

What Kind of Sovereignty?

Examining Alternative Governance Methods in the South Caucasus

Policy Recommendations Study Group Regional Stability in the South Caucasus

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Current Events in the South Caucasus

The South Caucasus is fresh from an election cycle in the three countries of the region. In 2012, the government of Serzh Sargsyan was re-elected in Armenia, increasing his majority from the previous election, ending up with 69 seats out of 131. The surprises were the Prosperous Armenia Party and the Armenian National Congress (ANC) coalition (the latter headed by former president Levon Ter-Petrosyan), each of which gained 37 seats and 7 seats respectively. The Prosperous Armenia Party won 12 more seats compared to 2008, and the ANC – a new party – gained 7 seats. The platform of the Prosperous Armenia Party, headed by businessman Gagik Tsarukyan, could be considered the equivalent of Bidzina Ivanishvili's Georgian Dream in Georgia.

In Georgia, Georgi Margvelashvili, an ally of Prime Minister Ivanishvili, elected in October 2012, won some 62% of the popular vote to become President. This spells the end of polarization in Georgian politics, but despite outgoing president Saakashvili's unpopularity, does not spell the end of his party, the United National Movement (ENM/UNM), which retained 21% of voting intentions. Both the Armenian and Georgian elections were considered transparent, barring some minor irregularities.

The Azerbaijani elections returned President Ilham Aliyev to power in 2013. However, there are fears that the process was not free and fair, the alleged

election results having been released the day before the official vote, ostensibly due to a malfunctioning mobile application. According to official statements, the 2008 results were also released a day before official polling by mistake, but critics evidently seized on this as evidence of election tampering.

For the purpose of the following policy recommendations, one cannot neglect the elections that took place in the breakaway regions. This is essential because, at the very least, this is a demonstration of internal self-determination, and it a process that would have taken place anyway in conditions of territorial integrity, provided that conditions of basic democracy are met within the regions. It is understood that not all actual residents of the breakaway regions were able to participate in the elections due to their being internally displaced persons. However, the process of determination has been acknowledged as legitimate, even if not totally representative.

Elections results provide an essential background to the various conflicts in the South Caucasus, and, each in their own way, provide room for hope of resolution. In Georgia, the realization that Saakashvili's policies aimed at the reintegration of breakaway regions through the use of force or heavy-handed centralization have been discredited. There is a sense that society is ready to accommodate a more constructive dialogue with Russian authorities, and already, this approach has borne fruits under Mr. Ivanishvili's premiership. A peaceful, transparent and representa-

tive change of government there offers the hope that some headway can be made regarding the resolution of conflict with South Ossetia and Abkhazia.

However, it must be said that the Russian presence in either of the two breakaway regions, while ensuring the security of the constituents there, has not been conducive to reintegration in any form. Indeed, South Ossetians, with Russian troops, started erecting razor-wire and earthworks physically separating South Ossetia from Georgia. In Abkhazia, although there are still access corridors with Georgia proper, checkpoints are often manned by Russian servicemen. There is mounting evidence that Abkhaz residents are chafing at the Russian presence, but, as argued above, it is for the moment necessary for their security.

In the conflict opposing Armenia and Azerbaijan, the election results ensure continuity of the stalemate, which is always better than a worsening of the situation. So, regardless of how one may feel about the electoral process, stability in leadership is an important element of the future resolution of the conflict there, especially since Mr. Sargsyan and Mr. Aliyev could agree on the current compromise offered by the Minsk Group, should they so choose. In other words, electoral campaigns on either side of the divide could make Nagorno-Karabakh an issue, and poison the prospect of resolution.



Sovereignty by Other Means

In an area of the world affected by a political history where centralism and authoritarianism has too often been the norm, it is sometimes necessary to take the time to explore how the concept of sovereignty has changed, especially since the end of the Cold War, and is no more – if it has ever been – absolute. Self-determination and sovereignty, taken in the absolute, can never be reconciled. What is required is breaking

down the elements of sovereignty – fragmenting its nature, rather than the territory over which it is supposed to operate. Increasing regional autonomy relative to the centre would be preferable to centralism, especially for demands of cultural protection. Cooperative management, partnership agreements and federative solutions could offer the possibility of conflict resolution, de-politicizing administrative functions. In this area, concluding agreements on pooling sovereignty over non-strategic resources or non-political issues could be a step forward. By non-strategic resources, we mean resources affecting the common good, such as water, energy, transport, and other services. Non-political issues may include, for example, the environment, tourism, culture, taxation as functions that can be distributed to sub-national agencies.

The function of administration and the nature of the resources that can be interlocked between the countries or communities are important aspects of joint management or sovereignty. Again, an emphasis on cooperation over issues of common concern and interest has been made; joint management in the sphere of emergency management and environment offer avenues of cooperation aiming at mutual benefits.¹

Otherwise, the regional understanding of shared sovereignty may continue to act as an impediment to stability. As has been noted, Armenia, Abkhazia and South Ossetia share sovereignty with Russia (or otherwise depend on it) in the sphere of security, and this has consequences for the regional balance of power, as well as for the regional economy.

Sovereignty as perceived in the Western part of the South Caucasus

The Euro-Atlantic powers, keen on making Kosovo a case sui generis, insist upon the territorial integrity of Georgia and Azerbaijan in the face of de facto independence of Abkhazia, South Ossetia and Nagorno-Karabakh. A solution between territorial integrity and de jure independence would be the erection of a regional structure that would act as an integrator, and satisfy each actor's interests. An Assembly of Regions, Regional forums, or a Caucasus Economic Region, adapted in a confederative framework, could be an acceptable solution for most. Georgia has indicated that it would be ready to reconsider certain concepts associated with Abkhazia and South Ossetia's sovereignty.

¹ This point has been raised in Pierre Jolicoeur, "Cold Cooperation: Opening the Way to Negotiation", in Ernst M. Felberbauer and Frederic Labarre, eds., *Building Confidence in the South Caucasus: Strengthening the EU and NATO's Soft Security Initiatives*, Vienna: National Defence Academy, July 2013.

A confederative political structure would permit integration at the regional level by disaggregating sovereignty according to specific jurisdictions. One mechanism to achieve this would be an agreement recognizing independence and simultaneously creating a regional confederation. During the workshop, much has been said about the possibility of confederative solutions, but we stress here that it does not matter whether a country is officially called unitary state, federacy or confederacy – the key is to ensure the right balance between self-rule and shared rule.



All this is predicated upon a radical departure from the tension-filled rhetoric of confrontation, and particularly upon the commitment from all sides to the non-use of force. Non-use of force has been demanded by all sides at various points during the negotiations and was never framed into a negotiated agreement by either the Minsk Group or the Geneva process, but there seems to be consensus on the issue. It would appear that another crucial step – the return of internally displaced persons (IDPs) – would not be possible unless the parties agree on international security guarantees, which would safeguard the interests of both the accepting party and the returnees. There, the threat of ulterior separation (partition) would have to be mitigated by guarantees on cultural autonomy of the returnees.

Sovereignty as perceived in the Eastern part of the South Caucasus

The Armenia-Azerbaijan conflict over Nagorno-Karabakh is more intractable, but emphasises the necessity of non-use of force even more, in the context of Azerbaijan's and Armenia's military build-up. The cease-fire agreement has relative meaning as it is routinely violated through isolated shootings and sniper action. Stabilization here requires limited internationalization, where aggressive rhetoric would be monitored by Western powers, and Nagorno-Karabakh in particular would become the beneficiary of EU projects.

The threat of military action is nowhere more palpable than over Nagorno-Karabakh. The gulf separating Armenia from Azerbaijan effectively prohibits confederative schemes as suggested in the previous section. However, a “free economic zone” status would enable economic goals to supersede military goals. This would require massive investment in a region that is recognized for its poverty. Since both sovereignty and territory are disputed, a “reconciliation agency” could precede attempts at establishing a final status that would be acceptable to the Armenian, Azerbaijani and Nagorno-Karabakh sides.

Alternative models of sovereignty in practice

Small steps are needed to go forward, if not a general stepping back from angry rhetoric. Agreement of some sort must punctuate every negotiation attempt at the Minsk Group or Geneva, even if it is agreement to disagree. From that point on, focusing on the process and not the outcome would perhaps bring about agreement on an open-ended transition status rather than a final status.

Putting emphasis on past or existing cooperative ventures, either regional or under the aegis of the EU, would also rekindle the memory of a common destiny for the region. Examples of successful joint management or shared sovereignty projects include the Ergneti market (closed in 2004) and the Inguri hydro-electric facility, but some also involve the EU, as the many water projects in the region testify. Transitional strategies would therefore need to start at the lowest level and focus on jurisdictional issues. For example, discussions about the responsibilities over certain services to the population could be a starting point. Deciding what function should be regional as opposed to national would have to focus on issues that are not likely to be politicized. Tourism boards, for example, could be regional, with the mission of promoting regional culture and attractions, whereas the national level's mission would be to support all regions equally, through funding and promotional support at the international level.

Too many normative, political and military issues pollute the narrative on ownership. South Caucasus societies must be integrated not necessarily in the EU and/or in the Eurasian Customs Union alone, but also within the overall contemporary globalized governance framework. An enlightened approach to governance emphasises not who owns what but who is responsible for what (in the collective good). As has been attempted in a previous RSSC SG workshop, societies in the region must gain awareness of the benefits of abandoning some part of their sovereignty. This point should be accentuated by Minsk Group and Geneva Talks mediators.

Summary of Recommendations

1. Commit to the Non-Use of Force

Demilitarization must be understood as a broad condition for moving forward on any issue. As long as the threat of violence will be manifest through aggressive rhetoric or disproportionate forces-in-being for a country's economy or the actual threat level, no easing of tensions can take place.

Measures must be put in place to remove the potential for a pre-emptive strike or surprise attack by any of the parties to conflict in the region, and this applies equally to Russia, Azerbaijan, Georgia and Armenia as well as the security forces of the breakaway regions.

2. Focus on Process, not Status

This recommendation is not new.² Here, process means also the acceptance that there must be patience involved in status determination. An open-ended process, which could start by the recognition of territory (as opposed to recognition of independence) and political authority over an unrecognized territory ("internal" self-determination, which would occur anyway in the context of territorial integrity) would open the door to a transitional process. There are caveats to this approach; political authority would have to have been determined through legitimate means, and not military conquest, and the same goes for the recognition of territory, as the geographical area as it was before military operations changed the political landscape. Otherwise, this prospect would be problematic for the case of Nagorno-Karabakh.

Recognizing territory and political authority (as duly elected) would pre-empt future delimitation disputes that could emerge in the case of a mutually-agreed separation, or the creation of other power-sharing arrangements. For example, it would be easy to agree where the geographical and political delimitations of Abkhazia, South Ossetia and Nagorno-Karabakh lie. And since political authority upon these regions would not affect the remaining populations' desire for autonomy-cum-independence, it would be pointless for Tbilisi or Baku to impose its preferred political representatives there.

Rather than trying to impose unilateral solutions involving the final status of the unrecognized political entities in the South Caucasus, regional states

² See "Building Confidence in the South Caucasus: Strengthening the EU's and NATO's Soft Security Initiatives – Policy Recommendations", Vienna: Austrian National Defence Academy, 2013.

and relevant international actors should rather focus creative energies on setting up transitional processes aimed at achieving multilateral governance over the regional commons. Moreover, as suggested by lessons learned in the Western Balkans, region building strategies should effectively complement international efforts for conflict transformation. However, a champion for regional integration is still missing in the South Caucasus. Potentially, the EU could revitalize its involvement in strengthening regionalism in the South Caucasus in strategic coordination with Russia and Turkey.

3. Start Small

It is generally acknowledged that the current doctrine of "engagement without recognition", adopted by the EU in its relations with the South Caucasus could also be applied by the central authorities in the region, especially in Tbilisi and Baku. Essentially, this involves leaving to later discussion the more contentious issues about status, and focusing on achievable goals in the public interest. In this view, the following avenues could be promising:

- A regional convention on the protection of human rights, freedom of movement, and human security would be to the credit of all the actors involved in the conflict, and to the benefit of their constituents, wherever they currently live.
- Raising awareness about common projects, such as the Inguri hydro-electric project, the revival of the Ergneti market and how they benefit divided communities would also be a step in the right direction, which may trigger positive spill-over into other professional or administrative functions.
- Prepare the respective constituencies to co-exist regardless of final status by raising awareness of the commercial and economic benefits of confederative solutions, especially with regards to interaction with the European Union.

These Policy Recommendations reflect the findings of the 8th RSSC workshop on "What Kind of Sovereignty? Examining Alternative Governance Methods in the South Caucasus" convened by the PfP Consortium Study Group "Regional Stability in the South Caucasus" from 07-09 November 2013 in Reichenau, Austria. They have been compiled by Frederic Labarre, RSSC co-chair, with input by Tabib Huseynov, David Matsaberidze, Masis Mayilian, George Niculescu, and Medea Turashvili. Valuable support came from Ernst M. Felberbauer and Edona Wirth from the Austrian National Defence Academy.