiance to the Constitution and declared Abkhazia an independent Republic.¹⁸

In February 1996 the Abkhazian government proposed to set up a federal union with Georgia. According to Anri Jergenja, the Abkhazian President's special envoy to the peace negotiations in the 1990s, these proposals contained 'elements of both a federation and a confederation'. The new arrangement would include common national borders, joint activities in specific spheres and the possibility of setting up joint authorities.

According to the protocol, made by the Abkhazians, each of the two equal sides would keep its constitution, and relations between them would be regulated by a special treaty which, with the agreement of both sides, could have the force of a constitutional law. Both sides would co-ordinate their policies and foreign economic relations, the operation of border and custom services, power engineering, transport and communications, the environment and the guaranteeing of human and civic rights and freedoms, as well as the right of ethnic minorities. Negotiations have been in deadlock for the last few years, mainly because the Abkhaz government aims for external sovereignty, while the Georgian government wants to preserve Abkhazia as it had been with ASSR status. This would already imply some form of federalism, something that Georgian President Shevardnadze supported when he stated in his inaugural speech on 26 November 1995:

We have always stated and we are stating now, that time has determined that Georgia's state structure be shaped on a federal basis. Abkhazia will be subject of the federation of Georgia with broad political status. It will have its own constitution, which will have to be in conformity with the constitution of a single united state. The Republic of Abkhazia will have its own parliament, Supreme Court, state emblem and other features of a state.¹⁹

UN Involvement in the Georgian-Abkhazian Conflict

A Declaration on Measures for a Political Settlement of the Georgian-Abkhaz Conflict was adopted on 4 April 1994. The settlement included a *Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons*, which was followed a month later by an agreement on

¹⁸ http://en.wikisource.org/wiki/Act_of_State_Independence_of_the_Republic_of_Abkhazia, accessed 19 April 2009.

¹⁹ Coppieters, 101.

a cease-fire and a separation of forces.²⁰ This document also included a protocol with regard to the stationing of CIS peacekeeping forces.

Apart from CIS peacekeepers, the United Nations deployed UN military observers who would patrol the border area, the United Nations Observer Mission in Georgia (UNOMIG).²¹

The UN Security Council has adopted many resolutions, urging the parties to refrain from hostilities, and observe the cease-fire agreements of 1993. The negotiations following these 1994 resolutions mainly dealt with the return of refugees and internally displaced persons (IDPs) to Abkhazia, in addition to seeking a resolution to the conflict.

Early in the conflict, in 1993, a Special Envoy of the Secretary General was appointed to brief the Secretary General and the Security Council on the developments in the relation between Georgia and Abkhazia. The Special Envoy also played a role as mediator in the negotiation process. Negotiations involved apart from the parties to the conflict, the Special Envoy of the Secretary General of the UN, representatives of the Russian Federation as facilitators, the OSCE, and the Group of Friends to the Secretary General (consisting of the United States, Great Britain, France, Germany, and the Russian Federation).²²

These met in a Coordinating Council. The Coordination Council was set up on 18 December 1997 in Sukhum(i), and met regularly, alternating its meetings in Sukhum(i) and Tbilisi.²³ The Coordinating Council divided its work into Working Groups, in which two representatives from each of the parties participated, as well as the UN Special Envoy as chair, Russia as facilitator, the OSCE, and the Group of Friends as observers. Working Group I dealt with issues related to a lasting non-resumption of hostilities and to security problems; Working Group II discussed the issue of refugees and internally displaced persons; Working Group III was responsible for finding a resolution for economic and social problems.²⁴ From 16 to 18 October 1998, as

²⁰ Declaration on Measures for A Political Settlement of the Georgian/Abkhaz Conflict Signed on 4 April 1994, in S/1994/379, Annex I and the Quadripartite Agreement in Annex II of the said document. The Agreement on a Cease Fire and Separation of Forces of 14 May 1994 in S/1994/583, 17 May 1994.

²¹ The amount of UNOMIG observers was expanded pursuant UN Security Council Resolution 937 (21 July 1994).

²² The aim of the Group of Friends of the Secretary General was to create a favorable situation for conflict transformation and confidence building measures.

²³ <http://www.c-r.org/our-work/accord/georgia-abkhazia/keytext8.php>, accessed 19 April 2009.

²⁴ Ibid.

part of the ongoing negotiation process that took place in Geneva, a meeting was convened in Athens to discuss confidence-building measures. In addition to the expected participants, the Georgian and Abkhaz delegations included academics, businessmen, cultural figures, journalists and representatives of NGOs, in order to create broad support for the process.²⁵ This process took place while exchanging information on the decisions taken by the Coordinating Council.

The Secretary General presented a draft protocol, indicating which measures should be taken as part of the confidence building measures. Refugees and IDPs should have the right of voluntary return to the places of their permanent residence; violations of the cease-fire and separation of forces agreement of 14 May 1994 should be investigated jointly by UNOMIG and the CIS peacekeeping force; the prosecutors should be supported by both sides in investigating criminal cases; support for the leaders of the military structures of the conflicting parties for rapid response in the conflict zone should be given; de-mining programs should be promoted; contracts in the fields of energy, trade, agriculture, and construction should be promoted; there should be active involvement in the investigation of cases involving persons missing during the hostilities and the handing over of the remains of the dead; and lastly donor countries should support in carrying out psychological social rehabilitation of post-trauma syndrome.²⁶

This initiative resulted in another important meeting concerning confidence-building measures in June 1999 when a proposal was adopted in Istanbul to renew efforts to solve the problem of the refugees and Internationally Displaced Persons (IDPs) from Abkhazia. Another topic at this meeting was the economic situation.²⁷

The UN Security Council has regularly extended the mandate of the United Nations Mission in Georgia (UNOMIG). UNOMIG has participated in confidence building measures. Apart from UNOMIG, a CIS peace keeping force has been established in the border zone between Georgia and Abkhazia since 1993.²⁸

²⁵ <http://www.c-r.org/our-work/accord/georgia-abkhazia/keytext10.php>, accessed 19 April 2009.

²⁶ Ibid.

²⁷ <http://www.c-r.org/our-work/accord/georgia-abkhazia/keytext11.php>, accessed 19 April 2009.

²⁸ S/1994/583, 17 May 1994, and S/RES/937 (1994), 21 July 1994, where the mandate of UNOMIG was expanded, including overseeing the activities of the CIS peace-keeping force as well.

UNOMIG

When UNOMIG was established in 1993 its aim was to guarantee that the parties, the Georgian government and the Abkhazian authorities, which had signed a cease-fire agreement in July 1993, would observe this agreement, and that actions were undertaken to preserve and restore peace.²⁹ In September 1993 fighting started again between Georgian and Abkhazian forces. A new mandate was needed for UNOMIG.³⁰

UNOMIG was to patrol the border area of Abkhazia and Georgia. The Moscow Agreement listed the conditions under which the Commonwealth of Independent States Peacekeeping Force should be implemented.³¹ In July 2003 the Secretary General suggested that apart from military observers, 20 civilian police officers would be added to UNOMIG.³²

When fighting broke out in South Ossetia and the border area of Abkhazia in August 2008, additional Russian troops were deployed. The CIS peacekeeping troops were withdrawn on 15 October 2008, after a decision of the CIS Ministers of Foreign Affairs, held in Bishkek a week earlier, on 9 October. The CIS peacekeeping force had no role in the area, according to the Russian government, due to the change in the political situation following the recognition of Abkhazia by the Russian Federation. The conflict between Russia and Georgia also had consequences for the mandate of UNOMIG. While it had been extended every six months in the period from its creation to May 2008, in October 2008 the mandate was extended for a period of only four months, and in February 2009 it was again extended with four months. One of the reasons for this was that the Georgian government, which has to accept the peace-keeping force on its territory, is not content with the situation.

On 16 June 2009 the Russian Federation vetoed an extension of the mandate for UNOMIG. This resulted in the termination of the mission, and diminishment of the activities of the UN in the region.

²⁹ UNOMIG was established on 24 August 1993 in UN Security Council S/RES/858 (1993).

³⁰ S/RES/881 (1993).

³¹ Thruelsen, Peter Dahl, *Russian Peacekeeping in Georgia/Abkhazia*, (Copenhagen: Fakultet for Strategi og Militære Operationer, 2006), p. 5.

³² S/2003/751.

Frozen Conflicts

The status as 'frozen conflict' also resulted from the tactics of the negotiators. As time went on, the momentum for a breakthrough was lost. There were spoilers both in and outside the delegations. People willing to compromise were replaced by hardliners, there was sporadic fighting along the borders of the conflicting parties, and inflammatory rhetoric was used as another means of continuing the fight. As time went on, and new Special Representatives of the UN Secretary-General were appointed to report on the situation and mediate, parties had to build confidence in the new mediator, and the willingness to work towards a compromise potentially diminished. Parties dug themselves in, and the peace proposals were often reformulations of earlier versions, to which the other party could only say no.³³ Although protracted conflicts between the metropolitan state and the secessionist entity at some point may be called a 'frozen conflict', this may be misleading, since negotiations, sporadic fighting, and developments in international politics in the Georgian-Abkhazian conflict continued.³⁴

In the end, the conflicts over the status of Abkhazia and South Ossetia were not only 'frozen conflicts', but also even worse, forgotten conflicts, with little international attention.³⁵ The fighting in August 2008 did two things: the conflict became violent, and it placed the 'forgotten' conflicts back on the international political agenda, thus creating new possibilities to negotiate a settlement. The role of Russia in this process has changed from facilitator, and as provider of military for the peace-keeping force, to a party to the conflict.³⁶

³³ Chester Crocker explains in *Taming Intractable Conflicts: Mediation in the Hardest Cases*, (Washington: United States Institute of Peace Press, 2004), how conflicts become intractable (a feature which applies to the Georgian-Abkhazian and the Georgian-South Ossetian conflict).

³⁴ SC/6671, 7 May 1999.

³⁵ Crocker, C., Hampson, F.O., Aal, P. (eds), *Intractable Conflicts, Mediating in the Hardest Cases*, United States Institute of Peace Press, Washington, 2004, describe various forms of forgotten conflicts. *In casu* the Georgian-Abkhazian and Georgian-South Ossetian conflict could fall in the sub category 'neglected conflicts' pp. 49–52.

³⁶ <http://www.circassianworld.com/croniclewar.html>, accessed 31 March 2009 and Crocker, C., *ibid.*

Why was the Russian Federation Militarily so Successful?

In the past years the Georgian army has been trained multilaterally by the United States, Turkey and other NATO forces as part of the Partnership for Peace Program. Military equipment was delivered by the United States and Israel, among others.³⁷ Militaries that were up to NATO standards were sent as peacekeepers to Iraq. When the fighting broke out in South Ossetia, the elite troops were not in Georgia, and had to be transferred to Georgia on 10 August 2008.

Furthermore, it must have been clear to everyone that the military capability of Russia, even if we only take into consideration its troops and equipment in the North Caucasus, was vastly superior to those in Georgia. The Russian army reacted by using tanks coming through the Roki Tunnel and destroyed at the same time the Georgian Navy. The amount of military force was so much bigger than the Georgians could employ, that after a weekend of entering Georgian territory, the Russians were entering Georgian cities outside South Ossetia and Abkhazia, such as Senaki and Gori.

Cease Fire Agreement and the European Union

French President Nicolas Sarkozy on 12 August 2008 brokered a cease-fire. From the beginning it was clear that both parties interpreted this document differently. The Russian party to the document insisted on not using the term “territorial integrity” with regard to Georgian territory. Another point for the Russians was the removal of Georgian President Saakashvili from office. The Georgian party interpreted the cease-fire as indicating that Georgia’s territorial integrity would be preserved. The agreement stated the following:

1. Not to use force.
2. Cease hostilities in a conclusive manner.
3. Provide free access to humanitarian aid.
4. The Georgian armed forces must withdraw to their habitual places of cantonment.
5. The Russian armed forces must withdraw to the line where they were stationed prior to the beginning of hostilities.

³⁷ <http://www.time.com/time/world/article/0,8599,1834785,00.html>, and <http://www.ihl.com/articles/ap/2008/08/05/africa/ME-Israel-Georgia.php>, accessed 15-10-08.

6. Awaiting the establishment of international mechanisms, the Russian peacekeeping forces will implement additional security measures.
7. The opening of international discussions on the modalities of security and stability in Abkhazia and South Ossetia.³⁸

Russia agreed to withdraw its troops along a timetable. They would leave Georgian territory, but would remain on South Ossetian and Abkhazian territory. In the neutral zones, European monitors would be active. The Abkhazian government asked the Russian government for protection, which resulted in the places deserted by the CIS troops, were refilled with Russian military, now on invitation of Abkhazia, on Abkhazian territory.

Negotiations

On 15 and 16 October 2008 a meeting hosted by the UN, OSCE and EU took place to further discuss the terms of the cease-fire agreement. Georgia stressed that it did not want Abkhazian delegates to be present, which can be regarded as a missed chance, since both Abkhazia and Russia considered it important that in order to come to a lasting solution of the conflict, the delegates of South Ossetia and Abkhazia would also participate in the talks.³⁹ The International Court of Justice ordered in her provisional measures on 15 October 2008, that both parties, Russia and Georgia, should protect all ethnic groups in South Ossetia and Abkhazia, and that no measures should be taken to hamper the entrance of humanitarian aid to South Ossetia and Abkhazia.⁴⁰

During November 2008 a second round of negotiations started. The mediators found a way to incorporate the relevant parties in the process. Georgia allowed participation of delegations from the Abkhazian and South Ossetian government, and asked that delegations from the (Georgian) Abkhazian and South Ossetian government in exile also be present. Instead of official meetings, the different groups met

³⁸ Unofficial translation from Cornell, *Russia's War in Georgia*, 38.

³⁹ http://www.rferl.org/content/Talks_Between_Moscow_And_Tbilisi_Break_Down/1330183.html, accessed 15-10-08.

⁴⁰ http://www.rferl.org/content/UN_Court_Orders_Russia_Georgia_To_Protect_Ethnic_Groups/1330132.html, accessed 15-10-08, and <http://www.icj-cij.org/docket/files/140/14801.pdf?PHPSESSID=4f18e96b1b52e850d9deca30af709b6c>, page 42, accessed 15-10-08.

informally in working groups, thereby giving Georgia the idea that the Abkhazian and South Ossetian delegations had lower status. One has to keep in mind that peace negotiations do not imply recognition of a party as an independent state. So for Georgia this was rather part of her strategy, than a risk of recognizing Abkhazia and South Ossetia.

No tangible results were reported during the December round of negotiations. However, there was some progress concerning confidence building, which was regarded as a positive sign.⁴¹

During the negotiations in February 2009, a partial breakthrough was reached in the group that negotiated on the issue of security. All parties concerned would have weekly contact on security issues; there would be extra contact when security risks would emerge. Some journalists stated that these are for the moment mere words, and their significance in practice has to be proven.⁴² However, the fact that the parties agree on maintaining regular contact with regard to security is also to be seen as an intention to observe a longer-term cease-fire and towards normalization of relations. In the group that negotiates a return of refugees and Internally Displaced Persons (IDPs) no progress was made.

The negotiations at Geneva can be regarded as asymmetrical. It is clear that the position of Russia and Georgia is stronger than the position of Abkhazia and South Ossetia. This is not only underscored by the fact that the latter have until now only been recognized by two states, Russia and Nicaragua, but also by the fact that the mediators, the UN, OSCE and EU have pledged adherence to the principle of Georgian territorial integrity. This might bring into question the neutrality of the mediators. Though from an international legal point of view there can be an argument to follow this line, *in casu* Russian military support in Abkhazia and South Ossetia is therefore automatically regarded as interference in internal affairs of Georgia, even if the governments ask for Russian military support, and the two newly recognized States are regarded as still being part of Georgia. Though mediators are supposed to be impartial, this once again underlines the fact that mediators in the international arena often are not.⁴³

⁴¹ www.wtop.com/?nid=104&sid=1553526, accessed 22 January 2009.

⁴² <http://www.europeanforum.net/news/568>, and http://www.rferl.org/archive/The_Caucasus/3/963/963.html, accessed 31 March 2009.

⁴³ See also Crocker, 23.

Another problem is that this position diminishes the maneuvering room for both South Ossetia and Abkhazia in the negotiation process. It is more complicated to create and keep the trust of all parties in the mediation process. How can Abkhazian and South Ossetian negotiators have trust in mediators who *a priori* take the side of Georgia? And what will happen if the mediation efforts of the OSCE (which initially mediated in the South Ossetian-Georgian conflict) and the UN (which initially mediated in the Abkhazian-Georgian conflict) with the EU (which joined in resolving this conflict in August 2008 when French President Sarkozy brokered a cease fire between Russia and Georgia) fail in their efforts? This might result in a new situation where the international community will 'forget' the conflict (by not paying attention to it), and no resolution of the question of security, return of refugees and position of Russia in this matter will be reached. It furthermore will diminish the credibility of the international organizations.

Democratization and the Rule of Law

President Vladislav Ardzinba was the first President of Abkhazia, as a *de facto* state, and he was reelected in 1999. According to the constitution the President can only hold office for two terms, and when in 2004 Ardzinba stepped down, Sergei Bagapsh was elected President. Although the international community did not recognize the elections, the elections were regarded as fair and free. In the 2002 parliamentary elections ethnic Georgians who were displaced were not able to participate in the elections. Media promoted the pro-government candidates.⁴⁴ The presidential elections of 2004 showed 50.08% of the votes in favor of Sergei Bagapsh. Vladislav Ardzinba, and the Russian government, supported the other presidential candidate, Raul Khadjimba. After the elections the outcome was discussed, and a final solution was found in recognizing Bagapsh as President, and nominating Khajimba as Vice-President, with an amendment to the Constitution in which the Vice-President for the time that Khajimba and Bagapsh are in office together, extend the powers of the Vice-President.

Fear of an armed intervention on the side of Georgia started in 2006 when Georgian troops, under the pretext of fighting against Georgian

⁴⁴ <http://www.freedomhouse.org/template.cfm?page=22&year=2008&country=75> 30, accessed 14-10-08.

warlord Emzar Kvitsiani, installed troops in the Kodori Gorge in Eastern Abkhazia. The area came back under Georgian control. In 2007 the pro-Georgian Abkhazian government-in-exile, consisting of the Georgian parliamentarians who had fled Abkhazia in 1992 and 1993, were installed in the Kodori Gorge, thus increasing the danger of cross border skirmishes between Georgians and Abkhazians.⁴⁵

The government influences the media, but there are independent media. Just like in neighboring republics there is considerable corruption in Abkhazia. Just like in Georgia, the influence of NGOs on national politics is considerable. Compared to Georgian NGO's, Abkhazian NGO's have got less support from Western NGO's. Many Western NGO's were afraid to put their relationship with Georgia if they would work with Abkhazian NGO's as well.

The reason that many Abkhazians hold a Russian passport is because Abkhazian travel documents are not recognized. The Abkhazian population does not feel close to Georgia, and requesting a travel document in Tbilisi is difficult with closed borders. Many Abkhazians refused to take Georgian passports.⁴⁶

Tensions with Other Minorities in Georgia

The conflicts in Georgia have very different backgrounds, and need very different approaches. Apart from the conflicts with Abkhazia and South Ossetia, Georgia has faced problematic relations with the government in Ajaria, and with the Armenian and Azeri minorities.

The population in Ajaria is Georgian, but professes the Muslim faith. Since the independence of Georgia, the President of the Autonomous Socialist Soviet Republic Ajaria had been Aslan Abashidze. He saw himself as a father for his people, and kept his own policy for Ajaria while Georgia was a failing state in the beginning of the 1990s, according to Bruno Coppieters. Ajarian authorities refused to pay taxes to the central government. In the 1990s this resulted in more stability and more prosperity in Ajaria than in Georgia proper. However, just as in the rest of Georgia, corruption was a problem. In 2000 President Aslan Abashidze adopted a Constitution for Ajaria, and installed a bicameral

⁴⁵ http://www.caucaz.com/home_eng/depeches.php?idp=1486, <http://www.unhcr.org/refworld/country,,FREEHOU,,GEO,4562d8cf2,487ca1e91a,0.html>, and accessed 31 March 2009, http://en.wikipedia.org/wiki/Kodori_Valley, accessed 24 April 2009.

⁴⁶ <http://www.freedomhouse.org/template.cfm?page=22&year=2008&country=75> 30, accessed 14-10-08.

political system, without approval of the Georgian government. The Ajarian government had stopped paying taxes to the central government already, and the police in Ajaria was privatized.⁴⁷ When Mikhail Saakashvili came to power he put pressure on Abashidze to step down. Soon after the elections President Saakashvili went to Ajaria, followed by a small detachment of the military, to negotiate a change in policy with Ajarian President Abashidze, and convince him to step down. Saakashvili was stopped at the (internal) border with Ajaria, and was only allowed into Ajaria with a small detachment of bodyguards. At the same time the Georgian president gave an order to fund the Ajarian opposition and boycott the Republic, closing down roads leading to and from Ajaria. Under pressure from an armed attack, and knowing that the United States would not back Abashidze, he fled to Russia at the beginning of May 2004.

When Abashidze had fled, the status of Ajaria got nominal autonomy, notwithstanding its status of autonomous republic.⁴⁸

An area with multiple problems is Samtskhe-Javakheti, where the majority of the population is Armenian. Though the district of Borjomi (populated by Georgians) is added to Javakheti in order to make the population more diverse, the population of Akhalkalaki and Ninotsminda is 90% Armenian. The level of unemployment is very high, around 80%, and this has worsened since the Russians closed a military base in Javakheti that provided work for the population.⁴⁹

In the past years a very small number of Turkish Meskhetians, who had been deported by Stalin during the Second World War, have been returning to Georgia, and began settling in Samtskhe-Javakheti where they originally lived. This has led to more tension on the one hand because there is so little employment in the region, and also given the fear of Armenians for Turks in this region.⁵⁰ Many inhabitants do not know the Georgian language, local schools teach in Armenian, and people send their children to Armenia for higher education. People watch Armenian television, and telephone lines are from

⁴⁷ Minassian, 154.

⁴⁸ B. Coppieters, "Georgian Security", p. 348, footnote 15 The Report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), Parliamentary Assembly, Council of Europe, Honouring of Obligations and Commitments by Georgia, Doc. 10383, December 21, 2004, particularly pp. 3, 10–11, <http://assembly.coe.int/Documents/WorkingDocs/doc04/EDOC10383.htm>.

⁴⁹ Minassian, 155.

⁵⁰ <http://www.nato-pa.int/Default.asp?SHORTCUT=683>

Armenia.⁵¹ President Gamsakhurdia introduced the appointment of prefects, which were centrally appointed. This system was not greeted with enthusiasm in Samtskhe-Javakheti, and several (Georgian) prefects were obstructed from entering their office buildings. Armenian nationalists, united in the organization “Javakhk”, strove for an autonomous Armenian region in Georgia. At the moment the leader of Javakheti comes from the organization “Javakhk” and it is clear that some families in the region dominate politics. According to Popjanevski and Nilsson (2006: 3) part of the problem is a result of the failure of the Georgian government to grant the Armenians full status as Georgian citizens after independence.⁵²

In the south of Georgia, in Kvemo Kartli, the Azerbaijani population is in majority. In the district of Bolnissi 85% of the population is Azeri, in Dmanis[s]i 74,4%, with 86,4% in the district of Marneuli and 54,2% in the district of Gadabani.⁵³ Many send their children for higher education to Azerbaijan and do not have much affection for the Georgian state. The area had a nationalist organization at the beginning of the 1990s, “Shah Abbas”. At the moment it is quiet in the area. In Kvemo-Kartli the Azerbaijani authorities together with Georgian authorities participate in the political process.⁵⁴ Nationality here is only one factor under which people mobilize, followed by clan, family, and other characteristics.

There is not much reason to expect problems like those in Abkhazia and South Ossetia for the Armenians in Javakheti and the Azerbaijanis in Samtskhe. They do not have autonomy as Abkhazia and South Ossetia. Though the economic situation is not good in the south of Georgia, and there is a worrying security situation, the Armenians and Azeri in Georgia are not likely to rise up against the Georgian State.

After having analyzed the conflicts and potential conflicts in Georgia, we will analyze the transition process in Georgia proper, which at times has been turbulent.

⁵¹ Serrano, 143.

⁵² J. Popjanevski, N. Nilsson, *Conflict Management and Ethnic Relations in the South Caucasus National Minorities in Georgia*, (Uppsala: Central Asia/Caucasus Institute, Silk Road Studies Program, 2006:3).

⁵³ Serrano, 139, footnote 32.

⁵⁴ Serrano, 162.

Ousting of Gamsakhurdia

In January 1992 co-politicians Dzhaba Ioseliani, Tengiz Kitovani and Tengiz Sigua ousted President Gamsakhurdia through a military coup. Eduard Shevardnadze, former Soviet Minister of Foreign Affairs, and former communist leader of Georgia, was elected chairman of the State Council in March 1992. In the Gamsakhurdia government Tengiz Sigua had been Prime Minister, while Tengiz Kitovani was Commander of the National Guard. They resigned in August 1991 and formed an opposition group against Gamsakhurdia, holding him responsible for inconsistent politics. Together with paramilitary leader Jaba Ioseliani they formed a triumvirate which governed Georgia after the ousting of president Gamsakhurdia in the interim government, first called the Military Council, and later renamed into State Council. It was however clear that Georgia needed a leader that had good relations with Russia and a good name in the West. Eduard Shevardnadze, the former Soviet Minister of Foreign Affairs, was the perfect man for the job. He was appointed President by the government in the spring of 1992, being elected to that post only 1,5 years later. Kitovani became Minister of Defense (in an effort by Shevardnadze to bring the National Guard under state control), Sigua remained Prime Minister. Sigua had to resign in January 1993, after parliament twice declined the budget. Sigua and Ioseliani favored a military solution of the conflict with Abkhazia, joining a National Front on the Liberation of Abkhazia, and were arrested and imprisoned by Shevardnadze for organizing an unlawful military group. This was part of the disbanding of warlords and private armies in order to stabilize the country and bring the monopoly over violence under the state.

Jaba Ioseliani had been a bank robber and murderer, but also a professor of Arts and a playwright working at Tbilisi University, before forming the paramilitary group Mkhedrioni. Gamsakhurdia imprisoned him, but he escaped, and participated with his troops in the ousting of Gamsakhurdia. He held considerable influence in the first government of Shevardnadze, since the latter needed the Mkhedrioni because the official army was weak. Ioseliani was arrested in 1995 and his Mkhedrioni were also disbanded.

Eduard Shevardnadze

Eduard Shevardnadze became the second President of Georgia in 1992, being elected to that post in 1993. As President, Shevardnadze started

an armed conflict in Abkhazia and faced with a conflict in South Ossetia. In 1995 and 1998, assassination attempts were made on the life of Shevardnadze. The problems that Shevardnadze had to face included corruption, a huge black market, a serious security problem in the whole country, unrest in several regions of the country, an increasingly autonomous operating Ajaria, and spillover effects from the war in Chechnya on the border area with the Russian Federation. He also had to strengthen state institutions and the rule of law. His government negotiated on the pipeline from Baku to Ceyhan to pass over Georgian territory. It was under Shevardnadze that Georgia stated its wish to join NATO and the EU in the future.

The downfall of Shevardnadze became clear with the parliamentary elections in November 2003, which according to the OSCE did not take place in a fair way. Until that election, elections in Georgia had always been more or less fair, compared to its neighbors Armenia and Azerbaijan. The opposition forces united, and under the leadership of Michael Saakashvili and Nino Burjanadze, both former protégés of Shevardnadze, protests started.

Rose Revolution

The reason for the Rose Revolution was discontent among a majority of the population with the policy of Eduard Shevardnadze. He had dissolved private armies, and given Georgia a good reputation in the West. But opposition against him grew. The disaffection of the population concerned his growing corruption and Shevardnadze's inability to fight it effectively. Some sources say that the Shevardnadze clans grew very wealthy under his regime. Another problem, and the direct reason for the Rose Revolution, was the fact that elections were not free and fair. After the October 2003 elections for parliament people went to the streets to demonstrate and asked for a recount of the votes and new elections. Shevardnadze reacted with a promise of early presidential elections. The youth organization Kmara (Enough), a student protest organization, was prominent in this respect. The organization was in contact with the Serbian organization Otpor, which had been successful in their protests, leading to the fall of Serbian president Milosevic. Kmara received training from the Serbian based Center for Nonviolent Resistance, and got financial support from Western donors, among which USAID, the EU and the OSCE.

Demonstrations continued, and at one point one of the leaders of the opposition, Michael Saakashvili, walked into a session of parlia-

ment, followed by a crowd of demonstrators, while Shevardnadze was present. Shevardnadze left the building, and shortly after admitted his defeat. Saakashvili was holding a rose while entering the government building, and thus this Revolution was called the Rose Revolution.

Michael Saakashvili

Before being elected President, Saakashvili had been Minister of Justice, Mayor of Tbilisi, and a Member of Parliament. In January 2004 Michael Saakashvili was elected President. Many of his Ministers have previously worked for NGOs. During the first years in power, he had been successful in fighting corruption. Saakashvili has however not taken action against some of the most notoriously corrupt persons. In 2007 Georgia held place 79 out of 179 of the Freedom House ranking on corruption.⁵⁵

When Michael Saakashvili came to power he vowed that within five years (his first term as President) he would bring Ajaria, South Ossetia and Abkhazia back under Georgian influence. In Ajaria he was successful in the first months after taking office, as we saw above. To NATO, Saakashvili made clear that he wanted Georgia to become a member in 2009. It is therefore not surprising that we saw since 2006 a buildup of military in the Kodori Gorge, followed by the move of the Abkhazian government in exile to the Kodori Gorge. A similar development took place at the borders of South Ossetia, where the government in exile, headed by pro-Georgian president Sanakoyev moved in 2007, having the support of Georgians from South Ossetia and a minority of South Ossetians. President Saakashvili regarded the governments in exile as the legitimate bodies. In February 2005, Prime Minister Zurab Zhvania, a possible future political rival of Saakashvili died under suspicious circumstances.⁵⁶

Later on Saakashvili cracked down on the free press, and when in November 2007 he closed one of the television stations that criticized his policy, he used tear gas and rubber bullets against the demonstrators. The crisis that followed led to a call for early presidential elections.

⁵⁵ http://www.freedomhouse.hu/images/fdh_galleries/NIT2008/NT-Georgia-final.pdf, p. 248.

⁵⁶ Zhvania on 3 February 2005 died according to official statements of carbon dioxide, but there are rumours that he was murdered. <http://news.bbc.co.uk/2/hi/europe/4231653.stm>, http://www.caucas.com/home_eng/depeches.php?idp=927&PHPSESSID=4c20ab1765f08ea162b9a56f7a39f21f, <http://www.eurasianet.org/posts/092707gr.shtml>.

These took place on 5 January 2008, and were won by Saakashvili with 53,4% of the votes. The elections were regarded by the OSCE as not (completely) fair.⁵⁷

Relations with Russia became worse after President Saakashvili detained a number of Russians on allegations of espionage. Russia reacted by installing a trade and transfer embargo on Georgia. In 2007 Georgia complained about a Russian missile that fell on Georgian territory but did not explode. According to Georgia, Russia intervened in Georgia's internal affairs in Abkhazia and South Ossetia. In November 2007 the state of emergency was declared and street protests, as well as news dissemination by other than the state approved media, were restrained.

Constitution of 1995

In August 1995 a new Constitution was adopted in Georgia, which replaced the Constitution of 1921, which in turn had replaced the USSR Constitution after Georgia's declaration of independence. The new Constitution came into force on 17 October 1995. It presumes that the territory remains the same as it was at the referendum of 31 March, 1991 (Article 1). According to Article 2 the state borders are inviolable, taking the situation of the country at 21 December 1991 as a point of reference. This implies that Abkhazia's claims at more than autonomous republic's status will be fruitless, while South Ossetia's status as an Autonomous Oblast had been withdrawn by this date.

The Constitution is not completely rigid with regard to territorial matters. Article 2 (2) states: "Changes to the state borders are possible only through bilateral agreement with neighboring states". Another remarkable formulation is found in Article 2 (3) which reads: "The internal territorial state arrangement of Georgia is determined by constitutional law on the basis of the authority demarcation principle effective over the whole territory of Georgia at such a time when there is full restoration of Georgian jurisdiction". This implies that the status of Abkhazia and South Ossetia is left open until the time the Georgian government has restored territorial integrity.

Parliament will be made up of two Chambers: the Council of the Republic and the Senate, where the Council of the Republic will consist of members elected on the basis of proportional representation, and

⁵⁷ http://www.opendemocracy.net/article/conflicts/mikheil_saakashvili_bitter_victory accessed 22-09-08.

the Senate will consist of members elected from Abkhazia, Ajaria, and other territorial units of Georgia as well as five members appointed by the president (Article 4). The president is elected for a term of five years, according to Article 70. In practice however there is only one chamber, with 150 seats, as long as the territorial conflicts with Abkhazia and South Ossetia have not been solved in a positive way (restoration of its territory) for Georgia. Parliamentarians serve a five-year term.⁵⁸

The Constitution did not state anything specific about the status of the contested territories South Ossetia and Abkhazia. The style and content of the Constitution was shaped along the model of Western European republican constitutions, with duly stated regard for the protection of human rights and fundamental freedoms.

BTC Pipeline and Exploration of Hydro-energy

The BTC pipeline adds to the importance of Georgia for Western Europe and the United States. Though the oil and gas does not originate from Georgia, it is transported over Georgian territory either to Turkey (Ceyhan), Poti or Batum. In order to guarantee that the pipeline takes the safest route, and all security risks are known in advance, the Georgian government asked a Dutch bureau to do an assessment study. The outcome of the study has unfortunately not been taken into consideration in the decision making process on the course of the pipeline.⁵⁹ Georgia hopes that by being a transport route for energy, it can interest Western states to invest.⁶⁰

Hydro energy is a growing market for Georgia, making it possible to generate energy through the use of several water basins. In 1997 the Georgian and Abkhazian authorities concluded an accord that is to divide the hydro-electricity from Zugdidi and Gali, of which 70% lies in Georgia and 30% in Abkhazia.⁶¹ The Inguri hydroelectric plant, which was used jointly by Georgia and Abkhazia, has been sold to Russia by the Georgian government in a rather shady business deal in the autumn of 2008.

⁵⁸ <http://www.electionguide.org/election.php?ID=1412>

⁵⁹ <http://www.foe.org/camps/intl/Appendices/NetherlandsAssessmentPB.pdf>, accessed 22-09-08.

⁶⁰ R.H. Dekmejian, H.H. Simonian, *Troubled Waters, The Geopolitics of the Caspian Region*, (London: I.B. Taurus, 2001), p. 112.

⁶¹ Minassian, 153.

Georgia's Transition Process

Several organizations, among them the European Union, the Council of Europe and GUAM are supporting Georgia in its transition process. Problems that are faced are corruption, an infrastructure that has to be improved, the buildup of an effective civil service, extermination of mass unemployment and poverty, and an increase in tax income.⁶² The government has chosen to privatize healthcare and the energy sector, which also suffered from mismanagement and corruption. The selling of some hydro plant facilities and the Tbilisi electricity distribution company has been rather non-transparent, according to Yakobashvili and Kulick.⁶³ Impartiality of police improved after corrupt police officers were fired in 2004. In his effort to strengthen the rule of law, President Saakashvili, after coming to power, started prosecuting alleged corrupt judges, and passed laws aimed at strengthening the executive. The President now has more influence on the appointment of judges and tenure.⁶⁴ The first reform of the judiciary was the introduction of a Constitutional Court in 1993. The State as well as individuals can bring cases before the Constitutional Court. Georgia has district (city) and regional courts, courts of appeal, and a supreme court. The judges of the National Supreme Court are appointed by the President, and approved by Parliament. The President appoints judges at lower courts. A Council of Justice has been created, made up of reform minded lawyers, who organize rounds of certification for prospective judges.⁶⁵ Nevertheless, the judiciary is under pressure from the executive in its work, and is corrupt, according to the 2007 report of Freedom House.⁶⁶ The freedom of religion is observed, though there have been allegations of harassment of Jehovah witnesses, Baptists and Pentecostals since Georgia declared independence.⁶⁷

⁶² J. Kulick, T. Yakobashvili, "Georgia and the Wider Black Sea", in Hamilton, Mangott (eds.), 32.

⁶³ Kulick, Yakobashvili, in Hamilton, Mangott, 38-39.

⁶⁴ Kulick, Yakobashvili, in Hamilton, Mangott, 41.

⁶⁵ G. Nodia, "The Trying to Build (Democratic) State Institutions in Independent Georgia", in G. Mangott (ed.), *Brennpunkt Suedkaukasus. Aufbruch Trotz Krieg, Vertreibung und Willkuerherrschaft*, (Vienna: Austrian Institute for International Affairs, Braumueller, 1999), pp. 122-123.

⁶⁶ <http://www.freedomhouse.org/template.cfm?page=363&year=2008&country=73> 98, accessed 15-10-08.

⁶⁷ <http://www.freedomhouse.org/template.cfm?page=22&year=2008&country=73> 98, accessed 24 April 2009.

CHAPTER SIXTEEN

STATE BUILDING IN ARMENIA SINCE 1991

Road to Independence

The first non-Communist government in Armenia came to power on 5 August 1990. Its chairman was Levon Ter Petrossian. Some weeks later, on 23 August 1990, Armenia declared its intention to become a sovereign and independent state.¹ In February 1991 Armenia issued a declaration on sovereignty, and thus took a step towards the exercise of its right of secession from the USSR, in conformity with the USSR constitution and USSR law “On the Manner of Resolving Questions, Connected with a Secession of a Union Republic from the USSR”.² This paved the way for official secession from the Soviet Union. A referendum was organized, but due to the disintegration of the Soviet Union, Armenia could declare independence without following the scheme in which independence should be granted after five years.

Armenia declared itself an independent, sovereign Republic on 23 August 1990, and on 25 August the parliament adopted a declaration of independence.

The referendum on independence was held on 21 September 1991. The Armenian population chose by an overwhelming majority to secede immediately from the Soviet Union, while the Armenian communist party dissolved itself.

On 27 June 1994 a debate in the Armenian parliament on a new constitution took place. The opposition leaders criticized the decision to base the draft on a presidential republic, arguing that parliamentary republics, with the exception of the United States (which has a well functioning presidential system), were more successful. They also argued that the draft gave too little power to the legislature and too much to the executive, particularly in areas traditionally considered to be the responsibility of parliament.

¹ FBIS-SOV, 27 August 1990.

² Published in *Pravda* on 1 April 1990.

The draft constitution consisted of four parts, a preamble, the constitution itself, a transitional part and final regulations. The first section defines Armenian citizenship. This section stipulates that ethnic Armenian immigrants must have been citizens of the Republic of Armenia for seven to ten years in order to be eligible to run as candidates for the parliament or the Presidency.

The President is elected for a five-year term and can be re-elected once. He has extensive powers, including the right to appoint and dismiss high state officials with the consent of the National Assembly, the right to legislative veto, the right to determine foreign policy, and command of the armed forces. Parliament consists of one chamber with 130 seats. Parliamentarians serve a four-year term. Judicial power belongs to the Constitutional Court of the Republic of Armenia, the Supreme Soviet, and the local courts.³ The new constitution was adopted on 5 July 1995.

Armenia is said to have given military assistance to the ethnic Armenians of Nagorno-Karabakh. Due to the fighting over Nagorno-Karabakh, Armenia could expand its territory on the Azerbaijani side of the border. On 2 March 1992 Armenia became a member of the United Nations, and Armenia was accepted as a member of the Council of Europe on 25 January 2001.

Political Parties and Elections

After the declaration of independence, several political parties, which had been active in the period before Armenia joined the Soviet Union, filled the political spectrum, among them the Dashnaktsutun party, the Hunchak party, and the Ramkazar-Asakatan party. This had developed in the Diaspora, and could now be revived.⁴

According to the OSCE, elections have been fraudulent regularly since the independence of Armenia.⁵ The Council of Europe's Congress of Local and Regional Authorities has also monitored the elections.⁶ The Venice Commission, part of the Council of Europe, gives

³ E. Fuller, "Armenia's constitutional debate", *RFE/RL Research Report*, Vol. 3, No. 21, 27 May 1994.

⁴ A. Manutscharjan, "Der Aufbau eines Neuen Politischen Systems (1988–1994)", in Mangott, 20.

⁵ Reports on the elections in Armenia can be found at <http://www.osce.org/odihr-elections/documents.html?lsi=true&limit=10&grp=222>, accessed 12-10-08.

⁶ <http://www.alplus.am/en/?page=issue&iid=64302>, accessed 12-10-08.

training and advises on organizing free and fair elections. Other problems are the intimidation of the opposition by the political parties and politicians in power, and the banning of the opposition party Dashnaktsutun between 1994 and 1998.

Three Presidents

Since its independence, Armenia has had three presidents. They all were faced with the Nagorno-Karabakh conflict, difficult relations with two of its four neighbors, Azerbaijan and Turkey, and the political transition towards a liberal democracy. Two of the presidents originated from Nagorno-Karabakh, which influences the negotiation process on the status of Nagorno-Karabakh. It is important for Armenia to maintain good relations with Russia, since it depends on Russia for its security and for its trade relations and energy supply, while the relations with Georgia are important in order to have an outlet to the sea, since Armenia is landlocked.

Levon Ter Petrossian

In August 1990 Levon Ter Petrossian became Chairman of the Supreme Council of the Armenian Republic. Ter Petrossian was elected in 1991 as the first president of an independent Armenia. One of his aims with regard to foreign policy was the establishment of diplomatic relations with Turkey, its neighbor, and the opening of a Turkish embassy. He was not successful in either. The fact that Turkey supported Azerbaijan in the armed conflict over Nagorno-Karabakh at the time was worrying, certainly taking into account the hostile feelings that still existed in both societies. In 1996 he was re-elected in proceedings that were regarded as fraudulent by both the opposition and the OSCE. Ter Petrossian had to step down in 1998 after he had made plans for concessions in the conflict over the status of Nagorno-Karabakh in which the Armenian forces would withdraw from occupied Azeri territory. The plan would include a phased solution of the conflict, in which a decision on the final status of Nagorno-Karabakh would be postponed. Ter Petrossian banned the Dashnaktsutun as a political party between 1994 and 1998 as he considered the party a threat to security. The ban was lifted when President Kocharian came to power in 1998.

In the presidential elections of 2007 Ter Petrossian was again one of the candidates. He belongs to the Pan Armenian National Movement. Ter Petrossian came second after President Serg Sarkisian with

21,5% of the votes. Ter Petrossian complained about the irregularities during the elections. Again the OSCE agreed that there had been irregularities.⁷

Robert Kocharian

Robert Kocharian became President of Armenia in 1998 after elections, which according to the OSCE showed irregularities. Previously, from 1994 to 1997, he had been President of Nagorno-Karabakh and Prime Minister of Armenia from 1997 to 1998 in the government of Ter Petrossian. It was clear that his policy would be different from that of Ter Petrossian, since he had a stronger position on the status of Nagorno-Karabakh, where he was born (The family of Azerbaijan's president Aliiev originates from Nakhichevan, the exclave of Azerbaijan. It is therefore understandable that one of the possible scenario's to solve the Nagorno-Karabakh conflict, to swap territories, Nagorno-Karabakh to Azerbaijan and Nakhichevan to Armenia, was not worth discussing according to these presidents). In 2003 Kocharian was re-elected, and again there were allegations of irregularities.

Serge Sargsian

Just like his predecessor Kocharian, Serge Sargsian was born in Stepanakert, the capital of Nagorno-Karabakh. Sargsian was elected President in April 2008 in elections which showed some irregularities, according to the OSCE. Previously Sargsian has been Minister of Defense in 1993 and Minister of National Security in 1996. Serge Sargsian belongs to the Armenian Republican Party.

Attack on Politicians

On 27 October 1999 a group of armed men entered parliament while in session and opened fire. Eight politicians were killed, among them the Prime Minister, Vazgen Sargsian, Parliamentary Speaker Karen Demirchyan, and six other high ranking officials.⁸ Among them were important figures in the negotiation process with Azerbaijan over the status of Nagorno-Karabakh. This meant a serious drawback for the negotiation process, which at the time was well underway. New confidence had to be built with new Armenian negotiators.

⁷ http://www.osce.org/documents/odihr/2008/05/31397_en.pdf

⁸ <http://www.nationmaster.com/encyclopedia/1999-Armenian-parliament-shooting>

Strong French and American Lobby

Traditionally Armenia has a strong lobby in France and the United States. The fact that so many Armenians are living there goes back nearly 100 years, when between 1915 and 1918 two million Armenians were killed in the Ottoman Empire. In the past years this has led to a lobby for recognition of the genocide of 1915–1918. France has officially recognized the killings as genocide, much to the anger of the Turkish authorities. These events still strain the relations between Turkey and Armenia, although over the last years there is more room for the Armenians to express themselves in Turkey. Incidents such as the killing of the Turkish Armenian journalist Hrant Dink in Istanbul in 2007 shocked the international community, just as the arrest warrant against the Nobel Prize winner Orhan Pamuk 2005–2006, who describes in his book *Snow* the original Armenian city of Kars and the killings on Armenians that have taken place during the First World War.

Armenian Security

Armenia participates in the Partnership for Peace Program of NATO. In 2004, Armenia ratified the Partnership for Peace Status of Forces Agreement. An Individual Partnership Action Plan (IPAP) had been drawn up, which the Armenian army will have to satisfy by 2015.⁹

Relations in the field of military affairs between Armenia and Russia are good. This implies that Armenia does not strive for membership in NATO, and allies itself with Russia for its defense. In 1997 Armenia signed bilateral agreements with Russia.¹⁰

With the strained relations between Georgia and Russia, there is an incentive for Armenia to improve its relation with its neighbors, in particular Turkey. This might result in the opening of border posts, but also in a stronger presence of Russia in Armenia and support for the solution of the Nagorno-Karabakh conflict, since Russia is not motivated to see the Nagorno Karabakh conflict solved. Geo-strategically Armenia can win in the impasse between Russia and Georgia. At

⁹ R. Freitag-Wirminhaus, "Prospects for Armenia and Azerbaijan Between Eurasia and the Middle East", in Hamilton, G. Mangott, 58–59.

¹⁰ G. Libaridian, *Modern Armenia, People, Nation, State*, (London: Transaction Publishers, 2007), p. 291.

the same time it has become obvious that unfreezing frozen conflicts carries with it serious consequences.

The Russian Federation set up the Collective Security Treaty Organization (CSTO) after the dissolution of the Soviet Union. Several states from the former Union participate in it, among them Armenia. For Armenia this is an extension of the bilateral military assistance that they already receive from the Russian Federation.¹¹ Russia has several military bases on Armenian territory, and Armenia's border with Turkey is guarded by the Russian military.¹² Armenia has good relations with the United States as well. After 9/11 the military relations between Armenia and the United States was upgraded to 'allied relations'. Armenia has sent a contingent of their army to Kosovo, and has sent peacekeepers to Iraq in order to strengthen relations with the United States, while going against the popular wishes, since many feared repercussions for the Armenian population in Iraq. Armenia adopted in 2007 a military doctrine, which was written with the support of the United States.¹³

Constitution of 1995

The Constitution of the Armenian Republic is modeled in the mode of the UN Declaration of Human Rights. Armenia has a presidential democracy, and the candidate president has to be 35 or more years of age, and must have lived for the past ten years in Armenia.¹⁴

In 2005 the Constitution was amended. One of the changes was the introduction of an independent regulatory commission for the press, the National Commission on Radio and TV (Article 19, and the new Article 83(2)). One half of the members of this commission are appointed by the President, the other half is appointed by the National Assembly. Other amendments included the ban on censorship. The amendments were supported by popular referendum. Other changes included the introduction of an Ombudsman, Presidential immunity during office, a revised procedure on the formation of government, and measures aimed at strengthening the independence of the judiciary.¹⁵

¹¹ Freitag-Wirminghaus, 55–56.

¹² Freitag-Wirminghaus, 56.

¹³ Freitag-Wirminghaus, 57–58.

¹⁴ <http://www.armeniaforeignministry.com/htms/conttitution.html>

¹⁵ [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)025-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)025-e.pdf), accessed 24 April 2009.

Energy and Economy

Armenia has become increasingly dependent on Russia for its energy. This has proven problematic after Russia cut off gas supplies in reaction to the attacks on the gas pipeline had taken place in Georgia. The power plants in Armenia have been bought by Russia in the past years. While Russia is Armenia's most important economical partner, the United States is the biggest donor to Armenia.¹⁶ Since relations with neighboring Turkey are strained, Armenia has developed good (trade) relations with Iran. This resulted in the remarkable situation where Armenia had good relations with the Russian Federation, the USA and Iran, among others, while not leading to any problems.

Relations with Turkey

Since independence the relations between Armenia and Turkey have been difficult. The denial of the Armenian genocide by Turkey is one reason; Turkey's support of Azerbaijan in the conflict over Nagorno Karabakh is another.

Armenia's Transition Process

There is widespread corruption, the infrastructure is weak and not transparent, and the rule of law is weak, with corrupt judges and no complete freedom for the media. Civil society is weak, and many NGO's are dependent on subsidies from Western donors. Elections are most often not fair. Due to the ongoing conflict concerning the status of Nagorno Karabakh the army plays a significant role in Armenian politics.¹⁷ The position of men and women is equal according to the Armenian law, but in practice there is widespread discrimination of women at work, and domestic violence is a problem. It is difficult to effectuate rights, since society expects women to understand the position of men in society. Armenia has ratified the Convention on the Elimination of Discrimination Against Women (CEDAW) in 1993 and therefore the government has to report every four years on improvements made in the implementation of the rights of the Convention in national law. Women are underrepresented in political life, with only 3.1 percent of the Parliament members being women. In

¹⁶ Freitag-Wirminghaus, 56–57.

¹⁷ Freitag-Wirminghausen, 81, 84.

order to change this a law was adopted which required political parties to put a minimum of five percent women on their voting lists. The political parties put them on the bottom of the list.¹⁸ The low participation of women in politics can be explained by the fact that politics is still seen as a male activity, and due to its obfuscation, “dirty”. In the NGO sector women are overrepresented with 80% of heads of NGO’s being women.¹⁹ In education there is discrimination; men more often get positions as graduate students over women.

This can partly be explained by the fact that following higher education as graduate student is the only option for men to avoid military service. Another argument is that the man will be the head of the household in the future and therefore they get priority when a choice has to be made.²⁰ The internal policy of Armenia and political parties are rather person based than program based. Armenia aims at membership in the EU in the future. Since 2003 the EU has a European Neighborhood Policy, in which Armenia participates.

The Role of the Armenian Orthodox Church

The Armenian Orthodox church was not a factor of significance during Soviet times. But when at the end of the 1980s the conflict over Nagorno Karabakh broke out, Patriarch Vazgen I was able to pacify the people.²¹ From the 1950s on, the Armenian Revolutionary Federation (Dashnaktsutun party) was involved abroad with the Catholicosate of Cilicia.²² When Armenia became an independent state in 1991, the church took a prominent place in politics. The church reclaimed its position as a national institution. Constitutionally, church and state are separated, although the Armenian Church is the national church of Armenia. However, on 17 March 2000 a Memorandum of Understanding was signed between the government of Armenia and the Armenian Church. It underlines that the “Church and State will undertake joint efforts directed to the sacred work of strengthening the Motherland

¹⁸ S. Anjargolian, “Armenia’s Women in Transition”, in C. Waters, *The State of Law in the South Caucasus*, (New York: Palgrave, 2005), p. 184.

¹⁹ Anjargolian, 185.

²⁰ Anjargolian, 189–190.

²¹ H. Tchilingirian, “In Search of Relevance: Church and Religion in Armenia Since Independence”, in B. Balci, R. Motika (eds.), *Religion et Politique dans le Caucase post-Soviétique*, (Paris: Masionneuve & Larose, 2007), p. 284.

²² Tchilingirian, in Balci, Motika, 290.

and the Church, and creating a happy life for the people". Whether church and state institutions are really separated is questionable, since the Memorandum states: "the importance of the undeniable role and the significance of the Holy Armenian Apostolic Church in the further development and strengthening of the Armenian statehood."²³ Since there is a considerable Diaspora, the church also unites Armenians worldwide.

Involvement in the Conflict over Nagorno-Karabakh

In October 1987, the Armenian population in the Autonomous Oblast expressed their nationalist feelings, coupled with complaints over the environmental condition in the Republic. Demonstrations started and a desire for unification with Armenia was issued.²⁴

On 11 February 1988 the Regional Council of Nagorno-Karabakh voted in favor of transferring the enclave's administration to the Armenian republic. The steps taken by the Council were supported by mass rallies in the streets of the capitals of Nagorno-Karabakh and Armenia. The Nagorno-Karabakh Autonomous Oblast unilaterally declared its wish to unite with Armenia. On 15 June 1988, the Armenian SSR Supreme Soviet passed a resolution granting the request of the Council of Nagorno-Karabakh to reunite with Armenia. Two days later, Azerbaijan refused the request of Nagorno-Karabakh. The Armenian request for the transfer of Nagorno-Karabakh was regarded as unconstitutional by the Azerbaijani leadership.

The regional Council of Nagorno-Karabakh on 21 June 1988 asked the All-Union Supreme Soviet in Moscow for the imposition of direct rule. Russia reacted with a military operation on 4 July 1988. On 12 July 1988 a session of the Nagorno-Karabakh Soviet took a decision to leave Azerbaijan and join Armenia. The Azerbaijan SSR Supreme Soviet annulled the decision the same day, and the Supreme Soviet in Moscow also ruled this decision out. By that time, Nagorno-Karabakh had already broken off all economic and political links with the Azerbaijani government.

With the introduction of a special form of administration in Nagorno-Karabakh, the powers of the Oblast party and Soviet bodies were temporarily suspended by the central authorities in Moscow. The

²³ Tchilingirian in Balci, Motika, 295.

²⁴ M. Croissant, *The Armenia-Azerbaijan Conflict*, (Westport: Praeger, 1998), p. 26.

supporters of the Karabakh (national) movement declared in August 1989 that this measure contradicted the USSR constitution and was unconstitutional. The government of Azerbaijan was also not content with the special form of administration, since it infringed upon the territorial integrity of Azerbaijan. Croissant even speaks about *de iure* loss of sovereignty.²⁵

The authorities in Azerbaijan declared a state of emergency in Nagorno-Karabakh on 21 September 1988. Nagorno-Karabakh was placed under direct rule from Moscow on 12 January 1989, which implied that the powers of its Regional Council were suspended.

On 28 November 1989 direct rule over Nagorno-Karabakh came to an end and the Azerbaijani authorities resumed control over the enclave, provided that within two months 'full and real autonomy' be granted to the region. In response to this decision, on 1 December 1989, a joint session of the Armenian Supreme Council and the 'National Council of Nagorno-Karabakh' declared that Nagorno-Karabakh was an intrinsic part of a 'unified Armenian Republic'. Neither Armenia nor Nagorno-Karabakh had any legal right to enforce these two resolutions. During the whole of 1990–1991 fighting in and around Nagorno-Karabakh continued.

Proclamation of the Nagorno-Karabakh Republic

On 31 August 1991 the Azerbaijani Supreme Soviet passed a declaration on the re-establishment of the independent Republic of Azerbaijan, which had existed between 1918 and 1920. For the Armenians, this meant that the legal foundation for the Soviet-era autonomous status of Nagorno-Karabakh was now revoked. The reaction of the Karabakh leadership to the proclamation of Azeri independence was the proclamation of the Nagorno-Karabakh Republic on 2 September 1991. The decision was taken at a joint session of the Nagorno-Karabakh Council and the Council of the Armenian-populated Shahumyan Rayon.

The Nagorno-Karabakh Republic was proclaimed within the borders of the former Autonomous Oblast and of the adjoining Shahumyan Rayon in Azerbaijan (which had not been part of the former

²⁵ "With the *de facto* Azerbaijani authority over the NKAO broken in the latter half of 1988, the granting of a special status for the oblast marked the *de jure* loss of Azerbaijani sovereignty over a part of the republic's territory". Croissant, 34.

Nagorno-Karabakh Autonomous Oblast). On 22 September 1991 Armenia renounced its claims to Azerbaijani territory. This could have been a step forward towards a settlement of the conflict. On 24 September 1991 the Russian President Yeltsin and the Kazakh President Nazarbayev achieved a cease-fire agreement between Azerbaijan and Armenia on Nagorno-Karabakh. This cease-fire agreement did not hold and fighting continued.

On 26 November 1991, the Azerbaijani Supreme Soviet passed a law abolishing the autonomy of Nagorno-Karabakh. On 10 December, the Supreme Soviet of the Nagorno-Karabakh Republic, consisting solely of Armenian representatives, proclaimed the independence and separation of Nagorno-Karabakh from Azerbaijan on the basis of a referendum of the Armenian population. This underlined the decision of 2 September to secede. Nagorno-Karabakh did not, as might have been expected in accordance with the decision by the Armenian Supreme Soviet, unite with Armenia.

The Armenian government stated that it had no territorial claims on Azerbaijan and did not recognize the Nagorno-Karabakh Republic. This was a diplomatic step to secure its international position. If Armenia had sided with Nagorno-Karabakh, the international community would not have supported it, and a security risk would have arisen by turning its neighbors Azerbaijan, Turkey and Iran against it.

On 2 January 1992, Azerbaijani President Mutalibov put Nagorno-Karabakh under presidential rule. This move was followed by a major offensive on the part of Azerbaijani forces in Nagorno-Karabakh, mainly aimed at its capital Stepanakert, while Armenian troops besieged the Azerbaijani town of Susha in the enclave. On 8 May 1992 Armenian troops started offensives in Nagorno-Karabakh and Nakhichevan. Susha, the last remaining city in the enclave in Azerbaijani hands, was taken. When the Azerbaijani town Lachin was taken by Armenian troops, a corridor between Nagorno-Karabakh and Armenia was created. These advances worried Turkey. Azerbaijan's Popular Front leader Abdulfaz Elchibey was elected President on 16 June 1992. He ordered counter-offensives in Nagorno-Karabakh, which led to the re-capture of northern Karabakh and the city Mardakert by Azerbaijan.

Since 1992 the CSCE had been involved in the mediation concerning the Nagorno-Karabakh conflict. A multilateral group of CSCE member states was formed, the Minsk Group, which held consultations with both Armenian and Azerbaijani government officials. A dispute erupted over the involvement of Armenia. Since it officially

was not part of the conflict (although its military could be found in the war zone), the Armenian government took the position that the Nagorno-Karabakh Armenians should be involved in the negotiations as a party. Azerbaijan was opposed to this, because they thought this would infringe Azerbaijan's sovereignty.²⁶

On 23 July 1993 Agdam, an Azerbaijani city outside of Nagorno-Karabakh territory, fell in Armenian hands. In UN Resolutions the principle of inviolability of international borders was stressed, condemning the fighting, calling for an immediate cease-fire and the withdrawal of 'occupying forces' (which meant Armenian forces) from Azerbaijani territory.²⁷

Due to the amount of Azerbaijani displaced persons that fled to Iran, the Iranian authorities, under the pretext of an agreement between local Azerbaijani and Iranian officials, sent military units into Azerbaijani territory to create a buffer zone and a safe area for the distribution of humanitarian assistance on Azerbaijani territory. This might have changed the conflict into an international one. Although Turkey increased its military presence along the Armenian-Turkish border, it acquiesced in the Iranian border operation.²⁸ The United Nations Security Council adopted a resolution which, apart from the previous resolutions in which it affirmed the principle of inviolability of international borders, condemned the fighting, and called for an immediate cease-fire, "urge[d] all States in the region to refrain from any hostile acts and from any interference or intervention which would lead to the widening of the conflict and undermine peace and security in the region", thereby underlining the danger of a regional international conflict.

Fighting continued, and Armenia widened its territory, also along the Iranian border. This led Iranian president Rafsanjani to declare that he would not allow the escalation of military operations on its border. The UN Security Council adopted a resolution, stating that all states in the region should refrain from acts that could lead to a widening of the conflict.²⁹ On 25 November 1993, the Armenian president Ter Petrossian announced an agreement by Armenian and Karabakh leaders to accept a CSCE-sponsored peace-timetable.

²⁶ Croissant, 85.

²⁷ Res. 853 (1993) adopted on 29 July 1993.

²⁸ Croissant, 93.

²⁹ Croissant, 95 and UN Security Council Resolution 884 (1993), adopted on 12 November 1993.

At the Bishkek CIS Summit in May 1994, the Nagorno-Karabakh Republic was for the first time recognized *de facto* as a warring party.³⁰ An agreement approved in Bishkek by the Azerbaijani and Russian delegations on the deployment of Russian troops in Azerbaijan as peacekeepers from 24 May 1994 was, however never signed by the Azerbaijani government due to internal and Western opposition. The opposition in Azerbaijan felt that Russian peacekeepers might endanger the independence of Azerbaijan while the West would have preferred a CSCE-brokered settlement.³¹ Since then there has been no serious fighting, but a resolution has not been reached.

Russia has tried to gain more (military) influence in Transcaucasia, which it regards as part of its sphere of influence. Azerbaijani President Aliiev has refused the deployment of Russian peace-keeping troops on its territory, while Armenia, on the other hand consented to the establishment of two Russian military bases in the Republic for a period of 25 years.³²

Russia designed a peace plan in which the role of the CSCE was minimized. The offer of the CSCE Minsk Group chairman Jan Eliasson to include elements of a CSCE peace plan was rejected. It is clear that Russia saw a leading role for itself in the negotiating process. The agreement was not adopted.

During the CSCE Budapest Summit in December 1994 it was decided that in a peacekeeping force for Nagorno-Karabakh no state would contribute more than 30% of its composition. The composition of the force and questions of who would command and control the force were left open. The force would be created after the parties to the conflict agreed on a peace settlement.³³ In May 1994 negotiations failed when Azerbaijan refused to regard the delegation of Nagorno-Karabakh as a party to the conflict.³⁴

From 1998 on, the possibility of a 'common state' has been investigated. This new concept involves a considerable amount of autonomy for Nagorno-Karabakh, comparable with the federal state model, with the preservation of territorial integrity, while Nagorno-Karabakh would have some external sovereignty, as well as legislative powers

³⁰ As we saw earlier, this does not say anything about its being recognized *de iure*.

³¹ A. Zverev, "Ethnic Conflicts in the Caucasus, 1988–1994", in B. Coppieters, *Contested Borders in the Caucasus*, VUB Press, 1996.

³² Croissant, 111–112.

³³ OSCE Doc RC/1/95 (21 December 1994).

³⁴ Croissant, 119.

and a government, which rather resembles the co-federal model. Nagorno-Karabakh would have its own police, but not its own army. This plan was not acceptable for the leadership of Nagorno-Karabakh and for the government of Azerbaijan and was therefore abandoned.³⁵ In 1999, Armenia and Azerbaijan proposed a stability pact under which a solution could be sought. Both parties however did not specify this proposal. Another peace proposal was suggested: Azerbaijan recognizes the right to self-determination of Nagorno-Karabakh, and in return Armenia withdraws its troops with the exception of Lachin corridor. Refugees can return to Nagorno-Karabakh, under police guidance. The Azerbaijani army is not welcome on the territory of Nagorno-Karabakh.³⁶ After the killing on 8 November 1999 of eight Armenian political persons in parliament in Yerevan, the bomb attacks in Moscow and the outbreak of the second Russian-Chechen War; this plan disappeared from the negotiation table. Under the aegis of the OSCE a new plan was created: Nagorno-Karabakh will become part of Armenia, and in exchange Armenia will give up territory in the south, the corridor of Meghri, near the Iranian border. This will give Azerbaijan a direct link to Nakhichevan. The opposition in both states is against the swapping of territory, and this solution did not prove viable.³⁷ In 2004 a plan to organize a referendum is put forward. This provides for a phased solution of the conflict. First the Armenian troops will withdraw from the occupied territories, and in a second phase the population of Nagorno-Karabakh will decide by referendum what their political future will be. Crucial questions remain: how is the Lachin corridor going to be secured? Who will participate in the referendum, the population that now lives in Nagorno-Karabakh, or the population after the return of the refugees? Which States will be involved in a peacekeeping force in the area?

In 2006 the United States envoy in the OSCE Minsk process, Matthew Bryza, made public the positions of both parties. This was a violation of the, until then, preserved confidentiality of the process. Since 2006 it was clear that Azerbaijan is looking for a stage-by-stage approach, while Armenia is in favor of a package deal.

³⁵ Minassian, 121–122, Freitag-Wirninghaus, 72.

³⁶ Minassian, 122.

³⁷ Minassian, 123–124.

In 2007 and 2008, with the presidential and parliamentary elections, there was no room for politicians on either side to accept a compromise.³⁸

The problem with all these plans is that Azerbaijan is not willing to give up territorial integrity. For Nagorno Karabakh and Armenia any solution that would result in less than independence is not acceptable. The recognition of Abkhazia and South Ossetia by the Russian Federation has led to meetings of the Presidents of Armenia and Azerbaijan and Russian President Medvedev. A breakthrough was said to be imminent. Azerbaijan however was not willing to compromise. Russia has nothing to win from a solution of the conflict concerning Nagorno Karabakh, since this might negatively influence its (military) relations with Armenia, which would no longer need extra support against Azerbaijan, or Azerbaijan, which might look more towards the West than it already does.

Transition and the Rule of Law

According to Freedom House Nagorno-Karabakh can be regarded as partly free. In July 2007 presidential elections were held. Arkady Ghukasian, who had held the post of President for a period of ten years, stepped down, and Bako Saakian became the new President of Nagorno-Karabakh. Ghukasian had replaced Kocharian as President of Nagorno-Karabakh, when the latter was elected President of Armenia. Armenian President Serge Sargsian favoured a stronger position on the Nagorno-Karabakh conflict, and with Presidential elections upcoming in 2008, Azerbaijan was also unwilling to negotiate a breakthrough. Benita Ferrero-Waldner, EU Commissioner External Relations and European Neighborhood Policy, in 2006 already noted that both Armenia and Azerbaijan were doubling their expenses in the sphere of defense, while the two states needed the money in her view to build their economies. NGOs in Nagorno-Karabakh in 2003 noted that although the periodic elections show a strengthening of the democracy, there were some flaws, especially the limited access of the opposition to the media.

In December 2006 a referendum was organized on the draft constitution of Nagorno-Karabakh and the question of independence.

³⁸ Minassian, 126.

Although international organizations such as the OSCE regretted the referendum, since it complicated negotiations on a settlement of the conflict, 98% of those voting were in favor of independence.

In 1992 a law was adopted in Nagorno Karabakh which states that ‘until the adoption of our own constitution and laws, the legislation of the Republic of Armenia is in force on the territory of the Nagorno Karabakh Republic’. The South Ossetian government took a similar position.³⁹ Although legislation is sometimes inspired by other legal texts, like the inspiration the UN Declaration of Human Rights has on many constitutions, it is remarkable to copy national legislation of a neighboring state, since this can easily lead to questions concerning the future intentions of both states.

Nagorno Karabakh has a supreme court that hears cases in appeal and in cassation. The same holds for the South Ossetian legal system. They therefore both have a two layer legal system, compared to the three layer systems of Georgia and Armenia.

While in Armenia and Azerbaijan OSCE representatives attend the elections in order to assess whether they are performed free and fair, such representatives do not attend the periodic elections for President, Parliament and lower entities in Nagorno Karabakh, because Nagorno Karabakh is not recognized. Therefore, no official information on the manner in which elections take place is available.

³⁹ G. Guliyeva, “Democratization and the Rule of Law in Azerbaijan: Europe’s Relevance”, in C. Waters, *The State of Law in the South Caucasus*, (New York: Palgrave, 2005), p. 64.

CHAPTER SEVENTEEN

STATE BUILDING IN AZERBAIJAN SINCE 1991

Declaration of Independence

On 31 August 1991, in reaction to the conservative coup in Moscow of 19 August 1991, the Azerbaijani Supreme Soviet passed a declaration on the re-establishment of the independent Republic of Azerbaijan, i.e. the one that had existed between 1918 and 1920. Azerbaijan declared independence without holding a referendum and lifted the state of emergency installed by the Soviet authorities on 15 January 1990. On 8 September 1991 elections were held, where the sole candidate, Ayaz Mütalibov, was re-appointed as the Azerbaijani head of state.

The political situation in the first two years of independence was not stable. Governments and Presidents changed. After Mütalibov, Abulfaz Elçibey became president in June 1992. He changed Azerbaijan's traditional way of seeking good relations with Russia and developed good relations with Turkey. He fled in the summer of 1993, after it became clear that the army did not support him against warlord Surat Hüseynov. Haidar Aliyev became President in October 1993. Aliyev had a past in the Communist Party, where he had been First Secretary. The State became focused again on the Russian Federation, and later also turned to Turkey and Western Europe.

Azerbaijan adopted a new Constitution on 12 November 1995. Article 11 defines its territory. According to Article 11 (III) the frontiers of Azerbaijan can only be changed after a positive decision through referendum of the population. It is interesting that the wording of this article is general, and Nagorno-Karabakh is not mentioned. Chapter VII (Articles 134–141) deals with the Autonomous Oblast Nakhichevan, its status and its policy instruments. Article 5 stresses the unity of the people. Azerbaijan is a unitary republic and has a one chamber Parliament with 125 seats. President and Parliament are elected for a period of five years, and the President can be re-elected. The President must be over 35 years of age at the moment of election, and must have

lived the last 10 years uninterrupted in Azerbaijan. Azerbaijan has a presidential system (Article 100).¹

The Constitution was amended in 2002 and in 2008. In 2002 the amendments included a change in the election system from a mixed system to a district system; electing the president with an absolute majority of votes, instead of a two-thirds majority; the possibility for citizens to appeal to the Constitutional Court; appointment of the president of parliament as interim-president when the president dies or withdraws from his position.

In a referendum on 18 March 2009 the length of term of the president to hold office, which was to be no longer than two terms, was changed to make it possible that in times of war, the term of the incumbent president can be extended, if the holding of presidential elections is not possible (Article 101(5)).² On 9 March 1992 Azerbaijan became a member of the United Nations, and on 25 January 2001 Azerbaijan was accepted with Armenia as member of the Council of Europe.

Minorities

The minorities in Azerbaijan have the right to speak their own language, and be taught their own language in school. One of the biggest minorities in Azerbaijan are the Lezgins. They live in the border area with Daghestan. In 1992 there were demonstrations on both sides of the Azerbaijani-Daghestani border by nationalist Lezgins, united in the organization Sadval, who favor a Lezgin state. The demonstrations were dispersed, and the leaders were arrested.³ The Lezgin people are represented in parliament.

Other minorities are Tats, Avars, Talysh, Kurds, Armenians, Russians, Georgians, and Jews. The policy of the Azerbaijan government with regard to minorities is aimed at assimilation.⁴

There has been a sizable flow of Chechen refugees to Azerbaijan during the 1990s. According to rumors Chechen fighters used Azerbaijan (as they did the Pankisi Gorge in Georgia) to regroup before going back to Chechnya to fight.

¹ <http://www.legislationline.org/upload/legislations/00/b7/f6f1cdeb3399824f5c4f3fb5e238.htm>

² <http://www.unhcr.org/refworld/country,,,AZE,4562d8cf2,49c745ad1e,0.html>, accessed 24 April 2009.

³ <http://www.nato-pa.int/Default.asp?SHORTCUT=683>, Karny, 127.

⁴ http://en.wikipedia.org/wiki/Ethnic_minorities_in_Azerbaijan

Presidents

Azerbaijan has had a stormy political past just after declaring independence. Only with President Gaidar Aliev was some tranquility restored to the Republic. The Azerbaijani politicians had to face several challenges: the question of delimitation of the Caspian Sea, the development of the oil industry, the protection of the border with Daghestan, where Chechen fighters often used Azerbaijan as a place to get some rest. There was the fight over Nagorno-Karabakh, and the fact that attention had to be paid to the exclave Nakhichevan. Nationalism created friction with minorities, who created their own nationalist organizations.

Several Azerbaijani presidents originated from Nakhichevan. When we compare that with the background of the last two Armenian presidents, originating from Nagorno-Karabakh, it makes clear that they have specific areas of support, and that they care about enclaves and exclaves, which may make the solution of the final status of Nagorno-Karabakh more complex.

Ayaz Mutalibov

President Ayaz Mutalibov was elected the first President of an independent Azerbaijan on September 1991. On 18 October 1991 a Declaration of Independence was adopted, followed by a referendum on the independence of Azerbaijan in December 1991. Under his policy the fighting over Nagorno-Karabakh deteriorated, and the massacre at Khojaly, where many Azeri citizens were killed by Armenian forces, resulted in Azeri army forces taking over government buildings in Baku and deposing Mutalibov. Elections were organized, which were won by Isa Gambar.

Isa Gambar

President Isa Gambar, who had been Parliament Speaker, took on the duties of Mutalibov, who left the country for Moscow. Gambar was interim-President from April until June 1992, and belonged to the Musavat party. In the elections of 17 June 1992, Abdulfaz Elchibey was elected President.

Abdulfaz Elchibey

President Abdulfaz Elchibey was leader of the Azerbaijani National Front. He was pro-Western, anti-Russian, and held pan-Turanian views. One of the first actions of Elchibey was a deal with the Russians on withdrawal of Russian troops from Azerbaijani territory. He

also negotiated a transfer of Russian ships in the Caspian, thereby increasing his fleet. His government was weak, not capable to gain back the occupied areas. In the economic sphere the government was also weak, and not capable to fight corruption. When rebel troops approached Baku, Elchibey appointed Haidar Aliev as interim President, and fled to Nakhichevan. Aliev took over presidential powers, started an impeachment procedure and organized presidential elections, in which he was elected with a vast majority of votes.

Haidar Aliev

One of the first things Aliev did when he became President was to sign a cease-fire agreement on Nagorno-Karabakh, the Bishkek Protocol, to cease hostilities on the frontline. Aliev brought a lot of political experience. He belonged to the New Azerbaijan Party, had been head of the KGB in Azerbaijan in 1967 and from 1969 to 1982 he was leader of Soviet Azerbaijan. In 1991 Aliev was Chairman of the Supreme Council of Nakhichevan.

Aliev has served two terms as President of Azerbaijan, being re-elected in 1998. He changed the focus again from Turkey to Russia, and tried to interest foreign investors to invest in Azerbaijan. Aliev was an autocratic ruler, who arrested opposition, and curbed free press. During his presidency corruption flourished in the country. Aliev died in 2003, having shortly before nominated his son Ilham as sole candidate for his party's presidency.

Ilham Aliev

President Ilham Aliev was elected in the presidential elections of 2003, which were, as earlier presidential elections, full of irregularities.⁵ A few months before his father died, Ilham was appointed Prime Minister of Azerbaijan. Under pressure of the Council of Europe Aliev released in early 2005 a group of political prisoners, but the problem of the existence of political prisoners has not yet been solved. Aliev was re-elected President on 15 October 2008.

⁵ <http://www.osce.org/odihr-elections/14394.html>, accessed 22-09-08.

Transition Process and the Rule of Law

Over the years there have been problems with regard to the preparation and holding of elections, the right of opposition to express themselves, either at billboards, meetings, on radio and television, or in newspapers. Opposition leaders have regularly been arrested around election time. Elections have been irregular, regardless whether the elections were aimed at voting for the President or for Parliament. Though the Council of Europe and the OSCE have been monitoring, there are no developments for the better.⁶ In 2000 both the OSCE and the Council of Europe noticed serious irregularities in the election process. The same held for the Presidential elections in 2003. Azerbaijan in 1999 signed the Partnership and Cooperation Agreement with the European Union, aimed at transforming towards a democracy, and a respect for human rights. The Agreement comprises economic provisions concerning 'most favored nation treatment', and the elimination of trade quotas. The only issue not covered was the military.⁷

There has not yet been free press since the country became independent. Critical journalists have been sacked or arrested, and critical newspapers had to close down. In December 2005 a law on freedom of information was passed, but has not yet been implemented.⁸ Freedom of speech exists on paper, but is often not observed in practice. Freedom of assembly is restricted, especially with regard to political parties that are critical towards government. NGOs have to register with the Ministry of Justice, following a non-transparent process.

The judiciary is corrupt and not impartial, and is influenced by the Executive, since the President appoints judges to the Constitutional Court, Supreme Court, and courts of appeal, which are confirmed by Parliament. The president appoints judges at lower courts.⁹ This imbalance finds its origin in the fact that the Constitution grants more power to the executive than to the legislative power and judiciary. Another aspect, which can explain the relation between the executive and the judiciary, is the communist heritage, where judges had to render political verdicts. Criminal prosecutors are appointed by the

⁶ <http://www.freedomhouse.org/template.cfm?page=251&country=7126&year=2007>, accessed 13-10-08.

⁷ Guliyeva, in Waters, 41.

⁸ <http://www.freedomhouse.org/template.cfm?page=363&year=2008&country=7346>, accessed 14-10-08.

⁹ Guliyeva in Waters, 44–45.

executive and are controlled by the Ministry of Justice, which hampers their judicial independence.¹⁰ The use of torture in order to extract a confession is still taking place, and there is a restriction on access to lawyers.¹¹ There is room for improvement of the position of women. Laws, which penalize domestic violence against women, are lacking, and a program, adopted in 2004 to combat trafficking in human beings (mainly women) has to be evaluated on efficiency. Azerbaijan still has political prisoners. This shows that the transition process towards a democracy based on the rule of law has not yet been achieved. The transition process, supported by international governmental and non-governmental organizations, has proven to be a lengthy process. It is important that the government of Azerbaijan supports this transition process.

Security Policy

Due to its proximity to Iran, the United States is very interested in having military cooperation with Azerbaijan. Another aspect of interest is the energy security, and the oil and gas Azerbaijan exports. This requires regional stability. Access to the airspace above Azerbaijan is necessary for the United States in order to have the right of over flights in their operations in Iraq and Afghanistan. In 2004 the United States has set up a Caspian Guard, now called Caspian Security Guard, which aims at protecting the Caspian shore and its oil reserves. This has comprised a control system for the Caspian shore, and the installation of two radar stations, which reach as far as the Russian Federation. As a reaction, the Russian Federation has launched Casfor, an organization aimed at fighting terrorism, trafficking in drugs and weapons of mass destruction on the Caspian Sea.¹²

Azerbaijan wants to remain neutral in any possible conflict between the United States and Iran, since it wants to have good relations with both. In 2004 the Azerbaijani government therefore adopted a law prohibiting the deployment of foreign troops on its territory, to underline its neutral policy.¹³

¹⁰ Guliyeva in Waters, 45.

¹¹ <http://www.freedomhouse.org/template.cfm?page=363&year=2008&country=7346>, accessed 14-10-08.

¹² Freitag-Wirninghaus, 67.

¹³ Freitag-Wirninghaus, 64–65.

Azerbaijan participates in the NATO Partnership for Peace program, with the intention to become a member in the future. At the same time however, Azerbaijan works together with Russia on military issues. The lack of formulating a national security doctrine and the implementation of the IPAP indicates that Azerbaijan is not in a hurry, unlike Georgia, to become a NATO member.¹⁴

Energy Policy

Oil and gas have always been an important economic resource for Azerbaijan. They are the strength, but also the weakness of the Azerbaijani economy, which knows little diversification.¹⁵ When President Mutalibov came to power in 1991 he considered the pipeline going north from Baku to Novorossisk, bypassing Chechnya due to its instability, as the most important route. This would cement the relations between Russia and Azerbaijan. In 1999 Haidar Aliyev signed three contracts on the construction of the Baku-Tbilisi-Supsa pipeline, the Baku-Tbilisi-Ceyhan pipeline, and the Baku-Tbilisi-Erzurum pipeline.¹⁶ All three do not pass through Russia.

The contracts on the building and exploitation of the Baku-Tbilisi-Ceyhan pipeline, and other pipelines on Azeri territory, have brought Azerbaijan a lot of income. It also poses the question of how to protect the pipeline, how to guarantee regional security and how to guarantee that the population along the pipeline benefits financially and is protected against environmental pollution due to hazards. For the protection of the pipeline private military contractors have been hired, and for possible damage to the pipeline deals have been made with the owner of the pipeline, BP.¹⁷ From an economic point of view the profit of the oil and gas income has to be divided more or less equally, since the state still faces a small rich group, and a vast poor population outside the cities. Creating jobs outside the energy sector, and investing in education and infrastructure, is necessary to create prosperity for Azerbaijan in the long run.

¹⁴ Freitag-Wirminghaus, 66.

¹⁵ H. Dekmejian, H.H. Simonian, *Troubled Waters, The Geopolitics of the Caspian Region*, (London: I.B. Tauris, 2001), p. 66.

¹⁶ Minassian, 20.

¹⁷ <http://www.foe.org/camps/intl/Appendices/NetherlandsAssessmentPB.pdf> accessed 22-09-08.

Delimitation of the Caspian Sea

The Caspian Sea is the largest closed water mass on earth. Azerbaijan claims part of this Sea. Apart from the question concerning legal title to territory, there are economic arguments involved in this claim. The Caspian Sea has several rich oilfields, which for the legal claimant result in considerable economic advantages.

Until 1991 the sea littorals were the USSR and Iran. After the disintegration of the Soviet Union, Western interest in the oil and gas-reserves of the Caspian Sea increased. Azerbaijan, Iran, Kazakhstan, the Russian Federation and Turkmenistan are presently the littorals to the Caspian Sea.

There are different solutions for the littorals in international public law depending on whether the Caspian is defined as an international sea or as trans-boundary water. If we take the position that the Caspian Sea is a trans-boundary water, this implies that cooperation between riparian's is necessary and that there is a right to an equitable use of resources and an obligation not to cause harm for the riparian's.

If the decision is that the Caspian Sea is an enclosed sea, Article 123 of the UNCLOS II stipulates that the states bordering an enclosed sea should cooperate in the exercise of their sovereign rights.

In the Soviet period there was a sectoral division in the Caspian, drawn on the basis of a median line. Following the disintegration of the Soviet Union and in conformity with the principle of *uti possidetis*, these frontiers should be inviolable.

Another basis for the claims on the Caspian Sea is the Treaty of Friendship between Persia and the RSFSR of 1921 in which a free navigation regime is established and which is binding for the successor states of the Soviet Union.

The first littorals to engage in negotiations with Western oil companies were Azerbaijan and Kazakhstan in 1991. They assumed a sectoral division of the Caspian Sea. In 1993 Turkmenistan proclaimed its 12-mile territorial sea and exclusive economic zone (24 miles), subject to delimitation with the opposite and adjacent states.¹⁸ Iran considered a condominium for the joint management of the natural resources of the Caspian Sea. This idea was welcomed by the Russian Federation.

¹⁸ Law on the State Border, Article 6, adopted on 1 October 1993. See S. Vinogradov and P. Wouters, "The Caspian Sea: Quest for a New Legal Regime", in *Leiden Journal of International Law*, 1996, pp. 92-93.

The reaction of Azerbaijan and Kazakhstan was to give the Caspian the status of a transboundary lake, dividing the lake bottom with its surface waters. There would be a right of innocent passage for merchant vessels. In a separate draft to this proposal Kazakhstan appealed to accept the national maritime zones that had to be claimed by the littorals.¹⁹ In 1993 and 1994 Kazakhstan and Azerbaijan reached agreements with oil companies on exploitation of the offshore oilfields.

The Russian Federation reacted by sending a letter to the Secretary General of the UN, stating: "Unilateral action in respect of the Caspian Sea is unlawful and will not be recognized by the Russian Federation".²⁰

Bilateral agreements of the Russian Federation with Azerbaijan and the other former USSR Republics resulted in 1996 in a proposal that would grant each littoral of the Caspian Sea an exclusive economic zone of 45 miles. The middle section of the Caspian Sea, outside the national jurisdictions would form a condominium. Azerbaijan did not sign the proposal, since this would affect Azerbaijan's economic interests.²¹

In February 1997 Kazakhstan and Turkmenistan suggested the use of a median line for economic purposes, until a final settlement could be found. The delimitation with Iran was to follow the agreement that had existed between the Soviet Union and Iran prior to the disintegration of the Soviet Union.²² This was in accordance with the rule of inviolability of external frontiers. Although these treaties could be terminated, the successor states along the Caspian shore did not do so. The old agreements created exclusive fishing zones in the Caspian Sea of 10 miles for the littorals respectively, prohibiting vessels that do not belong to one of the parties or of their nationals.

Kazakhstan and the Russian Federation reached an accord on 6 July 1998 in which the delimitation in the area would be achieved by taking the 'modified median line' in account; the equidistance line was used, as well as the principle of equity. For the superjacent water volume, a joint management regime would be installed. The cooperation would be worked out by the five littorals.²³ Each coastal state would have a

¹⁹ N. Polat, *Boundary Issues in Central Asia*, (New York: Transnational Publishers, 2002), p. 152.

²⁰ UN Doc. A/49/475, 5 October 1994.

²¹ Polat, 154.

²² Agreements of 1935 and 1940, which both state that they remain in force until unilateral denunciation one year in advance. See N. Polat, [2002: 157].

²³ Polat, 163.

national sector, comparable to the territorial sea, with a distance of 12 miles, and an exclusive fishery zone of 20 sea miles from the coast. The middle section of the Caspian would be utilized jointly for fishing, navigation and environmental protection.²⁴ Iran pleaded for an equal division of 20% for each littoral.²⁵ This would create more territory for Iran than the Russian/Kazakh proposal. Kazakhstan, the Russian Federation, Turkmenistan and Azerbaijan were moderately in favor of the 1998 Russian/Kazakh proposal. Disputes over islands between Azerbaijan and Iran remain an obstacle.²⁶

Challenges for the Republics in the South Caucasus

The transition from a Communist SSR forming part of the Soviet Union to a democratic independent state has proven to be a lengthy process. Nearly twenty years after declaring independence, the transition towards a strong and stable democratic state is still in process. Much has been accomplished in those years. Legislation has been adapted to the new state form, constitutions have been drafted in all three Republics, and political parties have developed. The three Republics all opted for a presidential republican government style. The challenges ahead lie in the strengthening of respect for human rights, the fight against corruption, the transparency of the political process and the strengthening of the rule of law.

Challenges for IGO's and NGO's in the Region

In the past 18 years international organizations have assisted Transcaucasia in their efforts to reform. Non-governmental-organizations, both international and national, have concentrated on civil society initiatives, in order to build trust between different ethnicities within a state and across the border, empower the population and help with a process of rehabilitation.

They have proven to be a breeding ground for politicians, which was most notable in the first government of President Saakashvili. Since all Republics in Transcaucasia have territorial conflicts, the activities of IGOs in the field of building of trust and assist in conflict resolution, including mediation, are necessary.

²⁴ SWB SU/3240 G/3, 30 May 1998.

²⁵ Central Asia Monitor, 1/18 (1999).

²⁶ Polat, 165.

CHAPTER EIGHTEEN

STATE BUILDING IN THE NORTH CAUCASUS SINCE 1991

Introduction

The dissolution of the Soviet Union has resulted in many changes in the North Caucasus. All entities in the North Caucasus were lifted to Republic status within the Russian Federation. The political void, which the fall of communism created, was soon filled by nationalism. This resulted in the creation of nationalist groups, the re-invention or re-discovery of national language, culture, religion and clan. It also resulted in tension between nationalities within republics, like in Karachayevo-Cherkesskaya and Kabardino-Balkaria, and the creation of the Confederation of North Caucasian Mountain Peoples. This organization aimed to work as a kind of European Union for the Caucasus. In reality it was not more than a cultural organization, unrecognized by most governments in the North Caucasian Republics. The Confederation had its own government, dominated by Chechens and Circassians, and played a military role in the conflict between Georgia and Abkhazia in 1992–1993. At the start of the first Russian-Chechen war the power and internal cohesion of the Confederation was already in decay, and the Chechens did not get the military support that the Abkhazians enjoyed some years earlier.

The conflict concerning the status of Chechnya led to a destabilization of the region, which can be characterized as insecure. There is a lot of corruption, high unemployment, and a weak rule of law. The hostage taking in Beslan (North Ossetia) in 2004 resulted in the decision by President Vladimir Putin to nominate presidents of the republics, where the population before elected them. Criticism on this decision mainly points to the fact that Putin appoints people from his own FSB/KGB circle, and that presidents will be passive in their policy towards the fight against corruption and criminality, since they want to remain friendly with Putin. The influence of foreign groups and the transparency of the boundaries with Georgia have led to transboundary criminality and terrorism. Financing of Islamic groups in the North Caucasus came also from Arab countries and groups.

Redistribution of Frontiers

When Russian Representative for the Caucasus Dmitry Kozak issued his plan to redistribute frontiers in the North Caucasus to President Putin, the idea was to make the Russian Federation easier to rule. At the same time it was obvious that there might also be an incentive to divide and rule, like Stalin had done in the 1920s and 1930s in the North Caucasus, when he merged peoples who spoke different languages together in republics.

For Adygea the plan of Kozak would mean that its Adygean (Circassian) population would become a further minority in its administrative entity, which had already resulted in more attention for stricter forms of Islam, especially among the youth, and nationalist unrest, since the Adygean Circassian population is afraid to lose political and administrative influence in their traditional territories and lose their traditions as a minority.¹

Another plan is to merge Ingushetia and Chechnya into one republic. Ingushetian nationalists see the plan for redistribution as an opportunity to gain Prigorodny Raion from North Ossetia. The Chechen President applauds the idea of redistribution, as he sees economic and strategic incentives for Chechnya in a merger.

The problems confronting the regional and federal authorities in the Southern district of the Russian Federation are very complex and require a long-term engagement and support from the relevant groups in society. But, as Liz Fuller notes, the problem “is the lack of an overall strategy; the disinclination, or inability, of local leaders to come to grips with the most pressing problems confronting them (..).”² The appointment of envoys is one of the initiatives Putin took on directly after he had won the March 2000 Presidential elections. The aim of the initiative was to improve the efficiency of the Russian state and strengthen the power of the Federal Centre in relation to the Republics. Putin therefore divided the Russian Federation in seven *okrugs* (districts) that are under control of a Presidential Envoy. The Envoys tasks are threefold:

¹ J. Dunlop, *Putin, Kozak and Russian Policy toward the North Caucasus*, Jamestown Foundation, (no year), p. 11.

² <http://www.rferl.org/reports/caucasus-report/2005/10/35-071005.asp>.

1. Implementation of the President's domestic and foreign policies;
2. To guarantee that appropriate personnel is being appointed to federal offices and;
3. To report to the President about national security, political, social and economic developments in the *okrugs* and make appropriate recommendations regarding these developments;³

The governments in the respective Republics and the federal centre have an important responsibility in securing the well being of their populations. There is a dual responsibility: one rests with the Federal executives in Moscow, the other with the regional governments. The control over the people who make up the regional governments is nonetheless in hands of the decision makers inside the Kremlin. After the Beslan hostage crisis in September 2004 Vladimir Putin launched important constitutional changes. One of the proposed reforms is a system of the Presidential nomination of regional leaders. The new law gives Moscow huge powers in appointing pro-Moscow candidates.

The Republics are to a large degree dependent on the financial support of Moscow. The clans in several Republics, most notably in Ingushetia and Chechnya, are serious obstacles to reform, such as the introduction of the rule of law or anti-corruption measures since their politics are not transparent. Political leaders in the Russian Federation need the support of these peoples, because, as Reddaway notes:

Without possessing not just formal legitimacy, but also a reasonable level of popular legitimacy (..), no polity is likely to be stable or long-lasting. This is especially the case with multiethnic countries of great territorial size, which, naturally enough are difficult to rule.⁴

The best way to stabilize the region is to create effective governments in the Republics of the Southern district. This means governments, which control their territory, obey the rules of law, respect human rights, and are supported by the population and are not corrupt. As a member of the Council of Europe and with the signing of the European Convention on Human Rights in 1998, Russia has committed itself to the rule of law and a respect for human rights.

³ P. Reddaway, R.W. Orttung, (ed.), *The Dynamics of Russian Politics: Putin's Reform of Federal-Regional Relations*, Vol. 1, (Lanham: Rowman & Littlefield Publishers, Inc., 2004), pp. 19–22.

⁴ Reddaway, Orttung, 2.

Effective and relatively strong governments in the Republics that make up the Russian Federation seem to pose a potential danger to the territorial integrity of the Russian Federation. When the Republics are able to provide security and (economic) well-being on their own, they possibly will consider that they don't need the support of the central authorities. At that point some may demand extended autonomy. Such developments are not in the interest of Russia, so Medvedev is very unlikely to support them. Keeping the Russian Federation together and with it the Russian status as great power on the international stage is the highest priority of the Medvedev Administration. So it is imaginable, that effective regional governments are not in the foremost interest of the central authorities. But before we come to any conclusions we will turn our attention to the political situation in the North Caucasus (Southern district) and the measures the Kremlin has taken there as part of its transition process.

Adygeya

The Republic of Adygeya is relatively stable but economic conditions are poor. Its capital is Maikop. The Adygeyans make up 24% of the population, and are therefore a minority in their own territory, with 64,5% Russian population. Adygeyans are Muslim. Aslan Tkhakushinov has been appointed President of Adygeya in January 2007. His predecessor, Khazret Sovmen, a member of 'United Russia', had previously been President of the Republic of Adygeya from January 2002 to 2007. The President serves a five year term. Adygeya has a bicameral system, with a Council of Representatives and a Council of the Republic. Both Councils have 27 deputies, which serve a five-year term.

In the beginning of 2006 Dmitri Kozak, proposed that the Republic to merge with the Krasnodar region. This would mean the end of the Republic as an autonomous region. The idea behind the proposal is that the merger would bring economic benefit both to the people in Adygeya and Krasnodar. A decision on this issue has not been made.

Radical Elements Due to Fear that Identity will be Lost

The growing interest in radical forms of Islam among some young Adygeyans is inspired by bad prospects due to unemployment, fear that internal border changes will make them worse off, and the fact that they fear to lose their identity as Adygeyans. This may potentially lead to problems as earlier encountered in Kabardino-Balkaria

and Ingushetia, where young people attacked government institutions, killed government officials and stole weapons. Though this was inspired by Shamil Basayev, who has been killed in the mean time, the problems of these youth are similar, and therefore, the danger for religious inspired or motivated actions real.

Karachayevo-Cherkesskaya

The capital of Karachayevo-Cherkesskaya is Cherkessk. The Republic of Karachayevo-Cherkesskaya was until August 2008 headed by President Mustafa Batdjev (an ethnic Karachai). Since 5 August 2008 the new President is Boris Ebzeyev. There had been popular protests against Batdjev, who was accused of involvement in the death of seven influential (Karachai) businessmen in October 2004. The businessmen, who controlled important industries in the Republic, were killed after being invited to the villa of the son-in-law of the President. Batdjev declared, after protests against his personal involvement in the cover-up of the murders, he would resign if the allegations were confirmed. The President did not keep his promise. Worse, the next day he denounced the protests and threatened the victim's families with criminal proceedings. An aide to Putin's envoy to the North Caucasus, Dmitry Kozak, Safonov, said that:

There's no doubt that standing behind the relatives who stormed the government house, there are forces which present a danger not only to the Republic and for the southern regions, but to Russia as a whole".^{5,6}

Instead of treating the popular resentment seriously, the Kremlin continued backing Batdjev. Only when the term of Batdjev's Presidency expired, did president Medvedev nominate Boris Ebzeyev as President of Karachayevo-Cherkesskaya. The Presidential nomination still had to be approved by Parliament.⁷

The behaviour of outgoing President Batdjev had created tensions between the different groups in society. The Karachai community, which is the dominant ethnic group in the Karachayevo-Cherkessian Republic, comprising 38,5% compared to 11,3% for the Circassian segment of the population according to a 2002 census, is divided over

⁵ http://iwpr.gn.apc.org/?p=crs&s=f&o=158972&apc_state=henicrs2004.

⁶ http://iwpr.gn.apc.org/?p=crs&s=f&o=158972&apc_state=henicrs2004.

⁷ <http://eng.kavkaz-uzel.ru/newstext/engnews/id/1226317.html>.

the issue. Besides that, the number of radical Islamists (some of them having trained and fought in Chechnya) in Karachayevo-Cherkesskaya is growing. For the authorities it is very difficult to take control of these 'jamaats' or 'network organizations'.

Nepotism and Interethnic Problems

Nepotism is a longstanding problem in Karachayevo-Cherkesskaya. This is also influenced by the fact that both peoples originate from a historically of clan-based society. Since Karachay and Circassians speak different languages and belong to different peoples (the Karachai speak a Turkic language, whereas the Circassians speak a North West Caucasian language), they speak Russian as their common language. The ideas to change the frontiers in the North Caucasus led in Karachayevo-Cherkesskaya to unrest. The fact that there are more Karachais than Circassians means that the influence of the Circassians in the political process has to be guaranteed, especially in the areas where Circassian villages and cities are situated.

Position of Wahabism in Society and Reaction of Politics

The Circassians and Karachay are Sunni Muslims. After the dissolution of the Soviet Union many Circassians who lived in Turkey as Diaspora visited Karachayevo-Cherkesskaya and donated money to build mosques. Religion and nationalism replaced communism. The government is worried about young mullahs who are not originating from the region, and have stricter interpretations of the Islam than the old mullahs. In a society where many of the younger generation leave to other parts of Russia or abroad, those who stay have little prospects and might be attracted to the extremism of national or religious movements. This creates problems within families, since it increases the erosion of old family traditions.

Kabardino-Balkaria

Kabardino-Balkaria is situated between Karachayevo-Cherkesskaya and North Ossetia. Its capital is Nalchik. The President serves a five-year term. Kabardino-Balkaria has a bicameral system, with a Council of Representatives and a Council of the Republic. The Constitution was adopted on 1 September 1997.

Valerii Kokov, a Kabardian who headed the Republic of Kabardino-Balkaria for 14 years resigned as President on 16 September 2005, allegedly due to deteriorating health conditions. Arsen Kanokov

became the new President. Kokov at that moment left behind a legacy of severe problems, an ailing economy, a growing alienation of the Balkar minority and growing interest in more radical forms of Islam.⁸ The new President has a history as a Moscow based businessman and is a member of the pro-Kremlin 'Unified Russia' political party. One of his focal points is attention for the youth and the establishment of better communication between the authorities and the peoples of Kabardino-Balkaria. Kanokov wants to revitalize the economy, create jobs, fight corruption through the promotion of governmental transparency and improve the problematic relations between the senior Muslim clergy and young believers.⁹ These are hopeful signs, but it is the question how much authority he has as a relative outsider. Because the Republic depends heavily on subsidies from Moscow, Kanokov's room of manoeuvre is small.

Kanokov was born in Kabardino-Balkaria as a Kabardian, has no strong ties with local clans, but keeps relatively warm relations with his predecessor's 'party of power'.¹⁰ It is to be seen if he represents some sort of neutral authority who can take the necessary steps to confront the most pressing problems. A month after Kanokov came to power, on 13 October 2005, the capital of the Republic, Nalchik, was the centre of a simultaneous and coordinated raid on police stations, the city airport, and the offices of the Interior Ministry. The suspects were young Chechen and Ingush fighters under the command of the Chechen field commander Basayev.¹¹ There is a real danger that the young population would turn away from the regional government, especially since the economy, which is primarily agricultural with high levels of unemployment, is doing poorly. Much depends on events in the rest of the Northern Caucasus and the support Kanokov gets for his policies from within his own government and the population.

Interethnic Problems

From the moment the Soviet Union dissolved there has been a group in society that wanted to split Kabardino-Balkaria into Kabardian

⁸ <http://www.rferl.org/reports/caucasus-report/2005/09/33-260905.asp>.

⁹ http://www.rferl.org/features/features_Article.aspx?m=12&y=2005&id=435D9E13-FCFB-4D84-B629-7B8930E28E42.

¹⁰ http://www.jamestown.org/edm/article.php?article_id=2370251.

¹¹ <http://www.rferl.org/reports/caucasus-report/2005/10/36-171005.asp>.

and Balkarian Republics, comparable to the peaceful divorce between Chechnya and Ingushetia. This would have created problems since there are areas in Kabardino-Balkaria where the population is mixed. The groups had in mind to use the frontier of 1868. The desire originated from the fact that Stalin artificially put Kabardians (speaking a North West Caucasian language) and Balkarians (speaking a Turkic language) in the 1920s together, as part of his divide and rule policy. The idea was that if the peoples in the Caucasus had conflicts among themselves, there would be less danger that they would rise against the Soviet Union.

The government of Kabardino-Balkaria remained in power through 1991 when the Soviet Union dissolved and opposed the idea of secession between Kabarda and Balkaria. The government also objected to the aims of the Confederation of North Caucasian Mountain Peoples to strive for a unified North Caucasus. The organization only had cultural influence in the Republic.

The older generation fears that part of the Kabardian and Balkar identity will be lost in the generations to come, since many youth do not speak the languages any more, but only know Russian, and many traditions and aspects of religion are disappearing since many of the youth leave the North Caucasus to study and work in the richer parts of Russia, or turn to more strict forms of religion.

Just as in neighboring Karachayevo-Cherkesskaya, there are growing problems with Wahabist mullahs who have growing influence over the youth. Part of their success has to do with the fact that (1) there are no or not enough home educated mullahs, (2) that the young generation has few prospects due to the high rate of unemployment, (3) the frustration of the younger generation with the high rate of corruption, and the fact that the government is also corrupt and does not (sufficiently) prosecute those responsible for corruption. Crime has been rising in the past 15 years, and has not been addressed adequately due to a weak rule of law.

The growing popularity of Wahabism is also resulting in inter-generational problems, since the strict rules of Wahabist religion are in several ways incompatible with the North Caucasian tradition of brotherhood, the zikr, Qadiria and Naqshbandya, and the Adat rules which are part of the traditional North Caucasian (clan) culture.

Another problem is the fact that the Wahabists, financed by Saudi Arabia and other Arabian states and organizations, have financial means to lure people to their form of religion.

Problems with Shamil Basayev and Attacks

In October 2005 there was a sudden uprising against government institutions led by the Chechen Shamil Basayev. The aim was to show their discontent with the way the government institutions and officials worked. They were primarily concerned about the lack of transparency, high unemployment and lack of action by the government to curb this, the high level of corruption in general and government corruption in particular, nepotism and a generally weak rule of law in the Republic. The government reacted swiftly and hard, suppressing the uprising within a day by using ample force. Those who were thought to have been the organizers were punished harshly.

The worrying aspect was that the influence of Shamil Basayev, known for uprisings and attacks against Russian targets in other North Caucasian Republics, went as far as Kabardino-Balkaria. As a result, the authorities have since arrested everyone suspected of belonging to a *jamaat*, considering that all stricter forms of religion can potentially be aimed at terrorism and undermining the state.

North-Ossetia

North Ossetia is situated between Kabardino-Balkaria and Ingushetia. Its capital is Vladikavkaz. North Ossetians in majority profess the Orthodox Christian faith. On May 31, 2005 President Alexander Dzasokhov resigned. Dzasokhov had been President for seven years. He was elected in 1998 and re-elected in 2002. Dzasokhov declared he wanted to create a precedent. Instead of staying at his post as long as possible, he (voluntarily) stepped aside for a younger generation of leaders. However, after the Beslan hostage taking in September 2004 protest grew against Dzasokhov's handling of the crisis. But the President, who had support from Moscow, did not leave his post until May 2005. A possible reason Moscow did not earlier replace Dzasokhov was that the Kremlin did not want to create the impression that they gave in to popular demands.¹² However, when their own authorities ignore the will of the citizens, there is a reasonable chance that disappointment will grow. The population may decide to turn away from official authorities, losing trust in formal politics, and turn instead to other sources of loyalty, like family-clans, warlords or freedom fighters.

¹² <http://www.rferl.org/featuresarticleprint/2005/06/db443ec7-ebd6-443d-a720-f35498940c66.html>.

The authorities therefore have a strong responsibility to engage the citizens in the process of state building. The best way to achieve this is to listen to the people, take them seriously and to anticipate to signals from society.

The new President is Taimuraz Mamsurov, who was born in Beslan. He is an ally of Dzasokhov and leader of the North Ossetian branch of Putin's power base 'Unified Russia'. Notwithstanding his loyalty to Moscow, the President has recently criticized the federal authorities. He blamed them for targeting regional public figures instead of investigating the crisis—in which two of the President's daughters were taken hostage. With Mamsurov's emotional reference to the crisis, it looked as if he used it for turning away attention from his own policies. There are people in the Republic who are convinced there was a direct link between the corrupt authorities and the crisis. There are people who place trust in Mamsurov because he gained some respect in turning down the offer to get his two daughters out of the school in Beslan. Others are criticizing his government for corruption.¹³

Many people in the Republic feel that the authorities cannot guarantee the least minimum of security for their own population so they must defend themselves. It is easy to buy weapons because of the great illegal arms trade in the region. The Ossetian authorities in 2004 set up a programme in which citizens could transfer weapons for money. Unfortunately the government was not able to come up with the money they promised.¹⁴

The situation in which people must organize for their own defence in combination with interethnic resentment—at least part of the struggle over disputed territories—creates very serious problems for the government of Mamsurov.

Beslan

In August 2004 a group, inspired by Shamil Basayev, occupied a school in Beslan and held pupils, parents and teachers hostage. Their aim was a declaration by the Russian authorities that they would stop fighting in Chechnya.

The position of the Russian authorities was that they would not negotiate with the hostage takers, whom they declared were terrorists, and that they would use whatever violence would be necessary.

¹³ http://www.iwpr.net/?p=crs&s=f&o=260888&apc_state=henpcrs.

¹⁴ http://www.iwpr.net/?p=crs&s=f&o=159294&apc_state=henicrs2004.

Former Ingush President Ruslan Aushev offered to mediate in the conflict, and managed to be accepted by both parties. He could leave with some hostages, but did not get the chance to bring the situation to a peaceful end. In the Russian press there were allegations that Aushev was not neutral but biased positively to the hostage takers. The Russian authorities finally decided to attack the school in order to free the children. Extensive violence was used, resulting in at least 330 deaths, though the number differs in the different media.¹⁵ There are rumors that the high number of victims was due to the fact that next to the Russian forces, many North Ossetians with family in the school took part in the attack on the Beslan school nr. 1. The action was surrounded by massive chaos.

In the aftermath of the liberation there were questions as to the role of the North Ossetian authorities, and especially the North Ossetian President. He reacted slowly, and this was according to some sources due to the fact that he wanted above all to keep good relations with Moscow, and therefore did nothing without first seeking the approval of the authorities in Moscow, and President Putin in particular.

After an 'independent' government investigation, in which it was made clear that President Dzasokhov had handled according to the rules, his position became difficult due to internal criticism by the population, and he was dismissed from his position 'for health reasons'.

As a result of the Beslan hostage crisis, President Putin took the decision to appoint all future Presidents of Republics himself, and no longer leave it to the population to elect their own President.

Unemployment and Unrest

Just as in the other Republics in the North Caucasus, North Ossetia is struck by a huge unemployment rate. The fact that one of its areas, Prigorodny rayon, is contested by Ingushetia creates this unrest.

Prigorodny Raion

In 1992 fighting broke out between the Ingush and North Ossetians in the Province Prigorodny Raion. This territory had been part of Ingushetia before the deportation of the Ingush to Central Asia in

¹⁵ <http://www.guardian.co.uk/world/beslan>, <http://www.guardian.co.uk/world/2004/sep/06/russia.chechnya>, <http://edition.cnn.com/2004/WORLD/europe/09/04/russia.school/index.html>, accessed 15-10-08.

1943–1944. When they were allowed to return in 1957, the territory had been ceded to North Ossetia, and North Ossetians occupied many Ingush houses. The problems resulting from this situation were never adequately resolved. The Ingush population was kept as much as possible out of Prigorodny Rayon. Nevertheless, many Ingush returned illegally, and later bought the houses which had belonged to their families from North Ossetes. The Ingush justify their claim on the territory of Prigorodny Rayon on history, and Article 3 and 6 of the Law on the Deported Peoples, which was adopted in 1991.¹⁶

Ingush (nationalists) originating from the region wanted Prigorodny Raion to be ceded to Ingushetia, and claimed their property. Although the fighting, which broke out in October 1992, lasted only until November, and although Russian President Boris Yeltsin himself negotiated between the two parties, a lasting solution to the conflict has not yet been found.¹⁷

Ingushetia

Ingushetia is situated between North Ossetia and Chechnya. Its capital is Magas, and was formerly Nazran. The decision to build this new capital was made in 1995, and the reasons for building a new capital were purely administrative. The capital was transferred in 2002. Very few people are living in Magas.

At the end of the 1990s, with the change of leadership in Russia, came a change in leadership in Ingushetia as well. The presidential elections in Ingushetia on April 28, 2002 brought to power the former Federal Security Service (FSB) General Murat Zyazikov, an ethnic Ingush. Zyazikov succeeded Ruslan Aushev, who had been President since the divorce from Chechnya. Aushev was put under pressure by President Vladimir Putin to step down. Reasons given were an inability of Aushev to effectively curb the corruption and unemployment in his Republic and his independent stance towards the resistance fighters in neighbouring Chechnya and towards Moscow. The relationship between the President and Moscow deteriorated after Aushev attempted to mediate between the conflicting

¹⁶ van Tongeren, van der Veen, Verhoeven (eds.), 390.

¹⁷ Information on the process can be found in van Tongeren, van der Veen, Verhoeven (eds.), 392–393.

parties.¹⁸ Putin needed a strong and Moscow-loyal regional leader to secure stability in the small Republic.

At the beginning of his first term Zyazikov signed an 'Agreement on the Development of Cooperation and Good-Neighbourly Relations' with the President of North-Ossetia Dzasokhov. This agreement was intended to start a new phase in the relationship between the two Republics by laying out measures that had to be taken to eliminate some of the unresolved problems of the war between Ingushetia and North Ossetia in 1992. Unfortunately the implementation of the agreement was never worked out, and nothing changed.¹⁹

Since Zyazikov came to power the Republic faced a sharp economic decline. The President failed to take the necessary measures to combat corruption and mismanagement. Zyazikov started his fight against opposition forces within society and against Islamism by reacting with brutal force against these groups. Death squads helped in creating terror in the population. The killings and abductions of Ingush civilians in which regional and federal forces are involved have led to counterattacks on Russian and Ingush servicemen by young Ingush men under the command of the Chechen Basayev.²⁰

In an area where unemployment is high and security cannot adequately be guaranteed by the government, the population wants a stable government, and an effective fight against corruption. The killing on orders of Zyazikov of opposition journalist Magomed Yevloyev was one of the latest proofs of this brutal behavior against opponents of the regime. Through the years, the opposition of a sizable part of the population against Zyazikov's policy has grown.

After an amendment to the constitution that declared that the Ingushetian Parliament confirms and empowers the nominee of the President for the post of regional executive for a five year term Zyazikov, who had resigned on June 2, 2005 with the direct request to be re-nominated, was indeed re-appointed as President of the Republic of Ingushetia. Only one of the 31 representatives of Parliament, opposition leader Ozdоеv, voted against Zyazikov. He called the

¹⁸ A. Matveeva, "North Ossetia/Ingushetia: A History of the Expulsion and Resettlement of People", in van Tongeren, van der Veen, Verhoeven, 392, http://news.bbc.co.uk/1/hi/world/europe/country_profiles/3829691.stm, accessed 7-10-08.

¹⁹ <http://www.rferl.org/featuresarticle/2006/03/51fcf337-201d-4d7d-bb12-7594e0cbdcd7.htm>.

²⁰ <http://www.rferl.org/reports/caucasus-report/2004/06/25-250604.asp>.

re-appointment “yet another tragedy for the Ingush people”.²¹ There was very little popular legitimacy for Zyazikov. In the spring of 2005 there were protests against Zyazikov, who was being accused of corruption, criminal activities and human rights violations. The President was blamed for ignoring the concerns of the Ingush people who wanted a resolution to the administrative status of Prigorodny Raion. Police and army troops dispersed the protests. The organizers, among them the leader of the opposition, were arrested.²²

The President was confronted with severe problems, such as the tense relations with neighbouring North-Ossetia over the disputed Prigorodny Region, a problematic security environment and his unpopularity with the people, especially the young.²³ However, his actions strengthened the instability and opposition to his policy. Just like in Kabardino-Balkaria the danger exists that people, unsatisfied with their government, turn away from the authorities. In the summer of 2008 an appeal by some 80,000 citizens out of just less than 500,000 citizens, was made to Ruslan Aushev to return to national politics and take over from Zyazikov.

On 31 October 2008 Yunus Bek Yevkurov, an Ingush military who was to stabilize the republic, replaced Zyazikov. Attacks on public figures however continued, and on 22 June 2009 he himself became victim of a suicide bomb attack, in which he was badly wounded.

State Building Efforts since 1991 and Peaceful Divorce from Chechnya
When President Dudayev of Chechnya decided in 1991 to declare unilateral independence, his Ingush counterpart Aushev made it clear that he wanted to stay in the Russian Federation. The two Republics, which until that time formed the Chechen-Ingushetian ASSR with Doku Zavgaev as President, seceded peacefully.²⁴

Although no frontier delimitation took place, no conflicts erupted between the two entities.²⁵

²¹ <http://www.rferl.org/newsline/2005/06/160605.asp>.

²² <http://www.rferl.org/featuresarticle/2005/04/61834e50-2053-43b4-b717-ca8b6ea19e59.html>.

²³ Tensions between the Ingush and Ossetians intensified after the Beslan hostage crisis in North Ossetia. There were suspicions some of the people involved in the hostage taking were ethnic Ingush.

²⁴ A. Le Huérou, A. Merlin, A. Regamey, S. Serrano, *Tchéchénie: une affaire internationale? Russes et Tchéchènes dans l'état de la guerre*, (Paris: Editions Autrement, 2005), p. 147.

²⁵ Interview author with Ruslan Aushev, Leiden, 1995.

When in 1994 Russia invaded Chechnya, they did so by taking several routes, one traveling through Ingushetia. The Ingush president has from the start made it clear that he wanted to remain neutral in this conflict. Later on, after the first Russian-Chechen war, he was willing to mediate between President Maskhadov of Chechnya and Russian President Boris Yeltsin. His offices were not accepted. One of the main challenges of President Aushev was the fight against corruption and criminality.

Actions of Shamil Basayev

In June of 2004 youth from Ingushetia rebelled against the President and Government by attacking government buildings and government officials, and while doing this stealing weapons. The spectacular part of it was that the youth came from all parts of Ingushetia, started to attack at 02.00 in the night, and stopped their action at 14.00 that day. While first it was suspected that Chechens and North Ossetians did this, it turned out to be an action organized by Shamil Basayev, and performed by Ingushetian youth frustrated with the policy of Zyazikov and wanted his withdrawal.

Polls showed that as much as 82% of the population was discontent with the political path of Zyazikov, and wanted security restored in the Republic. There was even a gathering of clan elders in order to see what the clan in Ingushetia could do to pacify the situation and restore trust in the authorities. They asked Zyazikov to step down, in order to avoid more civil unrest in the Republic.

Danger that Conflict in Chechnya will Cross Border

From the start of the first Russian-Chechen war there has been a danger that the conflict would spread to other parts of the North Caucasus, and Ingushetia was most in danger, since it is a neighbor of Chechnya, it has a common past with Chechnya, and Ingushetian and Chechen are languages which belong to the same language family, which means that they can understand each other. The Russian military entered Chechnya through Ingushetia.

The Russian-Chechen conflicts have led to massive flows of refugees, many of whom went to Ingushetia and North Ossetia. Ingushetians helped by opening their doors to the refugees. Refugee camps were also created. These have been operative since 1994. The number of refugees was so immense (more than 200.000 refugees on an Ingushetian population of 300.000) that this created problems for the infrastructure of Ingushetia.

In the past years President Putin has put pressure on refugees to return to Chechnya, even though the security situation is not yet sufficient. Refugee centers are being closed, leaving Chechen refugees the choice to try to start a life in Ingushetia, return to Chechnya, or travel on to a more stable territory.

Unemployment and Wahabism

Just as in the other Republics in the North Caucasus, there is massive unemployment in Ingushetia, rising as high as 80%. This also means that there is a huge black market and shadow economy. Unemployment, coupled with the repressive regime of Zyazikov and insecurity in the Republic lead to many youth leaving the Republic to work elsewhere in the Russian Federation. Wahabists from Saudi Arabia are active in the Republic, trying to convince people to convert to their form of Islam. This leads to conflicts with the local population and local religion. The Ingush are Sunni Muslims, belonging to brotherhoods, and having Sufi influence in their profession of religion. The fact that the Wahabists don't recognize this and are stricter towards the interpretation of Islam leads to religious conflict. The fact that they have money, and offer the youth something other than unemployment is appealing for some. Therefore, in a sense Zyazikov is right in seeing a radicalizing movement. He should however also acknowledge that this is imported, and only very partially homegrown.

For the Ingush government it is important to have authority over all of the territory, in order to avoid the possibility of the Mujaheedin to camp and train on their territory for the struggle in Chechnya. Some sources, whose credibility is difficult to assess, state that the North Caucasus, and especially Ingushetia, are used by influential figures in the Russian Federation for money-laundering practices.²⁶ If the Ingushetian Presidency is not successful in fighting corruption, curbing the staggering unemployment, and controlling effectively their territory, there is a real danger that black holes will appear on the territory where terrorism and other forms of criminal activity can flourish. This will (further) destabilize the territory and the region.

²⁶ P. Murphy, *The Wolves of Islam, Russia and the Faces of Chechen Terrorism*, (Washington DC: Brassey's Inc., 2004), pp. 135–140.

Redrawing Borders

The plan of Kozak to redraw the borders in the North Caucasus could result for Ingushetia in a merger with Chechnya. This would lead to more territory, and possibly gaining Prigorodny Raion. Therefore, it could be positive for Ingushetia, and the Ingush authorities are not against the plans of Kozak.

Chechnya

Chechnya is situated between Ingushetia and Daghestan, bordering Georgia on the south. Its capital is Grozny. Chechnya declared unilateral independence in 1991. Since Ingushetia did not want to join in the independence, a peaceful divorce took place. President Yeltsin opposed the declaration of independence, since this would infringe upon the territorial integrity of Russia. In November 1991 the Russian government announced a state of emergency. Yeltsin boycotted Chechnya, without planning any full-scale military campaign against Chechnya, since he had more pressing problems to solve. No state recognized Chechnya, except much later the Taliban regime, which itself was labeled terrorist.

Elections and the Policy of President Dudayev

Elections were organized and Dzhokhar Dudayev was elected the first President of an independent Chechnya. The nationalist policy of Dudayev, a Soviet army general, had made him popular in Chechnya. During the coup in 1991 Dudayev had been commander of the nuclear fleet in the Baltic Sea, where he witnessed the secession from the Soviet Union of the Baltic States. His supporters considered a presidential republic the most suitable for Chechnya, since the president would need enough room to maneuver in the transition period which lay ahead.²⁷

As part of his strategy Dudayev used religion, which during the Soviet times had gone underground. The Sufi brotherhoods were reawakened, there was room again for the use of the zikr, and Mosques were built. Another tool that President Dudayev used was the reinvention, or rather, reawakening the traditions of the clan. The clan culture had survived during the Soviet Union, but traditions had to be celebrated

²⁷ A. Kurdiavtsev, "Democratic Values and Political Reality", in Y. Ro'i, *Democracy and Pluralism in Muslim Eurasia*, (Abingdon: Routledge, 2004), p. 364.

in secrecy under Communism. After 1991 the clan gained influence as part of a nationalist policy. It also guaranteed the population basic infrastructure in a state that became weaker and weaker. Social security, employment, voting, all can be retraced to clan affiliation, as far as the State is no longer capable or willing to provide basic goods and services. With the fall of Communism it was possible to use not only the customary law which always had been practiced next to the Soviet law (though not officially), the clan elders mediated in conflicts and decided when necessary what compensation be paid for a violation of the law. The youth started visiting the places where their clan had its basis, and learn the names of their ancestors, as was the custom in old times. This was important because many families settled in other parts of the Republic than where they lived before the deportation of 1943–1957.

Dudayev introduced the *Mehk Kel*, the Council of Elders, which had a role as moral authority in addition to parliament in the legislative. The *Mehk Kel* had the right to approve the Constitution, vote a no confidence concerning a deputy or the President and vote in the changing of borders.²⁸ The *Mehk Kel* and parliament were in practice not cooperative, but rivals.

A Chechen Constitution was adopted on 12 March 1992, which stressed equality of citizens, freedom of speech, freedom of press, and freedom of assembly. The political reality was that Dudayev adopted laws, even the Constitution, without a prior discussion in Parliament.²⁹

On 17 April 1993 President Dudayev, by decree, suspended the work of Parliament and the Constitutional Court, dissolved the municipal council of the capital Grozny, and introduced direct Presidential rule.³⁰ This move resulted in more political resistance against the sitting government, where he appointed persons he trusted, and these were often criminal like the bodyguards who were seen around him. The security situation in Chechnya worsened, due to the inability of the government to provide security on a local and regional level, and created opportunity for others to enter the void that the official structures left open.

²⁸ Kurdiavtsev, in Ro'i, 365.

²⁹ Kurdiavtsev, in Ro'i, 366.

³⁰ Kurdiavtsev, in Ro'i, 367, C. Gall, T. de Waal, *Chechnya, A Small Victorious War*, (London: Pan Original, 1997), p. 119.

Gail Lapidus states about the characters of the two Presidents, Yeltsin and Dudayev, and the decision to go to war:

Part of the infrastructure was already disrupted due to the Russian boycott, and the inability to govern aggravated this situation. In short, an erratic and weakly institutionalized political process in both capitals resulted in a highly personalized and subjective style of decision making that gave exceptional weight to the views and actions of two authoritarian presidents and their immediate entourages. The successful effort by political figures around Yeltsin to turn him against Dudayev and to delegitimize Dudayev's rule effectively blocked the prospect for high-level negotiations between the two presidents to seek a political solution."^{31, 32}

Due to the inapt policy of Dudayev, coupled with his warlike tone, he fast lost support of many Chechens, especially the Chechen intelligentsia who had studied in Russia, and did not want to alienate or provoke Russia.³³

First Russian-Chechen War

After coming to power the policy of Dudayev had soon changed to ultra nationalist, with a strong wish for international officially recognized independence. Dudayev started to insult Russian President Boris Yeltsin, which was politically and diplomatically not wise.³⁴

On 11 December 1994, nearly three years after the fall of the Soviet Union, Chechnya was invaded by Russian troops entering through Ingushetia. Anatol Lieven explains how the FSB tried to learn from Afghanistan, and from past encounters with the Chechens in the 19th century:

The FSK analysis assumed that, as in much of Central Asia, the key to understanding Chechen politics and society was the Chechen system of clans, or teips. In the FSK paper, these were treated as largely closed, internally cohesive and mutually exclusive building blocks, which take hidden by mainly united political decisions, and which give their allegiances as teips to different political causes and leaders. It was in these terms that the FSK analyzed the Chechen national resolution of 1991, seeing it above all as a revolt of excluded tips against the "Tyerekshskoi"

³¹ G. Lapidus, "Contested Sovereignty: The Tragedy of Chechnya", *International Security*, Vol. 23, No. 1, 1998, p. 15.

³² Lapidus, 15.

³³ A. Lieven, *Chechnya, Tombstone of Russian Power*, (New Haven: Yale University Press, 1998), p. 75.

³⁴ Lieven, 62.

clan, which under Communist Party First Secretary Doku Zavgayev had come to dominate the local Communist and State structures.³⁵

Lieven states that the FSK recommended increasing the supply of weapons and money to the opposition, based in north-western Chechnya and founded by the earlier mentioned Tyerekhsloi *tukhum*. The clans would receive bribes and mediation would be used to form clan opposition to the government of Dudayev.³⁶

According to Lieven, what missed, in the first place, was how for centuries *teip* loyalties had been cut across by other ties—to relations by marriage, to neighbors from other clans, to wider clan alliances, to religious brotherhoods, and finally of course to Islam itself. This explains why clans were not the only dividing line in Chechen society. The deportation of 1944 had also weakened the clan system.³⁷

The fighting in the First Russian-Chechen war went bad, mostly due to poor training, and lack of motivation among the military. The military did not have the correct sort of munitions, and used the wrong fighting tactics.³⁸

Conscripts were ordered to fight, who often had not yet completed their basic training, and the logistics surrounding the start of the first Russian Chechen War was not good. This resulted in the fact that while marching into Chechnya, there was no food for the young soldiers. There are stories of Chechen mothers standing outside with pans with soup, to feed the occupying forces. Morale among the fighters was bad, since many did not understand why they had to fight their Soviet brethren. This was not only the case among the lower military, but also among the generals. Yeltsin replaced some of his generals fighting in Chechnya.

Another mistake was the use of material in the first Russian Chechen War. Much of the fighting took place in mountainous areas, where the use of helicopters was not advised, since they can be shot out of the air too easily. Another important place of fighting was the capital Grozny. The arms and troops sent were not adequate for fighting in a city, for which special training and weaponry is needed. This was one of the

³⁵ Lieven, 336.

³⁶ Lieven, 337.

³⁷ Lieven, 338.

³⁸ Lieven, 102–108.

reasons for the huge losses on the side of the Russians, and the fact that the first Russian Chechen War was won by Chechnya.

After the signing of the Khasav Yurt agreement on 25 August 1996 the Russian troops withdrew.³⁹ In this agreement, signed by Aslan Maskhadov for Chechnya and Alexander Lebed for Russia, it was decided to leave a final decision on the status of Chechnya until five years later, 31 December 2001. On 12 May 1997 to this document was added a bilateral treaty, signed by President Boris Yeltsin and President Aslan Maskhadov, "on peace and the principles of Russian-Chechen relations".

During the fighting the centers of power had been around the warlords, who had their powerbases in their clans's territories. The challenge for Chechen President Zelimkhan Yandarbiev, and later President Aslan Maskhadov, was to disarm the warlords, which was done by incorporating some of the most influential warlords, such as Shamil Basayev, into the government. Basayev was in 1997 appointed Prime Minister, having finished second after Maskhadov in Presidential elections. Basayev soon left the position to pursue his own aims, establishing a Shura chaired by him, rivaling the power of Maskhadov.⁴⁰ Basayev did not only want full independence from Russia, but also the creation of a North Caucasian Emirate, comparable to the aim of Imam Shamil in the first half of the 19th century, and the experiments just after the fall of the Russian Empire in 1917 in the North Caucasus. Basayev got financial support from abroad, especially from Wahabis and Saudi Arabia. He never converted to this stricter form of Islam, but used them to finance his dreams for Chechnya.

The inability of President Maskhadov to unite the country, and to rebuild it (which was difficult due to international and national boycotts, and the fact that it turned out to be difficult to disarm the warlords), resulted in a compromise with those who favored a more prominent role for religion, and in 1998 Maskhadov introduced Sharia law and proclaimed the Islamic Republic of Ichkeria.⁴¹ Though a final settlement of the status of Chechnya was to be decided in 2001, it was clear that Chechnya was a weak, even failing state. Security was not guaranteed, not for Chechens, and certainly not for foreigners.

³⁹ Gammer, *The Lone Wolf and the Bear*, 221.

⁴⁰ Gammer, *The Lone Wolf and the Bear*, 212–213.

⁴¹ Matveeva, in van Tongeren, van der Veen, Verhoeven (eds.), 356.

There was massive unemployment, and many people had fled the country and were living in refugee camps in neighboring Republics. The political structures didn't work properly, the State did not have a monopoly over violence, there was corruption and the rule of law was very weak.

Abducting of People as a Business

During the 1990s abducting people as a means of acquiring income became more and more common. This made Chechnya a dangerous place to live and move. The government and law enforcement authorities were not capable of curbing this trend and to bring those responsible to justice. For foreign businesses, international intergovernmental and nongovernmental organizations Chechnya became a dangerous place to be.

Second Russian-Chechen War

The attack on some Daghestani villages, inhabited by ethnic Chechens near the Chechen border by Basayev in the summer of 1999 triggered a renewed attack by Russia on Chechnya, this time better organized, and more successful.

The Russians sent Special Forces that specialized in urban warfare. They no longer used tanks, but rather relied on air forces. All men aged 14 to 60 were regarded as potential combatants, and were checked, and often arrested and sent to filtration camps. There are many cases of cruelties on both the Russian and Chechen side. The Russians also used *kontraktniki*, private military contractors. They got a bad reputation, being seen as more violent, more indiscriminate than other parts of the army. Russians in turn did not want to serve in Chechnya, knowing that the situation was bad, and that Russians who ended up in Chechen hands were often tortured. They were not taken hostage for money, but held in desperate situations, like those who were held in pits in the ground.

Putin in 2000 supported Imam Ahmed-hadji Kadyrov as President of Chechnya. He was loyal to Moscow, could have influence in the religious sphere, and originated from an important clan. When he was killed in 2002, Alu Alkhanov replaced him.

Part of the population remained loyal to Maskhadov however, openly or secretly, who was now a President in hiding. Former President Yandarbiev (1996–1997), who had been President of Chechnya after the killing of Djokhar Dudayev, and was followed by Maskhadov,

had fled to Qatar, where he was killed in 2004 by the Russian KGB. Maskhadov was killed in 2005, and Basayev blew himself up in 2006 in Ingushetia (there is controversy over whether the killing was a result of an exploding bomb placed by the FSB or whether it was an accident). With the deaths of the former Chechen Presidents who favored independence, the Russian Federation could continue to restore law and order in Chechnya. Since January 2007 the son of Imam Kadyrov, Ramzan, is in power as President. He has until now been loyal to Moscow, and actively pursues a policy aimed at the reconstruction of Chechnya. However, he is also known to have a background as warlord, and is said to be responsible for grave human rights violations.⁴²

Changing Reasons for Fighting Against Russians

During the 1990s we see a shift in the reasons to oppose Russians. In the period 1991–1996 the aim of those fighting was to guarantee a free and for many independent Chechnya. Others fought in order to get the Russians to leave Chechnya. After 1996, due to the power of the warlords, the weak government of Yandarbiev and Maskhadov, and the influx of money from Arab States and foreign *mujahedin*, fighting for a Muslim state, there were multiple reasons. Many still aim at an independent Chechnya, but some prefer an Islamic Chechnya, or, like Shamil Basayev, a North Caucasian Emirate, comprising not only Chechnya, but also Dagestan, Ingushetia, Kabardino Balkaria and Karachayevo Cherkesskaya. This led to different groups, trying to get money from the same sources.

Warlords

Although Shamil Basayev was one of the most notorious and well-known warlords, he was by no means the only one.⁴³ Among the important warlords active in the Russian-Chechen Wars was Salman Raduyev, the son in law of President Djokhar Dudayev. He was known for his brutality and was wounded several times in fights with Russian troops.

⁴² L. Fuller, *Chechnya: Kadyrov completes first 100 days in office*, RFE RL Report, <http://www.rferl.org/reports/FullReport.aspx?report=567&id=2007/07/567-10-18>, accessed 28-2-08, L. Fuller, *New Chechen Head Moves to Consolidate Power*, <http://www.rferl.org/reports/FullReport.aspx?report=567&id=2007/04/567-10-11>, accessed 28-2-08.

⁴³ Books which describe the activities of Chechen warlords and warlord-Wahabis are P. Murphy, *The Wolves of Islam, Russia and the Faces of Chechen Terrorism*, (Washington: Brassey's Inc., 2004) and Y. Bodansky, *Chechen Jihad, Al Qaeda's Training Ground and the Next Wave of Terror*, (New York: Harper Collins Publishers, 2007).

He died in Russian custody. The brothers Barayev were known for their cruelty. Arbi Barayev became known as the one who beheaded four British Telecom workers in Grozny. He was converted to Wahabism. He participated with Basayev in the Buddenovsk hospital hostage taking.

Emir Khattab was according to his own accounts of Chechen background, born in Jordan. He was a Wahabi who was said to have contacts with Al Qaeda. Khattab was instrumental in internationalizing the fight for independence into a jihad against the Christian Russian. He was with Basayev responsible for the attacks on three Daghestani villages close to the Chechen border, which triggered the second Russian-Chechen War. Khattab was killed in 2002 by a poison letter sent by the FSB.

Human Rights Violations

Both Russians and Chechens have during the first and second Russian-Chechen War committed numerous atrocities and serious human rights violations. Until this day human rights violations continue to take place in Chechnya, and many of these violations go unpunished, because the Russian and Chechen authorities are unwilling or unable to prosecute the perpetrators. This has led to many cases being brought before the European Court on Human Rights, where many cases are declared admissible without having exhausted local remedies, since in many cases it was impossible to get a swift and fair trial. In many of these cases the Russian state has been convicted, and had to pay damages.

The nature of the violations differs: the Chechen freedom fighters often cut throats or decapitated Russian military, they have cut off parts of bodies, and have held people in pits. It also happened that soldiers or Russian politicians were exchanged for money or weapons, or for political motivations. These Chechen freedom fighters also committed human rights violations against Chechens who were suspected of working together with the Russians.

The Russian forces, since the start of the fighting, arrested mainly men, who were then sent to filtration camps, or held in pre-trial custody without charges being filed. In this pre-detention custody, and in the filtration camps, these men were physically and mentally tortured. They were either bought free by the family, were killed or were released. Those who survived often could no longer function normally, either physically or mentally. There are numerous cases of women and girls being raped, and then either killed or released. In Chechen society this is a worse

problem than in other societies, since the women who have been raped cannot return into society. They are automatically blamed, can no longer marry, and are a shame for their family and clan. These women are thus isolated from society. In some cases where Basayev worked with female terrorists or suicide bombers, these women were either motivated by traumatic family circumstances, which had isolated them, or they were driven out of their social group after having been raped. Due to the stigma this creates, the scale on which this has happened is unknown, since women often will not report this to the police.

Refugee Camps

The refugee camps in Ingushetia and North Ossetia have been operative since 1994. In the past years, after the war in Chechnya had officially ended, it was decided that the population in the camps had to return to Chechnya. Many considered Chechnya still unsafe, because special raids were still taking place, as well as aerial bombardments on villages in the mountain areas. Furthermore, young men are still seen as potential warriors against the Russians, and faced arrest and torture. Roadblocks are still operational, and bribing is still necessary.

Terrorist Training Camps, Money-Laundering and Black Holes

Manuel Castells describes in his book *End of Millennium* the dangers of inequality, social polarization, poverty and misery in areas that may be situated both in strong and weak states. Castells describes them as 'black holes' that reproduce social exclusion and result in unsafe areas, where the state no longer has a monopoly on violence. The question we may ask is whether some parts of Chechnya can be designated as black holes. Such areas in frontier provinces, situated near the Georgian border, can easily harbor criminals and terrorist networks and provide refuge and training for such groups, making it possible for groups in Russia to engage in money laundering activities.

Due to the weak governments, the chaos in which the country was plunged after the two wars, the subsequent governments have not been capable of exercising effective military control over the whole territory. This has according to several sources led to black holes, areas where the law of the strongest, or in this case, the law of the clans, is in force. In these areas the economy is the black economy, and human rights are easily violated. The Russians consider parts of the mountainous areas as black holes, and bomb these areas and villages, presuming that

freedom fighters and mujahedeen live among the population.⁴⁴ These unnamed Russian sources, quoted by United States writers, say that there are several terrorist training camps in the mountains in Chechnya and in areas just over the frontier with Georgia, where Georgian authorities do not have any power.

Influence of the Middle East

The question is why some states in the Middle East, either on a state level or more informally, have wanted to gain influence with the Russian Federation, and more particularly in the North Caucasus, and how successful they have been.

We are used to thinking in East-West relations, taking the United States and the Russian Federation as the representatives of the bipolar system, and it is therefore not surprising that we see that the Russian Federation tries to consolidate its power at its borders, while the United States tries to gain influence in areas which before were part of the sphere of influence of the Soviet Union.

The extension of influence through religion, in this case Islam, is also not that special, since we have noticed many Christian groups going East, such as Roman Catholics (while Christians in Armenia and Georgia are Orthodox Georgian and Orthodox Armenian, or Orthodox Russian), and groups like Jehovah witnesses. They were not always welcome, and in the first years after the fall of Communism they were openly discriminated against.

This was also the fate of the Wahabi's who went to the North Caucasus to gain converts in a period just after the fall of the Soviet Union, when a reawakening of religious feelings was seen. Wahabis in those first years promised money in return for 5 prayers a day, and the promise that the women would wear a headscarf and would not work. The money was for many peasants more lucrative, and so many converts were simply bought. Saudi Wahabi's were also murdered and evicted from villages, since many people perceived them as a threat to the Chechen culture and

⁴⁴ This documentary shows the activities of the Russian military in their fight against Chechen fighters, <http://video.google.ca/videosearch?q=Crying+Sun&sitesearch=#>

traditional religion. With the continuation of the wars and deprivation, some youth found more in Wahabi religion than in their own Sunni brotherhoods and religion, and joined the *mujahedin*. Saudi money made the building of mosques possible. Saudi and other Arab money also financed the *mujahidin*'s that supported the Chechens in their fight against the Russians. And in the end, both Maskhadov and Basayev were financed by Arab states, their inhabitants or organizations active in those states. Since Chechnya had so few Chechen mullahs, the mullahs had to be imported. Many originated from Arabia, or had studied at Arabian religious universities. They did/do not understand the Chechen culture with their respect for the elders and a total obedience to the clan. This has resulted in clashes between generations. The mullahs also have the ability to influence their converts politically, and here lies the influence of Saudi Arabia, with their Wahabi religion and their *jamaat*'s.

9/11

After the attacks on the Twin Towers on 9/11 2001 Russia immediately supported the United States policy against terrorism. At the same time the fight for external self-determination, and the quest for internal self-determination of Maskhadov of those last years, was translated into terms of terrorism. Vladimir Putin labeled his activities in Chechnya as fight against Muslim extremism and terrorism, and thus got the support of the United States to do what he thought necessary in Chechnya. Thus the international community turned a blind eye to the human rights violations in Chechnya, and the forced repatriation of Chechen refugees from refugee camps in Ingushetia and North Ossetia in 2004. International governmental organizations like the Council of Europe have tried to pay attention to the human rights violations in Chechnya by putting it on the agenda of the Parliamentary Assembly. The United Nations Security Council has not adopted any resolutions with regard to Chechnya, since Russia has veto power in this organ. The OSCE has closed its office in Chechnya, due to the poor security situation, where the lives of foreigners were worth even more than the lives of Chechens, and a flourishing kidnapping trade existed. After six members of the Red Cross mission were murdered, many international offices, both IGO's and NGO's, closed their doors in Chechnya and retreated to Ingushetia, North Ossetia, Daghestan or Moscow.

The refugee camps have created instability and aggravated the poverty especially in Ingushetia, but also in North Ossetia. The discrimination of persons of Caucasian descent in the rest of the Russian Federation makes it more difficult for Chechens to settle elsewhere in the Russian Federation.

The path to Western Europe is blocked since the position taken by the immigration offices is that there is a possibility to settle elsewhere outside Chechnya in the Russian Federation, where the Western European authorities do not take into account the fact that there is considerable aggression towards Chechens.

Though Turkey had some sympathy towards Chechens at the beginning of the 1990s, influenced by the strong lobby of North Caucasian Diaspora in Turkey, their position changed during the first and second Russian-Chechen Wars. This was partly due to attacks by (sympathizers of) Chechnya and ethnic Chechens who thus wanted to create attention for what was happening in Chechnya. Another reason for the diminished sympathy of Turkey was the fact that as part of the NATO Turkey had to take a position against terrorism, which the freedom fight was labeled by Russia after 9/11/2001.

Role of Diaspora

There is a Chechen Diaspora throughout the Middle East, Western Europe and the United States. They preserve their language and customs, and the clan culture that is part of their identity. At the same time they integrate in the states they are living in. During the 1990s there was support of the Diaspora in the form of medical help, help for schoolchildren to flee the area and attend school in Turkey. From the side of Chechnya, there were also cultural activities that gave opportunities to leave the country, such as the children's dance group.

One important role of the Diaspora is the preservation of Chechen culture. Nevertheless, President Alu Alkhanov in 2004 addressed the Diaspora and refugees outside Chechnya and asked them to return to Chechnya. Only in Chechnya they would be able to teach their children the true Chechen culture and religion. The Chechen government under Alkhanov would create jobs to guarantee a good life for the returnees. The Republic was, according to Alkhanov, safe enough to return.

The Chechen Presidents

After Djokhar Dudayev had been killed during the first Russian-Chechen War in 1996, Chechnya had several Presidents, who had to cope with more war and the aftermath.

Zelimkhan Yandarbiev

Zelimkhan Yandarbiev became President during the first Russian-Chechen War. He held office for only a year (1996–1997). One of the persons in his government was Aslan Maskhadov, who was responsible for signing the Khasav-Yurt Agreement. When after presidential elections in 1996 Maskhadov took over from Yandarbiev, the latter left the country and settled in Qatar, where he became interested in a stricter form of Islam, and became a Wahabi. In 2004 he was killed by FSB agents, who regarded him as a dangerous element, just as the warlords, who were one by one murdered.

Aslan Maskhadov

Aslan Maskhadov was elected President after the first Russian-Chechen War. He ruled from 1997 to 1999 (or 2005, if we count his government as a President wanted by the Russian Government). His tasks were to make the country safe, rebuild a post war economy, disarm the warlords, and restore relations with Russia in such a way that independence could follow in 2001. Due to the unwillingness of the warlords to give up power, which resulted in an unsafe environment both for Chechens and foreigners, a growing kidnap market, and an enormous black market and shadow economy, this failed. The move by Maskhadov to include warlords in his government, in order to press them to recognize the regime and remove them from their territorial strongholds, was clever, but unfortunately led to the weakening of the government.

Though Maskhadov was willing to negotiate with the Moscow government, he was not regarded as a party, which resulted in a missed chance with regard to a negotiated settlement instead of a second Russian-Chechen War. In 1997, under pressure of groups who adhered to a stricter religion, he introduced Sharia Law next to the normal law.⁴⁵ This was an opportunity for those favoring the Sharia to opt for this code of laws instead of the normal law. In practice it was not a problem, since many use customary law, the law of the clans, next to the codified law.

After Russia invaded Chechnya in 1999 Maskhadov had to go into hiding. As President in hiding, or in exile, he was not a discussion partner, and this created a situation with two governments in the Republic.

⁴⁵ <http://news.bbc.co.uk/2/hi/europe/272261.stm>, accessed 15-10-08.

Akhmad Kadyrov

Akhmad Kadyrov originated from an influential clan and thus had wide support. Within his clan he belonged to those willing to cooperate with the Russian Government. Kadyrov was mufti by profession, and therefore also acceptable for religious citizens. He was appointed by President Putin in 2000 and elected as President in elections that according to Western sources (NGO's, OSCE) were unfair. Many citizens were not able to vote, due to the security situation, and many boycotted the elections. Kadyrov was murdered in 2004. The attack was never solved, but was probably performed by those who opposed cooperation with the Russians.

Alu Alkhanov

After the death of Akhmad Kadyrov, Alu Alkhanov was nominated President of Chechnya by Russian President Vladimir Putin. He was seen as a temporary figure, between Kadyrov senior and Kadyrov junior, who was still too young to become President. Alkhanov tried to bridge the divide between those in favor of Russia and those against, those Chechens in and outside of Chechnya. His plans were to create jobs, make Chechnya more prosperous, and in order to realize this he needed a bigger population. Alkhanov aimed at refugees and Chechens living abroad to return to Chechnya and help rebuild the Republic, keeping in line with Chechen traditions and religion. His Presidency was not strong, mainly because he knew that he would be replaced by Ramzan Kadyrov, the son of the late Akhmad Kadyrov, as soon as he would reach the age of 30, necessary according to the law to become President. And this was indeed what happened. Another aspect which made the Presidency of Alkhanov weak were the military actions of the Russians on Chechen territory which continued, as part of the fight against terrorism, and the fact that those who returned were refugees who had been forced out of their refugee camps, therefore people who did not return voluntarily.

Ramzan Kadyrov

Ramzan Kadyrov turned 30 in October 2006, the required age to become President, and was nominated President by Putin in February 2007. There are many allegations about the participation of Kadyrov Jr. in human rights abuse and extortion.⁴⁶ As President, and as Vice-

⁴⁶ www.rferl.org/featuresarticle/2007/02/63CD2E24-BC2C-4E96-883E-461B4DBBD367.html, and <http://www.huliq.com/11270/russia-kadyrov-in-strong-position-to-become-chechen-president>, accessed 15-10-08.

President under the Presidency of Alu Alkhanov, he introduced special taxes to rebuild the country. Kadyrov appointed friends and clan members to strategic positions. He got financial support from Moscow. The relations between Kadyrov and the government in Moscow are remarkable: on the one hand they support each other, on the other it is clear that even among Kadyrov the drive for power might clash with the Russian authorities in the future.

Death of the Presidents in Exile and Shamil Basayev

Since the beginning of the 21st century one of the important issues for the Russian government has been the removing of the Presidents in exile, who embody the opposition in Chechnya against the Russians. President Dudayev was killed by the Russian army, while making a telephone call in the field, Yandarbiev was killed by FSB agents in Qatar, Maskhadov was killed by the FSB, and Kadyrov was killed by Chechen nationalists. Sadulayev was killed by the FSB and the cause of death for Basayev is still disputed.

The position of Chechen President in exile Doku Umarov is precarious. He is faced with looming threat of murder by the Russian FSB, and he risks losing support after he declared in November 2007 a North Caucasian Emirate, of which Chechnya would be a province.

The killing in 2006 of former FSB agent Alexander Litvinenko, who was of the opinion that the FSB was behind the bombing of some flats in Moscow, which was later attributed to Shamil Basayev, was shocking for the world. He held the opinion that the FSB, and the government of ex-KGB agent Vladimir Putin, had manipulated the media in order to facilitate the acceptance of action against Chechnya. He also stated that money-laundering practices were taking place in Chechnya and the North Caucasus, and reminded that the Russian military sold their own weapons for money to the Chechens and *mujahedeen*, thus prolonging the conflict. The reason for this small arms trade is that the military often did not get their salary in time. The fact that the Russian Federation does not cooperate in the least in this case, and is not willing to extradite or arrest and try the persons responsible for the murder of the agent, is not only a violation of international law (*aut dedere, aut iudicare*), but also cannot be regarded as good-neighborly relations between two important States.

The two Chechen Presidents (in exile and in office) each have influence on Chechen national politics, but they also show the division of the population, influenced by Russian politics. However, this does not

mean that there is no longer a wish to acquire more independence. The developments in South Ossetia and Abkhazia, which can be seen as a logical step after the recognition of Kosovo by primarily Western states, may give nationalist Chechens hope. However, we have to conclude the experience with *de facto* independence in the periods 1991–1994 and 1996–1999 were not good, and leave for the time being little optimism for the future.

Spill-over of the Conflict to Ingushetia

During the 1990s there has been a danger of a spillover of the Chechen conflict to Ingushetia. Reasons for the spillover could be that the fighting that continued from the other side of the border, Chechen fighters hiding in Ingushetia, attacks by Russians on Chechen refugees, camps on Ingush territory. This has not happened, and many sources credit this to the policy of former President Ruslan Aushev, who was able to keep on friendly terms with both Russian authorities and Chechen authorities.

Consequences of the Recognition of Abkhazia and South Ossetia

Keeping in mind the wish of many Chechens since 1991 to form an independent state, the question is whether the Chechen government wants to see the recognition of South Ossetia and Abkhazia by Russia as a step forward to its own independence and recognition.

This is questionable. In the first place the Chechens are tired of fighting. So much devastation has taken place; so many people have fled, were killed and tortured. Even now military actions take place against groups that are said to hide in the mountains.⁴⁷ However, President Ramzan Kadyrov has applauded the recognition of South Ossetia and Abkhazia by the Russian Federation.⁴⁸ This indicates that he will not declare independence in the near future. Even if Chechnya would declare independence, it is questionable whether there would be any state willing to recognize it, since Russia has stated that the Chechen freedom movement is linked to terrorism.

⁴⁷ <http://video.google.ca/videosearch?q=Crying+Sun&sitesearch#>

⁴⁸ <http://eng.kavkaz-uzel.ru/newstext/engnews/id/1228002.html>

Challenges

When he came to power President Alkhanov promised the people jobs. He has not been able to create the amount of jobs he envisaged, and unemployment is still a huge problem. The unemployment rate in 2008 was 75%. This means that the effort for the creation of work has to continue.

President Ramzan Kadyrov had assembled friends and clan members around him. There were allegations of corruption within his own group, though at the same time Kadyrov tried to be as firm as possible against corruption. The fight against corruption should remain high on the political agenda.

The elections since 2000 have shown irregularities. It was very difficult and dangerous to go to the station polls, election boxes have been added, and Western organizations as the monitors of the OSCE have not attended the elections.

Daghestan

The capital of Daghestan is Makhachkala. The Republic borders Chechnya, Russia, Georgia and in the south Azerbaijan. From the fall of the Soviet Union until 2006 Magomedali Magomedov, a Dargin, has headed Daghestan government. The President had to step down in 2006 on reaching his 75th birthday. President Putin then nominated Mukhu Aliyev, an Avar, as Presidential candidate. Aliyev was at the time already chairman of the Daghestan Parliament, and had been head of the Daghestan Communist Party in the Soviet era. He was approved by Parliament.⁴⁹ The President serves a four-year term.⁵⁰ His task is to stop the activities and growing influence of radical Islamic groups and the preservation of stability in the Republic.⁵¹

Daghestan has a State Council, the highest executive body, which is elected by the members of the Constitutional Assembly. The Chairman of the State Council proposes a Prime Minister, who is not allowed to have the same ethnicity as the Chairman of the State Council.⁵² The

⁴⁹ http://news.bbc.co.uk/2/hi/europe/country_profiles/3659904.stm, accessed 15-10-08.

⁵⁰ Matveeva in van Tongeren, van der Veen, Verhoeven (eds.), 374–381.

⁵¹ http://news.bbc.co.uk/1/hi/world/europe/country_profiles/3659904.stm.

⁵² E. Kisriev, "Political Process in Daghestan", in Y. Ro'i, 337.

Prime Minister becomes member and first deputy chairman of the State Council. The other members of the Council are elected according to ethnic group. The Constitutional Assembly is the organ that adopts a constitution, elects the Chairman of the State Council, and consists of 242 persons. The members are elected in order to reflect proportional representation of the main nationalities in Daghestan.⁵³

A new Constitution was written on 26 June 1994. The Constitution reflects the multiethnic fabric of the republic. All ethnicities are ensured proportional representation, according to the Law on the Elections to the People's Assembly. Elections take place according to a majority system in single mandate constituencies. This must guarantee proportional representation and avoid confrontation between ethnic groups within constituencies.⁵⁴

The Republic contains many ethnic groups. The Constitution of Daghestan reflects this diversity. A "collective presidency" was created, the State Council, in which all ethnic groups were represented. Nabi Abdullaev analyses the make up of the State Council:

This body is composed of one representative from each of the republic's eleven "titular" ethnic groups, plus one representative each from the ethnic Russian, Azerbaijani and Chechen communities. Then, in order to prevent the concentration of power in the hands of a single ethnic group or clan, a norm was established whereby the post of chairman of the State Council (effectively, the head of the republic) would rotate on the ethnic principle. That is, the post might not be held consecutively by two people from the same ethnic group. The State Council and its chairman are appointed by the Constitutional Assembly. Third and last, deputies to the parliament would be elected by proportional representation.⁵⁵

The Constitution was amended in 2003 in order to change the election of the President according to the rotation principle.⁵⁶

Population Transfer

During the Soviet period, the central government decided to force some of the peoples in Daghestan to leave the mountainous area and live in the plains. This is comparable to the manipulation with borders

⁵³ E. Kisriev in Ro'i, 338.

⁵⁴ E. Kisriev in Ro'i, 334–335.

⁵⁵ N. Abdullaev, "Constitutional Amendments Threaten to Destabilise Situation in Daghestan", *Prism*, Volume 4, Issue 8, 1997, http://www.jamestown.org/publications_details.php?volume_id=5&issue_id=269&article_id=3043, accessed 15-10-08.

⁵⁶ <http://www.translatednews.com/2006/03/30/news-237460.html>, accessed 15-10-08.

in other North Caucasian Republics at the time. The Avars were sent to the north, where the Kumyk were living. The result was that the Kumyk became a minority in their own territory.

Since the dissolution of the Soviet Union the Kumyk favor a federal Daghestan, and are supported in this wish by the Nogai and the Lezgi, who have a considerable part of their ethnic group outside Daghestan. Other ethnic groups do not favor a federal republic, based on ethnicity, because the ethnicities live among other ethnicities. They fear growing internal conflict. There are already problems with the Lezgi, who live in the border area of Daghestan and Azerbaijan. Although both governments keep the borders open, to allow traveling to the other state by Lezgi, a nationalist group wishes to create an independent Lezghistan, which would unite the Lezgin population in Daghestan and Azerbaijan. When the Chechens were deported in the Second World War, part of the Chechen territory was ceded to Daghestan. This territory has never been returned. Laks, who were transferred to the territory from their mountainous territories, then populated the deserted territory. After 1991 the Daghestan government has built houses for the Laks near Makhachkala, and the idea is that the Laks will move away from the territory originally part of Chechnya, and that the Chechen group, the Akki, can return to their territory. No conflict has erupted between Lak and Akki.⁵⁷

The Role of Religion

The majority of the population in Daghestan is Sunni Muslim. There is however, also a group of Mountain Jews, called *Tats*. What is special about this group is the fact that due to their century-long isolation they have preserved very old customs. Since the fall of the Soviet Union many have left for Israel.⁵⁸

Just like elsewhere in the North Caucasus, there are problems between the traditional Sunni Muslims, with their brotherhoods, and the Wahabi's, paid primarily by Saudi Arabia, building mosques and converting people. This has led to violence.⁵⁹ The converted population

⁵⁷ http://www.kafkas.org.tr/english/bgkafkas/bukaf_dagistan.html, accessed 15-10-08, Karny, 94-95.

⁵⁸ Karny, 116-119, <http://www.everyculture.com/Russia-Eurasia-China/Mountain-Jews-Religion.html>, accessed 15-10-08.

⁵⁹ <http://www.stetson.edu/~psteeves/relnews/dstanpannier1905.html>, accessed 15-10-08.

shows radicalising elements, which may be explained by the high level of unemployment, the insecurity in the country, and the high level of corruption.

Foreign NGO's Active in the North Caucasus

Due to the lack of security in the North Caucasus, especially in Chechnya, there are considerably less NGOs active in the North Caucasus than in the South Caucasus. The death of six workers of the ICRC resulted in the withdrawal of several NGO's, including the ICRC, from Chechnya. They continued their work in the neighboring Republics of Ingushetia and Daghestan. Other NGO's went to Ingushetia, North Ossetia, and Daghestan. Their presence in these Republics however remained dangerous due to the threat of abduction.

There are quite a few Dutch based NGOs active in Chechnya and other North Caucasian Republics, such as:

1. The Unrepresented Nations and Peoples Organization, (UNPO) is based in The Hague and works for Abkhazia, Chechnya and the Circassians. This organization helps give peoples without a state a voice, and supports them in lobbying at the UN, supports their representatives in contacts with the media and trains them in peaceful conflict resolution.
2. The Agency for Rehabilitation and Development (ARD) is an organization active in Chechnya and Ingushetia and helps traumatized children and women.
3. The United Nations Organization of Youth Foundation (UNOY) works with youth in the North Caucasus to create mutual understanding.
4. Chechen Relief has worked in Chechnya during the First Russian-Chechen War by providing food and clothing.

Other international NGO's active in the North Caucasus are:

1. The Quaker Peace and Service, which works together with the ARD in peace support activities.
2. International Alert and Forum on Early Warning and Early Response (FEWER).

NGOs active in health care in the North Caucasus are:

1. The International Federation of Red Cross and Red Crescent Societies (ICRC).
2. Doctors Without Frontiers.

Organizations which aim at resolving the conflicts between the different parties in the North Caucasus through training are

1. The Conflict Management Group (Harvard University),
2. The Center for Peacemaking and Community Development, financed by the EU TACIS program
3. The Peace Research Institute Oslo (PRIO).

Non Governmental Organizations from the North Caucasus

Among the NGOs which are based in the North Caucasus, and have their support in the region, are

1. Caucasus NGO Forum,
2. Caucasus Refugee Council,
3. Derbent Center for Social and Psychological Rehabilitation,
4. Don Women's Union,
5. EAWARN,
6. Human Rights Center Memorial,
7. Mission Peace in North Caucasus,
8. Union of the Committee of Soldiers' Mothers of Russia.
9. The Association for the Protection of Rights of Deported Peoples (ADEPT is active in Ingushetia, and has her office in Moscow.

The Relation between Inter Governmental Organizations and Russian Authorities

The activities of international governmental organizations in the North Caucasus are a sensitive issue, since they will always need the approval of the Russian government.⁶⁰ The Council of Europe sends

⁶⁰ Law adopted 12 January 2006 "On Introducing Amendments into Certain Legislative Acts of the Russian Federation". The law limits the rights of foreign NGOs active in the Russian Federation, complicates the registration procedure, government

a team from the Parliamentary Assembly (PACE) to check annually on the process of democratization and respect for the rule of law. The North Caucasus, and in particular Chechnya, remains an area of interest and concern for the Council of Europe. The Council of Europe keeps its interest in the North Caucasus also through the meetings of the Parliamentary Assembly, where the Russian parliamentarians were put under pressure to change their policy towards Chechnya during the Second Russian-Chechen War. In the past years the European Court of Human Rights has issued many decisions in which Russia was convicted for violating the human rights of its Chechen citizens during the second Russian-Chechen War. The problem here was not only that there were human rights violations, but also that the Russian authorities did not give the victims the possibility to go to court in order to have justice done. Therefore, the European Court on Human Rights accepted in several cases the fact that local remedies were not exhausted because this was not possible.⁶¹

The OSCE has no office in the North Caucasus. The OSCE High Commissioner for National Minorities has visited the Russian Federation several times as part of his ongoing dialogue with Russia. The chairman-in-office has visited Russia in order to pay attention to the situation in Chechnya in 2000.

NATO has an interest in the North Caucasus through the Treaty on Conventional Armed Forces in Europe (CFE), which inter alia limits the amount of troops that can be stationed in Europe, and cooperation with Russia. Since Georgia wishes to join NATO, it is important that the borders of Georgia with Russia are stable. This does not only require a solution to the Georgian-South Ossetian conflict, but also a long-term pacification of the border area with Daghestan, Chechnya, Ingushetia and Kabardino-Balkaria.

The United Nations has in many of its organs contacts with the Russian Federation, such as the Security Council, General Assembly, but also the Council of Human Rights is an organ that reacts to human

supervision on the activities of NGOs is expanded. Only persons with domicile in Russia may found, fund, participate in and join an NGO active in the Russian Federation. Funding has to be transparent, which makes anonymous donations impossible. http://www.icnl.org/KNOWLEDGE/IJNL/vol9iss1/art_6.htm.

⁶¹ Ruslan Umarov v Russian Federation, 3 July 2008, <http://cmiskp.echr.coe.int/tkp197/view.asp?item=56&portal=hbkm&action=html&highlight=&sessionid=11640069&skin=hudoc-en>, accessed 14 July 2008.

rights violations on Russian territory. The High Commissioner for Human Rights also addresses violations of human rights.

Relation between NGO's and the Russian Authorities

Relations between NGO's and the Russian government are difficult. In the summer of 2006 President Putin adopted a law that restricted the activities of foreign NGO's in Russia, and could ban them altogether. The NGO's saw this as a serious setback in the transition process from communism to democracy for the Russian Federation. On the other hand, President Putin made this decision because he felt that other states had increased their influence on Russian society, which he wanted to curb through this decision.

Challenges for the Republics in the North Caucasus

The North Caucasus Republics face serious problems, which make them weak and vulnerable. The governments in all North Caucasian Republics have to fight corruption, create transparency in the political and administrative process, accommodate the clan in the political field, which in some Republics is more powerful than in others, create jobs, and pacify (religious) groups which are transnational in the region, and solve territorial conflicts. Another challenge is the fight against foreign influences such as the Wahabi's and the creation of mosques financed from abroad. Some territories, such as Daghestan, Chechnya and Ingushetia face such level of insecurity and lack of control that the government has to take measures in order to avoid that the territory fails and falls into anarchy. They are faced with 'black holes', areas that are governed according to the locally created laws, governed by the clan or warlords, and having potential terrorists on their territory.

Challenges for Russia in the North Caucasus

Although the challenges of the Russian government in the North Caucasus may overlap with those of the local governments, there are important additional responsibilities for the Russian government in her policy in the North Caucasus: The Russian President has the right to remove presidents who are not supported by the population. He should make more use of this right in order to replace incompetent presidents with more competent ones. Another important aspect is the

acceptance of the president by the population, in order to be able to be successful. Following the Kozak plan to delimit frontiers in the North Caucasus, the Russian Presidency should be careful with the changing of frontiers, in order to pacify the region and create stability. The Russian government has a responsibility to pacify animosities between minorities. In order to do this, it is sometimes necessary to address old claims. The Russian government has in addition to the local government a responsibility to guarantee security. These responsibilities, and challenges, are in addition to the responsibility the Russian government has to strengthen the rule of law, fight corruption and create jobs for the population.

Challenges for IGO's and NGO's

Due to the insecurity in Chechnya, many IGO's as well as international NGO's left after the First Russian-Chechen War broke out. Since many republics in the North Caucasus need rehabilitation programs, and trust has to be restored among the population, it is important that these organizations are present in all republics. The challenges IGO's and NGO's face are: Work with the fact that the position of women in the public sphere is not similar as the position of women in the private sphere, be aware of the role of clans in the political and legal sphere, address human rights violations and due process under the law, and continue rehabilitation projects.

CHAPTER NINETEEN

CONFLICT RESOLUTION IN THE SOUTH CAUCASUS

Introduction

In order to form a stable state, it is necessary to minimize conflicts. In this respect, state building and conflict resolution go hand in hand. International intergovernmental organizations play a key role in supporting the peace process in the Caucasus. This is done through mediation, but also by empowering the states, inviting them to become member of the organization, and monitor compliance with prerequisites of the democratization process such as the rule of law and respect for human rights. The organizations analyzed in this chapter are NATO, the UN, OSCE, Council of Europe and the European Union.

Regional powers have a special interest in the Caucasus, for several reasons, such as keeping influence in the region, stabilizing the region, economic interests. The Russian Federation, Turkey and Iran are the obvious regional players. However, the United States also plays a significant role in the region, and therefore will be added to the list.

Mediation

When parties engage in mediation efforts, there needs to be commitment of the parties to talk about the conflict (and seek a solution), and the level of escalation should not be too high (since not all conflicts are ripe for mediation). Both parties have to commit themselves to confidentiality during and after the process and have to engage in the mediation process out of free will.

There occur however during the whole process, situations which may frustrate the success of the mediation. First of all, any of the parties can decide at any moment in the process to withdraw from the mediation. Second, there can be persons in the delegation of any of the parties who are in favor of failure for the mediation, and will at crucial moments frustrate the negotiations. There may be persons in any of the delegations who use slow down tactics by pretending they do not have a mandate to decide on a specific issue, or do not have the

relevant information. Spoilers can be neutralized by reminding them of the support of the population, which they may lose by frustrating the peace process. Other spoilers can however come from outside the mediation process, such as warlords or groups that by using violence, try to terminate the process. It is more difficult to contend with these forces as a mediator.

For the mediator time management is very important in the mediation process, since a lapse of unused time may result in missed chances at resolution. Once a conflict has existed over a longer period of time it may become intractable, since the trust in the process, the commitment to, or the positions taken by the parties in the negotiations complicate a breakthrough. In the end we may see a frozen conflict, where both parties have the second best alternative. Resuming hostilities may make one or more parties less off (compare the situation of Georgia after the fighting over South Ossetia), and settling the conflict may also make one or more parties less off.

The Role of NATO in the South Caucasus

Soon after the fall of the Soviet Union, the question arose whether NATO had to change its Charter or not. Being created as a defense organization against Soviet expansion, with the dissolution of both the Warsaw Pact and the Soviet Union, this threat had disappeared. The world entered a multi-polar era, where danger could come from different states, as well as from non-state actors.

It seemed important to have influence on the states that had recently declared independence, in order to guarantee regional stability. This was done through a cooperation program, Partnership for Peace. The aim of the program was to make sure that nuclear technology was protected, and that states could reform in order to be able to participate with NATO countries in peace support operations, and in some instances, to be invited to become member of NATO in the future.

All three South Caucasian states participate in the Partnership for Peace program. However, the intensity of this cooperation varies. Armenia wants to rely on Russia for its security. Azerbaijan and Georgia aim at membership in NATO, although they follow different paths towards membership. Georgian President Saakashvili wanted to become member of NATO by 2009. This has proven unrealistic given the outcome of the August 2008 conflict. Though many see the attack

by Georgian troops on Russian peacekeepers in South Ossetia as a proof that Georgia should not join NATO as long as it has not come to terms with Abkhazia and South Ossetia, and has been willing to risk a military conflict with a superpower like Russia, others think that Georgia should be preserved as part of NATO's and America's sphere of influence, and therefore should become a member of NATO in the near future.

Azerbaijan cannot become a member of NATO as long as the conflict over the status of Nagorno-Karabakh is not solved. At the Bucharest Summit, which took place in April 2008, the granting of MAP status, a further move towards membership, has been turned down for Georgia and Ukraine, thereby avoiding a conflict with Russia, which is vehemently against membership of these states.¹

Within NATO, there is a tendency where 'new' member states tend to be in favor of membership for Georgia, in order to avoid an extension of Russian influence in the region, while the 'old' members consider it of the utmost importance that all criteria for membership (including the solution of territorial conflicts) are met.

It is clear that admitting a state with internal conflicts is dangerous, since an attack on one is an attack on all (Article 5 of the NATO Charter). This could, had Georgia been a member of NATO, have resulted in a conflict between NATO and Russia.

Membership of Azerbaijan lags behind because the democratic reforms are not going as expected. Further problems in the past year were the killing of an Armenian military by an Azerbaijani military during a NATO course in Hungary.² Another problem was the fact that Armenia wanted to observe an exercise that was organized in Azerbaijan by NATO, but the Azerbaijani authorities proved incapable to provide the Armenians (in time) with visas. This resulted in the decision by Secretary General de Hoop Scheffer to postpone the planned exercise in Azerbaijan. These events were a setback with regard to possible membership for Azerbaijan of NATO.

In the field of conflict resolution the role of NATO concentrates primarily on advising the military, urging parties to conclude their conflicts in a peaceful way, and assist in security sector reform. NATO's

¹ F.S. Larrabee, "NATO and Black Sea Security", in Hamilton, Mangott, 286.

² http://www.iwpr.net/?p=crs&s=f&o=261218&apc_state=henicrs200604, accessed 7-10-08.

Parliamentary Assembly discusses twice a year the developments in states it has contacts with. The Parliamentary Assembly can also visit states (through fact finding missions) and publish reports. NATO is not directly involved in peace negotiations.

The Role of the UN in the South Caucasus

The UN Security Council has been involved in the Georgian-Abkhazian conflict since the beginning. When after several breaches of cease fire agreements in the period 1992–1993 the cease-fire was observed, a *Declaration on Measures for a Political Settlement of the Georgian-Abkhaz Conflict* was adopted on 4 April 1994. The settlement included a *Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons*, which was followed a month later by an agreement on a cease-fire and a separation of forces.³ This document also included a protocol with regard to the stationing of CIS peacekeeping forces. Apart from CIS peacekeepers, the United Nations deployed UN military observers who would patrol the border area, the United Nations Mission in Georgia (UNOMIG).⁴ UNOMIG was to patrol the border area of Abkhazia and Georgia. The Moscow Agreement listed the conditions under which the Commonwealth of Independent States Peacekeeping Force should be implemented.⁵ In July 2003 the Secretary General suggested that apart from military observers, 20 civilian police officers would be added to UNOMIG.⁶

The UN Security Council has adopted many resolutions, trying to end the conflict. Early in the conflict a Special Envoy of the Secretary General was appointed to brief the Secretary General and the Security Council on the developments in the relations between Georgia and Abkhazia. The Special Envoy also played a role as mediator in the negotiation process.

³ Declaration on Measures for A Political Settlement of the Georgian/Abkhaz Conflict Signed on 4 April 1994, in S/1994/379, Annex I and the Quadripartite Agreement in Annex II of the said document. The Agreement on a Cease Fire and Separation of Forces of 14 May 1994 in S/1994/583, 17 May 1994.

⁴ The amount of UNOMIG observers was expanded pursuant UN Security Council Resolution 937 (21 July 1994).

⁵ Thruelsen, 5.

⁶ S/2003/751.

The formal declaration of independence in 1999, backed by the population of Abkhazia through a referendum, limited the scope of negotiations from then on. Though the Abkhazian Parliament had declared sovereignty on 25 August 1990 and adopted a constitution on 26 November 1994, they had held open the possibility of a form of alignment with Georgia, even though the Abkhaz politicians aimed at a solution that would be based on equality between Georgia and Abkhazia.⁷

The UN has missed chances in finding creative ways to solve territorial conflicts in which entities have become factually independent, *de facto* states. The existence of these territories is difficult, since they are often boycotted. Furthermore, the adoption of resolutions in which the territorial integrity is respected, in accordance with international law, leaves the mediator with the task of creating trust in the negotiation process by the *de facto* entity. While it is customary that mediators are neutral, such an *a priori* statement at least creates doubt on the neutrality of the mediator.

A reason to keep UNOMIG in place might have been the fact that Georgia on 23 October 2008 adopted a law which declared Abkhazia and South Ossetia “occupied territories”, and Russia as occupying force. On 4 November the Russian Parliament ratified a treaty on friendship, cooperation and mutual assistance with Abkhazia. This legalized the presence of Russian armed forces on Abkhaz territory. These forces have in the following months taken over some of the positions formerly occupied by the CIS peacekeepers.⁸

In resolution S/2009/69 of February 2009 the Secretary General detailed the activities UNOMIG can perform, while discussions on the future role and activities of UNOMIG continue. The activities which can be discerned as a basis for an effective security regime comprise observation of the cease fire agreement; refraining from hostile actions; creating a security zone on both sides of the ceasefire line where no armed forces and equipment are allowed, with the exception of law enforcement personnel; a ban on overflights by military aircraft and unmanned aerial vehicles in the security zone; advance notification of

⁷ http://en.wikisource.org/wiki/Act_of_State_Independence_of_the_Republic_of_Abkhazia, accessed 19 April 2009.

⁸ S/2008/631.

changes in armed personnel and equipment; and designation by each party of authorized representatives for negotiations.

While waiting for consensus on a renewed mandate, the Secretary General in resolution S/2009/69 proposed that UNOMIG regularly patrol its area of operations, on both sides of the cease fire line and the Kodori Gorge; winning the hearts and minds; to monitor respect for UN Security Council resolutions by the parties to the conflict; to contribute to an improvement of the humanitarian situation and situations which will make it possible for refugees and IDPS return; facilitate dialogue through the activities of the Special Envoy; and continuation of activities in the field of human rights and law enforcement on both sides of the cease fire line. However, Russia used its veto in June 2009, and with 4 abstentions the activities of UNOMIG were terminated on 16 June 2009.

The Role of the OSCE in the South Caucasus

The OSCE has been playing an important role in the negotiation processes concerning South Ossetia and Nagorno Karabakh. Since August 2008 the OSCE is involved in the negotiations between Russia, Georgia, Abkhazia and South Ossetia, together with the UN and the EU.

The OSCE Minsk Group has been active in the mediation process on the status of Nagorno-Karabakh since 1993. Though there is even discussion on the question whether a solution should be based on a step by step approach, or on a package deal, the parties continue their negotiations. It is clear that finding a solution acceptable for both parties is very difficult. The recognition of South Ossetia and Abkhazia by Russia has created more tension, but also an environment in which there is new stimulus to work towards a peaceful solution of the conflict.

The combined mediation effort of the OSCE, UN and EU can be seen as strength, combining of forces and putting parties under pressure to take the negotiation process seriously and having the conflict prominent on the international agenda, but it can also be regarded as a weakness in the process. If the negotiations fail, what credibility the UN, OSCE and EU may have will be lost.

The Role of the Council of Europe in the South Caucasus

When Georgia, Armenia and Azerbaijan became members of the Council of Europe, this was with the understanding that the transition process towards a stable democracy, with due respect for the rule

of law and human rights, was ongoing. The Parliamentary Assembly can appoint Special Monitors to report on the developments in transforming legislation, implementation of human rights law and efforts at strengthening the rule of law in new member states of the Council. After the recognition of Abkhazia and South Ossetia, PACE set up an ad hoc committee to investigate the facts and formulate proposals for action.⁹

The activities of the Venice Commission, which is an organ of the Council of Europe, concentrate on assistance in the drafting of constitutions, support for the institutional part of the organization of elections and referendums, cooperation with constitutional courts, and the drafting of transnational studies, reports and seminars.¹⁰ Its activities lie in the field of state and constitutional law. All member states of the Council of Europe have a representative in the Commission, (which has 47 members) in addition to Israel, Kyrgyzstan, Morocco, Algeria, Tunisia, Chile and Korea, who have observer status which brings the total membership within the Venice Commission to 53 members.¹¹ The Venice Commission also has observers, such as Japan, the EU and the United States.

The Venice Commission assisted the Central Election Commission of Azerbaijan with the 15 October 2008 presidential elections.¹² Meetings on Constitutional justice are organized in all three South Caucasian Republics.¹³

The Role of the European Union in the South Caucasus

In 2006 the EU appointed a Special Representative for the South Caucasus, Peter Semneby. His mandate included assisting the three Republics with their political and economic reforms and contributing to the peaceful settlement of disputes. The aim was to help the South Caucasian Republics at moving closer to EU values. After hostilities broke out between Russian and Georgian troops in South Ossetia in the night of 7 August 2008, the EU Presidency took the lead in brokering a cease-fire agreement. Pierre Morel, Special Representative of the EU for Central

⁹ <http://assembly.coe.int/ASP/Press/StopPressView.asp?ID=2077>, accessed 02-10-08.

¹⁰ [http://www.venice.coe.int/docs/2006/CDL-DEM\(2006\)002-e.asp#_Toc147641515](http://www.venice.coe.int/docs/2006/CDL-DEM(2006)002-e.asp#_Toc147641515), accessed 02-10-08.

¹¹ http://www.venice.coe.int/site/main/presentation_E.asp?MenuL=E, accessed 02-10-08.

¹² http://www.venice.coe.int/site/main/Focus_E.asp, accessed 02-10-08.

¹³ <http://www.venice.coe.int/default.asp?L=E>, accessed 02-10-08.

Asia, had been asked to establish and represent the position of the EU in the talks to implement the agreements of 8 and 12 August 2008.¹⁴

The EU has provided 200 monitors who will monitor the buffer zones between Georgia and Abkhazia, and Georgia and South Ossetia. The mission is deployed as part of the EU Security and Defense policy. The mandate of the mission is to build confidence between groups, facilitate the return of IDP's, and to monitor on compliance with the agreement of 8 August.¹⁵

The Role of the Russian Federation in the South Caucasus

With the dissolution of the Soviet Union the Russian Federation lost influence in the Transcaucasus. Armenia still has important relations with Russia in military matters, as well as with regard to energy and trade. The Georgian borders with Turkey were until 1999 protected by Russian military. Russia had military bases on Georgian territory, which have been closed in the past years.

Economic relations have soured between Russia and Georgia, resulting in a Russian trade embargo of Georgian products, and visa requirements for Georgians who want to visit Russia. For its energy Georgia is dependent on Russia, since the electricity distribution in Georgia is in Russian hands. Azerbaijan has a longstanding conflict with Russia over its borders on the Caspian Sea. Since Azerbaijan and Russia are bordering in the North, it is important that they keep good relations. With regard to conflicts in the Caucasus, it is important to stress that the Russian Federation is an observer at NATO, and has veto power in the UN Security Council.

When the conflict over Nagorno Karabakh erupted in 1988 both Armenia and Azerbaijan formed part of the Soviet Union. The conflict was thus an internal conflict, where the Soviet government intervened both militarily and on a diplomatic level. Russia has been involved in the resolution of the conflicts over the status of Nagorno-Karabakh since that time.

¹⁴ http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=263&lang=en, accessed 02-10-08.

¹⁵ http://consilium.europa.eu/cms3_fo/showPage.asp?id=1512&lang=en, accessed 02-10-08. The mission was established in Council Joint Action 2008/736/CFSP of 15 September 2008.

Since the first half of the 1990s Russia has been a party at trilateral peace negotiations with Georgia concerning Abkhazia. Although Russia supported the Abkhaz military in the conflict with Georgia both in the period 1992–1993 and in 2008, Russia had its own agenda at the peace talks. It upheld a boycott of the CIS between 1993 and 1999 against Abkhazia.

The Role of Turkey in the South Caucasus

Turkey has expanded its influence in the region considerably since 1991. Not having the financial means to buy influence in the region, like Russia, Turkey has taken the institutional route by initiating regional intergovernmental organizations, like the Blackseafor, Black Sea Economic Cooperation, and South Eastern European Cooperation Process. Turkey also favors the formation of a Caucasus Stability Pact.

The path towards influence in the broader region is the aim of a minority in Turkey, the Turanians, to form a Pan-Turkic Empire, called Turan or Turkestan, comprising the Caucasus, Central Asia and parts of China (the region where the Uighurs live). This area is characterized by the fact that the populations speaking languages belonging to the Turkic language family should be part of this Pan-Turkic Empire. There is however no risk for territorial expansion of Turkey in the region.

Turkey is interested in the North Caucasus through its Diaspora in Turkey. The Circassians and Chechens who fled the Caucasus in the 1800s have preserved much of their culture and language in the Ottoman and later Turkish State. When at the beginning of the 1990s the Soviet Union dissolved, this was for many Circassians an opportunity to return to their native land, either on holiday or in order to settle there. Many gave money to rebuild the country and built mosques. In the North Caucasus nationalist tendencies developed, which aimed at preservation of the culture. The Diaspora groups in Turkey supported this. Thus Turkey, through its Circassian Diaspora, strengthened the nation building in the North Caucasus. During the first Russian-Chechen War between 1994 and 1996 there was sympathy of the Chechens and Circassians living in Turkey for the Chechen cause. They formed an influential lobby in Turkey, which influenced Turkish foreign policy *vis-à-vis* the Caucasus and the Russian Federation. This of course notwithstanding the fact that Turkey is also a NATO member and in this light has to pursue a policy that is consistent with NATO.

The Role of Iran in the South Caucasus

Iran shares with Azerbaijan its religion, Shiism. When huge flows of refugees from Nagorno-Karabakh fled to areas near the Iranian border, Iran started to give support to refugee camps for the internally displaced. They also provided religious help. Iran's influence is less prominent than it could be. As a neighbor of Azerbaijan the oil and gas pipeline could have passed through Iran, but the United States has opposed such a possibility on the grounds that Iran is on the list of states that support terrorism. From a security point of view, Azerbaijan tries to be on good-neighborly terms with Iran, Turkey, Russia, Western Europe and the United States. The increased relations with NATO are not compatible with military cooperation with Iran. In this respect Azerbaijan has clearly chosen to align itself with Europe. Iran has however good trade relations with Armenia.

In the north, Iran has a province named Azerbaijan, which is bigger than the neighboring State Azerbaijan. Iran may feel insecure about a possible wish of the population to secede and join Azerbaijan, or a wish for expansionism from Azerbaijan. In the past 18 years there has been no such development.

The Role of the United States in the Caucasus

After the independence of the South Caucasus Republics, the United States has intensified its relations with this area, in order to expand its sphere of influence. The region is interesting for the United States for several reasons: intensification of trade relations, support for transition processes towards democracy and the availability of energy resources which can bypass Russia. United States organizations have been active in the training of politicians and NGO officials in Western values with regard to democracy.

Georgia stands 4th on the list of countries that get development aid from the United States. Only Israel, Egypt and Iraq get more development aid. In September 2008 the United States reserved 1 billion dollar for the reconstruction of Georgia.¹⁶ The United States Army trains the Georgian and Azerbaijani Armies both on a bilateral basis and as part of the Partnership for Peace program. After the August 2008 conflict between Georgia and Russia the United States has closed bilat-

¹⁶ <http://news.bbc.co.uk/2/hi/europe/7596862.stm>, accessed 15-10-08.

eral agreements on military assistance with Georgia. In Azerbaijan the United States is interested in stability and expansion of the network of oil and gas towards Western Europe. The United States wants to have the privilege of overflight over Azerbaijan territory, and extend its sphere of influence. The United States has opened a radar system in Azerbaijan. As we saw earlier, the United States has a special interest in Armenia due to the sizeable Armenian Diaspora in the United States.

Both parties have to commit themselves to confidentiality in the process and have to engage in the mediation process out of free will.

There are however during the whole process situations which may frustrate the success of the mediation.

CHAPTER TWENTY

CONFLICT RESOLUTION IN THE NORTH CAUCASUS

Introduction

Since the North Caucasian Republics form part of the Russian Federation, conflict resolution efforts in the North Caucasus by third parties require action and approval by the central authorities in Moscow. The Russian Federation regards conflicts in the North Caucasus as an internal affair.

The problem with international intergovernmental and international non-governmental organizations is that they are only as effective as they are allowed to be active in a territory. If grass roots organizations set up projects to reconcile groups and promote cooperation, the outbreak of hostilities can nullify all efforts. Therefore, the activities of intergovernmental and non-governmental organizations are rather a tool to assist the government in its policy, and a warning signal of the issues that still need attention.

For a government to benefit from the activities of such organizations, it is important that they are not regarded as counterproductive by the government. In the case of the North Caucasus we see that organizations do their work in some Republics under difficult circumstances, and are successful on the micro level. The problems the North Caucasus faces are however so immense, that we have to realize that both intergovernmental, non-governmental and governmental organizations have a long way to go to realize peace, prosperity and justice in the Republics. The plans for a redistribution of territory in the Russian Federation made by Putin and Kozak may not be helpful in this respect.

The Role of the UN in the North Caucasus

The Russian Federation has a prominent position in the UN. It has veto power in the Security Council, and can thus influence UN decision-making in the sphere of conflict resolution in the North Caucasus. However, several UN organs are active in the Russian Federation, and

in the North Caucasus. One of the prominent organs is the UNHCR that works for refugees and IDPs. The UN High Commissioner for Human Rights has visited the region in 2006.¹ The World Food Program delivered food to Chechnya; UNICEF is active in the region, just like the World Health Organization and the UN Office for the Coordination of Humanitarian Affairs.²

The Role of the Council of Europe in the North Caucasus

The aim of the Council of Europe is to assist its member states in strengthening respect for the rule of law and observance of human rights. However, this can also pave the way for reconciliation processes and a solution of territorial or ethnic conflicts in the North Caucasus. The visits of special monitors appointed by the Parliamentary Assembly of the Council of Europe (PACE), their talks with groups in society and the politicians of central Russia as well as of the North Caucasus support the stabilization process in the North Caucasus. In addition, the judgments of the European Court on Human Rights provide an additional tool to monitor respect for human rights and the rule of law. In the case of Chechnya, they make visible flaws in the legal system in Russia, which needs to be repaired in order to continue an effective transition process.

The Role of the OSCE in the North Caucasus (Prigorodny Rayon)

The main activities of the OSCE in the North Caucasus are to support the resolution of the conflict between North Ossetia and Ingushetia over Prigorodny Rayon. This territory, which was inhabited by Ingush, moved from the Chechen-Ingush ASSR to the North Ossetian ASSR following the deportation of the Ingush in 1943. Many Ingush still claim lands and properties that have not been returned. At the beginning of the 1990s fighting started between Ingush and Ossetians. Although there is a cease fire, the conflict has not yet been solved. Alexei Zverev states in *Contested Borders in the Caucasus* that following the deportation of the Ingush people to Central Asia and their

¹ <http://www.rferl.org/content/article/1065972.html>, accessed 15-10-08.

² <http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/dc09d1f2f88d4a2bc1256bd400453182>, accessed 15-10-08.

right to return in 1956 that although the deportees were allowed to return, this did not include the return of confiscated property.³

In 1989 the rights of the Ingush on Prigorodny Rayon returned to the political agenda. Zverev states:

As early as 14 November 1989, the second Congress of the USSR People's Deputies adopted a declaration by the USSR Supreme Soviet 'On the Recognition as Illegal and Criminal of All Acts Against the Peoples who have Suffered Forced Resettlement, and on Safeguarding their Rights'. The declaration failed to address the question of territorial rehabilitation for the "punished peoples". In its turn, the RSFSR Congress of People's Deputies passed a resolution "On the Victims of Political Repression in the RSFSR", on 11 December 1990. This provided for the "working out and adoption of legislative acts on the rehabilitation and full redressing of the rights of repressed peoples and citizens of the RSFSR". The provisions of these documents were never fully put into practice. On 26 March 1990, in response to appeals from the Ingush population, the Soviet of Nationalities of the USSR Supreme Soviet set up a commission which came to the conclusion that the Ingush demands for the restitution of the Prigorodny Raion, and some other territories that had formed part of Checheno-Ingushetia prior to 1944, were well founded.⁴

The discussion on Prigorodny Rayon seemed to be in contravention with the USSR Constitution. Article 3 of the law "On the Rehabilitation of Peoples who have Suffered Repression" mentioned restoration of territorial integrity as it had been before the deportation in 1944. It also stipulated that compensation would be paid for damage caused by the State. According to political scientists the law was in violation of the Russian Constitution, since internal borders cannot be changed without the consent of those concerned.⁵

Only on 13 December 1993, a decree was issued by President Yeltsin stating that Ingush refugees could return to four villages in Prigorodny Raion. In order to pacify the situation, the Russian government proposed the creation of a condominium between North Ossetia and Ingushetia in Prigorodny Raion.⁶

Though there is a 'negative peace', no lasting solution regarding Prigorodny Raion has been found.

³ A. Zverev, "Ethnic Conflicts in the Caucasus 1988–1994", in Coppieters (ed.), 61.

⁴ Zverev in Coppieters, 63.

⁵ Zverev in Coppieters, 63.

⁶ Zverev in Coppieters, 65.

The Role of Turkey in the North Caucasus

The Turkish government has acted upon a strong lobby from the Turkish population, in particular the North Caucasian Diaspora, to support the wish of peoples in the North Caucasus for (internal) self-determination. There has been an interest from the peoples of the North Caucasus to strengthen their culture and co-operation in the Confederation of North Caucasian Mountain Peoples, which was active in the first half of the 1990s. During the first Russian-Chechen War there was sympathy in Turkey for the wish for the independence of the Chechens. This faded away after the first Russian-Chechen war, and at the time of the start of the second Russian-Chechen war, little remained of this sympathy, due to a stricter media policy against Chechnya in Russia, and the failure of the Chechen State in the period 1996–1999.

The Role of International Non Governmental Organizations in the North Caucasus

The role of international non-governmental organizations in conflict resolution in the Caucasus takes different forms. The NGOs engage primarily in rehabilitation, such as overcoming trauma, and reconciliation between groups that have been in conflict or are still in conflict. An exception to this is the Stichting Russian Justice Initiative, and the Chechnya Justice Project which forms part of it, which helps citizens in Chechnya to find justice by providing advice and legal assistance in getting due process in the Russian legal system after human rights abuses. The Russian judiciary is not providing the procedures necessary to have a fair trial; the NGO's perform their activities for Chechnya from neighboring Republics such as North Ossetia, Ingushetia and Dagestan.

The security situation for national NGO's active in Ingushetia has deteriorated in the past few years under the Presidency of Zyazikov. A recent incident was the murder of the Ingush human rights activist Magomed Yevloev, owner of the opposition website Ingushetia.ru, who was arrested and murdered by local police when he returned from Moscow.⁷

⁷ <http://ingushetiya.wordpress.com/>, accessed 13-10-08.

Until 1996 the International Committee of the Red Cross has been active in the North Caucasus, first operating in Chechnya, later moving its office to Ingushetia and North Ossetia after the murders of six Red Cross workers. Their help however was needed, since few humanitarian organizations were active in the region. Humanitarian assistance is provided for the North Caucasus, and international NGO's work together with UN based humanitarian organizations like the WHO. The support is provided in Chechnya and Ingushetia, but also to North Ossetia after the Beslan hostage taking.⁸ The supply of food to Chechnya by the ICRC has been terminated in late 2007.⁹

Wahabism and Terrorism in the North Caucasus

Since the dissolution of the Soviet Union and the creation of the Russian Federation, groups of Wahabists have been active in the entire North Caucasus. They are financed and come from countries which also profess Wahabism, and in some instances this has led to the fear that the money might come from terrorist networks. Not only are the Wahabists active in converting people to a stricter form of Islam, which is hostile towards Russia and Christians, but they also provide the means to build mosques and import Wahabist imams, who preach this form of Islam.

Some Jamaats are suspected of fighting against the government. The reaction of the governments in the North Caucasus in general is to act harshly against the Jamaats, and one may raise the question whether by doing this indiscriminately, there is also a risk that non-radical Jamaats are attacked. This in turn may result in more radicalization, if only as a way to oppose the often-corrupt government. In the Chechen conflict we have observed a shift in ideology, where the struggle for freedom changed when the money for the fighting came from Middle Eastern countries, which regarded this fight as a fight against the infidels. The stream of Jihadist fighters from abroad in a way hijacked the process.

⁸ <http://ochaonline.un.org/cap2005/webpage.asp?Page=1388>, http://ocha.unog.ch/fts/reports/daily/ocha_R4_A745_08101807.pdf, <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/64ml8p?opendocument>, accessed 15-10-08.

⁹ <http://www.watchdog.cz/?show=000000-000002-000002-000068&lang=1>, accessed 15-10-08.

CONCLUSION

Quo Vadis? Transition in Progress

Transition processes take a long time. We have witnessed in the past 20 years that democracies grow slowly in the Caucasus. The question is in what sense the political and legal relations between the Republics in the North and South Caucasus, and Russia determine the present situation in the Caucasus. Relations have always been violent and the call for freedom has been strong.

The old Caucasian culture, the linguistic and religious diversity of the Caucasus, identify it as a region where many have been able in the past to live together, though not always in peace. Ethnicity proves to be a more important marker of identity than religion.

The process of nation building started on the level of ethnicity, rather than on the level of state building, since the Caucasus until the Russian Empire conquered it, formed several kingdoms, principalities, khanates, and ethnic territory governed by clans. This basis in society has not disappeared after many years of subjugation in the Russian Empire and 73 years of Communism under the Soviet Union.

For the international community this means that ethnic, religious and clan backgrounds have to be taken into consideration when assessing the state building process.

In the North Caucasus the aim for a united North Caucasus, either under a secular or a religious leader, is a recurring political wish. The Russians and other political actors can use this knowledge to strengthen the state in favor of the Caucasian peoples. In the South Caucasus the present conflict areas are similar to those in the short period of independence between 1918 and 1921.

Many of the problems the Caucasian states encounter are similar, and are aggravated by their culture. The clan culture, the culture of nepotism, and the aspects of closed society in the Caucasus, make it more difficult to introduce transparency and to appoint the best people to jobs. All South Caucasian Republics have difficulty with the implementation of respect for human rights, and the rule of law still shows this flaw in all three Republics. International intergovernmental and non-governmental organizations have an opportunity here to assist

in the transition process towards a modern open society, governed by the rule of law.

Conflicts are difficult to solve since the politicians use the rhetoric of the enemy in election times, making it harder to bring groups closer together and look for a win-win solution to territorial conflicts. Conflicts may have to be solved using state structures where minorities have considerable rights over their own territory or their own culture, while preserving the idea of statehood.

The recognition of Abkhazia and South Ossetia has resulted in several different developments: from a political point of view, the Russian Federation has legalized a factual situation by recognizing *de facto* states, conform the recognition of Kosovo by several states. From a legal point of view, the recognition gives a new impetus for *de facto* entities to aspire *de iure* statehood, while it may have created a breakthrough in thinking about states and independence. The fact that the UN, OSCE, Council of Europe and EU underline their respect for Georgian territorial integrity will further slow down recognition by states. The possibility for the recognition by Georgia of Abkhazia and South Ossetia is not likely in the foreseeable future. Several possibilities to include Abkhazia and South Ossetia in Georgia, in a federal or confederal state, or in a common state, are further away with the independence of Abkhazia and South Ossetia.

We see in this case that the Russians respect minorities, while the West does not.

The challenges are there, a timeframe cannot be given.

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