

BOOK REVIEW

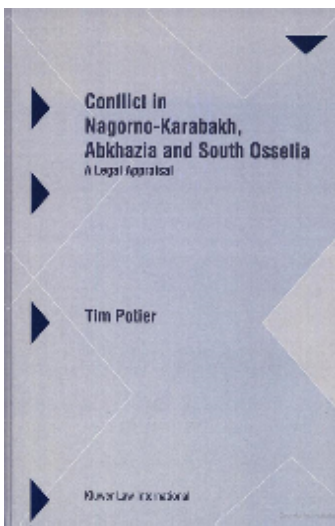
CONFLICT IN NAGORNO-KARABAKH, ABKHAZIA AND SOUTH OSSETIA

A LEGAL APPRAISAL

BY TIM POTIER

(The Hague; Boston: Kluwer Law International, 2001, pp. 314, ISBN: 90-411-1477-7, € 102)

*Review by Lala Jumayeva**



The book under review was the author's dissertation paper submitted in 1998 and later published as a book in 2001. In order to make it more appropriate for publishing, Potier improved it by adding a one-page preface and a short additional final section under the heading "Since submission", which covers the period September 1, 1998, to April, 30, 2000. Some syntax and grammar corrections have also been made. The book, therefore, consists of a preface, an introduction, thirteen chapters, a conclusion and a final addition.

The book presents a legal analysis of the conflicts in the South Caucasus region by focusing on the future constitutional status of the three conflicts in the region: Nagorno-Karabakh in Azerbaijan, Abkhazia and South Ossetia in Georgia.

Through the whole book, Potier discusses the international law and constitutional law dichotomy, where he believes that international law plays a significant role in conflict resolution process. He emphasizes, however, that this role should not be limited to constitutional law. He discusses how constitutional law constitutes a useful mechanism for conflict settlement within the framework of autonomy and, furthermore, argues that autonomy can assist enormously in the settlement of the "three".¹

The research question reflects on how constitutional settlement in Nagorno-Karabakh, Abkhazia and South Ossetia can be reached. This issue is mainly discussed in chapters eight and nine; thus, I would argue, they are the most important parts of the book. In these chapters he gives his detailed recommendations for a constitutional settlement in Azerbaijan and Georgia and he evaluates his ideas

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¹ The author refers to the three conflicts in Nagorno-Karabakh, Abkhazia and the South Ossetia as the 'Three'.

on those recommendations.

Potier's suggestions, based on his main findings, do not reflect the interests and demands of the parties in the "three", and while looking at the current status of these conflicts, we can conclude that they have failed, even though his research at that time intended to provide "advice" for real world policy-makers. For example, Potier suggests the Azerbaijani government to concede the Lachin corridor to the "Nagorno-Karabakh Republic", which has not even been recognized by Azerbaijan. Further, he offers the conflict parties to solve the dispute by granting autonomy to Nagorno-Karabakh that is unacceptable to Armenia that demands independence for the "Nagorno-Karabakh Republic".

Another example is a suggestion to establish a United Republic of Georgia that will consist of four Republics and two Regions, which means, literally, the division of Georgia into small pieces, which the Georgian Government would deem unacceptable. In addition, the author himself accepts that those recommendations have no chance of being implemented, and later he stresses that the main function of the recommendations is to inspire debate and discussion on conflict resolution in the region.

Potier draws attention to the three concepts within international law: the concept of self-determination, the concept of autonomy and the concept of minority. He dedicates three chapters of his book to the aforementioned concepts in which he tries to examine them. He argues that self-determination as a norm of international law has a vague and imprecise content. Potier does not define the concept of self-determination. He just satisfies the reader's curiosity by referring to the four points from the UN Charter, which do not give a precise definition of the concept, and emphasizes that self-determination has proved to be impossible to define.

Potier refers to the "forgotten" autonomy aspect that he considers as one of the "many faces of self-determination". Dissatisfied with the definition of the autonomy concept, Potier gives his own definition: "the means whereby an authority, subject to another superior authority, has the opportunity to determine, separately from that authority, specific functions entrusted upon it by that authority, for the general welfare of those to whom it is responsible"². Later, Potier argues that the international community has also failed to agree on a standard definition of the concept of minority.

The noteworthy point is that while he is trying to define all of these concepts, within the context of concepts, he is trying to connect the concept definition or debates around those concepts' formation with real cases, in other words he relates the theory/concepts to the case study of the "Three".

The author is carrying out a qualitative, empirical research that is based on an observable process and engages in a real-world comparison. One of the weaknesses of the book, which I consider to be an important flaw, is that Potier, even though he is taking a legalistic approach, does not outline the theory, which the research is based on.

Vennesson refers to Bennett and stresses that case studies are used by a researcher for developing and evaluating theories, for formulating hypothesis or for explaining some certain phenomena by

² Tim Potier, *Conflict in Nagorno-Karabakh, Abkhazia and South Ossetia: A Legal Appraisal* (The Hague; Boston: Kluwer Law International, 2001), 54.

applying theories and causal mechanisms.³ While comparing three conflict cases and focusing on their constitutional settlement, Potier does not explain the reason why he chose these three specific conflicts. The author does not develop any theory, does not explain any particular phenomena and also fails to formulate any hypotheses. Though he indirectly implies the probable success of the autonomy factor in conflict resolution, he does not have any clearly stated hypotheses.

Potier mostly uses a descriptive case study where he brings in only one new idea on how to develop the current situation of the “three” by highlighting the autonomy factor in constitutional settlement. The author, however, does not discuss what makes these three cases comparable for the research. The only explanation he gives regarding the particular case selection is when he stresses his interest in the region, and states that “being unable to condense the work about the minority rights in the USSR into a manageable work” he decided “to concentrate on the future constitutional status of the three cases”. He also mentions that the Caucasus was the region where he had traveled a lot and where he had many contacts, which he believed would help him with his research.⁴ The above-mentioned facts do not explain why he chose these three conflicts, and what makes these cases special for the research in which he is involved.

The work is conceived as a small N research design with a cross-sectional case study, since the author focuses on three case studies and conducts research across units - ethnic conflicts in Azerbaijan and Georgia - without time variation for three cases, i.e. all three conflicts were investigated for a period of time from 1993 to 1998.

The work contains extensive data from the BBC Monitoring Service’s Summary of World Broadcast Daily Report on the Former Soviet Union and the US Government’s Foreign Broadcasting Information Service report on Central Asia, as well as a number of journals, books, reports, research bulletins, interviews and encyclopedias.

In addition, while reading the book in some parts of it, one senses that the author was rather biased, as he references sources from only one party. For example, in the first chapter on the history of the region regarding Nagorno-Karabakh, he used the USSR encyclopedia and more Armenian documents than Azerbaijani ones.

Another weakness of the work is that regardless of the grammar and syntax corrections that have been made, it still contains some grammatical mistakes and the bibliography should have been designed according to the more usual chronological principle.⁵

A noteworthy point in this work is that while comparing cases to others, Potier tries to stress that each case is unique and needs a special approach. From his point of view, therefore, the autonomy approach to the constitutional settlement of the “three” could be the best solution to the conflicts in

³ Pascal Vennesson, “Case Studies and Process Tracing: Theories and Practices,” in *Approaches and Methodologies in the Social Sciences. A Pluralistic Perspective*, ed. Donatella D. Porta and M. Keating (Cambridge: Cambridge University Press, 2008), 223-239.

⁴ Tim Portier’s Web site, Articles / Op-Eds,

<http://www.timpotier.com/default.aspx?articleID=14617&heading=Articles%20/%20Op-Eds#Conflict>

⁵ George Hewitt, Review of *Conflict in Nagorno-Karabakh, Abkhazia and South Ossetia: A Legal Appraisal*, by Tim Potier. Bulletin of the School of Oriental and African Studies, University of London, Vol. 64, No. 3, 2001, 416.

the South Caucasus.

Regardless of the author's findings, the book has weaknesses in the research design that makes it to some extent incomprehensible. I attribute this to the fact that the book is based on his PhD thesis work, and it was not written with the aim of being published as a book afterwards. Of the thirteen chapters, only two are particularly important, since they bring new ideas and discussion to the legal debate over the ethnic conflicts in the South Caucasus region. The author stresses that it is difficult even for him to construct a conclusion for his work, as he thinks that there are many points that remain to be clarified.

About the author

Dr. Tim Potier specialises in the field of conflict/the consequences of constitutional settlement in post-conflict societies. His work in this area began in the mid-1990s in the countries of the former Soviet Union, where he lived and conducted research for two years. Dr. Tim Potier is currently Associate Head of International Law Department at the University of Nicosia, Cyprus.