

RECOGNIZING ARTSAKH'S INDEPENDENCE

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By Prof. Z. S. Andrew Demirdjian, Los Angeles 3 February 2021

The history of the Western "state" begins in Ancient Greece, where Plato and Aristotle wrote of the *polis* (city-state) as an ideal form of association, in which a community's cultural, religious, social, political, and economic needs could be satisfied. Additionally, the state would provide security and protection against foreign aggression.

The city-state, characterized mainly by its self-sufficiency, was considered by Aristotle as the means to develop morality. The Greek idea of a state corresponds more accurately to the modern concept of the country or nation. The Republic of Artsakh (Nagorno-Karabakh) meets all the attributes of a nation or a state. Unlike Azerbaijan, Artsakh does not behead captive soldiers; hence they form part of a civilized society dating back to thousands of years.

As a historical province of Armenia, Artsakh has a special place in the hearts and minds of the people who inhabit the territory. The preponderance of the population is indigenous ethnic Armenians; they speak Armenian, and share the same cultural and historical heritage. For nearly 30 years, the people of Artsakh have democratically elected their representatives. Moreover, the country has its defense forces, infrastructure, social, and educational institutions.

Does Artsakh meet the legal requirements of a *de facto* state? Do the people of Artsakh deserve to be independent since they seem to have all the trappings of a nation?

The French Senate recognized Artsakh's independence in November of 2020, but the French government declined to follow suit. In the U.S. eight states have recognized the independence of Artsakh, but not the federal government. The parliament of New South Wales (the largest Australian state) and the state of South Australia's House of Assembly have also recognized Artsakh. However, Artsakh faces an uphill battle for recognition by the UN's international community for some perceived or imagined reasons. These are the plausible reasons why the international community hesitates to recognize the independence of Artsakh although the latter has proved itself, for over a quarter-of-a century, to be a worthy member of the world nations.

- Not to anger Turkey and Azerbaijan and the rest of the Turkic and Islamic nations.
- No benefit in recognition.
- Most states have minorities which hope to become independent. Establishing precedence is a risky proposition.
- The UN is dominated by Muslim/Arab countries, which out of Islamic "bond of brotherhood", will vote against Artsakh's independence and in favor of co-religionist Azerbaijan.
- The exchange of favors such as votes. Azerbaijan received four rulings against Artsakh on territorial integrity violations as though the concept of self-determination is an archaic practice.

While the Azeri/Turkish invasion has stopped, Armenians are fighting among themselves. Instead, the Armenians should come up with a road map to recovery and work at it before facing another

One of the crucial items is the recognition of Artsakh's independence. Every Armenian must join the quest to get Artsakh recognized as an independent state. To be effective, every Armenian should become familiar with the workings of the UN procedures of recognizing Artsakh's independence. Here are insights which can serve as a forum for discussion with people who would lend an ear to learn about the survival of Artsakh:

I. Campaign Organization Requirement. Before we embark on a campaign for the recognition of Artsakh as an independent state, we need to organize. An international committee would suffice. Additionally, we should inform, educate, and motivate every Armenian to speak about the readiness of Artsakh for statehood.

Word of mouth would spread the word about Artsakh's qualifications. Citizens will influence their political representatives` who, in turn, influence the decisions of their governments. So, it is incumbent upon every Armenian to participate in the campaign.

II. To declare Artsakh a sovereign state, customary international law specifies minimum standards for statehood as formulated by the Montevideo Convention of 1933: you must have (a) a permanent population (b) you must live in a defined territory; (c) you must have a government; and (d) your government must be capable of interacting with other existing states. This last one is problematic. It was included as a qualification in the 1933 Montevideo Convention (which established the United States "good neighbor policy" of nonintervention in Latin America. However, it is generally not recognized as international law). Artsakh has all the qualifications for statehood.

III. Declaration of Independence Requirement. Just because Artsakh has met the qualifications and declared itself independent does not mean the battle is won. Success to claim sovereignty under the required qualifications depends on the objectivity or subjectivity of the UN decision makers. However, not all is lost. Since Artsakh has established itself as a de facto state, there are certain benefits it can expect even if it is not yet recognized by any state.

According to Stefan Talon, Professor of Public International Law at Oxford University and the author of *Recognition in International Law*, once an entity succeeds establishing itself as a de facto state, it will benefit from territorial integrity and certain guarantees of sovereignty. Under the UN Charter, a de facto independent state benefits from the prohibition of the use of force to regain the territory as Azerbaijan is in violation.

IV. Recognition Campaign Requirement. Self-declaration of independence is fine, but unless other countries recognize you as a sovereign state, you have a lot of work to do to become one of the members of the UN. International recognition is what gives the country legitimacy in the international community and what ultimately distinguishes Kosovo's of the world from the Nagorno-Karabakhs. This means, the established countries are going to take some real convincing to do.

Recognition is complicated because it combines international law, international politics, self-interest, the affinities found among countries based on religion or ethnicity, and corruption. According to Prof. Talon, some people say that recognition is a purely political act. It is at the discretion of existing states whether they recognize Artsakh. As a result, there is no right to recognition. For example, a number of entities are recognized as states by some countries, but not by others: Palestine, Taiwan, and Northern Cyprus fall into this category.

The U.S. has no official policy on what is required for recognition, according to the State Department. Instead, the decisions to recognize a state are made by the president. When we approach President Joseph Biden and ask for recognition, we must not forget to explain how Artsakh's independence will be good for America (e.g., a new market, an ally in the south Caucasus, U.S will be hailed as a true democracy that upholds self-determination, etc.).

When asking for help, appeal to people's self-interest, never to their mercy or gratitude. In asking for help it's pointless to mention Armenia was the first to accept Christianity as state religion or the tragedy of the Armenian Genocide: people do not want to be distressed by sad stories, but when you mention the benefits to him for doing something, he would perk up his ears and begin to listen to you. Self-interest is a compelling reason for people to respond positively to propositions of mutual interest. So, always think of reciprocity when you want someone to do something for you. This rule applies to nations as well.

V. After Recognition Requirements. UN membership is the gold standard of international legitimacy. Once admitted to the UN, Artsakh becomes a full member of the international community and, thus, Azerbaijan will be reluctant to attack Artsakh. If armed conflict takes place Azeri aggression will be condemned by the members of the UN.

After getting some states to recognize the independence of Artsakh, applying for UN membership is easy. According to the UN rules, all that is required is to write a short letter to the secretary-general, requesting membership. For a template, check Kosovo's or Montenegro's successful applications. Mail your applications to: Antonio Guterres, Secretary-General, The United Nations, and and First Ave. at 46th St., New York, NY 10017.

VI. The Final Requirement. This is the most treacherous climb. The Security Council must refer you to the General Assembly, which must determine by a two-thirds majority that Artsakh is a peace-loving state that is able to carry out the duties of the UN Charter. Artsakh has had almost 30-year track record of carrying out the minimum standards for statehood with flying colors. The Artsakh War of 2020 was initiated by Azerbaijan and Turkey. Naturally, Artsakh had to defend its sovereignty as a de facto state allowed by the UN Charter. Artsakh requires peace for the advancement of its social, political, and economic agenda.

The biggest stumbling block to UN membership is power politics. Neither North nor South Korea got UN membership until 1991 because of vetoes by one bloc or another during the Cold War. Even

today, Russia's veto on the Security Council will most likely prevent Kosovo from gaining a seat at the table.

The point at which a territory officially becomes a state is very much a matter of luck. The silver lining in all this is that the longer Artsakh waits, the better its chances become. According to international law, which is often based on custom, the longer Artsakh maintains its de facto sovereignty, the more likely that it will be accepted. Artsakh should not be discouraged from being recognized as a state by UN. It is a matter of patience and having the right friends at the UN.

We should remember that even UN recognition of Artsakh's independence will not deter Azerbaijan from resorting to military means to recapture all of Nagorno-Karabakh. For President Ilham Aliyev international rules do not count.

On several occasions after the Second Artsakh War, President Vladimir Putin stated "Karabakh is part of Azerbaijan," which would serve as a green light for Azerbaijan to claim Artsakh again by force.

Another war is on the horizon for our ambitious enemy neighbor. Therefore, we must prepare a viable defense this time without relapsing into the comfort assumed invincibility.

Artsakh is a ship in distress. All Armenian hands, young or old, male or female, Dashnak or Henschak or Ramgavar, should be willing to pitch in --for collaboration is synergistic. We should all do our share and call/write to our representatives and request the recognition of Artsakh as an independent state based on mutual interests.

Armenians have lived through many existential storms. With unity, we shall weather this one as well and rise again to tackle other challenges for the national advancement and for the freedom of Artsakh.

There are no comments yet.