

Part 5

The Principles of Territoriality and
Personality



According to the proposal of Ivliane Khaindrava, the territory of Abkhazia west of the dividing line would have the status of the Republic of Abkhazia; the territory east of the dividing line would form the Abkhazian Region.

Ivlian Haindrava

10. The Conflict in Abkhazia and a Possible Way of Resolving It

The Abkhazian problem has been and remains one of the primary areas of interest of the Republican Party of Georgia. Time and again we have taken part in a dialogue with the Abkhazian side which has revealed the causes of Georgian-Abkhazian confrontation and possible ways of solving existing problems. The results of trying to understand the theoretical and practical aspects of this dialogue have been embodied in specific proposals and ideas submitted to the Consultative Council, the State Council, the Head of State and the Parliament of Georgia. In 1992 the Republican Party worked out a draft law 'On the Political and Legal Status of Abkhazia as Part of the State of Georgia', published it and submitted it for consideration to the Parliament of Georgia and the public. Our efforts were aimed at avoiding military conflict and settling issues at the negotiating table; our approaches were based on respect for the uniqueness of the Abkhazians, ensuring their free development and maintaining the unity of the state of Georgia. Unfortunately, our position was seen by the Georgian authorities as sometimes "incomprehensible", sometimes "premature" and sometimes — for reasons that we could not understand — unacceptable; accordingly we were regarded by the Abkhazian leaders and politicians as merely one of the opposition parties that was not given an opportunity to put its views into practice.

Meanwhile, the armed conflict had become a reality; both the Georgian authorities and most of society ignored its development, approach and inevitable appalling consequences. In fact, inaction by the Georgian authorities and their lack of ideas during the pre-war period made armed conflict inevitable. In the course of the military action the authorities pursued an absolutely hopeless course: trying to resolve the conflict with the aid of Russia, which had itself helped initially to kindle the flames and then to reduce Georgian-Abkhazian relations to a frozen "neither war nor peace" status.

After the end of the military conflict, representatives of our organisation have repeatedly taken part in the dialogue with the Abkhazian side at a non-governmental level, participating in numerous international conferences and

seminars devoted to problems of federalism, conflict settlement, refugees and forcibly displaced persons. In the same period we have all witnessed the formation of new approaches towards the settlement of ethno-territorial problems — the Dayton Accord on Bosnia may be viewed in precisely this perspective.

Almost four years after the ending of the military conflict, on 5th August 1997, we made public specific proposals aimed at solving the problem of Georgian-Abkhazian relations. The document in question has to be regarded as a conceptual approach containing simultaneously a number of mechanisms for its implementation. It should be understood that official representatives of the parties will have to resolve specific issues, including those in such an important field as the delimitation of competences between the authorities of Georgia and the Republic of Abkhazia, at the negotiating table. We stress that the proposed conception is not a comprehensive draft treaty that only remains to be signed so that the two sides could proceed to the fulfilment of clauses contained therein; it forms a basis that may serve to elaborate detailed agreements. The Republican Party of Georgia proposes a new model for coexistence to the Georgians and the Abkhazians – unity through separation.

The initiative in question is aimed at preparing a healthy ground for a non-violent settlement of the conflict between the Georgians and the Abkhazians, establishing a lasting, stable peace and building mutual trust, laying a firm foundation for coexistence and co-operation, reducing the influence of the external destabilising factor in the Georgian-Abkhazian relations to a minimum, and promoting multilateral Caucasian co-operation.

This initiative implies a calm and realistic approach to the proposed instruments for solving an extraordinarily painful problem by both the authorities and officials and by society. Even if the initiative proves to be unacceptable to the parties (or to one of them), it cannot and should not be used in any way to increase tension or for a new wave of mutual accusations.

The initiative takes into account the simple truth that agreement between parties with differing aspirations calls both for goodwill in practice and for mutual concessions; thus, it will cause serious differences of opinion as from the day of its publication, and if it is implemented it will be unable to satisfy all Georgians and Abkhazians (at least at first).

If the Georgian and Abkhazian authorities show interest in our initiative there will be a requirement for active involvement by authoritative international organisations, both in promoting the negotiations and, if these are successful, in the practical implementation of the agreed arrangements, material and financial support for this process, monitoring the observance by the parties of their obligations and implementation of the bilateral guarantees provided for by the treaty.

The Political, Economic, Social and Psychological Results of the Conflict

The situation created as a result of the Georgian-Abkhazian conflict confirms the view that neither side can regard itself as the victor in the war. Georgia has lost control and jurisdiction over a substantial and strategically vital part of the territory of the state; a huge army of refugees and forcibly displaced persons is exacerbating the already difficult economic and social situation in the country and creating an adverse emotional background. Hundreds of thousands of people have been left without a roof over their heads, without work, without property, and without steady earnings; their fundamental rights have been crudely violated. The exiles, repeatedly deceived and losing hope, are becoming marginalised.

The Abkhazians, in spite of the military success achieved with the help of outside forces, have received no significant political dividends, while the economic and social position in Abkhazia today is even worse than in the rest of Georgia. No-one has recognised their state sovereignty or the results of an election held without the participation of most of the population of Abkhazia, and such recognition is unlikely, because it is contrary to international practice. Both colonisation of the entire territory of Abkhazia and exercising administrative or military control over it are beyond the realistic capabilities of the Abkhazians; the economy has been completely destroyed, and this forms the background for increasing social tensions and the threat of total criminalisation of Abkhazia.

The continuation of a situation that is neither peace nor war is dangerous and hopeless for both sides; it has also become a substantial barrier on the way to pan-Caucasian stability and co-operation.

The Principal Factors Preventing a Solution to the Conflict

Prolonging the existing situation for as long as possible is of interest only to those who are seeking to increase their influence by weakening the states of the Southern Caucasus, preventing wide-ranging Caucasian co-operation and maintaining a tense and explosive situation, leading to a loss of interest by Western and Eastern countries in the region.

Apart from the mercenary interests of outside forces, the main obstacle to normalising Georgian-Abkhazian relations is the hitherto insuperable conflict between the parties in their approaches to two vital aspects of the problem. The view of the Georgian leadership is that, as a first step, conditions must be created for the safe return of refugees and forcibly displaced persons, and only when this process is irreversible can a decision be taken on the status of Abkhazia as part of

Georgia. The grounds for this position are solid — the largest population group in Abkhazia cannot be deprived of the right to participate in determining its future. However, the Abkhazian authorities demand, as a first step, a definition of the political and legal status of Abkhazia within a framework acceptable to them, and state their readiness to set about solving the problem of exiles only after this has been done. The Abkhazians see little prospect of a solution to the problem of the status of Abkhazia within a framework acceptable to them if the pre-war demographic situation (or something close to it), in which they were clearly in the minority, is restored.

There is pronounced mutual distrust, which is entirely explicable in the current situation: the Georgians fear that defining the political and legal status of Abkhazia without the return of the exiles will be used by the de facto authorities in Abkhazia for the purposes of legalising a separation from Georgia; for their part the Abkhazians assume that, after the return of the exiles, the Georgians can use democratic rules (a majority in a referendum, elections) to limit even the autonomy which the Abkhazians enjoyed in the Soviet era. These really significant factors in mutual mistrust are aggravated by the image of the enemy that the parties formed in the course of the military action and which has not diminished against the background of post-war official mutual accusations and current propaganda. It is clear that there is still a vast number of other objective, subjective or imposed factors preventing the two sides from coming together and keeping us away from a just solution to the conflict based on a firm foundation.

The degree of confrontation and the mutual hostility between Georgians and Abkhazians today are so great that there is no realistic possibility for their cohabitation in the immediate future to be restored. Attempts to return to the pre-existing political and legal model in Abkhazia are also hopeless. Allowance should also be made for the fact that many people in the opposing camps have no wish to live together. A five-year-long process of political negotiations has been fruitless. Georgians cannot even return fully to the practically mono-ethnic Gali region; it is easy to imagine what difficulties will arise when the process reaches the stage of returning exiles to those regions in which the population was an ethnic mix. At the same time, entire villages have been abandoned or depopulated, the land is left untilled and even if the necessity for restoring elementary justice for the exiles is set aside, Abkhazian human resources are quite simply insufficient to recover the depopulated part of the territory of Abkhazia.

A reasonable way out of this situation seems to be to separate the Georgian and the Abkhazian population on the basis of the following principle: a line is to be drawn from Sukhumi northwards — to the confluence of the Western and Eastern Gumista rivers — then along the Eastern Gumista to the River Bzyb and

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along the Bzyb to the administrative border of the Gulripshi region, east of which the territory of Abkhazia is declared to be settled predominantly by the Georgians, while the territory west of this line is declared to be settled predominantly by the Abkhazians (see map and table 1). The city of Sukhumi itself is divided into two approximately equal parts.

The Georgian and the Abkhazian sides (monitored by international observers) ensure that the Abkhazians and the Georgians remaining in their respective zones can exercise their rights in full and without obstruction. Ethnic minorities permanently resident in Abkhazia receive guarantees that they can keep their dwellings irrespective of the zone in which they happen to be.

Table 1

	Total, Abkhazia		Abkhaz Region		Republic of Abkhazia	
	sq km	%	sq km	%	sq km	%
Territory	8639.5	100	5011	58	3628.5	42

The territory of Abkhazia west of the dividing line has the status of the Republic of Abkhazia as part of Georgia. The territory east of the dividing line is subject to the administrative and territorial divisions in force in the rest of Georgia, while after a transition to a territorial (*krai*, *mkhare*) system the Gali, Ochamchira, Gulripshi regions and the eastern part of the Sukhumi region form an Abkhaz *mkhare* (region, *krai*).

Proposal for a Constitutional Treaty

The special status of the Republic of Abkhazia and operating guarantees for its state agencies, their powers and the principles governing relations with the state agencies of Georgia are embodied in a constitutional treaty between Georgia and the Republic of Abkhazia, which requires ratification by both parliaments and is guaranteed by influential states (an authoritative international organisation, for example the OSCE). This constitutional treaty becomes a constituent part of the Constitutions of Georgia and the Republic of Abkhazia. Each party acquires the right, together or separately, to initiate the procedure of submitting amendments and/or additions to the constitutional treaty. The submission of amendments and/or additions to the treaty or the adoption of a new treaty after the period laid down in the treaty has elapsed is possible on the

basis of the parties' mutual consent with the application of a parliamentary procedure stipulated by the treaty. The existing treaty operates until amendments to the treaty, or a new treaty, enter into force. The guarantor states (international organisation) participate in negotiations between the parties on this issue. Corrections and additions to the treaty, or a new treaty, may be directed solely towards raising the status and extending the rights of the Republic of Abkhazia.

Demilitarisation of Abkhazia

The entire territory of Abkhazia (the Republic of Abkhazia and the Abkhaz Region) is declared to be a demilitarised zone. The stationing in Abkhazia of military bases or a contingent from another state is inadmissible, except for international peace-keeping forces. The authorities of Georgia undertake not to have military bases in peacetime and not to conduct land, sea or air exercises anywhere in the territory of Abkhazia. The authorities of the Republic of Abkhazia undertake not to exceed the strength of police units (internal forces) defined by the treaty and not to have any military equipment, artillery or other materiel and supplies except those deemed, by agreement involving the guarantor, to be the essential minimum to enable the police (internal forces) to carry out their duties. On the basis of agreement and for a period defined thereby, reservists from the Republic of Abkhazia are relieved of military service in the armed forces of Georgia (but retain the right to serve as volunteers or on a contractual basis). Service in the police (internal forces) of the Republic of Abkhazia is counted as compulsory military service.

Legal Aspects

Relations between the state authority of Georgia and the authorities of the Republic of Abkhazia, as well as the range of issues relating to the exclusive competence of each and to general competence, are governed by the constitutional treaty, the Constitution of Georgia and the Constitution of the Republic of Abkhazia.

Persons who hold citizenship of the Republic of Abkhazia on the basis of the principles laid down in the constitutional treaty and in the Constitutions of Georgia and the Republic of Abkhazia have voting rights in the territory of the Republic of Abkhazia. An identity card is the document confirming citizenship of the Republic of Abkhazia. A citizen of the Republic of Abkhazia is simultaneously and automatically a citizen of Georgia. The Georgian authorities under-

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take not to prevent citizens of other countries or persons without citizenship of Abkhaz nationality from obtaining Georgian citizenship. The authorities of the Republic of Abkhazia have the right to confer citizenship of the Republic of Abkhazia upon a Georgian citizen, on the basis of the Constitution and legislation of the Republic of Abkhazia. Elections of the governing bodies of the Republic of Abkhazia and of local government agencies are conducted in accordance with the Constitution and legislation of the Republic of Abkhazia. Representation of the Republic of Abkhazia in the upper house of the Georgian Parliament (the Senate), as well as the participation of the Republic of Abkhazia in the executive authority of Georgia are governed by the constitutional treaty and the legislations of Georgia and the Republic of Abkhazia. Citizens of the Republic of Abkhazia participate in elections to the lower house of the Georgian Parliament on a universal basis.

Table 2
Population of Abkhazia according to the 1989 census

	Number	Percentage
Total population	525,061	100%
Georgians	239,872	45.7%
Abkhazians	93,267	17.8%
Armenians	76,541	14.6%
Russians	74,914	14.3%
Remainder	40,467	7.6%

	Gali region		Ocham-chira region		Tkvarcheli		Gulripshi region	
	1	2	1	2	1	2	1	2
Total	79,688	100%	75,388	100%	21,744	100%	54,962	100%
Georgians	74,712	93.8%	34,800	46.2%	5,086	23.4%	29,014	52.8%
Abkhazians	627	0.8%	27,640	36.7%	9,202	42.3%	1,311	2.4%
Armenians	530	0.7%	6,226	8.3%	337	1.5%	13,878	25.3%
Russians	2,480	3.1%	4,439	5.9%	5,321	24.5%	7,746	13.9%
Remainder	1,339	1.6%	2,283	2.9%	1,798	8.3%	3,113	5.6%

Ivlian Haindrava

	Sukhumi city		Sukhumi region		Gudauta region		Gagra area	
	1	2	1	2	1	2	1	2
Total	119.150	100%	39.516	100%	57.534	100%	77.079	100%
Georgians	49.460	41.5%	17.526	44.4%	7.699	13.4%	21.575	28.0%
Abkhazians	14.922	12.5%	1.996	5.1%	30.541	53.1%	7.028	9.1%
Armenians	12.242	10.3%	11.617	29.4%	8.857	15.4%	22.854	29.7%
Russians	25.739	21.6%	2.858	7.2%	7.741	13.5%	18.690	24.2%
Remainder	16.787	14.1%	5.519	13.9%	2.696	4.6%	6.932	9.0%

Separation of the population in Abkhazia by nationalities
(According to 1989 census figures and the proposed demarcation line)

	Abkhaz Region			Republic of Abkhazia		
	1	2	3	1	2	3
Total	332.917	63.4%	100%	192.144	36.6%	100%
Georgians	210.598	87.8%	63.25%	29.274	12.2%	15.2%
Abkhazians	38.780	41.6%	11.65%	54.487	58.4%	28.4%
Armenians	30.964	40.45%	9.3%	45.577	59.55%	23.7%
Russians	33.709	45.0%	10.1%	41.205	55.0%	21.4%
Remainder	18.866	46.6%	5.7%	21.601	53.4%	11.3%

Commentary

In publishing this concept we had two basic purposes in mind:

- a. To demonstrate our view of a solution to the problem which we believe to be viable in practice, implementation of which we regard as the best way out of the present deadlock;
- b. To stir up both Georgian and Abkhazian public opinion — to give an impetus to the search for new ideas and unorthodox approaches based on respect for each other's rights and interests.

Naturally the practical experience of settling conflicts with certain similar parameters, in particular the Bosnian experience, has been studied when working on the conception. The political realities that have arisen in recent years have been

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taken into account most carefully. These indicate that a recognition of the independence of Abkhazia is impossible for many reasons, the two most fundamental of them are cited here:

1. The independence of Georgia in its existing borders was restored on the basis of the referendum of 31st March 1991, in which most of the population of Abkhazia also voted for independence. Georgia was recognised by the entire world community and by international organisations in its borders of 21st December 1991. With the break-up of the Soviet Union, Yugoslavia and Czechoslovakia, new inter-state frontiers were established on the basis of strict observance of the borders of constituents of these federal states. Admitting the possibility of further fragmentation is bound to lead to the development of new centres of instability and to new armed civil (and even inter-state) conflicts, and not only in the territory of the former USSR or Yugoslavia.
2. It is not possible at the international level to legitimise the expulsion of half the population from an autonomous republic and the violation of their basic rights and freedoms. Creating such a precedent would be a direct incitement to use force in settling inter-ethnic differences and conflicts. The self-proclaimed Turkish Cypriot Republic, created on the basis of coercion and ethnic cleansing, is still not recognised by the international community more than a quarter of a century after the end of the Turkish invasion.

The confederation of two equal constituents (Georgia and Abkhazia) proposed by the Abkhazian side is formally impossible by virtue of the first of the above arguments, and impossible in substance because of the simple fact that in practice truly functional confederated states are unknown in the world. Switzerland, though officially called a confederation, is an example of a federal state. Consequently a solution to the problem can be sought only on the basis of a federal model, taking the experience of democratic multi-ethnic federal states into account. As regards Georgia, the most realistic and viable model seems to be that of asymmetrical federalism, in which the Republic of Abkhazia will have a high degree of autonomous status.

At the same time it is perfectly obvious that there is not and cannot be any return to the Soviet type of pseudo-federal state. Therefore, when the Georgian side speaks of Abkhazia as a constituent of the federal state of Georgia with very extensive powers, this leaves the Abkhazians themselves (and also the Georgians) completely unmoved, because they all see before them that Soviet model which they have not had time to forget and have as yet no experience of the new model.

The Georgian side's proposals must be given specific content, in which the Abkhazians should see reliable guarantees of national development and implementation of the full range of their rights. The model proposed by the Georgian Republican Party makes it possible to solve the following problems:

1. While observing the generally accepted frontiers of Georgia, separating the warring parties by a demarcation line and preventing relapses into armed conflict by means of an international peace-keeping force composed of servicemen from neutral countries;
2. At the initial stage, ensuring the return of more than 80% of the forcibly displaced persons of Georgian nationality to their places of permanent residence;
3. In view of the fact that some part of the population of Abkhazia of Abkhazian nationality moved into the north-western part of Abkhazia as a result of military action and post-war devastation, a demographic situation in which the Georgian population predominates, as was the case in the pre-war Abkhaz autonomous republic, will not arise in the Republic of Abkhazia. Thus Abkhaz autonomy in Georgia will have real substance and the Abkhazians will be given the opportunity for self-determination and self-government in accordance with their own view of their needs and interests;
4. The constitutional treaty, international guarantees and demilitarisation of Abkhazia will create a favourable climate for a lasting peace and the restoration of mutual trust.

In these circumstances we do not regard the demarcation line as a permanent “iron curtain” between the Georgian and Abkhazian communities. After completion of the first and most painful stage — formal and actual demarcation — and after the parties have ‘got used’ to the new realities, the demarcation line will start to become a ‘line of contact’. This means that transport will start to operate, trade will proceed, human contacts will begin to be established and restored, and so on. With the disappearance of mutual distrust, for which simply no grounds will remain, this process is bound to turn the demarcation line into the same kind of administrative boundary between the constituents of a federation as exists in democratic federal states.

Conclusion

Unfortunately the Republican Party’s idea has not generated the response in political and social circles that, in our view, it merited (the reasons for this will not be discussed here). It has failed to provoke the advancement of new ideas and approaches and up to now it is practically the only idea of its kind that provides both for a form of future organisation for Abkhazia within the framework of a federal Georgia and for specific implementation machinery. We regard the proposed model as a reasonable compromise between justice and the political realities. In order to achieve a compromise there must be a coming together, respecting each other’s vital interests and not stopping short of mutual concessions to achieve the main purpose.