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Geneva International Discussions: Russian Occupation and Internally Displaced Persons in Georgia

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Abstract

Russia's military intervention in Georgia in 2008 has forever changed the security environment for Tbilisi. Borderization, Russian military and semi-military bases on Georgian territory, and Moscow's unofficial annexation policy in two regions of Georgia are among the issues Tbilisi faces due to the Kremlin's five-day war against Georgia. Moreover, more than 200 000 thousand people remain Internally Displaced Persons in Georgia, waiting to exercise their right of dignified return to occupied regions currently remaining under illegal Russian control. This paper analysis ongoing Geneva International Discussions involving Georgia and Russia and the prospects of reaching a consensus on a dignified return of Internally Displaced Persons to their homes. The paper concludes that currently, the Georgian Government does not hold leverage against Russia to alter the course of the negotiations process. Official Tbilisi should concentrate on the long-term objective – building trust with the representatives of Georgia's occupied regions to consider coalition-building in negotiations in case favorable changes affect power asymmetry between Georgia and Russia and the opportunity window for Georgia to affect occupied regions' decisions without Russian interference appears.

Keywords: Russia, Georgia, Russian occupation, internally displaced persons.

Introduction

The 57th round of Geneva International Discussions (GID) was held on April 4-5, 2023. According to the press communique of co-chairs of GID: "Following intense exchanges on the non-use of force and international security arrangements, the participants could not reach a common understanding on this core item on the agenda. Unfortunately, the issue of IDPs and refugees could not be fully covered either due to a walkout by some participants" (OSCE, 2023).

In 2008 Russian military forces breached Georgia's internationally recognized border, "marking the start of Europe's first twenty-first century war" (Dickinson, 2021). Georgian State believes this was a full-scale military intervention; international society

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states the same (Blinken, 2022), while Russia claims (Reuters, 2008) it was an act of protecting civilians.

The five-day War of August was concluded by a six-point ceasefire agreement brokered by the mediation of the European Union (Jasutis, 2018, p. 6). Despite this agreement, the Georgian State, the United States, and European Union constantly reiterate that Russia has not fulfilled its obligations; Moreover, Russia continues its "borderization" policy and further occupies Georgian territory. According to the Office of the State Minister of Georgia for Reconciliation and Civic Equality in October 2008, Geneva International Discussions with the mediation of co-chairs from the UN, EU, and OSCE were launched under the six-point ceasefire agreement. Negotiations are ongoing. However, more than 200 000 people remain Internally Displaced Persons in Georgia. Despite a resolution (UN Georgia, 2021) on behalf of the UN, parties cannot achieve a consensus as to when and how the IDPs can return to their houses.

Since the 2008 Russo-Georgian War, Geneva International Discussions have mainly achieved the consensus on just process continuation and no tangible results on any substantive topics, such as International Security Arrangement, Statement on the Non-use of Force, or dignified return of Internally Displaced Persons. The pattern is similar; in each case, the Russian Federation wants first to negotiate the occupied region's status. Traditionally Russia walks out of talks not to discuss the IDP issue.

Significant parties to the conflict and negotiations

The primary parties of the conflict and GID negotiations are the Georgian state and Russian Federation. Secondary parties are the European Union Monitoring Mission in Georgia, the United States, and the representatives of the occupied Abkhazia and Tskhinvali regions. Mediators in the negotiations are the UN, EU, and OSCE. Apart from the main parties participating in ongoing Geneva International Discussions, there are third parties in the picture. Georgian, Russian, Abkhazian, and Ossetian residents are indirectly involved in the process. Georgian State is accountable to the Georgian public,

which holds collective memory of conflict, hostilities, and national dignity. The same is relevant to the representatives of other enlisted publics.

Perspectives of the parties

The issue of IDP's dignified return is one of the dimensions of ongoing talks. It is closely intertwined with underlying issues and positions of the two parties, such as understanding the nature of the conflict, perspective about the two regions, and Georgia's foreign policy.

Georgian perspective is aligned with international law: two regions, Abkhazia and Tskhinvali, are occupied by the Russian Federation, and legally they represent inseparable parts of Georgia. Russian Federation has recognized the so-called independence of both regions. Georgian State believes IDPs have the right to return to their homes. Russia disagrees.

Secondary parties occupied Abkhazia and Tskhinvali regions, state they are independent countries with unique cultures, languages, and ethnicity and have exercised the right of self-determination. They are against IDP's return to the areas because they hold official documents issued by the "foreign country," which is irrelevant to the existing "legal realm" on the ground.

The United States and the International community annually reinstate their position in favor of Georgia; they support Georgia's territorial integrity, call Russia's actions occupation and stick with a non-recognition policy (U.S. Embassy Tbilisi, 2020) They continuously call for IDP's dignified return to the regions.

Georgia's Euro-Atlantic integration is essential in light of ongoing GID negotiations. Russian Federation and Georgia share a common history, mainly consisting of Georgia being part of Russia in one form or another. Russian Federation represents a revisionist State and believes that Georgia, as its former sphere of influence, has to return to the Russian orbit. RF opposes Georgia's NATO membership because it fears forever losing influence over Georgian politics. Georgia believes Russia uses occupied regions as leverage and an instrument to control the Georgian government's foreign policy decisions. Georgian State points out that since 2008, Russia has been gradually conducting

an unofficial annexation policy in both occupied regions (State Security Service of Georgia 2018, p.4). According to Tbilisi, apart from the fact that IDPs were forced to leave their houses, the Russian Federation has been financing projects such as building a landfill on traces of Georgian houses in several villages in occupied Tskhinvali (for example, in village Eredvi) from its federal budget aimed at erasing Georgian trace (Aftsiauri, 2020).

Since 2008 all Georgian schools in both occupied regions, especially in Georgian enclaves such as Gali in occupied Abkhazia (Zurabashvili, 2016) and Akhagori (Civil.ge, 2020) in occupied Tskhinvali, were closed. Schools in both regions now teach with books printed in Russia for Russian children; the official language in most of the schools is Russian. Georgia states that in the Gali enclave, ethnic Georgian citizens are even forced to communicate in Russian rather than Georgian or Abkhazian. Also, Georgia says that the de facto authorities in occupied Abkhazia have stripped approximately 23 000 ethnic Georgians' so-called citizenship/passports of the occupied region to distance them from internal political processes. From Georgia's perspective, Russia's interest is to distance ethnic Georgians from the political processes in both occupied regions because Georgians represent a threat to the already established situation on the ground. Thus prospects of returning ethnic Georgian IDPs to the occupied regions minimizes in the light of Russia's policy focused on erasing any Georgian trace on the ground.

The positions and narratives of the two primary parties differ significantly; also, the level of distrust is too high for normalized relationships; thus, Geneva International Discussions are usually held under stressful and hostile circumstances; parties seem to exercise positional bargaining and cannot reach an agreement because they are oriented at face-saving tactics and positions, rather than interests. Russian Federation is well aware that Georgia can not leave the negotiating table; thus, Georgia is usually a soft player, while Russia is a hard player. Moscow seeks to circumvent international legal norms and acts as a revisionist actor, limiting Tbilisi's options to achieve tangible results through negotiations.

Interests

Georgian state's primary interest is the de-occupation of Georgia and the voluntary, safe, and dignified return of more than 200 000 Internally Displaced Persons to their houses.

Russian State's primary interest is keeping Georgia in its sphere of influence and contradicting NATO enlargement in the Black Sea region (CIS) (Cutts, 2008, p. 288) Russia claims that occupation allegations are baseless and do not share the position that IDPs were excluded from their houses. "Russia insistently requests that Tbilisi sign a non-use of force agreement with Sokhumi and Tskhinvali while avoiding taking analogous obligations towards Georgia itself" (Haindrava, 2018).

European Monitoring Mission in Georgia also has an interest in negotiations. Stability in the region is of significant importance to the EU. Georgia represents a transit route that could be potentially used for gas and oil corridors which can help the EU to diversify its energy market.

As a primary strategic partner of Georgia, the United States is trying to project its global interests and strengthen cooperation with the Georgian State, a part of the Black Sea region. The US supports the Georgian position regarding IDP's dignified return to the occupied regions.

Best alternatives to a negotiated agreement.

Georgia's BATNA:

For the Georgian State, returning IDPs to their homes is vital. If consensus is not reached, more than 200 000 people will remain internally displaced in their own country. Also, IDPs require additional resources on behalf of the State; they need accommodation, special social programs, health benefits, etc. Georgian State can not return IDPs without reaching an agreement with Russia since Russia is the party exercising effective control on the ground. Alternatives for Georgia in case of not reaching an agreement on the IDPs issue would be:

- Signing a non-use of force agreement with Sokhumi and Tskhinvali and creating a precedent of recognizing de facto authorities as official parties to the conflict;

- Recognizing the independence of both occupied regions and thus taking negotiations to another level in terms of IDPs; (lowest value deal)
- Agreeing on the special status of IDPs, letting them take Russian, Abkhaz, or Ossetian citizenship and, this way, return to their homes;
- Agreeing on the termination of its Euroatlantic partnership and ties;
- Terminating joint programs with NATO and assuring Russia that Georgia is not going to become a member of an organization;
- Restoring official diplomatic relations with Russia and opening the Russian embassy in Tbilisi;
- Terminating visa-free regime for Russian citizens;
- Ending economic ties with Russia.

Russia's BATNA:

For the Russian Federation and de facto authorities, keeping IDPs excluded from their houses on Tbilisi Administrated Territory is crucial. IDPs return would be costly economically and politically in both occupied regions. Alternatives for Russia in case of not reaching an agreement on the IDPs issue would be:

- Maintaining status-quo;
- Officially declaring IDPs as citizens of another country and thus not giving them access without special legal requirements to the occupied regions;
- Using an economic embargo against Georgia in case Georgia terminates a visa-free regime for Russian citizens.

Due to unfortunate geopolitical circumstances and significant power asymmetry between Georgian State's and Russian State's capabilities, one could argue that the potential agreement on the dignified return of IDPs to the occupied regions is more critical to Tbilisi than to Moscow. Since Russia's primary objective regarding the IDP issue is to leave them outside the two occupied regions, Russia does not seem to lose much by not reaching an agreement.

In this particular case, Georgia does not have leverage against the Russian Federation and has a low bargaining position. The only influence of the Georgian government is the support of the international community and the possibility of asking for stricter sanctions against Russia. Still, Georgia does not hold a politically strong position in the international community to make global powers do so, especially in light of Russia's unprovoked war against Ukraine. Moscow can use economic sanctions against Georgia; Georgia's energy dependence level on Russia is still significant. Russian tourists are a credible source of Georgia's economic development too.

Generally, the distrust level between Russian Federation and Georgian State is too high. Different narratives and positions of the two parties make it harder for them to engage in constructive talks. Radically contradicting positions usually lead parties to positional bargaining, and since the positions are expressed, both parties become oriented on face-saving and do not yield much. Geneva International Discussions have only proved effective in several minor dimensions, such as creating an Incident Prevention and Reaction Mechanism to address humanitarian problems in occupied regions of Georgia.

Communication and relationship-building

Currently, parties use three main channels of communication. The first and most important is the GID format referred to in the paper. Quality of communication is relatively regular; annual rounds of negotiations are held except for particular circumstances like Covid19 pandemic (Civil.ge, 2020). Also, IPRM is used as a channel to discuss humanitarian and everyday problems of residents in occupied regions. Again the quality of the talks is standard. The third channel is side talks between special representatives of the Russian Federation and the Georgian State. Two trusted special envoys talk directly (DFWatch, 2013) with each other (Georgian Journal, 2019), and the scope of the discussions is unlimited. Since this last channel is more personal and negotiators are permanent, there is more chance for creating personal relationships and thus altering the course of negotiations.

As for the diplomatic relations: "After the War in the summer of 2008, Russia and Georgia broke off diplomatic relations. Since then, Switzerland has held a protective mandate, which means that it represents Georgia's interests in Russia and Russia's interests in Georgia" (Switzerland's Federal Council, 2011). Georgia and Russia do not have embassies in each other's countries. Although, since 2008, economic relations have continued, which leaves space for further cooperation.

Objective Standards and Criteria

Geneva International Discussions and IPRM are based on a six-point ceasefire agreement signed by the Russian Federation and Georgia in 2008. Also, since mediators are co-chairs from the UN, EU, and OSCE, negotiations are guided by the principles of international norms.

As for the issue of IDPs, since parties seem to leave this issue tabooed, agreeing on guiding negotiations on the principle of the Human Rights Declaration and Guiding Principles on Internal Displacement (OCHA 2004) would be appropriate. Also, International Humanitarian Law states: "Unless essential for the security of civilians or imperative military reasons, parties to an international armed conflict may not deport or forcibly transfer the civilian population of an occupied territory. Parties to a non-international armed conflict may not order the displacement of the civilian population; Displaced persons have a right to voluntarily return safely to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist. States may not deport or transfer parts of their civilian population into a territory they occupy (UNHCR, 2017).

Since both parties are integrated into the international legal order, both have implemented Human Rights Declaration, and both represent a member of the United Nations, they can agree on governing principles to be the ones agreed upon in the realm of this particular international organization.

Possible Strategies

Geneva International Discussions involve several parties with different interests, cultural biases, aims, and understanding, complicating the process. The "Conductors" role could be the most appropriate for the representative of Georgia in this case, meaning that they should focus on reaching an agreement from a neutral position. On GID negotiations, the Georgian Government should consider a strategy of issue decomposition, sequencing, and incrementalism, which could minimize the risks accompanying multilateral talks.

International negotiations on complex issues are usually characterized by high uncertainty, which blocks coalitions and paralyzes the negotiation process if high flexibility on the party's behalf is absent. Coalitions make it harder to have a walking-out position, which is the problem in the GIDs case. Still, the Georgian Government does not possess a coalition-building perspective currently, and vice-versa it could be argued that primary party RF already has a coalition with occupied regions representatives. Coalitions are developed based on interests, belief systems, and bargaining positions. Georgia does not share any of the aspects with either party. However, bargaining positions can change, increase, or decrease in the process and alter the behavior of coalitions. Currently, parties are at a stage of bargaining relationship, and it is harder in terms of the number of participants to develop an understanding of potential mutual gains. The Georgian Government should pursue strategic patience and continue participating in negotiations to continue the negotiations process. Before the circumstances/barriers discussed in the paper change, Tbilisi has to concentrate on intra-level activities/trust-building activities.

Conclusions

A severe distrust between the parties, psychological processes, cultural differences, and multilateral dynamics complicate GID negotiations. Georgian Government faces challenging circumstances, divergent interests, and perceptions. In this particular environment, it does not have the leverage to use during negotiations to achieve the dignified return of Internally Displaced Persons in the occupied regions. Currently, the Georgian Government should concentrate on the long-term objective – building trust with the representatives of Georgia's occupied regions to consider afterward coalition-

building in negotiations in case favorable changes affect power asymmetry between Georgia and Russia and the opportunity window for Georgia to affect occupied regions decisions without Russian interference appears. Meanwhile, Georgia should continue participating in negotiations and focus on technical matters, step by step, using positional bargaining soft game methods, such as envisaging participants not as adversaries but as colleges and focusing on interests, not positions.

Progress on negotiations has not been achieved because the topic of IDPs is highly politicized and is intertwined with other issues, such as parties' status, roles, and perceptions. RF claims that Abkhazia and Tskhinvali are independent countries. Circumstances from the time of the signing of The Six-Point Ceasefire Agreement have changed by Russian recognition of the region's so-called independence and "borderization" policy. Russia aims to legitimize a new legal order. Thus, RF sees the status of occupied regions as a focal point and will not negotiate on other important issues before the outcome of Georgia recognizing the so-called independence of regions is achieved.

Russia is a party exercising effective control (European Court of Human Rights 2021) on the ground. Also, Kremlin's political, military, and economic involvement in both occupied regions is a tool in the RF's hand to keep representatives of the de facto Government on its team. Interests and agendas are different too. While Abkhazia, Tskhinvali, and the Russian Federation aim to achieve independence recognition from Georgia, the latter sees Russia as an aggressor, seeking de-occupation of its territory. In this case, Georgia is vis-a-vis Russia and two occupied regions with contradictory interests. Neither party will negotiate separately on IDP's issue while the status of representatives of occupied regions remains on the table.

The Georgian Government should concentrate on confidence-building measures and track two diplomacies. The approach of confidence-building measures by facilitating dialogue between civil sector representatives, media, and cultural/educational exchange programs with the residents of occupied regions could decrease the distrust level. It could

also affect psychological factors and biases that could contribute to diminishing the image of the "enemy" of each other, which complicates negotiations and makes it harder for negotiators to engage in the two-level game and potentially implement the decisions. Also, the civil sector of Georgia has to be involved in the strategy crafting process; cohesiveness is vital; the Government should ensure that the implementation process will have a successful outcome in terms of the two-level game. Within the country, stakeholders must communicate effectively with a government representative representing Georgia on GID frequently.

The geopolitical realm, power asymmetry with Russia, and power equations set extremely complicated circumstances in Georgia, which the State cannot change through negotiation strategies. Georgia has to concentrate on keeping the GID format alive and, at the same time, actively use confidence-building measures to regain the trust of de-facto regions representatives to minimize the disengagement component on their behalf. After the 2008 invasion, Russia subjugated de facto authorities of both Georgian regions; by recognizing the occupied region's so-called independence and creating economic dependence, Kremlin made both regions tractable to Russian influence. Despite the constructive facade, Moscow does not wish negotiations to succeed; Kremlin focuses on efforts to coerce Georgia into giving up its rightful claims over two occupied regions.

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