Forced displacement in the Nagorny Karabakh conflict: return and its alternatives

August 2011

Place-names in the Nagorny Karabakh conflict are contested. Place-names within Nagorny Karabakh itself have been contested throughout the conflict. Place-names in the adjacent occupied territories have become increasingly contested over time in some, but not all (and not official), Armenian sources. Contributors have used their preferred terms without editorial restrictions. Variant spellings of the same name (e.g., Nagorny Karabakh vs Nagorno-Karabakh, Sumgait vs Sumqayit) have also been used in this publication according to authors' preferences. Terminology used in the contributors' biographies reflects their choices, not those of Conciliation Resources or the European Union. For the map at the end of the publication, Conciliation Resources has used the place-names current in 1988; where appropriate, alternative names are given in brackets in the text at first usage.

Altered street sign in Shusha (known as Shushi to Armenians).

Source: bbcrussian.com

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An Azerbaijani grandmother displaced from Shusha in Nagorny Karabakh, now living in Baku.
Source: bbcrussian.com

Girls in an Armenian family originally from Baku, now living in Shusha.

Executive Summary

Introduction

This publication addresses policy-related issues arising from displacement as a result of the Nagorny Karabakh (NK) conflict. Its purpose is to promote awareness of possible societal responses to Track 1 outcomes on this issue, to discuss broadly possible modalities and likely obstacles, and to shape policy to make it more responsive to on-the-ground realities.

The forced displacement of some one million people is a key legacy of the NK conflict. Although a universal right of return will be central to legitimating any eventual Armenian-Azerbaijani framework agreement, after 20 years of protracted displacement refugees and internally displaced persons are likely to exercise a range of choices. This reflects a paradox at the heart of debates on return, which lies in the fact that no return process can recreate or restore the pre-conflict demography and settlement pattern, yet any peace agreement that fails to create a realistic basis for some degree of return is unlikely to be seen as legitimate by all conflict parties, or by the international community.

This publication addresses this paradox by bringing an overview of international thinking and experience on forced displacement together with a selection of local perspectives by Armenian and Azerbaijani authors. Together, these papers provide evidence of significant gaps between emerging international standards and local rhetoric on return, of the wide distance between the different conflict parties' entry points into these debates, and yet also of how international experience can provide, should the conflict parties accept the challenge, models for a broad range of approaches addressing the justice issues posed by forced displacement.

The Karabakh Contact Group

In mid-2010 Conciliation Resources (CR) initiated the Karabakh Contact Group (KCG), as part of the European Partnership for the Peaceful Resolution of the conflict over Nagorno-Karabakh (EPNK), a series of measures funded by the European Union supporting the Karabakh peace process. The KCG aims to provide a safe space for Armenian and Azerbaijani analysts to think through, with each other and with international expertise, alternative approaches to key policy dilemmas in the Karabakh peace process.

The format for this paper was to bring a small group of Armenian and Azerbaijani analysts together with an international expert on the issue of forced displacement to produce policy-oriented

Masis Mayilian (right) and Tabib Huseynov present their findings at Columbia University, New York.

research papers. Four regional participants in this first paper met in Tbilisi in October 2010, where they were briefed on current international thinking and practice on displacement, and given a number of perspectives on how experience in other contexts could be relevant for the Karabakh conflict. They then prepared their research papers and exchanged them for mutual commentary in late 2010-early 2011. The resulting research papers, together with an overview of international practice on forced displacement, are published in this volume, and their main findings discussed in the remainder of this introduction.

The Contact Group papers – main findings

Gerard Toal's overview draws on thinking and experience of addressing displacement across the world, and in particular Bosnia. He shows that while international practice is increasingly guided by the aspiration to reverse mass displacement, in practice, often the most that can be achieved is to offer individuals the choices to return or convert pre-war property into resources for lives in displacement. While the Bosnian experience offers useful parallels, however, there are also marked differences with the Karabakh context, not least the geographies of displacement and current territorial control, and the fact that there was no clear winner in the Bosnian wars. There was also significantly more international presence and influence on the ground in post-war Bosnia than is likely in a post-settlement NK.

Nevertheless, Toal's Bosnia-Karabakh comparison suggests a number of alternative perspectives in terms of how the end of forced displacement can be conceived and implemented. These alternatives

redefine 'return' in broad terms to mean the return of decision-making powers to the displaced individual to make choices about where to live. What this approach underlines is that it should not be assumed that displaced people want to return to their former homes, or to do so permanently. Instead, they are likely to consider a range of options, including:

- The reclamation of former property as a means of generating financial resources for a new life elsewhere;

- Temporary or experimental return;

- Partial return, in the form of reclaiming former homes for eventual use as secondary homes with the primary place of residence remaining that in "displacement".

These perspectives prioritize the rights of the individual rather than their assumed role in a national project of return and reclamation of territory. There is an emphatic shift from seeing displaced people as passive pawns being moved physically from one location to another, to seeing displaced people as rational individuals with multiple motivations and the choice of which to act on. Such an approach may sit uncomfortably with broader narratives of the loss of national territory and the imperative to repopulate, but is more likely to be compatible with the life-choices and rights of long-term displaced people. It also offers entry points to address historical justice issues, discussion of which is controversial today, yet without which no process of Armenian-Azerbaijani reconciliation will be possible.

The papers by Artak Ayunts, Azer Allahveranov, Ashot Beglarian, Tabib Huseynov, and Masis Mayilian offer further insights into the considerable obstacles confronting attempts to redress forced displacement in the Karabakh case. These include:

- The problem of sequencing: how can return be sequenced with other core issues such as status and security?

- Balancing return with new post-war demographics: are returnees willing to live in some contexts as demographic minorities where once they lived as majorities?

- Negotiating return to locations of particular symbolic or strategic importance, such as Shusha (Shushi), Lachin (Berdzor) and Shaumyan (Goranboy);

- Psychological and practical obstacles to the release of territories occupied as a result of war, including a developing sense of ownership over occupied territories adjacent to NK;

- The likely scope of obstructionism, ranging from bureaucratic obstacles to physical intimidation and violence;

- Conceptualization of return as a unilateral process with no consideration of reciprocal obligations to accept returnees;

- Popular understandings and historical narratives of population movements as tools of invidious policies of 'ethnic engineering';

- Currently low capacities of Armenian and Azerbaijani states and societies to address issues of legal redress, historical justice and reconciliation.

In more oblique ways, the papers highlight some of the obstacles to constructive discussion of how to resolve forced displacement:

- The deceptive and contentious games of numbers and conflicting definitions of who qualifies as a refugee and who as an internally displaced person;

- The extent to which views and opinions are assumed of refugees and IDPs, or projected onto them;

- The absence of dispassionate empirical data on displaced Armenians' and Azerbaijanis' attitudes on key conflict issues;

- Ways in which the issue of displacement is enfolded into intractable political agendas.

In manifold ways and from different starting points, all of the papers indicate considerable problems. Yet an approach consistent with emerging international practice offers mechanisms placing individual choice at the centre of processes addressing forced displacement. This points to the centrality of the individual's right to choose between return, integration or resettlement in legitimating any eventual arrangements.

This would necessarily imply a significant shift away from unilateral and often fiercely local portrayals of the issue. Based on the contributions to this volume, some possible parameters of this shift are explored in a final article by Laurence Broers. He argues that the extent of Armenian and Azerbaijani intermingling prior to the conflict means that the aspiration to return cannot be divorced from self-reflection on readiness to accept returnees from the other side. Regardless of eventual outcomes, return in the Karabakh conflict cannot be conceptualized as a one-way street, just as no one group holds a monopoly on loss and grievance. This reality would suggest instead a reciprocal re-imagining of Armenian and Azerbaijani societies' capacity to accommodate individual choices – both those of their 'own' displaced who choose not to return but to integrate as part of consolidated post-war ethnic majorities, and of those by members of the 'other side' to return and live among former foes in a new equilibrium.

1. Return and its alternatives: international law, norms and practices, and dilemmas of ethnocratic power, implementation, justice and development

Gerard Toal

Every conflict is unique and has distinctive features that need to be grasped by those seeking to move the conflicting parties towards reconciliation and recovery. Yet, all contemporary conflicts between warring parties over territory and sovereignty share certain structural characteristics and present similar dilemmas for international actors seeking to alleviate the legacies of suffering and displacement caused by these conflicts.

1. Forced displacement: the big picture

1.1 What is forced displacement?

In our contemporary world, people are forced to leave their homes for many different reasons: so-called "natural disasters," economic marginalization, the pull of livelihood opportunities elsewhere, imposed mega development projects (like dam construction) and climatic change events. Though all of these forces can be viewed as *forcing* people to leave their homes to seek shelter and opportunity elsewhere, the term *forced displacement* is most commonly used by international organizations and development agencies to refer specifically to the displacement of human populations as a consequence of conflict, violence, and human rights abuses. Shaped by prevalent understandings from the mid-twentieth century, forced displacement is even more narrowly defined by some as displacement driven by *fear of persecution*. While this definition has its problems (who gets to define 'fear' and 'persecution'?), the term forced displacement is useful as an alternative to the more popular media notion of 'ethnic cleansing' because this latter term is usually part of the language of the conflict itself. Like 'genocide,' the term 'ethnic cleansing' has its importance but we must also recognize that it is used by parties to the conflict itself to demonize, polarize and mobilize.

1.2 Definitions: refugees and internally displaced persons

After World War II, the international community slowly began to grapple with the massive problem of population displacement in Europe and develop some categories and agencies to manage it. Article 13 of the 1948 *Universal Declaration of Human Rights* declared that individuals had the right to move, to leave and return, and reside freely within their own country. Article 14 affirmed a "right to seek and to enjoy in other countries asylum from persecution." Elaborating upon these minimalist foundations, the United Nations High Commission of Refugees (UNHCR) began work in January 1951. That same year the landmark *1951 Refugee Convention* defined a refugee as a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside his country of nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." A supplemental 1967 *Protocol* removed the initial space (Europe only) and time limitations (before 1951 only) that accompanied this definition.

Conceptual limitations remained. The 'refugee' was a precise legal subject that did not incorporate all forcefully displaced persons but just those who had crossed an international border into the jurisdiction of another state. Refugees were a salient issue after World War II but the humanitarian challenges thrown up by violent group conflicts, so-called 'civil wars', in the second half of the twentieth century made it abundantly clear that attention needed to be devoted to those people who were displaced within the territory of a state. Only after the 1991 Gulf War, and conflicts in the wake of the dissolution of the Soviet Union and Yugoslavia, did the United Nations eventually specify 'internally displaced persons' (IDPs) as a distinct category. The *UN Guiding Principles on Internal Displacement* in 1998, an important statement of evolving norms, defined the category thus: "Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of, or in order to avoid, the effects of armed conflict, situations of generalized violence, violations of human rights, or natural or human-made disasters, and who have not crossed an internationally recognized State border." Whereas the 'refugee regime' is established international law, and gives the UNHCR a clear subject, the 'IDP regime' is norm-based and presents a legally nebulous challenge for agencies like the UNHCR. As many have noted, the deployment of these categories can be an aspect of the conflict

itself, with certain parties wanting to assert an international border by describing some displaced persons as 'refugees' while others resolutely designate them as 'IDPs.' The most salient point is that we are dealing with 'forcefully displaced persons' and there are a series of legal obligations and norms in place as to how they should be treated. Some of the norms are relatively new and are quite detailed and specific.

1.3 Numbers

The contemporary worldwide statistics of forced displacement underscore how pervasive it is as a human security problem. The latest UNHCR figures estimated a total of 43.3 million forcibly displaced persons uprooted by conflict, violence, persecution, and violations of human rights.[1] Of these, approximately 27.1 million are IDPs and 15.2 million are refugees. Across Europe and Central Asia fifteen countries experience forced displacement: Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Georgia, Kyrgyzstan, Kosovo (unrecognized as a state by many), FYR Macedonia, Montenegro, the Russian Federation, Serbia, Turkey, Turkmenistan, and Uzbekistan. In 2009, there were an estimated 2.5 - 2.6 million displaced persons in the region.[2]

Forced displacement cases are categorized as either ongoing and immediate or protracted. A series of emergency response funds that international agencies can draw upon are now available to address active displacement situations. This capacity of the international community was evident in the response to the 2008 Georgian-South Ossetian-Russian war, and conflict in Osh in 2010.

Protracted displacement is a situation in which, "the process for finding durable solutions is stalled, and/or IDPs are marginalized as a consequence of violations or a lack of protection of human rights, including economic, social and cultural rights".[3] The leading protracted displacement situations are Cyprus, which has the highest number of IDPs (22.3%) as a percentage of its total population, Azerbaijan (an estimated 6.7% of the population), and Georgia (5.3%).[4] Not high on the list is Bosnia and Herzegovina which had more than half of its pre-war population of 4.2 million displaced by war in 1992-95 but which has seen the return of over one million persons, about half of this number to situations where returnees became ethnic minority communities.

In 2010 Bosnia officially had 113,000 displaced persons. Bosnia-Herzegovina's experience of return and restitution is complicated and conditioned by many unique aspects of that conflict. For about a decade the country became a laboratory for a grand experiment – a noble human rights cause to its proponents, unwieldy social engineering to its critics – in implementing a returns process tied to property restitution that held out the possibility of "reversing ethnic cleansing".[5]

1.4 Individual choice

The 1951 *Refugee Convention* and the 1998 *UN Guiding Principles on Internal Displacement* are the two lodestars we need to keep in mind as we think about return and its alternatives in the case of the Karabakh conflict. The first has the status of international law while the second is the codification of many human rights principles that are less firmly established in international law (sometimes called 'soft law'). The important point to grasp is that both articulate a *liberal regime* governing forced displacement. At its centre is the displaced person as an individual with the right to make choices about where he or she is to live; and, in emergent norms, as a person with potential property rights. Article 33 of the 1951 Convention articulates the principle of non-refoulement: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

As far as international law is concerned, displaced persons should have three choices: (i) the right to return to their previous place of residence, (ii) the right not to return but to locally integrate in their place of displacement and (iii) to right to resettle in a third location, either as a refugee in a country that accepts them or in a different place than their initial point of displacement. These rights are, of course, aspirational. They are constricted by many elaborations in the international statutes and by more mundane but very real structural constraints involving political economy, power and the conditions that make places potential homes. Basic liberal norms such as freedom of movement may not be possible in certain states, with the Soviet-era *propiska* system enduring in ways that compromise the rights of citizens in successor states.[6] The right of displaced persons to locally integrate may be stymied and restricted.

1. UNHCR, *2009: Global Trends* (Geneva: United Nations High Commissioner for Refugees 2010).
2. Petrini, B. and J.P. de Berry, *Forced Displacement in the Europe and Central Asia Region* (Social Development, Europe and Central Asia, note publication, 2010).
3. Brookings-Bern Project on Internal Displacement, 'Expert Seminar on Protracted IDP Situations.' Hosted by UNHCR and the Brookings-Bern Project on Internal Displacement, Seminar Report, Geneva, June 21–22, 2007.
4. Petrini and de Berry, 2010, *Forced displacement.*

5. Toal, G. and Dahlman, C. *Bosnia Remade. Ethnic Cleansing and its Reversal* (New York: Oxford University Press, 2011).
6. The *propiska* was an administrative stamp in the internal passport of residents of the Soviet Union that granted them the right of residency in certain locations. It was used in transactions for apartment registration and rental. The state security apparatus used it for internal migration control and its absence for sanctions, including deportation.

Resettlement options in a third location may be very limited. Return may be desirable, but dignified and safe return impossible. Questions of the right to return (and alternatives), in short, need to be considered within the context of broader structural processes of place making in the wake of forced displacement, peace making agreements designed to foster reconciliation, and the implementation of such agreements across the territory of contested regions.

2. After forced displacement: the post-war picture on the ground

2.1 A model to understand the return context

Any consideration of the question of return (and its alternatives) needs to consider the circumstances of displacement and the new geopolitical order forged at the local level in the wake of displacement. The big picture, in other words, needs to include a strong grasp of the local picture on the ground. Drawing upon my experience in Bosnia-Herzegovina, and using a little imagination to create an ideal type model of past, present and potential future, I want to make the argument that we should understand the question of return within the context of a comprehensive vision of the local geopolitical order. That local geopolitical economy can be said to have four features:

- Space: a particular arrangement and understanding of the landscape, the state's territory and its borders.
- Power: a particular political order and set of institutions of governance.
- Economy: a prevailing political economy that provides employment and livelihoods for residents.
- Identity: a particular understanding of history, culture, belonging and memory.

2.2 The Communist past

At the abstract level, the past contexts in the Balkans and the Caucasus share a common embeddedness in a Communist world ordering. These features included:

- Space: an elaborate hierarchical system of governance, built upon complex ethnoterritorial commitments, within a highly centralized federal system that made local borders important but not all determining.
- Power: a one-party authoritarian state.
- Economy: a socialist developmentalist state where overall control resided with the state, which organized collective enterprises and factories.
- Identity: the official institutionalization of various discrete national identities, woven

together into a harmonious multiculturalism, with the official subordination of all particularistic national identities to collective myths of brotherly peoples and internationalism.
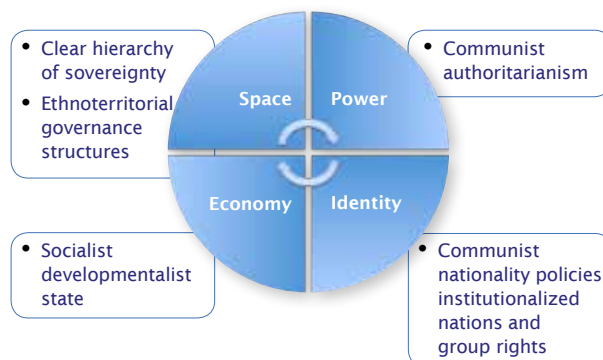

- Clear hierarchy of sovereignty
- Ethnoterritorial governance structures

Space Power
Economy Identity

- Communist authoritarianism

- Socialist developmentalist state

- Communist nationality policies: institutionalized nations and group rights

Figure 1: The Old Order

- Ethnoterritorial 'homeland'

Space Power
Economy Identity

- Ethnocracy

- Accumulation through dispossession

- Cleansing' and 'rebirth'
- Domicide

Figure 2: The New Order: Hardline Ethnocracy

2.3 The new order

War and the forced displacement that accompanied it in the Balkans and Caucasus ushered in a revolution in the political economy of secessionist spaces. With people driven from the land, the economy dislocated, and the landscape despoiled by fighting, a new geopolitical order could be created. It features were the following:

- Space: a new spatial order organized around exclusive ethnoterritorial control was made possible. In such an order, borders need to be clearly marked, hardened and securitized. Roads and other transportation links are re-configured to reflect the presence and visibility of the new order. Barriers not bridges are the ascendant spatial form.
- Power: a new ethnocratic order of power was asserted, and institutions of governance re-configured around a privileged nation in the name of democracy.
- Economy: with crisis conditions prevailing and so many people driven from their property and businesses, the opportunities for rapid accumulation through dispossession (theft) were

abundant to the strongest entrepreneurs of violence. Laws on 'abandoned property' gave a legal façade to this dispossession. An inevitably criminalized political economy takes hold as formerly collective public enterprises and goods are privatized in practice if not always in formal terms.

- Identity: an exclusivist identity becomes ascendant though lip service to older Communist-era multicultural notions of identity may remain as rituals. There is a systematic attempt to erase the cultural and physical presence of the identity of former neighbours (now categorized as foreign enemies, unrooted migrants, and residuals of former empire). *Domicide*, the deliberate destruction of the markers and evidence of a formerly shared home place, is the new logic. The killing of place is justified as the prelude to its 're-birth' as ersatz copy of an imagined mythic past. Towns, villages and key locations are renamed. Religious buildings are destroyed or re-appropriated into a project to imagine the land as hallowed ground. A new landscape of war memorials is constructed to produce this effect.

2.4 Refuchess: return and local integration as the continuation of conflict

In 1994 in the besieged city of Sarajevo an Art Publishing Service collective produced a poster that satirized the ways in which nationalist political parties and militias used displaced persons as pawns in games of competing victimhood and ethnic engineering.[7] Displaced persons are simultaneously valued and devalued by political leaders, placed at the center of discourses on the suffering of the nation while at the same time placed at the margins of society in collective settlement camps and housing complexes with less than adequate conditions. Sometimes they are moved to strategic locations and deeply contested places to constitute demographic blocking lines against potential returns. Displaced persons are symbols of victimhood that too often become victims of symbolic wars waged by antagonistic state leaders or ruling politicians and their domestic opposition. Fear of moving beyond the predictability and manageability of these symbolic political games is undoubtedly one factor that makes the issue of return dangerous to current political leaders.

In any peace agreement, the right of return is likely to be at the center of political debate and contestation. The issue will take on much greater symbolic weight and significance than the actual practicalities, advisability and sustainability of

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7. Jansen, S. 'Refuchess: Locating Bosniac Repatriates after the War in Bosnia-Herzegovina.' *Population, Space and Place.* Online from 7 January 2010.

returns. This issue will be a rich field for spoilers in the political process to score symbolic victories and de-legitimate any peace agreement that inevitably is going to have to involve a measure of compromise on the part of the opposing governments.

3. The five Rs of post-conflict: envisioning a peace agreement

3.1 Connecting the five Rs

The question of return needs to be contextualized within what can be termed the five Rs of post-conflict contexts: reconstruction, restitution, return, reintegration and reconciliation (Figure 3). Each refers to a separate process yet all are linked in ways that need to be understood and carefully conceptualized so distinct modalities of return and alternatives are realized. Reconstruction is an obvious and immediate need in the wake of violent conflict. It usually involves the repair and rebuilding of damaged physical infrastructure: roads, bridges, water systems, electrical networks, hospitals, schools and buildings of all sorts. While the 'bricks and mortar' nature of this work makes it appear largely technical and mechanical, choices made in reconstruction significantly impact possibilities for return and alternatives. Given finite resources, should infrastructural repair extend to remote and mountainous hamlets and villages, with limited economic viability? Should resources be concentrated in areas of local integration

Reconstruction	Infrastructure rebuilding	Reconstruction driven return?
Restitution	A distinct right or return related?	Compensation if property damaged?
Return	Feasibility? How repossession?	Re-occupation vs local integration rights?
Reintegration	Favored path towards peace-building or not?	Support for sustainable return?
Reconciliation	Thin (passing) versus thick (talking) kinds	Comm-unity or living together separately?

Figure 3: The Five Rs of Post-Conflict Contexts

needs or in ways that promote a *status quo ante bellum* vision of return? Are there modalities and geographies of reconstruction that can catalyze a returns process?

Restitution is a thorny issue in post-conflict situations but it is increasingly entwined with return in emergent international norms. International experience in the early 1990s with

Derelict buildings dominate Shusha, Nagorny Karabakh's only former Azeri-majority town.

In the centre of Shusha a restored but largely uninhabited apartment building now stands next to the Yukhari Govhar Agha mosque.

ethnic cleansing in Bosnia-Herzegovina was crucial in advancing this. The moral imperative was to not let the effects of ethnic cleansing stand. UN Security Council Resolution 820 on Bosnia in 1993, for example, declared that "all displaced persons have the right to return in peace to *their former homes* and should be assisted to do so." This desire to 'reverse ethnic cleansing' upgraded international norms for until now return meant only repatriation to one's country, not one's house. Now return meant *domicile return*, return to one's former dwelling, a right subsequently articulated in the *General Framework Agreement* agreed at Dayton in November 1995. This linkage of restitution and return diffused into codifications of international norms and practices. The *Declaration of International Law Principles on Internally Displaced Persons* followed the 1998 UN *Guiding Principles on Internal Displacement* in 2000. In 2005, the United Nations Sub-Commission on the Promotion and Protection of Human Rights adopted the first international standards to address property restitution, the *Pinheiro Principles*, after the Brazilian diplomat who drafted them.[8] These principles detail the formal institutions and claims procedure norms that are necessary to realize property restitution as a right of displaced persons. Principle 2 states: "All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal."[9] While restitution and return are linked by the *Pinheiro Principles*, the right to *domicile return*, the return of one's home as property, does not mean that displaced persons are obliged to return to live in the property. Restitution means return of property but not necessarily the return of the former owner. Indeed restitution may be the basis for not returning but pursuing alternatives. A complicating factor with restitution is whether it is extended back in time to cover earlier waves of accumulation by dispossession.

Some peace agreements may have reintegration and reconciliation as normative goals. Neither, however, may be practical or achievable, especially in cases of protracted displacement. Reintegration requires a comprehensive approach to livelihood development in order to make return sustainable. The reintegration of violently 'unmixed' and separated communities does not guarantee reconciliation. Evidence from Bosnia indicates that thin forms of reconciliation have developed on the ground but thicker forms of reconciliation, involving consensual narratives on history, war and common loyalty to a polity, are more elusive.[10]

Evolving norms and practices on return and restitution aspire to place individual choice at their centre. However, individual choice is always constrained by the structures that emerge to address the five Rs specified above. Any framework agreement in the Karabakh case will require implementing and supportive agencies, like the UNHCR and the World Bank. Practices such as those specified in the *Pinheiro Principles* can depoliticize and approach deeply political and emotional questions technocratically (though the *Principles* are not above reproach).[11] Alternative schemas that propose collective compensation or population transfer but preclude individualized restitution and/or the choice of return may face difficulties acquiring legitimacy in the international arena. Having said that, there will be considerable buy-in on the part of France, Russia and the United States if they are able to foster a general framework agreement between Armenia and Azerbaijan on a process that has the possibility of working. Prevailing liberal norms and geopolitical pragmatics may collide.

3.2 General Framework Agreement

Following the same ideal-type modeling, we can outline in very broad terms what any *General Framework Agreement* chapter on return coming out of the Minsk Group process might look like. First, like Dayton, there will need to be a 'separation of forces' chapter (Figure 4). This is by far the largest in Dayton and it set out in great detail the procedures by which opposing armies were to retreat from the prevailing ceasefire line and from what would become the inter-entity boundary line created at Dayton. This is important in that it will most likely create a 'zone of separation' (ZOS), which is a demilitarized zone where the commanding authority is the international peacekeeping force. Why this is significant is that this zone can become the first test case location where returns, most likely to uncontested space (see below), could be permitted. The ZOS has many advantages. It is demilitarized space that is, in theory and hopefully in practice, run by a commanding authority that is invested in the idea of getting the returns process going on ground they control. ZOS returns are potentially very significant as symbolic first returns and

8. Giulia Paglione, "Individual Property Restitution: from Deng to Pinheiro – and the Challenges Ahead," *International Journal of Refugee Law* (2008) 20 (3): 391-412.

9. Center on Housing Rights and Evictions, *The Pinheiro Principles*. Available at: www.unhcr.org.ua/img/uploads/docs/PinheiroPrinciples.pdf

10. See, for example, Anders Stefansson, 'Coffee after cleansing? Co-existence, co-operation, and communication in post-conflict Bosnia and Herzegovina.' *Focaal – Journal of Global and Historical Anthropology* 57 (2010), 62-76.

11. Megan J. Ballard, 'Post-Conflict Property Restitution: Flawed Legal and Theoretical Foundations', *Berkeley Journal of International Law* 28, 2 (2010), 462-496.

demonstration cases of how returns are supposed to unfold.

Second, any *General Framework Agreement* will have a chapter devoted to the question of return. If it is written in a way that is consonant with international norms, it should affirm the right of all individuals to choose what they wish to do: return, locally integrate or move to a third location. The key question is what kind of an incentive and support structure will be created to support returns and/or local integration. Will it tilt towards one or the other? Will the right freely to return include a clause providing restitution of the property rights (including use rights) before the advent of hostilities? Will there be a compensation scheme and, if so, how detailed and attractive (funded) will it be? Annex VII of the Dayton Accords reads as follows:

> All refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them.

What is significant about this wording is that it provides for the right to repossess your property or be compensated. In practice, few at Dayton expected displaced persons would return – Annex VII also declared that the choice not to return, to locally integrate, was also a right – and most nationalists felt that, at most, they could establish a nominal compensation scheme and legalize the wartime order they had established. What actually happened, however, is that the internationals charged with implementing Dayton (after about two years of incoherence) established a structure that prioritized and incentivized what they called 'minority returns,' that is returns by displaced persons to places and property where they were now the minority ethnicity. In effect, the 'compensation' clause was not funded and therefore not actualized. What was, and it took considerable effort, was the right to get your property back and to do with it what you wanted (although with some initial ambivalence). Furthermore, local integration as an option was not funded by international reconstruction packages. People had the right to do so but the international community, not without controversy, generally came to the view that 'local integration' consolidated ethnic cleansing, whereas they were interested in reversing ethnic cleansing. This was in keeping with a broader vision that reintegration was necessary for the possibility of reconciliation and peace building in Bosnia.

3.3 Property restitution and a Property Law Implementation Plan

I mention all this in order to make a basic point. A *General Framework Agreement* can articulate the general liberal regime of rights accorded to displaced persons. The vital issue, however, is what mechanisms does it put in place to fund return or its alternatives? Which of the rights become *primus inter pares* by virtue of it receiving a realistic incentive structure for its realization? In the Bosnian case, this was individualized property restitution with the possibility of return. To cut a complicated story short, this involved the Office of the High Representative, the prevailing international civilian authority charged with implementing the Dayton Peace Accords, sweeping aside wartime 'abandoned property' laws and imposing a standard legal process on the whole country that could govern property restitution and its implementation.[12] Known as the *Property Law Implementation Plan* (*PLIP*) it sought to depoliticize the whole issue of property and return by creating a process wherein people could re-establish legal title to pre-war property (which included user rights to socially owned apartments), and file a claim for its re-possession (see Figure 4).

3.4 Information campaigns and legitimacy

The *PLIP* put in place a clear sequence of what was to happen when a displaced person acquired their ownership title from the Commission on Real Property Claims (a property records body established under Dayton) or local municipalities. This was quite detailed and required a series of structural supports to make it happen. Crucial was the effort to create a 'law-governed state,' one in which the law was made clear to everyone and there was no ambiguity about whose rights came first in terms of property ownership. This required a change in consciousness on the part of those who believed they now owned the property they had occupied or been assigned by local authorities during the war. What seemed permanent was now thrown into question as a new legal order sought to replace the (il-)legitimacy of the one established by war, violence and displacement. In Bosnia, two separate state-level informational campaigns blanketed the country with the clear message: a

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12. For accounts of this process by its designers and implementers see Lynn Hastings, 'Implementation of the Property Legislation in Bosnia Herzegovina,' *Stanford Journal of International Law,* 37 (2001), 221-254; Rhodri C. Williams, 'Post-Conflict Property Restitution and Refugee Return in Bosnia and Herzegovina: Implications for International Standard-Setting and Practice,' *International Law and Politics,* 37 (2005), 441-553; Charles Philpott, 'Though the Dog is Dead, the Pig must be Killed: Finishing with Property Restitution to Bosnia-Herzegovina's IDPs and Refugees,' *Journal of Refugee Studies,* 18 (2005), 1-24 and Charles Philpott, 'From the Right to Return to the Return of Rights: Completing Post-War Property Restitution in Bosnia Herzegovina,' *International Journal of Refugee Law* 18 (2006), 30-80.

Displaced Person (DP) seeks recovery of real property

Commission for Real Property Claims (CRPC)

Review of property books and cadasters

DP files property claim with CRPC

CRPC decision

CRPC issues Certicate of Legal Ownership to DP

DP files petition to reclaim propery with local authority

Opstina Housing Office

Claim processing*

Property Law Implementation Process (PLIP): Local OHR and OSCE officers monitor housing office for compliance. Non-compliance may result in removal of mayor or housing officers by OHR.

Award of property

Reconstruction

Destroyed

Property status

Illegally Occupied

Local authorities give notice to vacate*

Habitable

Repossession: occupation or sale

Eviction by police and/or inspection*

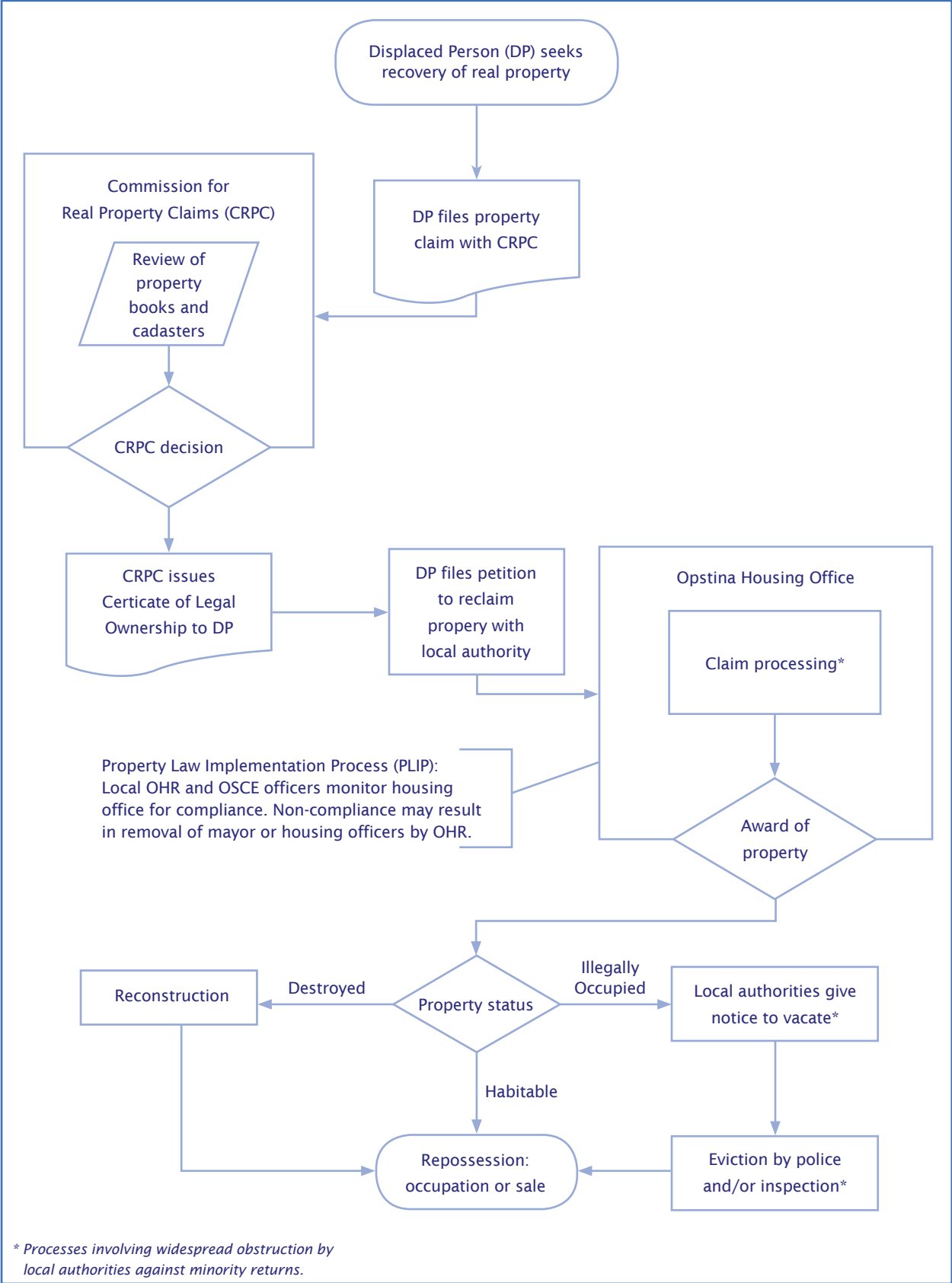*Processes involving widespread obstruction by local authorities against minority returns.

Figure 4: The Property Restitution Process in Bosnia (Source: Toal and Dahlman, 2011, p. 241)

new property order was coming and it was time to legalize and legitimate one's choices of return or local integration. To the surprise of some, these campaigns largely worked.[13] Ordinary people grasped that they were living in other people's homes and that there was a process by which they could acquire title to their old property and decide what to do with it. "Everyone gets their own" was the sentiment. This is not to say there were not resistance, cynicism and skepticism. The *PLIP* was in certain cases strongly contested and various forms of obstructionism were deployed against it.
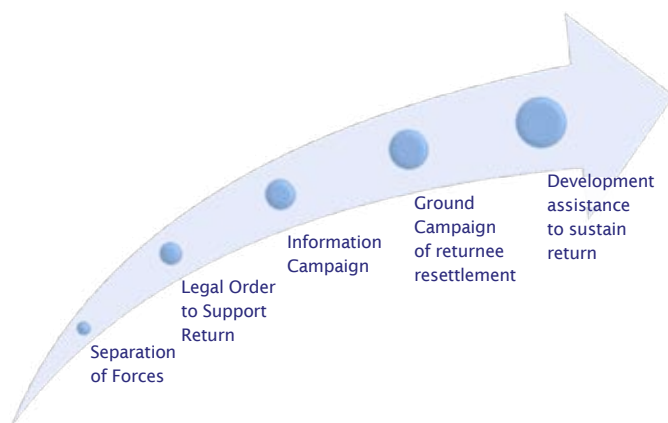

Figure 5: The Framework Agreement as a point of departure for potential returns

3.5 Return as a geopolitical ground campaign

The UNHCR was charged with organizing the returns process in Bosnia. After some dis-organization, they partnered with the OHR and IFOR and other international development agencies interested in funding a returns process based around minority returns. The mechanism they used for this were Reconstruction and Return Task Forces (RRTF) that brought all of these agencies together in particular regions of Bosnia to plot a return ground campaign. I use the military metaphor deliberately because the strategy of the RRTF was conceived as a strategic campaign to 'break open' territory for returns. They were in localities and together they brought local intelligence to bear upon the task of allowing people to realize the choice of returning. Again, to cut a long story extremely short, the campaign operated with three prevailing notions of space:

1. The Zone of Separation (ZOS) that allowed for the possibility of initial 'break-through' returns which helped establish it as a fact, and a seeming inevitability to local hardliners.

2. "Uncontested Space Returns" are returns to abandoned villages and towns where there

are little more than ruins. In many instances, uncontested space return was to villages that were previously mono-ethnic.

3. "Contested Space Returns": these were the culmination of the returns process and involved the return of now minorities to towns that had become bastions of ethnoterritorialism and ethnocracy (due variously to their historic mono-ethnicity, wartime suffering, and the settlement of displaced co-ethnics).

The Karabakh conflict has a distinctive settlement and displacement geography that renders these spatial distinctions potentially problematic but also potentially productive (Figure 6). First, an initial agreed deployment of international peacekeepers along the Line of Contact could allow for the creation of a substantial ZOS. This region could then become the test bed for the beginning of a return process. This presents distinctive challenges, however, in the Karabakh case. Should the initial ZOS be symmetrical like it was in Bosnia, a few kilometers in either direction, and then expanding outwards from there? Such a symmetrical ZOS would soon place the question of return to former Armenian villages in Shaumyan (now Goranboy) district and to the easternmost finger regions of Martakert, like Leninavan (Maraga), and Martuni on the agenda. This outcome is almost certain to be divisive in that the smaller array of Armenian return sites are being addressed well before the much larger array of Azerbaijani sites. In addition, Shaumyan's unique status as a *rayon* outside the NKAO that was proclaimed part of the *de facto* Nagorno-Karabakh Republic (NKR hereafter) presents lots of opportunities for spoilers. One way around this, if the ZOS model is to be pursued at all, is to start with a small symmetrical ZOS as a gesture of good faith and confidence building, but then to extend it in a phased way into the bulk of the territories.

Figure 6: Return as a Phased Geopolitical Ground Campaign

Second, the many villages and towns destroyed and abandoned in the seven districts that are not part of the former NKAO territory offer clear possibilities for uncontested space returns. In theory, conditions are more favourable for such return than in Bosnia in that these territories are extraneous to the dispute over the status of NK

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13. To view materials and videos associated with these campaigns see the "Respect" and "Its Enough" materials at http://www.ohr.int/ohr-dept/presso/pic/

in itself. Fundamental distinctions across these spaces, of course, are likely to be asserted by the parties. Consciousness and prevailing belief are crucial here. Debate over the terms of a potential peace settlement involving return needs to grapple with the parameters of both local and international legitimacy. While international officials may concede that the legitimacy of the status of NK is a matter of dispute and debate, there would appear to be widespread acknowledgement of the illegitimacy of the occupation of surrounding lands (Shaumyan presents a distinctive challenge). Lines of access are likely to be seen as legitimate and reasonable security concerns but occupation of large tracts of territory in the name of "security" and "defensible borders" are not. The degree to which this variable geography of legitimacy is shared or not by the local powers on the ground is a key question in determining the likelihood of freelance spoiling actions should uncontested space returns be considered. Plotting a return process organized around uncontested space returns will have to proceed in a careful phased way, most likely beginning with upgrading transportation routes and infrastructure, then with some village returns and then with returns to the urban centers like Agdam, Fizuli and Jebrayil. Controlling return movements in a phased manner will be challenging once the possibility of return is on the table, and expectations are raised.

Third, the most difficult cases are always contested space returns. Shusha and Lachin are likely to be the most difficult locations for any Karabakh return process. Because of its particular symbolic importance as a historical and cultural site in both Armenian and Azerbaijani nationalist discourse, its status as the only large town in the former NKAO where Azerbaijanis lived as a majority population, and its strategic significance occupying heights above Stepanakert, Shusha presents unique challenges.

Lachin's importance is more strategic as the access corridor between Karabakh and Armenia, and because it is the only site of settler movement into the occupied territories since 1994. Like the Brčko–Doboj corridor in north central Bosnia, Lachin/Berdzor and the road to Karabakh is described as a 'vital artery' and a 'lifeline', the inevitable organic metaphors erasing the place itself and the rights of its former residents. The residents who have subsequently settled in these places also have legitimate rights and needs, but these cannot override those of former residents who may wish to return. A key challenge for any return process will be whether it establishes a mechanism to resolve this clash. Difficult though it is, contested space returns usually require an eviction (to provided proximate alternative accommodation) process as a last resort to handle instances of current residents obdurately occupying the

property of former residents (pejoratively referred to as 'squatters'). The return of Azerbaijanis to Shusha and Lachin is the ultimate challenge for the return process. It will have powerful significance in bringing about reconciliation but, if it happens, it is also likely to be an act of symbolic rather than sustainable return. In what follows I want to outline why I believe this to be the case.

3.6 Contested space returns and liberal ethnocracy

One of the most interesting things about contemporary Bosnia is how nationalists make claims for legitimacy based on the prevailing liberal international order. Milorad Dodik, elected President of Republika Srpska (RS) in 2010, for example, champions the right of the RS to hold a referendum on independence because other proto-states in the region, like Montenegro and Kosovo, have done so.[14] Dodik also proclaims that Republika Srpska is "not ethnically clean" as a point of legitimacy. The sentiment is "we have allowed returnees and we treat these minorities well, they have no problems, we are a respectable liberal state." This rhetoric appears to be a far cry from the hardline ethnocratic sentiments of someone like Radovan Karadžić. Whether it is or not is a matter of debate. Why this is worthy of attention is that we should think about the contours of the new order that gradual return can induce in hardline secessionist regions (see Figure 7).

What is different about the liberal ethnocratic state is that it is interested in performing as a liberal regime for the international community in order to gain tangible benefits: greater recognition, access to international development funds, markets and products. The sentiment is that "we'll be pragmatic, without giving up on who we are, if you'll be pragmatic and accept us." This has created certain dilemmas for the international community for, in many respects, a liberal ethnocracy is a contradiction in terms: its liberalism is for show but ethnocracy for those who know. Yet it is also an opening for the international community to make initial movement towards the goals it wishes to achieve.

The contours of the liberal ethnocracy, then, are open for negotiation to a certain extent. It is still an exclusivist national homeland but there is public recognition that other groups can live there too.

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14. There is a divisive history of flawed referendum processes in both Bosnia and Karabakh. In November 1991 Radovan Karadžić's SDS party organized its own ethnic-based referendum that asked Bosnian Serbs if they wanted to stay in Yugoslavia or not. Most Bosnian Serbs outside Sarajevo subsequently boycotted a March 1992 vote on Bosnian independence. Karabakh authorities held their own referendum on independence on 10 December 1991, amidst warfare, which Karabakh Azerbaijanis boycotted.
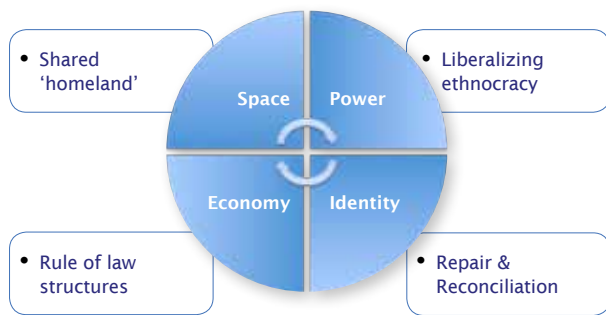
- Shared 'homeland'
- Liberalizing ethnocracy
- Rule of law structures
- Repair & Reconciliation

Space | Power
Economy | Identity

Figure 7: Contours of Liberal Ethnocratic Order

It is still an ethnocratic order but there are some consociational arrangements as concessions to other groups. It is still an ethnocratic economy with origins in wartime criminality but some actors are interested in becoming 'legitimate'. It still conceives and configures its cultural landscape within exclusivist terms but there is a degree of toleration for other groups to begin to reconstruct their churches, mosques and monuments (i.e. their 'cultural landscape'). Places may be allowed to have two names, and signage may reflect the presence of culture other than the dominant one. Yet micropolitical acts of humiliation and vandalism – graffiti, desecration – can also remind minorities who still prevails.

This, to an extent, is Republika Srpska today. Is this a possible portrait of the future NKR? Is there an interest among Karabakh Armenians in getting themselves on the ladder of international legitimacy through an openness to a minimum symbolic return of Azerbaijanis? Is the Azerbaijani state willing to risk moving beyond maximalist rhetoric to meet movement in this direction? Are there grounds for beginning a dialogue on plural cultural landscapes in Karabakh and surrounding regions?

4. Displaced persons and (not) returning home

The degree to which there is desire on the part of displaced person to "return home" is an empirical question that varies from case to case. One structural feature of the Azerbaijani displaced is that their status as displaced persons defines their very place and life chances in Azerbaijan. Looking from the outside, this appears to leave them doubly displaced: not only are they displaced from their places of origin but they are also dissociated from the state and society that hosts them. They are permanently in the waiting room, told they are about to return home, yet never presented with conditions where they might be able to exercise some choices about their status, conditions and preferences. What of those displaced from Azerbaijan to Armenia? Are they treated as displaced persons bearing the right to choices about their condition?

Research by anthropologists among displaced persons in Bosnia-Herzegovina and elsewhere has yielded a few important conclusions we would do well to consider. First, consideration of 'displaced persons' by both nationalists and many international bodies reveals what some term a 'sedentary bias', defined as a tendency to see people in terms of lives in fixed places rather than in terms of a life cycle that involves movement and migration. An uncritical conception of people-in-place seems to prevail over a more complex conception of people-in-motion *and* in-place. Nationalists want to lock down their displaced persons in the imagined homeland they have bloodily created while human rights officials want to return people to their 'original homes' as an affirmation of justice, a restoration of how things were and should be (the *status quo ante bellum*). What is missing in these default assumptions is a sense that people can and do want to circulate in order to realize their aspirations.

Second, the Belgian anthropologist Stef Jansen has suggested that the overriding goal of displaced persons in Bosnia-Herzegovina is to reduce precariousness in their lives.[15] Having fled the 'hot ground' of conflict regions, they are in search of 'cool ground' where they can begin to build lives that are predictable and stable. Displaced persons recall not past locations *per se* but past lives in former locations, the location and life-world creating a remembered sense of home. These issues are not necessarily separated in their minds so one gets 'myths of home' which are really memories of times and spaces past. Whether they grasp the fact that the old order (see Figure 1) that sustained these generally positive memories is long gone is an open empirical question. The relevance of this for return is that displaced persons may have created powerful imaginative 'myths of return' that are built upon sentimental and nostalgic foundations about 'home.' Put differently, displaced persons may operate in a life-world that is radically disconnected from the 'facts on the ground,' and the prevailing localized geopolitical order in their former residences. The sharp contrast between an imagined positive past and a grim negative present may also foster deep depression and a variety of psycho-social disorders.

One should not assume this, however. Displaced persons can and do re-imagine home separate from former residential locations. Home is where they can reduce precariousness and build a foundation for the future generation. Displaced

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15. Jansen, S. 'The privatization of home and hope: return, reforms and the foreign intervention in Bosnia–Herzegovina'. *Dialectical Anthropology,* 30 (2006): 177–199; 'Troubled locations: return, the life course and transformations of home in Bosnia–Herzegovina'. In S. Jansen, & S. Lofving (Eds.), *Struggles for home: Violence, hope and the movement of people* (New York: Berghahn Books, 2009), pp.43-64.

persons may be less interested in return than they are in re-creating homes in new places. A property restitution plan as part of a return process may, ironically, help launch a process of returning in order to finally leave and move ahead. The repossession of lost property allows the accumulation of personal assets that can be sold or rented – creating resources to facilitate the process of building home elsewhere. The signal virtue of this process is that it allows displaced persons some active choice in the process of severing ties with a former residence. The process may be far from perfect but it does allow some possibility of personal reconciliation and transition. A key to a former home does not haunt a place of exile. A displaced person chooses to become a person who resolved to migrate.

All of these brief observations are prologue for what I believe is an important point: we should not assume that displaced persons want to 'return' to their former houses. To do so is a radical leap of faith on their part, and many do not want to make this leap. A person's stage in the life-cycle becomes crucial here, with elderly people generally more disposed to returning to the land they know best than young people whose formative experiences have been in displacement. Many may try return but, like good rational actors, will keep their options in their place of displacement alive too. Some will want to have a 'foot in two locations.'

In trying to promote a productive discourse on return and its alternatives, it should be acknowledged that returnees can never 'return home.' Instead, they can:

• Reclaim property to provide resources for remaking home elsewhere;

• Psychologically transition from 'refugee' or 'displaced person' to a person with choices;

• Assess the prospects for re-making home in a former location or elsewhere;

• Return and then leave again, if return is not sustainable.

A return process can be a positive means of making displaced persons active subjects again, resilient people who make choices rather than passive objects who are moved around like pawns. It is not about getting people back to where they used to live; it is about allowing people to become the agents of their own destiny. It is not about the past. It is about the future. This brings us to the question of return and development.

5. Obstructionism, return and development

The difficult challenge for any return process is that it requires a degree of legitimacy not only among governing elites but among the lowest officials on the ground who are charged with facilitating and managing return. For hardline nationalists embedded in localities after a polarizing and deeply scarring war, the prospect of return can be a huge challenge to their worldview. Foreign enemies want to become former neighbors again. What is to prevent them from becoming foreign enemies once more, fifth columnists or vanguards of a re-taking of hard-won territory?

5.1 Obstructionism, hard and soft

Obstructionism is a fact of life in return contexts. The key challenge for the international community is to wrap return within a new order of legitimacy. Local power brokers need to be given ownership in some way or they can easily become spoilers, and
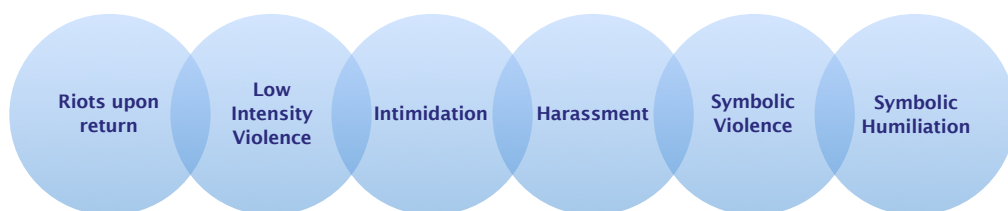

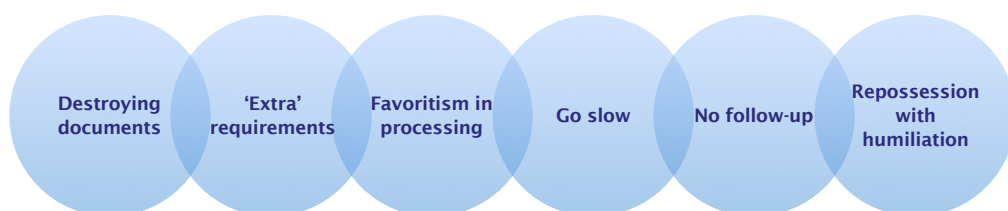*Figure 8: Spectrum of Hard Line Obstructionism*

Figure 9: Spectrum of Soft Line Obstructionism

their actions can generate acts of defiance that can have rippling effects.

In Bosnia, the international community had state level power resources, a localized presence, and real power for a period to coerce and remove obstructionist officials. In a number of cases they had to use it for locally embedded hardliners who actively sought to undermine returns. Obstructionism took two broad forms, hard line obstructionism involving some type of physical violence, and soft line obstructionism that tended to be more bureaucratic in nature. Both forms of obstructionism are about 'the line' nationalists need, the border between 'us' and 'them'. Hard line forms seek to very publicly and visibly assert a line between insiders and outsiders whereas soft line forms do so in ways that are stealthy and not publicly visible. The *PLIP* process and the necessity to produce documents for returnees created the opportunities for bureaucratic obstructionism. Figures 8 and 9 are graphic representations of the spectrum of tactics characterizing obstructionism.

Obstructionism was overcome in Bosnia by the removal of political figures considered behind the acts of violence in hard line obstructionism. Bureaucratic obstructionism was combated by a series of measures: the creation of implementation metrics for *PLIP*, capacity building grants to allow local authorities to computerize their records and train their staff, the appointment of 'minority' officials to the municipal authority staff (part of consociational arrangements), the removal of egregiously obstructionist officials (like the person who used to tear up the property repossession forms of aspirant returnees in front of their face). All of these mechanisms require two requirements that I suspect will not be operational in the Karabakh case: (i) localized capacity for international officials to monitor agreed upon compliance rules and (ii) investing them with genuine power, backed up by force if necessary, to remove obstructionists. Given this, I suspect that any contested space returns process in Karabakh itself is unlikely to be anything more than symbolic. Even in Bosnia, where the international community had genuine capacity and power, returns often became little more than symbolic in many (though not all) places.

5.2 Forced displacement and development

The World Bank, particularly its Social Development division, has begun to consider how forced displacement creates barriers to, but also opportunities for, development. The Bank agreed in October 2010 a new *Country Partnership Strategy* with Azerbaijan that covers lending from 2011 to 2014. One key focus is improving the effectiveness of social and community services, which includes social protection for displaced people.

Figure 10. Displacement and Development: Four Challenges

development challenges that emerge from displacement (Figure 10).[16] Each of these categories has a series of issue areas that I can do no more than briefly enumerate. Together they provide one with a vision of what a comprehensive approach to displacement and return would look like.

1. Land, housing and property

The concern here is with the living conditions faced by displaced persons, especially collective centers and the insecurity of housing tenure that afflicts displaced persons. Property restitution is another important concern as is the capacity and effectiveness of current state programs targeted at displaced persons.

2. Reestablishment of livelihoods

Displaced persons, it is recognized, suffer from social isolation and restrictions on their integration into the place of their displacement. Whether in displacement or in conditions of return, displaced persons need to be empowered to establish independent livelihoods for themselves.

3. The delivery of services

The delivery of state services, like health care and education, to displaced persons is often discriminatory and segregating in its effects. This pattern needs to be broken and the quality of service delivery upgraded. The particularistic needs of displaced persons, especially in the area of psycho-social services, should be recognized

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16. Christensen, Asger and Niels Harild. *Forced Displacement: The Development Challenge. Conflict, Crime and Violence Issue Note*, (Washington, DC: World Bank, 2009).

Key Barriers to Durable Solutions	Requires Confronting	Sticky Issues	Mechanisms
Land Housing Property	· Ethnocratic legal order · Accumulation through dispossession · Wartime 'startup' entrepreneurs	· Socially owned property · Land allocations · Wartime 'developers' · War monuments & cultural landscape	· Transparent cadastre · Restitution laws · Property law recovery plan · Property market
Service delivery	· Captured education, police, judiciary · Favored privatizations · Degraded infrastructure: water, sanitation, garbage	· Trust in the police · Educational segregation · Inclusion/exclusion in service delivery · Trust 'their' health care	· Community policing · Ombudsman · Infrastructural investments · Integrated health care with psycho-social support
Livelihood Issues	· Neopatrimonialism · Criminal enterprise · Captured assets · Blockages	· Discriminatory hiring practices · Municipal jobs · Landmines	· Nondiscriminatory hiring practices · Consociational job allocation · Micro-credit support
Accountable and responsive governance	· Ethnocracy · Exclusion · Extremism	· War crimes · Documents · Trust in the police	· Rule of law · Capacity building · Reconciliation

Figure 11: The Comprehensive Dimensions of Return and Development

and part of any comprehensive vision of service provision requirements.

4. Accountable and responsive governance

Displaced persons, as we have already noted, are often treated as passive victims and objects rather than potentially resilient subjects that should be consulted about all aspects of the decisions that concern them. Providing displaced persons with documents and status that do not discriminate and compromise their rights as citizens is the part of a much broader challenge of establishing governance structures that serve populations rather than elite interests or bureaucratic constituencies.

The World Bank's development challenges apply to both the context of displacement and the contexts of return. Figure 11 is my further elaboration of these categories in a return context, with greater recognition of the difficulties that come from negotiating geopolitical orders established through violence and war than is apparent in World Bank publications. As should be apparent from this table, the challenge of establishing trust in government institutions is central. Since this is already in short supply in both Armenia and Azerbaijan, one cannot hold out great expectations

from a return process at this point. The situation in the Caucasus is distinctive from the Balkans in another important way that inhibits the development of trust. The International Criminal Tribunal for the former Yugoslavia (ICTY) has been an imperfect vehicle for justice in Bosnia-Herzegovina but it nevertheless has served a vital role in offering the possibility of accountability for war crimes. Domestic war crimes chambers in Bosnia are also imperfect but they too challenge the notion of impunity for criminal conduct. No equivalent mechanism of accountability and justice exists in the Caucasus. The cost of this absence has already been great and remains a burden on the possibility of reconciliation.

6. Conclusion: return and its alternatives

There are three identifiable approaches to the question of 'return and its alternatives.' The first approaches the issue according to the logic of the conflict itself as seen from each side. No doubt some hardline Azerbaijanis view return as a way to win back territories and reclaim lost sovereignty whereas some hardline Armenians view it as a discourse to be exploited for tactical spoiling activity. Alternatives are worth exploring only as a

way to ultimately block return and perpetuate the status quo. Such perspectives are continuations of the conflict and reflect zero-sum conceptions.

A second approach views return and its alternatives as aspects of restorative justice, as part of a necessary exercise in extending international human rights to victims of forced displacement, property dispossession and other serious abuses. This perspective begins from the common humanity of the conflict's victims and views the conflict not in terms of ethnic categories but legal violations of internationally recognized human rights. Within this perspective we can identify a spectrum of possibilities involving return, restitution and compensation (Figure 12). Choices between these should be available. An official apology and acknowledgement of past abuses is a starting point. Financial compensation is another modality as is restitution linked to a limited return process agreed by the parties. Restitution and reconstruction-driven return to uncontested space is another point on the spectrum, with return to contested space representing perhaps the fullest expression of restorative justice. The difficulty in thinking in terms of a spectrum, however, is that it encourages 'half-way' thinking that could limit what should be the unrestricted human right to return to pre-conflict property and choose whether to stay, sell and/or move on.

A third approach is to re-code the whole question of return and its alternatives as aspects of transformative economic development for the region. Return is not simply about restorative justice and conflict resolution but a necessary foundation for the re-establishment of economic linkages, cross border markets and historic trade routes in the region.[17] It is about economic choices. Return is about dealing with the past in order to establish the basis for a more open cosmopolitan future where people, commodities and resources can circulate without concern. Return is an economic development strategy, one that begins to empower individuals in the region to make their own choices about property and where they want to make home.

The challenge is to align these different discourses so that those who fear can perceive gains, displaced persons can begin to obtain justice, and conditions for conflict transformation can be established. Right now the prospects for return may look bleak but there is no other alternative to grasping the nettle of return if the conflict parties are to move beyond the debilitating stalemate of the last 17 years. It is time for serious thinking about return and its alternatives.

17. See Thomas De Waal, "Three Mirages and Two Markets: Understanding the South Caucasus." Carnegie Commentary, 14 September 2010. Available at http://www.carnegieendowment.org/publications/?fa=view&id=41552

Restitution with return (symbolic?) to contested space

Restitution with return option to uncontested space

Restitution with limited return option

Financial Compensation for Losses
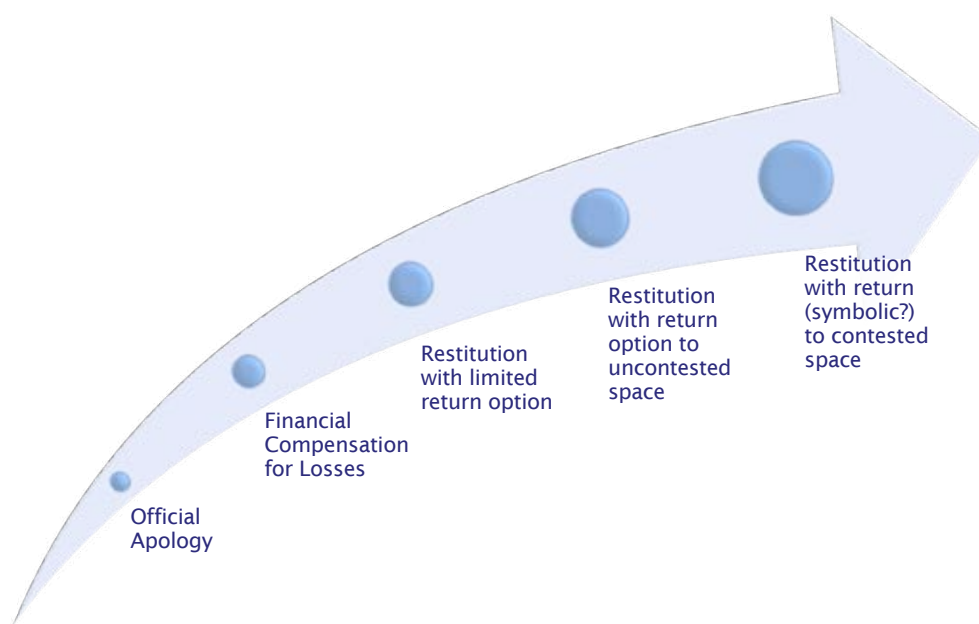
Official Apology

Figure 12: Return and its Alternatives as a Spectrum of Restorative Justice.

Armenian villagers from Mardakert, displaced to Stepanakert during the war. Forced displacement affects all generations but in different ways. For young generations, whole lives have been defined by displacement that came suddenly and violently within a few days. Source: Stepanakert Press Club

2. Return and its alternatives: perspectives from Armenia

Artak Ayunts[1]

1. Introduction

Forced displacement has always been a significant issue for Armenians throughout history with recent tragic episodes in the beginning and the end of twentieth century. Early in the last century, hundreds of thousands of Armenians were forced to flee their homeland in the Ottoman Empire and become refugees while around one and half million were massacred. At the end of the century hundreds of thousands of Armenians again had to flee their homes, but this time from Soviet Azerbaijan. Like their predecessors, some of whom moved to Soviet Armenia after the end of the Second World War, displaced people from Azerbaijan took refuge in Soviet Armenia, which soon became the independent Republic of Armenia. This mass deportation was a result of tensions around Nagorno-Karabakh (NK) and the subsequent war with Azerbaijanis, which left around 30,000 dead, tens of thousands wounded and hundreds of thousands of refugees/internally displaced persons (IDPs) on both sides.

2. Categorization of Armenian refugees and main stages of deportation

There were several stages of refugee flows from Azerbaijan to Armenia. The first group of refugees of around 20,000 people was forced to leave after the pogroms in the Baku suburb of Sumgait in February 1988, when over 20 local Armenian residents were murdered and hundreds injured. The second and biggest wave of refugees began in the second half of 1988 and lasted until the end of 1989, consisting of around 215,000 refugees. The third wave, of around 45,000 people, started after the violence in central Baku in 1990.[2]

In 1991, by the last stage of Operation Ring[3] the remaining population in those territories populated by Armenians adjacent to the Nagorno-Karabakh Autonomous Oblast (NKAO), Shaumyan region (around 12,000 people) and Getashen sub-region

including villages of Getashen and Martunashen (around 5,100) were forced to leave.[4]

There were also around 70,000 IDPs in Armenia who were evacuated during the war in 1992-94 from the villages adjacent to the border with Azerbaijan.[5] Border villages in the northeast of Armenia were subjected to intermittent rocket and artillery shelling by Azerbaijani forces during the war and even shortly after the ceasefire. However, most of the IDP population returned to their homes in the years after the ceasefire, and the main body of IDPs are those from Armenian territories currently occupied by Azerbaijan, such as Artsvashen village (3,000 people).

Thus 3 major groups of Armenian displaced people can be discerned:

- refugees from Azerbaijan proper (making up the majority of the displaced population in Armenia, around 280,000 people);
- refugees from north of the former NKAO where Armenians were the overwhelming majority (Shaumyan region, Getashen sub-region[6]) and NKAO proper (the eastern part of Martuni region and northern part of Martakert region) currently under Azerbaijani control (around 20,000 people);
- IDPs (around 70,000 people).[7]

Overall, there were around 360,000 Armenian refugees and IDPs at the end of the war in 1994.[8]

It is estimated that around 28,000 Armenian refugees from Azerbaijan exchanged their houses and apartments, while 4,000 families were housed in properties left by Azeris forced to leave

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1. The views expressed in this article belong to the author and do not represent the views or policies of any other party or institution.
2. G. Poghosyan and G. Avagyan, *Social Adaptation of Refugees* (Yerevan: Noyan Tapan, 1996) (in Armenian), pp. 5-7.
3. A military operation aimed at forcing Armenians leave their homes from the northern parts of Nagorno-Karabakh, see details at http://en.wikipedia.org/wiki/Operation_Ring

4. Poghosyan and Avagyan, 1996, *Social Adaptation,* p.12.
5. See T. Greene, 'Internal Displacement in the North Caucasus, Azerbaijan, Armenia, and Georgia' in *The Forgotten People: Case Studies of the Internally Displaced*, edited by R. Cohen and F. Deng (Washington: Brookings Institution, 1998), p.271.
6. These regions were not part of the NKAO but refugees from there are not considered in Armenia as a separate category because Shaumyan and Getashen districts are perceived as ethno-territorial units of the Nagorno-Karabakh Republic (NKR), which featured a higher proportion of Armenians before the conflict than in the NKAO and which were unjustly divided from the NKAO and administered by Soviet Azerbaijan.
7. See details: http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48d126 There are currently no IDPs in Armenia according to UNHCR; however, in reality there are still at least several thousand IDPs in the country displaced from bordering regions with Azerbaijan. Author's interviews, Yerevan, 22 October 2010.
8. G. Groenewold and J. Schoorl, *Millennium Development Indicators and Coping Behaviour: The living conditions of refugees in Armenia: Country report* (Netherlands: Country Data Sheets, 23 November 2006), p. 4.

Armenia.[9] This outcome was mainly due to the fact that the Armenian community displaced from Azerbaijan was about two and a half times larger than the Azeri community displaced from Armenia.

It was, therefore, already impossible for numerical, not to mention logistical, reasons to organize a straight property swap between displaced communities. Nevertheless, one of the interesting characteristics of the population exchange in this period was both planned and spontaneous village population exchanges, facilitating the settlement of compact village communities in new surroundings. One example was the peaceful population exchange in 1989 between the inhabitants of an Azeri village in what was still Soviet Armenia, Kyzyl-Shafag, located in the Kalinin district (now Lori *marz*), and those of an Armenian village in Azerbaijan, Kerkendj in the Shamakhi district.[10] There were other similar examples of such exchanges mainly in the northeast and south of Armenia.

3. Social adaptation and integration issues of displaced people

With the support of different UN agencies (UNHCR, IOM, WFP) and other development agencies, such as USAID and together with specialized structures, such as the Norwegian Refugee Council, Danish Refugee Council, Catholic Relief Service, WomenAid and others, the Armenian Committee on Refugee Affairs[11] had to tackle perhaps the most pressing humanitarian problem in independent Armenia. Refugees and internally displaced persons were placed in hotels, hostels, abandoned apartment buildings, factories, schools, sanatoriums, hospitals and other buildings. They were distributed over the whole country and housed wherever there were buildings available.

The Armenian state had to deal with the consequences of displacement in the aftermath of the devastating Spitak earthquake, killing some 25,000 people, and under conditions of the blockade imposed by Turkey. The main problems confronting refugees related to socio-economic, language, cultural and legal status issues. The state's overall strategy was to pursue their integration into Armenian society through naturalization. However, this process did not run smoothly and "...issuing citizenship could not

solve various issues refugees continued to have, such as housing, education, jobs, equality and socialization."[12]

Refugees from Azerbaijan were overwhelmingly urban in profile, 81% originating from large cities (Baku, Kirovabad [Ganja], Sumgait), 16% from medium or small towns (Shamkhor, Khanlar, Mingechaour, etc.), and only 3% from rural areas. Among those from Baku were many professionals holding technical or management positions in the oil industry or working in the educational system. Although precise figures are lacking, a large share of these Bakuvian (*Bakintsi* in Russian, specifically denoting urban Russian-speakers) refugees ended up living in rural Armenia, for example the southern province of Syunik, in vastly different conditions to their previous lives in urban Azerbaijan.[13]

Three patterns of refugee settlement can be discerned in Armenia:

a) displaced persons who remained at their point of entry;

b) those who moved to other areas within Armenia but were not able to adapt to their new social milieu;

c) those who left for third countries in the near abroad (predominantly Russia) and the West (mainly the United States).

In the initial stage of displacement refugees tried to adapt themselves to their new environment and satisfy basic needs, without further evaluation of their own preferences. At later stages refugees had to decide whether to continue living in their new environment, or change it by either finding another, more appropriate social milieu or leaving the country. In Armenia this stage lasted until the late 1990s, when the refugee flow out of the country stopped.

According to some estimates based on expert interviews in Armenia around one-third of refugees displaced to Armenia left for other countries after initial resettlement. If in the case of the resettlement processes within Armenia the main motivations were geographical and psychological, in the case of resettlement to third countries the main factors were socio-cultural and economic, with low knowledge of the Armenian language playing a crucial role.

Starting from early 1992 the second stage of adaptation started. While some decided to remain in their initial places of settlement and were able to

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9. G. Poghosyan, *Conditions of refugees in Armenia* (Yerevan: Noyan Tapan, 1996), p.15.
10. S. Huseynova and S. Rumyantsev, "New Life in Old Boots: Making One's Home in a New Village After Collective Resettlement. Summary", *Laboratorium* 1 (2010):333-334.
11. The Committee operated until 1995. The government then moved it under the Ministry of Social Security, Employment, Migration and Refugees, responsible for the social-economic and legal issues of refugees and migrants. Starting from 1999 the government established a separate Department for Migration and Refugees. Currently, the Refugee Department within the Migration Agency of the Ministry of Territorial Administration is dealing with refugee issues.

12. G. Avagyan, *Social Adaptation of Refugees in Armenia* (Yerevan: Gitutyun, 1996), p. 5-6.
13. DGIS, *Country Report Armenia,* (The Hague: Ministry of Foreign Affairs Netherlands, 2001); Government of Armenia, *Poverty of Vulnerable Groups in Armenia* (Yerevan: Department of Migration and Refugees, 1999), Chapter 1.

find accommodation (mainly empty or abandoned buildings), others moved in search of a better environment. These were refugees from industrial cities or towns back in Azerbaijan and were settled in rural areas in Armenia after deportation. Eventually larger groups of refugees resettled in urban areas in Yerevan, Abovyan and Ararat valley.[14]

Avagyan discerns several other institutional obstacles to the integration of refugees, such as the absence of a law on refugees for more than seven years after the final refugee flows (due mainly to the absence of a law on citizenship), lack of sufficient expertise and experience among the relevant institutions and practitioners in dealing with the social adaptation of refugees, high unemployment rates stemming from the harsh economic situation and lack of basic necessities such as drinking water, electricity and heating until after the winter of 1995.[15]

There were, however, also certain factors facilitating the integration of refugees, such as a common ethno-cultural background and shared history, perceptions of sovereign Armenia as a national homeland, the existence of shelter, particularly for those refugees who were able to sell their property in Azerbaijan or exchange their property for one in Armenia.[16]

In the final stage of social adaptation resettlement among refugees came to an end. The final cornerstone for this was the adoption of the *Law on Citizenship* in 1995 and the *Law on Refugees* in 1999, which facilitated the integration process by finally defining the hitherto unclear legal status of refugees.

The process of (voluntary) naturalization started in late 1995, with some 65,000 refugees from Azerbaijan having naturalized by 2004. However, the naturalization process is not yet complete. There were several hitches in this process: "… UNHCR supported the process with financial and material assistance to regional government offices to help with administration and paperwork. At first, relatively low numbers of refugees came forward, mainly due to a lack of awareness of the right to naturalize and of the necessary procedures. In 1999, UNHCR began an information campaign in conjunction with the government to better inform refugees of this option. In part thanks to this campaign, the numbers rapidly went upward. Another incentive for naturalization came after July 2000, as former Soviet passports could no longer be used for travel outside of Armenia."[17]

A number of reasons account for refugees' reluctance to become naturalized, such as fear of losing out on humanitarian assistance or being eligible for army conscription, after naturalization, or the belief that the right to claim compensation for property in Azerbaijan would be lost.

While some of these concerns related to humanitarian assistance or the army draft[18] were correct, others were groundless and were even refuted by additional laws such as the *Law of the Republic of Armenia on legal and socio-economic guarantees for persons forcibly displaced from the Republic of Azerbaijan in 1988-92 and who have acquired the citizenship of the Republic of Armenia* adopted on Dec 6, 2000. For instance, Article 5 states that: "Forcibly displaced persons who have acquired citizenship of the Republic of Armenia and have been residing in temporary dwellings (hotels, dormitories, rest houses, sanatoriums, etc) shall be exempted from the established payment for housing, except for electricity and public utilities." Article 6 states that: "Should the issue of compensation for the property left by forcibly displaced persons in the Republic of Azerbaijan be solved, forcibly displaced persons who have acquired the citizenship of the Republic of Armenia shall also be compensated the cost for the property left."[19]

According to Ghazaryan, "…although refugees often feel humiliated or offended, they still accept the value of their refugee status. The 'blue' passport, the passport of Armenian citizens is, on the other hand, nothing but the right to vote – a privilege about which they do not care. The reason why these people still see their refugee status as invaluable is the hope for the receipt of aid, the protection of their interests and a certain confidence that they will not be thrown out from the dormitory. In other words, this piece of paper [the certificate of refugee status issued by the Government of Armenia] provides them with substantial benefits."[20] The

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14. Poghosyan, and Avagyan, 1996, *Social Adaptation of Refugees,* p. 11.
15. Avagyan, 1996, *Social Adaptation of Refugees in Armenia,* pp. 38-42.
16. Ibid, pp. 42-44.
17. Groenewold, and Schoorl, *Millennium Development Indicators and Coping Behaviour,* 2006, p. 5.

18. Until February 2009, when Armenia adopted new refugee legislation, children could receive refugee status providing one of their parents was a refugee and applied for it before the child turned 14. That meant the children did not have to serve in the army. Although the new law removed that right, the country still has a group of young men registered previously who are entitled to the exemption from military service but who say they are having trouble exercising the right. Many refugees, often those in rural areas, did not even know they had the right to be exempted and were called up like any normal young Armenian man. The only advantage they do get, therefore, is their sons' right to avoid military service, since humanitarian aid was stopped years ago. See more: http://iwpr.net/report-news/armenia-refugee-draft-exemption-controversy
19. *Law of the Republic of Armenia on the legal and socio-economic guarantees for persons forcibly displaced from the Republic of Azerbaijan in 1988-92 and who have acquired the citizenship of the Republic of Armenia, Yerevan, 6 December 2000.*
20. Y. Ghazaryan, 'Obstacles to the Integration and Naturalization of Refugees: A Case Study of Ethnic Armenian Refugees in Armenia', AUA, www.nispa.sk/news/ghazaryan.rtf

The desire to return is often strongest among older generations, who leave whole lives behind with their former homes. Displaced Armenians from Mardakert. Source: Stepanakert Press Club

most valuable aspect of refugee status for many was its usefulness in acquiring travel documents to be able to travel abroad.

Refugees still face many other socio-economic and cultural problems in becoming fully integrated, despite the naturalization process and other necessary measures (provision of temporary shelters, humanitarian assistance, social security policy, etc.) undertaken by the Government of Armenia and international agencies.

According to the Director of the Sakharov Armenian Human Rights Centre, Levon Nersisyan, who has been working with refugees for many years: "...the problems that impede successful integration of Armenian refugees from Azerbaijan can be easily divided into two groups: socio-economic and cultural … the socio-economic problems mainly revolve around the provision of permanent housing for refugees, employment, and access to social welfare and health care."[21]

According to different estimates there are still 980 to 1,100 refugees and naturalized refugee families in Yerevan and 686 to 1,000 families in the regions of Armenia (amounting to a little under 5,000 people) who still live in temporary shelters and are in need of permanent shelter. Another 5,000 families live with relatives or extended family, or rent houses.[22]

Several thousand Armenian IDPs also still face problems with shelter. They have received relatively little attention because of their relatively small proportion among the displaced population. IDPs are mainly located in rural areas in northeast Armenia at some distance from major cities and towns. Recently residents of Drakhtik, a village in the northeast, who were forced to leave the village of Artshvashen (currently occupied by Azerbaijan), held a demonstration in Yerevan for the implementation of the previously adopted state program on improving living conditions of IDPs. Demonstrators claimed IDPs had

21. E. Sahakyan, 'Feature: Ethnic Armenian refugees face challenge of integration News Stories', 7 May 2003, http://www.unhcr.org/3eb93e184.html

22. Interviews in Yerevan October 14, 2010; UNHCR Geographic Information and Mapping Unit Population and Geographic Data Section, September 2004.

been neglected by the government and international organizations compared to refugees and other vulnerable groups.[23]

There are also certain cultural issues. Refugees from Azerbaijan were mostly Russian-speaking, without good command of Armenian, which limited their employment opportunities in the Armenian market. Another factor that is still slowing the integration process is that the majority of refugees are older persons reliant on low social security payments, and who have long depended on the assistance of UNHCR and other international organizations to survive.[24]

"Some [refugees] even confess that they do not have a homeland now. They explain that, after being displaced, they did not care about their lost property, fostered by the hope that Armenia would welcome them 'with open arms'. However, after eleven years living as something between refugees and citizens, they regretted their initial 'patriotic' feelings and 'high' expectations. They are deeply offended, especially by the fact that the locals, 'with [their local] nationalistic ideology' treated them as 'Turkified'[25] Armenians."[26]

But there are also other sentiments among the refugees: "You cannot become a full member of society or integrate properly if you do nothing and wait for somebody else to do the job for you", says Anna Ghukasyan, a former refugee and now leader of Agrarians, a NGO that assists refugees in rural areas. She adds: "[refugees] should understand that the Soviet era has passed and there is no way back. That in order to integrate you should make an effort, you should have a willingness to do so." Or, "...we should not allow the status of 'refugee' to become our lifestyle and be passed on as a heritage to our future generations", says 37-year-old Artur Gevorkov, "I do not want my children to be called 'refugees' and feel different from or inferior to their peers. Yes, we were once refugees, but now we are citizens and Armenia is our new homeland."[27]

While many refugees are still living in poor economic and social conditions, particularly in urban areas, many of them, particularly the second generation refugee families, have nevertheless managed to start new lives in their homeland by learning Armenian in schools, marrying with locals and adopting to the new environment. Many local non-government organizations, such as the

"Refugee Foundation", "Sakharov Fund", "Refugees and International Law", "Mission Armenia" and the "Union of Refugees" also support refugees in different ways.

4. Return and other possible scenarios

While for many politicians and commentators conflicts and peace processes are matters of political discourse, for displaced persons the consequences of violence go far beyond political narratives to basic human needs. For them it is an existential matter. Yet if the right to return is inviolable, it is subject to serious limitations even when there is a formal peace agreement and consent by the 'other side' to accept return. This is to say nothing of conflicts where agreements are elusive and alternatives to return seem a more feasible resolution of the problem of displacement.[28]

There are three ways to approach the displacement issue, two of which – integration and resettlement – have already been discussed in the Armenian context. The third way – voluntary return to places of former residence – is the most controversial and challenging issue among many others in the Karabakh conflict, which implying the return of Azeris to NK and the surrounding territories, and the return of Armenians and Azeris to Azerbaijan and Armenia respectively.

The return of Azeris to NK is still the most impractical alternative for a number of reasons. First of all, despite the cease-fire signed in 1994 between Armenians and Azerbaijanis (though regular violations of the agreement have significantly increased in recent years), the peace talks mediated by the Minsk Group of the OSCE have not led to any peace agreement, which could lay foundations potentially able to address the issue of displacement. Second, return in an atmosphere of utter lack of trust and confidence is simply unviable.

In Armenia, the return of Armenians to Azerbaijan has rarely been considered as a way to address the refugee issue even in the long term. Return of Armenians is widely perceived as impossible until a comprehensive peace agreement over NK is reached. The same attitude applies to the possible return of Azeri refugees to NK, which is invariably tied to the determination of future status of NK as a precondition for possible return scenarios. Armenians see status as the only guarantor of the security of the Armenian population in Karabakh, since security threats along with identity issues are perceived as the main causes of the conflict

23. http://www.a1plus.am/am/social/2010/10/26/artsvashen-akciya
24. Sahakyan, 'Feature: Ethnic Armenian refugees face challenge of integration', 2003.
25. Colloquial Armenian does not distinguish between "Turk" and "Azeri".
26. See Ghazaryan, 'Obstacles to the Integration and Naturalization of Refugees'.
27. Sahakyan, 'Feature: Ethnic Armenian refugees face challenge of integration', 2003.

28. See Gerard Toal's contribution in this publication; S. Jansen, 'Refuchess: Locating Bosniac Repatriates after the War in Bosnia–Herzegovina,' in *Population, Space, Place (2010); published online in Wiley InterScience,* (www.interscience.wiley.com) DOI: 10.1002/psp.607.

in NK demanding resolution before the return of Azeri IDPs. The question of the return of Azeris to Armenia has never even been a matter of discussion in Armenia.

Security is still the primary issue for Armenians in the peace process. At the beginning of the conflict territory was regarded as the main satisfier of the security needs of the Armenian population in NK, which led to the creation of what was referred to as a security 'buffer zone' in the form of control of seven territories around NK. This perception remained unchanged until recently, when heightened militant rhetoric began to be more often voiced in Azerbaijan. This has served to radicalize the Armenian positions through increasing reference to the territories around NK as *liberated*. As Greene puts it: "...Ambivalence toward a political settlement in Armenia and Nagorno-Karabakh has grown with the realization that peace will mean giving up a large swathe of Azerbaijani territory. Armenia is faced with dilemma of land for peace with its appetite for holding on to conquests increasing with each passing year."[29] In turn, "liberated territories" are increasingly considered less as a security zone and more as a constituent part of the Nagorno-Karabakh Republic (NKR). This is particularly true for a large segment of the population and among several nationalistic political parties in Armenia. The more hard-line approach, denying the possibility of returning all territories adjacent to NK to Azerbaijan or of Azeris ever returning to these territories is drawing wider support among Armenians, owing mainly to the numbers of incidents on the line of contact and threats of the resort to war by Azerbaijan to change the status quo.

Security can also ultimately only be guaranteed through status. As an International Crisis Group report observed in 2009: "The most contentious issue, however, is the region's final status. There has been some movement towards defining an "interim status" for NK, but Azerbaijan still insists that it must always remain legally part of its territory, while Armenia (and the *de facto* NK authorities) insist that residents of the region have the right to determine their own status, be it as part of Armenia or as an independent state."[30] In general, the last statement is acceptable among moderate political elites in Armenia. The future status and security of NK is perceived as being deliverable as a package together with control over two regions between Armenia and NK – Lachin and Kelbajar. In Armenia there is no common understanding regarding the return of territories around NK; however, there is a consensus that

there are regions that cannot be returned (Lachin) or will be very difficult to return (Kelbajar) in any conflict resolution scenario, meaning that the remaining five regions – Aghdam, Fizuli, Jebrail, Qubatly and Zangelan – are less contested territories in terms of their return to Azerbaijani jurisdiction.

The best security guarantee for Armenians is international recognition of the NKR as an independent state. "If independence [recognition] is not an immediate prospect, other guarantees could include allowing Stepanakert to maintain an army; full demilitarization of the surrounding territory; international security assurances; and codification of Armenia's role as a security guarantor."[31] This is a widely acceptable approach among many moderates in Armenian political elite.

The prospect of Azeris' returning to NK is seen by Armenians as largely undesirable and unjust, and as an issue that needs to be considered after clarifications are made in the future status of NK. In Armenian thinking there is a clear distinction between the causes and consequences of conflict, with the understanding that if consequences (such as displacement) are addressed before the causes (such as security and identity), then the same cycle of conflict could be repeated. One of the main impediments for this is daily deteriorating mistrust between the conflict parties that endangers even the fragile truce we have today. According to Toal: "...Since [trust] is already in short supply in both Armenia and Azerbaijan, one cannot hold out great expectations from a return process... The situation in the Caucasus is distinctive from the Balkans in another important way that inhibits the development of trust... No [equivalent mechanisms] of accountability and justice exist today in the Caucasus. The cost of this absence has already been great and remains a burden on the possibility of reconciliation."[32]

For an Armenian perspective, the Madrid Principles[33] – the negotiations package offered by the mediators since 2004 – clearly identify certain issues in relation to the consequences of war, including clauses such as 'return of the territories surrounding NK to Azerbaijani control', or 'the right of all internally displaced persons (IDPs) and refugees to return to their former places of residence', while leaving issues touching on the future status of NK in rather vague language, such as: 'an interim status for Nagorno-Karabakh providing guarantees for security and self-governance'; 'a corridor linking Armenia to NK';

29. Greene, 'Internal Displacement in the North Caucasus, Azerbaijan, Armenia, and Georgia', p.283.
30. International Crisis Group, Europe Briefing N°55, Baku/Yerevan/Tbilisi/Brussels, 7 October 2009, p. 1.

31. International Crisis Group, *Nagorno-Karabakh: A Plan For Peace,* Europe Report N°167 – 11 October 2005, p. 18 (excerpt from an interview with ex-president of NKR Arkadi Ghoukasian).
32. See Toal, in this publication, p. 20.
33. International Crisis Group, *Europe Briefing* N°55., p. 6.

The power of home: a Bakuvian Armenian family, displaced to Shusha in Nagorny Karabakh, have decorated the kitchen of their post-war home with a sketch of its exterior; the house was formerly inhabited by an Azerbaijani family now also living in displacement.

'eventual determination of the final legal status of NK through a legally binding expression of will'. Without detailed implementation mechanisms and procedures it will be difficult for Armenians to feel the need for security is being addressed in either *interim* or *final* status discussions. The 'technology' of settlement is a much bigger issue than the principles themselves.

The Madrid Principles have been strongly criticized from the outset by both Armenians and Azerbaijanis, if apparently for different reasons. Several issues have been fiercely contested in Armenia and NK, especially the width of Lachin corridor and the return of Azeri IDPs and refugees to NK before the determination of final status. Armenians still believe that the concessions made by this agreement are detrimental to the national interests of Armenia and NK. The most contentious point is probably the slight but significant change introduced into the text from "a referendum or population vote to determine the final legal status of Nagorno-Karabakh" to the "final status of Nagorno-Karabakh to be determined in the future by a legally-binding expression of will."[34] A referendum is perceived as a key element in the future discussions over the need for security.

In a recent poll[35] conducted in Armenia and NK about domestic and foreign issues, attitudes towards the potential return of Azeri IDPs are the most negative, after the prospect of returning the territories adjacent to NK, among other components of overall peace deal. Ceasefire violations, on the other hand, were mentioned as the single most influential factor increasing mistrust.

In terms of the framework for imagining return in the NK conflict outlined by Gerard Toal in this publication, minority return by Azeri IDPs to NK or their majority return to Lachin and Kelbajar is not considered feasible in Armenia without clear mechanisms of the status and international guarantees outlined in the possible framework agreement. Even if the agreement envisages a referendum for determining the NKR's status[36] in the current belligerent situation it is hard to imagine conditions under which Armenians would agree to Azeri return. There is not much talk about this in Armenian discourse on the peace process.[37] According to Toal "...any contested space returns

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34. A. Ayunts, 'Madrid Principles: Basis for Conflict Settlement or War?', *Caucasus Edition,* 1 August 2010, http://caucasusedition.net/analysis/madrid-principles-basis-for-conflict-settlement-or-war/

35. See 'Comparative Opinion Polls in Armenia and Nagorno-Karabakh on Socio-Political Issues and Foreign Relations - Armenia results,' p. 40, http://www.eufoa.org/en/publications/research

36. More important for Armenians is the technology of referendum: who should participate, what territories it should cover, what should be the text, and when it should be scheduled.

37. President Sargsyan in his recent interview mentioned a referendum, although he did not explore any details of its implementation. See: http://www.echo.msk.ru/programs/beseda/744902-echo/

process in Nagorno-Karabakh is unlikely to be anything more than symbolic. Even in Bosnia, where the international community had genuine capacity and power, returns often became little more than symbolic in many places."[38] Whereas one of the major prerequisites for possible return to the remaining five regions adjacent to NK, in Armenian discourse, is the recognition of the NKR authorities as an equal party to negotiations with legitimacy to discuss matters related to border and return issues.

The return of Azeris is further complicated also by the fact that many Armenian refugees from Azerbaijan resettled in regions such as Lachin or Shushi, compactly populated by Azeris before the conflict. The needs and rights of these people, in and around the territories of the NKR, should also be considered in line with the 1951 Refugee Convention, according to which refugees and displaced persons are also given the right not to return but to resettle in a place of their choice.[39]

In Azerbaijan the living conditions and integration of IDPs are still dire in many cases. Despite political manipulations of the displacement issue, alternatives to return are also discussed in Azerbaijan: "… the government policies and regulations in place equate integration and improvement of IDP living conditions with giving up on their ancestral homes. Many believe that the only way to improve their lives is to return home. They live with the false hope that once they return, everything will magically go back to normal. However… improving the lives of IDPs is very likely to encourage and aid their return home, if and when the opportunity presents itself. IDPs will go back to ruined communities that they will have to help rebuild."[40]

Armenian refugees themselves generally do not express interest in return to Azerbaijan. They would not go back to Azerbaijan even if the general framework peace agreement envisaged such a possibility. The trauma of past extremely negative experience and memories of tragic events of Sumgayit, Baku, Kirovabad (Ganja) and other places is still strongly stamped in their memories amounting in huge mistrust spanning years, overcoming which will be very difficult in the near future. However, some refugees are optimistic about their return to Shaumyan and Getashen, considering these regions as ethno-territorial units of the NKR and also to those parts of Martakert and Martuni currently under Azerbaijani control. They emphasize though that this will be possible only if these territories are considered as falling within the jurisdiction of the NKR.

Only one group, the Assembly of Azerbaijani-Armenians, currently calls for the return of Armenian refugees to Azerbaijan; nevertheless this position is mainly voiced for political reasons to counter corresponding voices on the Azerbaijani side.[41] Symmetry is often invoked as a necessary condition for return, i.e. no return of Armenians, no return of Azeris. They are similarly against a return of NK to Azerbaijan's control because they do not believe that its government is willing or able to defend their rights as Azerbaijani citizens. An IDP asked the International Crisis Group: "how can I trust the Azeri police again? Last time they just stood by and watched as my home was torched. I need to be able to sleep in security with my own police."[42]

The prospect of return is further threatened given that new generations of Armenians and Azeris are being raised without direct knowledge or experience of the people with whom they are supposed to co-exist in the event of return. This mutual alienation is becoming ever more entrenched, despite the fact that not long ago Armenians and Azeris not only lived together but also interacted across a broad range of social, cultural and professional fields. The re-establishment of trust and strategies for conciliation should come before any peace agreement envisaging return.

It seems that the first step towards changing this context is to introduce changes into the ethno-nationalistic discourse through the reconsideration of history. De Waal, for instance suggests that the challenge in the NK conflict is not about reconciling ordinary people but about reconciling political narratives: "…It comes down to both security and symbolism… There is nothing ethnically incompatible about Armenians and Azeris. They had decent rates of intermarriage in Soviet times, and today trade and interact freely on the territory of Georgia and Russia. It shows that they have nothing to do with 'ethnic incompatibility' or 'ancient hatreds', but rather arise - and can fade - according to changes of interest or calculation; and it usefully refocuses our attention on the Soviet period and the two decades immediately preceding it.'[43]

Until then, refugees in Armenia talk instead about restitution without any consideration of the context or legal mechanisms needed for it. Some did exchange properties at the time of their displacement with Azeris being displaced from Armenia, but this covered only a small segment of

38. See Toal, in this publication, p. 19.
39. See details: http://www.unhcr.org/pages/49da0e466.html
40. A. Alizada, 'Life in Limbo: The Plight of the Displaced in Azerbaijan', *Caucasus Edition;* http://caucasusedition.net/blog/life-in-limbo-the-plight-of-the-displaced-in-azerbaijan

41. Author's interviews in Yerevan, 20 October 2010.
42. International Crisis Group, *Nagorno-Karabakh: Viewing The Conflict From The Ground,* Europe Report N°166 – 14 September 2005, p. 27.
43. T. de Waal, 'The lightness of history in the Caucasus', http://www.opendemocracy.net/thomas-de-waal/lightness-of-history-in-caucasus

refugees. Apart from demands for restitution of the property left in Azerbaijan, refugee organizations also encourage individual families to file law-suits with the European Court of Human Rights for restitution. Edik Balayan, chairman of an organization uniting former residents of Shaumyan region, announced that: "…his organization has appealed to the European Court of Human Rights by presenting a law-suit by four families that were deported from the Shaumyan-Getashen region, … the court has decided to hear the case and has sent the necessary documentation to the Azeri government."[44] It is noteworthy, however, that the strong perception that the current status quo is satisfactory and preferable to any other situation is seen by many in Armenia as fair restitution in itself.

In light of the absence of a mutually acceptable understanding of security between Armenians and Azeris, and the unlikely capacity of war to resolve the situation, preserving the status quo remains the only option at the current stage. The NK conflict will increasingly resemble other protracted conflicts such as Cyprus or Taiwan, unless certain transformations towards realization of the need for security are reached among all sides. For this to happen, confidence building measures and initiatives bolstering trust will be crucial, instead of continuous negative historical and political propaganda. Pragmatism should prevail once again over ethno-nationalistic narratives: "…A deep history of pragmatism in the South Caucasus… is there, just below the surface, if you care to look for it."[45] This situation, in turn, means that talking about return within the borders of the NKR is not feasible until its status (interim and/or final) provides the necessary level of security for Armenians widely perceived through eventual recognition of its independence.

Working towards building more democratic societies is another crucial step towards long-term peace not only for Armenians in Armenia and NK but also for Azerbaijanis. This idea has been expressed by Zamira Abbasova: "…collective change [in achieving democracy] through civil society initiative: anti-war campaigns, educating youth to resist to military service and military classes in secondary schools, development of human rights, democratization, students exchange programs… only in that case the existence of public media, TV and radio programs would be beneficial to take people out the regression state and move them towards peace."[46]

5. Conclusion

There are several specificities of the Nagorno-Karabakh conflict as compared with other conflicts and post-war situations since the end of Cold War. These differences are characterized by the post-war mutual exclusiveness of ethnic groups involved, strengthened historic animosity and hatred, state-supported negative propaganda and new generations completely out of touch with each other. Post-war interethnic animosity and mutual exclusivity is still too salient in the Nagorno-Karabakh case. Ethno-nationalistic feelings still widely dominate both conflict and peace process discourses, leaving no space for discussions on issues of return or reconciliation separate from the need for security, entrenched overall in the status issue. No one considers return a practical option, with the nearly daily incidents along the line of contact or the levels of government-sponsored hate-speech galvanizing ethno-nationalistic feelings even deeper. Among younger generations of displaced people, there is absorption of hate narratives where the other side is blamed for the loss of family and home. At this stage of 'no-war, no-peace', very few people in Armenia will seriously consider return of Azeris to contested space territories without a discussion of the issue of *status* first. These are not separable issues. Rather than return to the 1988 *status quo ante*, any peace agreement should clearly disclose, identify and stress relocation and local integration of refugees and IDPs as viable choices and alternatives to return. In the longer term, peace could become the guarantor of security, strengthened by deep institutionalization and reinforced by sustainable trust: all features crucial for any harmonious relationship between neighbours.

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44. See details in
http://hyeforum.com/index.php?showtopic=15562
45. de Waal, 'The lightness of history in the Caucasus'.
46. Z. Abbasova, 'Psychological/political dimensions of Nagorno-Karabakh conflict (Based on the "regression" theory of Vamik Volkan)', *Caucasus Edition;* http://caucasusedition.net/analysis/psychologicalpolitical-dimensions-of-nagorno-karabakh-conflict-based-on-the-regression-theory-of-vamik-volkan

St Gregory the Illuminator's Church in central Baku, closed since 1990.

3. Return and its alternatives: a case study on the Armenian-Azerbaijani conflict

Tabib Huseynov[1]

1. Introduction

This article discusses the issue of return, obstacles and opportunities for its realization and other possible durable solutions for the displaced populations in the context of the Armenian-Azerbaijani conflict over Nagorno-Karabakh (NK), which has produced the largest number of refugees and internally displaced persons (IDPs) in the region.

1.1 The origins and the scope of displacement

The first forced population movements occurred in late 1987 and early 1988 as Azerbaijanis fled communal violence in Kafan and Megri in Armenia.[2] The conflict, provoked by Armenian demands to transfer NK to Armenia, quickly spiraled and by early 1991 the entire Azerbaijani population of Armenia of some 200,000 people, and virtually the entire Armenian population living in Azerbaijan outside of the Nagorno-Karabakh autonomous oblast (NKAO), some 330,000 people, fled violence from Armenia and Azerbaijan respectively[3] and inter-communal fighting broke out in and around NK.

Starting from late 1991-early 1992, as the Soviet Union collapsed, leaving a huge power vacuum behind, the conflict escalated into a full-scale war. Displacement became predominantly internal in nature, with both Armenian and Azerbaijani forces employing elements of ethnic cleansing in order to secure control over territory.

By mid-1992 a series of attacks by ethnic Armenian forces drove out the entire Azerbaijani population of NK, some 40,000 people. This was followed by a displacement of a further 47,000 people, who fled adjacent Lachin district, populated overwhelmingly by Azerbaijanis and located between NK and Armenia.[4] Some 30,000 Armenians were similarly displaced within NK and from the then predominantly Armenian-populated Shaumyan district (now part of the Goranboy district) bordering NK in the north.[5]

The last and the largest forced displacement occurred in 1993, at the height of the conflict. By the end of 1993, when Armenian advances deep into Azerbaijani territory were at their height, some 780,000 Azerbaijanis were internally displaced.[6] It was at that time that the Azerbaijani government for the first time announced the occupation of some 20% of its territory and the presence of one million refugees and IDPs. By the time of the ceasefire agreement in May 1994 Azerbaijan succeeded in retaking small patches of land in Fizuli and Agdam districts and in subsequent years many people displaced from the frontline areas returned. However, in public statements the Azerbaijani government still refers to one million refugees and IDPs, although the total figures are slightly lower. According to official statistics, today Azerbaijan hosts over 200,000 naturalised ethnic Azerbaijani refugees from Armenia and some 586,000 IDPs from NK and adjacent occupied areas[7]; the occupied territories constitute about 14% of the country.[8]

2. Azerbaijani policies and perceptions on return

2.1 Government policies towards the Azeri refugees and IDPs

The Azerbaijani government had neither proper housing nor financial means to accommodate the IDPs displaced during the 1993 Armenian offensives. Most of the existing available housing stock and many public buildings, schools, dormitories, kindergartens and sanatoria, were already occupied by the previously displaced Azerbaijani refugees from Armenia and those displaced in 1992 from NK and Lachin. The government was confronted by huge three- and even four-digit inflation[9], caused by the demise of

1. The views expressed in this article belong to the author and do not represent the views or policies of any other party or institution.
2. Thomas de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* (New York: New York University Press, 2003), pp. 18-19.
3. Arif Yunusov and Laura Baghdasarian, 'War, social change and "no war, no peace" syndromes in Azerbaijani and Armenian societies', in *The limits of leadership: elites and societies in the Nagorny Karabakh peace process, Accord,* Issue 19 (London: Conciliation Resources, 2005), p.53.
4. The numbers are derived from the 1989 Soviet population census. The present-day population of Lachin [living in displacement – *Ed.*] is over 70,000.
5. International Crisis Group, Europe Report no. 166, *Nagorno-Karabakh: viewing the conflict from the ground,* 14 September 2005, p. 5.
6. Yunusov and Bagdasarian, 2005, 'War, social change', p.53.
7. Internal Displacement Monitoring Centre (IDMC), 'Azerbaijan: after some 20 years, IDPs still face barriers to self-reliance', 10 December 2010; available at http://www.internal-displacement.org
8. de Waal, 2003, *Black Garden,* p. 286.
9. In the early 1990s, Azerbaijan experienced one of the highest inflation rates in the former Soviet space. Inflation in 1992 was 720%, and in 1993 peaked at 1,200%. See The Library of Congress, *A country study: Azerbaijan,* 1995, http://lcweb2.loc.gov/frd/cs/aztoc.html

A makeshift hostel for Azerbaijani IDPs in the mid-2000s. Source: Internews Azerbaijan

An example of a new settlement for displaced persons, of the kind that began to be constructed in the mid-2000s. Source: Internews Azerbaijan

the Soviet-era economy and the unfolding war, and thus, was unable to provide adequate assistance to the fleeing population. As a result, the bulk of the 1993 wave of IDPs were settled in hastily established tent camps, abandoned railway cars and makeshift mud huts.

By the late-1990s, as the economy began to stabilise, the Azerbaijani government assumed more proactive policies towards the refugee and IDP populations and shifted focus from strictly humanitarian assistance to more durable solutions.

The government granted citizenship to all Azerbaijani refugees from Armenia following the adoption of a *Law on Citizenship* in 1998. According to the law, refugees who settled in Azerbaijan from 1988 till 1992, almost exclusively consisting of some 200,000 Azerbaijani refugees from Armenia and some 50,000 Meskhetian Turks, were granted citizenship. The law, however, stipulated that granting of citizenship does not deprive naturalised refugees of the right to return to their original homes; they were also eligible for the benefits provided by the state to the IDP population. In spite of this legal reservation naturalisation of the Azerbaijani refugees facilitated their integration, reinforcing the prevailing perception both among former refugees and the general public that return of this category to Armenia is an unlikely scenario.

The government's policy towards the IDP population similarly evolved from strictly humanitarian assistance to improvement of quality of life. From 2001 the government began allocating large sums from the State Oil Fund (SOFAZ) for building of housing for refugees and IDPs.[10] In 2004 soon after President Ilham Aliyev came to power, he pledged to abolish tent camps and provide IDPs with more decent housing. By end-2007 Azerbaijan closed the last tent camps, moving some 100,000 IDPs living in the most precarious conditions to specially designated compact settlements.[11] The government has also considerably increased state assistance for IDPs: the $1 million allocated in 1995 rose to $348 million by 2010, of which $100 million came from SOFAZ.[12]

However, while the government has undertaken measures to improve the quality of life for the IDPs, it also tried to ensure that IDP communities retain their social cohesion and integrity through spatial proximity and do not assimilate with the local population. Thus, the government built many of the new settlements close to the frontline

to ensure that IDPs stay closer to their original homes. Such proximity to the frontline raises certain security concerns and is a factor that discourages IDPs from seeking local integration as an alternative to return. IDPs have not been consulted in the choice of location for new settlements and as a result, lack employment opportunities and social infrastructure in these areas, which further deepens their dependence on the state.[13]

The IDPs who have been settled in state-built homes do not own them, and therefore cannot sell or sublet these homes. The government has also excluded IDPs from land privatization, although there are no restrictions on IDPs buying property and land. If an IDP buys or becomes owner of a house or apartment in a location other than his original area of displacement, s/he can freely register at this property, but having registered, s/he would lose IDP status, which many IDPs are reluctant to do (see below).

IDP communities, scattered all over Azerbaijan, still retain their authorities in exile, schools, medical clinics and other social infrastructure. Although IDPs are free to move and choose their place of residence, the government tied access to aid and social benefits to the place of temporary registration, thereby discouraging them from moving away from the places designated for them by the government. As a result, many families are split up, with men leaving for Baku or abroad in search of employment, while other family members remain in the place where they are registered.[14]

The purpose of these measures is to retain and reinforce the dominant perception among the IDPs that return is the only long-term solution for their enduring problems. Thus, it remains a challenge for the government to find the right balance between its desire to preserve the social cohesion of the IDP communities and developing sustainable livelihoods for them beyond state support.

2.2 Perceptions of the IDPs

The Azerbaijani government's preservationist policies towards IDPs have occasionally been criticised by international human rights organisations. The main point of criticism is that this policy reinforces IDPs' social marginalization and dependency on the state. While this criticism is fair to some degree, there is another side to the coin as well: many IDPs themselves consider return as the only durable solution for their enduring problems. They are afraid that assimilation within local communities would result in the loss of their identity as Karabakhis and also would remove

10. As of January 2011, the government has transferred some 717.8 million manats from SOFAZ for settlement and support of the IDPs. See http://www.oilfund.az/en/content/15
11. UNHCR, 'Azerbaijan closes last of emergency camps', 7 February 2008; http://www.unhcr.org/47aaf6734.html
12. IDMC, 2010, 'Azerbaijan: after some 20 years'.

13. Amnesty International, *Azerbaijan: displaced then discriminated against – the plight of the internally displaced population,* 2007, p. 45.
14. Ibid., p. 25.

Displaced Azerbaijani boys in playschool in the mid-2000s. *Source: Internews Azerbaijan*

social pressure on the government to solve the conflict and provide for their return.[15]

Many older generation IDPs are also concerned that the younger generation, which has no or few memories of Karabakh, would not feel the same degree of emotional attachment to the land of their parents. The younger generation, particularly those living in Baku and other major urban centres, may be less predisposed to return permanently to the lands of their ancestors. But even the younger generation, born in displacement in Baku and elsewhere, still largely identifies itself with the place of their ancestors. Even if they may not return, they still want to have the first say. Regardless of generational differences, many feel the lack of dignity living as IDPs and do not view local integration as a remedy for the emotional distress caused by forced displacement.

As mentioned above, many IDPs do not want to lose their status. This is partly conditioned by their desire to remain eligible for state benefits provided to IDPs, which include a modest monthly food allowance, virtual exemption from utility payments, income tax exemptions, free higher education for those passing exams, waivers of fees for various state certificates and several other benefits. Perhaps more importantly, many IDPs want to retain their status for fear that loss of that status would obstruct their right to return and reclaim property in their original homes.

Azerbaijani IDPs are not yet in a position to make free and informed choices as to what constitutes the best long-term solution to their problems – return, local integration or resettlement. When asked whether they want to return most IDPs from both NK and adjacent territories say they are committed to return. However, in reality, many of them will defer their final decision until there is a political solution to the conflict. Like in all similar contexts, the decision to return will be largely conditioned by the security guarantees provided for them. In the context of return to NK proper, the decision to return will also be significantly affected by the way the issue of the final status of NK is resolved.

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15. "Azerbaijan: Karabakh displaced persons grapple with integration dilemma", 22 September 2010, http://www.eurasianet.org/node/61994

As long as there is no political solution to the conflict, Azerbaijani IDPs will remain passive in their right to choose between return and local integration. The efforts undertaken by both the Azerbaijani government and the international community aimed at finding durable solutions to IDP problems will similarly yield limited results. Many of the IDPs will continue to perceive the choice between local integration and retaining commitment to return as a zero-sum game, and hence, there will remain an internal resistance to local integration. Only with a solution to the conflict, which would provide for their right to return, can Azerbaijani IDPs make a genuine free and informed choice as to which option – return, local integration in the area of displacement and/or resettlement elsewhere in the country – constitutes the best long-term solution for them.

3. Politicization and obstruction of return

3.1 The return issue in negotiations

While both Azerbaijanis and Armenians have greatly suffered from forced displacement, there is a perceptible difference between the importance and sense of urgency that the general public and political leaderships on each side attach to the issue of return.

For most Azerbaijanis, regardless of whether they are displaced or not, return of displaced Azeris to the places of their habitual residence in the occupied areas, is a critical component without which no peace proposal can hold. Accordingly, Baku treats the return of Azerbaijanis to the occupied territories as a second major conflict resolution goal after the restoration of the country's territorial integrity.[16]

For most Armenians, including many of those who were displaced as a result of the conflict and now live in Armenia, abroad or have resettled in the occupied territories, the issue of return to pre-war homes does not feature as prominently. A greater emphasis in political discourse is put on Armenian refugees' local integration and relocation, particularly to the occupied areas which were formerly inhabited by Azerbaijanis.

The difference in these approaches is conditioned by political motives. Azerbaijan wants the restoration of pre-war demographics to reverse Armenian war acquisitions and regain its sovereignty in the occupied territories, including

in NK. Armenians, on the other hand, want to entrench ethnic demarcation obtained through the use of force in order to secure their control over the territory. The fact that the negotiations revolve around the idea of a population vote in NK to determine the final status of the entity, further increases the importance that both sides attach to the issue of post-settlement demographics.[17] As a result, the humanitarian issue of return is extremely politicized on both sides.

Armenians and Azerbaijanis disagree on the timing and conditions under which return is possible and desirable. Azerbaijan insists that the return of IDPs, including to NK, should take place *before* the final status of the territory is resolved. Azerbaijan, however, also recognises that the return of IDPs will be a gradual process, which most likely will start from return to five lowland districts (Agdam, Fizuli, Gubatly, Jebrayil, Zangilan) to the east and south of NK, and then to Kelbajar, Lachin and finally, to NK itself. Armenians, on the other hand, argue that return of Azerbaijanis to NK, or according to a more extreme view return to all occupied territories, including those around NK, should take place only *after* final status of NK is decided.

The international community has been supportive of the right of all the displaced to return. The Parliamentary Assembly of the Council of Europe (PACE) in a 2005 resolution expressed concern that war in NK "led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing" and reaffirmed "the right of displaced persons from the area of conflict to return to their homes safely and with dignity."[18] In its 2008 resolution the UN General Assembly has similarly "reaffirm[ed] the inalienable right of the population expelled from the occupied territories of the Republic of Azerbaijan to return to their homes, and stress[ed] the necessity of creating appropriate conditions

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16. This does not apply, however, to the popular perceptions and official policies concerning the issue of return of Azerbaijani refugees to Armenia. As mentioned above, there is a prevailing perception both within the general population and within the majority of the former Azerbaijani inhabitants of Armenia that the local integration in Azerbaijan is the best durable solution for them.

17. The current framework for negotiations, revolve around a set of basic principles, originally formulated in 2005, can be summarized as follows: renunciation of the use of force; gradual Armenian withdrawal from parts of Azerbaijan surrounding Nagorno-Karabakh, probably with special modalities for Kelbajar and Lachin; an interim status for Nagorno-Karabakh, with substantial international aid, including peacekeepers; and mutual commitment to an internationally supervised population vote on Nagorno-Karabakh's final status after the return of displaced Azerbaijanis. While Armenian and Azerbaijani sides fundamentally agree to this general framework, they remain deeply divided on the technicalities, which would determine the ultimate outcome. See, for details, International Crisis Group, Europe Briefing no. 55, *Nagorno-Karabakh: Getting to a Breakthrough,* 7 October 2009 and International Crisis Group, Europe Briefing no. 60, *Armenia-Azerbaijan: Preventing War,* 8 February 2011.

18. Parliamentary Assembly of the Council of Europe, Resolution 1416 (2005): "The Conflict over the Nagorno-Karabakh Region Dealt With by the OSCE Minsk Conference", 25 January 2005, http://assembly.coe.int

for this return."[19] In a May 2010 resolution, the European Parliament demanded "withdrawal of Armenian forces from all occupied territories of Azerbaijan" and called on Armenian and Azerbaijani leaderships to "demonstrate their commitment to the creation of peaceful inter-ethnic relations through practical preparations for the return of displaced persons."[20] The International Crisis Group in its recommendations has similarly called on the Karabakh Armenian authorities to stop support for settlement of formerly Azerbaijani majority areas with Armenians.[21]

3.2 Armenian discourse against return

To understand the complexity of the issue of return in the context of the NK conflict, it is important to look at the prevailing Armenian arguments against return of Azeris. To justify its opposition to Azerbaijani return to NK and adjacent areas, Armenian political discourse heavily relies on several polemical and selective arguments, which mix contemporary security considerations and past historical grievances.

It is commonly understood that return of Azerbaijanis cannot take place unless there are security guarantees and safe conditions both for local Armenians and Azerbaijani returnees. Proceeding from this premise, Armenian political discourse interprets acceptable security guarantees as NK's independence or unification with Armenia. As long as Azerbaijan disagrees to NK's independence, the proponents of this view say, any return of Azerbaijanis would be detrimental to Armenian security. This position makes any effort aimed at alleviating the consequences of the conflict a hostage to the intractable issue of the final status of NK, on which Armenians and Azerbaijanis hold diametrically opposite views. As a result, negotiations have failed to bear fruit during almost two decades since the 1994 cease-fire and the conflict remains unresolved and dangerous.

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19. Resolution adopted by the UN General Assembly, "62/243. The situation in the occupied territories of Azerbaijan", A/Res/62/243, 25 April 2008.
20. European Parliament resolution of 20 May on the need for an EU strategy for the South Caucasus, A7-0123/2010 http://www.europarl.europa.eu/
21. Crisis Group, *Viewing conflict from the Ground,* p. ii, p. 8; International Crisis Group, Europe Report no. 167, *Nagorno-Karabakh: a plan for peace,* 11 October 2005, p. ii; Crisis Group Europe Report no. 187, *Nagorno-Karabakh: Risking War,* 14 November 2007, p. ii; International Crisis Group, *Getting to a Breakthrough,* p. 2; *Armenia-Azerbaijan: Preventing War,* p. 2, p. 11.

A tank marks the border between the old NKAO and the new 'liberated' territories on the road to Agdam. Such symbolic re-ordering of the landscape would need to change in any return process.

The security argument is further supported by the so-called "cause-and-effect" arguments. Since the status of NK was the cause of the conflict, Armenian elites argue, occupation of Azerbaijan's territory and displacement of Azerbaijanis from their homes are consequences of the aggression unleashed by Azerbaijan against Karabakh Armenians' "peaceful" expression of their right to self-determination.[22] This argument, thus, bases itself on a distorted narrative of recent history and serves to divert attention away from present-day human displacement to futile disputes about who started the conflict.

Another argument used against Azerbaijanis' right to return is the so-called "reciprocity" argument. Accordingly, Azerbaijanis can return to NK and adjacent areas only if Armenians can similarly return to Azerbaijan. While it seems perfectly legitimate, and is not fundamentally denied by Azerbaijan, this argument is frequently used to deny the Azeris' right to return. Most Armenian refugees do not wish to return, nor do the Armenian government and the Karabakh Armenian authorities seem interested in having them return to places under Azerbaijan's jurisdiction. Instead, as explained in the next section, they prefer displaced Armenians to resettle in formerly Azeri-inhabited areas to boost its claim on territory.

The security and the cause-and-effect arguments are frequently mixed with selective historical narratives about genocide perpetrated against Armenians at the hands of the Ottoman Turks during World War I. The discourse on Armenian genocide has been deliberately interweaved into the contemporary Armenian-Azerbaijani conflict, and presented to Armenian society as a struggle to avert another "genocide" against them, this time at the hands of the Azerbaijanis, the ethnic kinsmen of the Turks.[23] Such portrayal of the conflict further entrenches extreme viewpoints in the Armenian

and Karabakh Armenian societies, making them oppose any return and co-habitation with Azerbaijanis. Ironically, regular war threats coming from Azerbaijan help the Armenian nationalists to further entrench the enemy image of Azeris-Turks in the Armenian public conscience.

3.3 Policy of ethnic engineering

Armenian settlement activity in and around NK represents a major obstacle for future possible return of IDPs and for peaceful resolution of the conflict.

Azerbaijan accuses Armenia of "consistent measures aimed at further consolidation of the current status quo of occupation" in the form of encouraging settlement activities, destruction and appropriation of historical and cultural heritage and properties of displaced Azerbaijanis.[24] Armenian activities in the occupied territories, Baku contends, constitute a breach of the Geneva and Hague Conventions, which prohibit building settlements in the occupied territories and encroaching on historical and cultural property.

At Azerbaijan's insistence, the OSCE sent two fact-finding missions to areas around NK in February 2005 and most recently, in December 2010. Based on a week-long mission, the 2010 report estimated the number of settlers at some 14,000, less than claimed by both Armenians and Azerbaijanis.[25] Based on the conclusions of this report, the OSCE Minsk Group co-chairmen called on the Karabakh Armenian authorities to avoid changes in the demographic structure of the region, which would "prejudice a final settlement or change the character of these areas".[26]

NK's *de facto* president Bako Sahakyan regularly says that resettlement in the occupied territories is "a major strategic component of state policy".[27] In international settings, however, Yerevan formally denies involvement in settlement activity, although

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22. Thus, speaking at OSCE's Astana summit in December 2010, Armenian president Serzh Sarkisyan said: "Baku assumes that the cause-and-effect relationship behind the Karabakh conflict has been forgotten. By evoking today the need to reclaim territories currently under the control of the Nagorno Karabakh Self-Defense Army, Azerbaijan fails to acknowledge that it is impossible to eliminate the consequences of its own aggression without addressing the root cause of the conflict." http://president.am/events/statements/eng/?year=2010&id=78; Similarly, speaking at the General Debate of the UN General Assembly session in September 2010, Armenian foreign minister Eduard Nalbandyan accused Azerbaijan of "attempting to mislead the international community, presenting the consequences of the conflict as its causes." http://www.mfa.am/en/speeches/item/2010/09/25/Nalbandianun2010/

23. As an Armenian policy paper formulates, "…there can't be any talk of [Azeris] returning to their former places of residence, since there is a permanent practice of committing large and small genocides against the Armenian population by various authorities of Azerbaijan throughout the whole last century". Sergey Minasyan, Mikhail Aghajanyan, Eleonora Asatryan, *The Karabakh Conflict: Refugees, Territories, Security* (Yerevan, 2005), p. 45.

24. Letter dated 27 April 2010 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, A/64/760-S/2010/211

25. The co-chairs assessed that there had been no significant growth in the population since 2005. See, "Executive summary of the 'Report of the OSCE Minsk Group co-chairs' field assessment mission to the occupied territories of Azerbaijan surrounding Nagorno-Karabakh'", http://www.osce.org/mg/76209. Full text of the report, although shared with Baku and Yerevan, was not publicized, apparently because the mediators did not want to let Armenia and Azerbaijan use its details as part of their information war at the present delicate juncture in the peace talks. The 2005 report estimated the number of settlers at 9-12,000 and noted that with the exception of Lachin, "overall settlement is quite limited". *See, Report of the OSCE fact-finding mission (FFM) to the occupied territories of Azerbaijan surrounding Nagorno-Karabakh (NK),* 2005.

26. "Executive summary of the 'Report of the OSCE Minsk Group co-chairs", ibid.

27. Gayane Abrahamyan, "Population issue: discussion on resettlement for Karabakh come to the fore after OSCE tour", *Armenianow.com,* 15 October 2010.

A new archaeological museum established by the de facto authorities in Nagorny Karabakh at the site of the eighteenth century Shahbulag castle near Agdam.

this is an open secret in Armenia.[28] President Serzh Sarkisyan chairs the "Hayastan" All-Armenian Fund, which is a principal body coordinating Armenian and diasporan efforts aimed at raising and disbursing funds for resettlement in NK and the adjacent areas. Armenian high-level officials make public calls for supporting resettlement efforts in Karabakh.[29] More than half of NK's budget, including funds covering resettlement efforts by *de facto* authorities, is funded from the Armenian state budget.[30]

Most Armenian resettlement efforts have been directed at Lachin, as the strategic link between NK and Armenia. A relatively lesser degree of resettlement has been observed in Shusha, Kelbajar and Zangelan. According to Armenian sources cited by the International Crisis Group, up to 30,000 Armenian refugees from Azerbaijan are estimated to have settled in NK and adjacent areas after a period of living in Armenia, Russia or Central Asia.[31]

Even though there was sufficient housing left from Azerbaijanis to accommodate the Armenian refugees in Armenia proper[32], Yerevan encouraged many of them to resettle in occupied Azerbaijani territories. The settlers can obtain Armenian citizenship, but their passports have a special identification, designating them as citizens of the "Nagorno-Karabakh Republic".

The incentives offered to settlers include free housing and land plots, subsidised or free utilities, low taxes, one-time financial assistance per person to buy cattle and agricultural products. The settlers may become legal owners of a home at no cost after living in it for three years. [33]

Stimulating a high birth-rate plays a big role in Armenian policy of consolidating the post-war demographics in NK and adjacent areas. The *de facto* authorities pay families some USD $270 for their first child and USD $550 for their second.[34] Starting from the birth of the third child, a special deposit account is established in banks for each child born thereafter. The authorities build a house for each family with seven or more children under 18 years of age.

The diaspora plays a big role in supporting settlement efforts. Thus, in an extravagant but also rather telling move, wealthy Armenian businessmen from Russia sponsored in 2008 a mass wedding of some 700 couples in the formerly Azeri-majority town of Shusha and pledged giving these couples USD $2,000 following the birth of their first child, $3,000 – for two children, $10,000 for four, $20,000 for five, $50,000 for six and $100,000 for seven.[35]

US-based Armenian charity foundations, such as the Armenian General Benevolent Union (AGBU) and Tufenkian Foundation have also been active in projects openly stimulating Armenian settlements both in and around NK. The Tufenkian Foundation, for example, has set up several villages in Lachin district, which Armenian authorities have renamed Kashatagh.[36] As a lead mediator in the conflict, the Washington administration has a moral duty to review the activities of these foundations and close tax loopholes that allow these organisations to channel tax-free money to fuel Armenian settlement efforts, and thus, pre-emptively sabotage peace efforts.

Although the majority of the settlers are Armenian refugees from Azerbaijan proper, many settlers are ordinary Armenian citizens, attracted by financial incentives to settle. Thus, in Zangelan district settlers from Armenia have settled villages named "Van", "Moush", "Alashkert", "Berkri" – all geographic names of towns in eastern Turkey, which in Armenian popular parlance is often called "Western Armenia". The choice of names for these villages is illustrative of the fact that Armenian nationalist discourse exploits historical grievances against Turks to provide for present-day ethnic mobilisation against Azerbaijanis.

The Armenian authorities also use archaeological excavations to "prove" primordial Armenian origins

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28. A leader of the hardline nationalist Dashnaksutiun party Vahan Hovannissian even suggested Yerevan's denial of resettlement efforts in the occupied territories was contrary to Armenian interests. According to him, it is more expedient to say that these territories are populated by Armenians expelled from Azerbaijan. 'При признании Карабаха должен присутствовать 131 депутат' [131 MPs need to be present during Karabakh's recognition – in Russian], *Lragir.,* 28 September 2009; http://www.lragir.am/russrc/politics15462.html

29. For example, speaking at a government session in November 2009, Armenian prime-minister Tigran Sarkisyan (not related to president Sarkisyan) called on government members to "personally contribute to the recovery of Shushi". "Prime minister of Armenia calls on government members to personally contribute to recover of Shushi", *Arminfo,* 26 November 2009.

30. *Viewing the conflict from the ground,* op. cit., pp. 12-13

31. Ibid., p. 6

32. In this context it should be noted that not all of the 330,000 Armenian refugees from Azerbaijan fled to Armenia and also many who arrived in Armenia initially did not stay there and migrated abroad. The Armenian government officially registered only 245,106 refugees from Azerbaijan. Of them, according to UNHCR, 83,000 had become citizens by the end of 2009. See Thomas Patrick Felke, 'It's been twenty years: The case of ethnic Armenian refugees from Nagorno-Karabakh and Azerbaijan', Dissertations Collection for University of Connecticut. Paper AAI3420202, January 2010. http://digitalcommons.uconn.edu/dissertations/AAI3420202

33. *Viewing the conflict from the ground,*op. cit., p. 6

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34. 100 thousand and 200 thousand Armenian drams, accordingly; See, http://stepanakert.info/publ/obzor_socialnoj_sfery_v_nkr/1-1-0-3; This is an impressive amount, considering the local incomes and salary levels. By comparison, Azerbaijani government pays families only $90 in benefits for each child.

35. See, http://artsakh.org/karabakh-armenia-700-couple-armenian-wedding-entire-event/131/

36. 'Tufenkian foundation unveils New Kashatagh initiative', *Asbarez,* 23 September 2009; http://asbarez.com/70860/tufenkian-foundation-unveils-new-kashatagh-initiative/

in the region and boost their exclusive claim to territory of not only NK, but also of adjacent areas. Archaeological excavations conducted by Armenian historians near Agdam discovered ruins of what Armenians now call an ancient Armenian city of "Tigranakert". In November 2010, *de facto* Armenian authorities renamed Agdam (which had a pre-war population of some 30,000) to "Akna". Also in November 2010 the Karabakh Armenian authorities said they were going to reconstruct several mosques in Shusha in order "to preserve the region's Islamic heritage".[37] Azerbaijan painfully reacts to Armenian encroachments to its historical cultural legacy, particularly in Shusha, which has an important symbolic meaning for Azerbaijanis being the historical capital of Karabakh and home to many prominent Azerbaijani cultural figures.

As Crisis Group writes, "such activities in the occupied territories are not driven by historical concerns but rather political interests to reinforce the new realities on the ground".[38] In a way, the Armenian authorities are mirroring in NK and adjacent occupied territories the Israeli policy in the occupied Palestinian territories and Turkish policies in Northern Cyprus, although with more limited success. However, replicating such policies in NK is unfeasible given the political and military power correlations between Armenia and Azerbaijan, as compared to Israel and Palestine or Turkey and Cyprus. Such activities, even if thus far limited, complicate the peace process by narrowing chances for a negotiated settlement of the conflict and should be abandoned.

4. Alternatives to return

According to customary international law, states and non-recognised entities alike have an obligation to allow for the return of refugees and IDPs and provide restitution or compensation for their property. But in practice, return and restitution are negotiated processes, which often involve political decisions and compromises.

4.1 Restitution for Armenian and Azerbaijani refugees

As mentioned above, both Armenian and Azerbaijani governments do not view return as a preferred option for the majority of refugees

displaced from both Armenia and Azerbaijan. Neither do most Azerbaijani and Armenian refugees (perhaps, with a notable exception of some Armenians displaced from the present-day Goranboy district) view return as a feasible and desirable option for themselves. International organisations similarly consider local integration in Armenia and Azerbaijan as the best and most realistic option for these refugees.

However, physical return is not a precondition for restitution of property. Most Armenian and Azerbaijani refugees still want to either reclaim or receive compensation for their abandoned homes. This claim is complicated by the fact that most of their abandoned properties were not privatised and technically remained state-owned at the time of displacement. The Soviet legal system (until the late 1980s) did not recognise private ownership of property and acknowledged only state-owned and collective socialist property. Since the displacement of Azerbaijani and Armenian refugees took place before the collapse of the Soviet Union, most of the refugees did not possess the homes which they held. No Azeris and only a handful of Armenians could privatize their property before being displaced, and therefore, most refugees have weak legal claim to their pre-war homes. Therefore, property restitution and compensation for these refugees will have to be decided on a political level between Armenia and Azerbaijan. The key here is to ensure that neither side exaggerates its losses nor instrumentalizes the issue to deny the return of refugees.

In the initial years of displacement some Armenians and Azerbaijanis exchanged their properties in Armenia and Azerbaijan. Armenian sources claim more than 80,000 Azerbaijanis living in Armenia have exchanged their properties with Armenian refugees from Azerbaijan.[39] It is impossible to independently verify this figure, as both Armenian and Azerbaijani government discouraged such private initiatives and there has been no comprehensive study to find out the number of such private swaps.

The most interesting case of property swap between Armenians and Azerbaijanis is the one between the residents of the Azerbaijani village of Kyzyl-Shafak in northern Armenia and the Armenian village of Kerkenj, in central Azerbaijan. This swap, which took place in 1989, at the height of Armenian and Azerbaijani exodus, is unique in the sense that it was the first and only peaceful collective village swap between the two peoples. The communities are still committed to their agreement to care for each other's graves and

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37. 'Armenian Karabakh Official Says Mosques Being Repaired', *RFE/RL,* 18 November 2010; to deny and eradicate Azerbaijani presence in Armenia and in Nagorno-Karabakh, some Armenians resort to linguistic manipulations by calling these mosques "Persian". See de Waal, *Black Garden,* p. 80.

38. Crisis Group, *Armenia-Azerbaijan: Preventing War,* p. 11. Azerbaijan contends these works are carried out with the "sole purpose of removing any signs of their Azerbaijani cultural and historical roots and substantiating the policy of territorial expansionism". Letter dated 27 April 2010 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, A/64/760-S/2010/211

39. *The Karabakh Conflict: Refugees, Territories, Security,* 2005, p. 8.

regularly exchange via Georgia amateur videos of their village.[40]

Such private property swaps have constituted an effective property restitution remedy for these Armenian and Azerbaijani refugees.

4.2 IDPs and the decision whether to seek alternative solutions

The case of Azerbaijani IDPs is more complex, because their claim is based not only on property restitution but also on physical return. Unlike refugees, IDPs have the right under international customary law to choose between three options: return to their homes, local integration at the site of displacement or settlement in another part of the country.[41]

To generalise, certain categories of IDPs will be less predisposed to return than others and are more likely to seek local integration or resettlement. Thus, IDPs living in urban areas are generally believed to have fewer incentives to return than those living in rural areas. This is because they have been integrated more into mainstream society and enjoy greater opportunities for employment and access to better social infrastructure. It is estimated that over half of all IDPs live in urban areas, one-third of them in Baku. Younger generation IDPs, particularly in urban areas, are also widely believed to be less predisposed to return than the older generation.

Another major factor which will influence IDPs' eventual decision to return is the geographical area of displacement. For those from areas adjacent to NK it will be easier to return, because they will still constitute a majority in their area of return and will live directly under Azerbaijani jurisdiction. In the context of Azerbaijani return to NK itself we are talking about so-called "minority returns", whereby returning populations will constitute a minority, and will have to share power with the local Armenian majority.[42] Given the security concerns and wartime memories, the decision to return to NK will be a tough choice for many IDPs once they have an opportunity to realise their right to return. It is quite likely that some Karabakh Azeris will prefer local integration over permanent return, and will simply visit their homes in NK, primarily in Shusha, only in summer time for recreation.

Most Azerbaijani returnees in NK are more likely to be concentrated in Shusha district, which was the only town and district in NK with an overwhelming Azerbaijani majority before the conflict. The return of Azerbaijanis to Shusha represents an important conflict resolution goal for Azerbaijanis both on political and emotional levels. Once there is a chance for Azerbaijanis to return to Shusha, many Azerbaijani IDPs from other parts of NK, who want to return to the entity, are more likely to seek resettlement in Shusha, as opposed to actual return to their isolated villages surrounded by Armenian settlements. These are only generalised statements and certainly do not apply to all IDPs.

Local integration should not be implemented to the detriment and with a prejudice against the IDPs' right to return. In a similar fashion, return should not be viewed as the only viable option for IDPs. But it should be also recalled that return is not a collective, but an individual right derived from several fundamental human rights, including the right to return and property rights. Therefore, state policy should employ all three options simultaneously with a view to the individual desires of IDPs.

5. Azerbaijan as an "accepting society"

Although most of the debate on displacement revolves around the plight of the Azerbaijani IDPs, Azerbaijan should also be prepared to accept the return of displaced Armenians. Official Baku says that it recognizes the Armenian refugees' right to return.[43] But in practice, it has done very little to work out contingencies and provide conditions for the safe return of Armenians. On a public level, the issue of the return of Azerbaijanis to the occupied territories dominates the debate and there is virtually no discussion about reciprocal return of Armenians. Largely owing to Armenian political discourses, which have been described above, many Azerbaijanis perceive the issue of return of Armenians to Azerbaijan proper as a hypocritical pretext to deny Azeri return to Karabakh.

Before the conflict, more than twice as many Armenians lived in Azerbaijan proper (330,000) than in NK itself (145,000). Unlike their mostly rural Azerbaijani counterparts in Armenia, most of these Armenians lived in urban centers, such as Baku, Sumgayit and Ganja. Just like the Azerbaijani refugees from Armenia, these refugees prefer local integration and it is highly unlikely that they would be willing to return.

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40. For more on this unique story, see, S. Huseynova, A. Akopyan, S. Rumyantsev, *Kizil-Shafag and Kerkenj: history of villages exchange in situation of Karabakh conflict,* 2008.

41. These rights have been summarized in the Guiding Principles, which is a summary document citing best international practices in dealing with internal displacement.

42. Return to parts of to the strategic Lachin district, which separates Nagorno-Karabakh from Armenia may also be construed as "minority return", if in the course of the political negotiations, Armenia and Azerbaijan agree to allocate part of the district under the interim status arrangement to be granted to Nagorno-Karabakh.

43. 'Баку признает право армянских беженцев на возвращение' [Baku recognizes the right of Armenian refugees to return – in Russian], *Ekho* newspaper (Azerbaijan), 18 September 2010.

The case of Armenians displaced from the Soviet-era Shaumyan district, presently part of the Goranboy district, stands out from the rest of Armenian refugees from Azerbaijan. Shaumyan was the only district of Soviet Azerbaijan outside of NK which had an Armenian majority. Given the geographic proximity to NK, some, or perhaps even most Armenian refugees from the present-day Goranboy district would seriously consider return if provided with adequate opportunities.

Although the territory of the former district both geographically and administratively was never part of NK, the district's Armenian majority population (some 80 percent before the conflict) controversially voted in 1991 to join NK in declaring independence from Azerbaijan. As a result, contemporary Armenian political discourse refers to a section of the Goranboy district as part of NK and as a territory "under Azerbaijani occupation".

Similar to the Azerbaijanis, who view return as part of a strategy to regain sovereignty over NK, many Armenians view their return to parts of Goranboy district as part of a strategy to attach it to NK. The Armenian authorities have settled most of the Armenian displaced from Goranboy in Kelbajar district and have often linked the return of Kelbajar with the transfer of parts of Goranboy to NK's control.

Azerbaijan objects to this linkage arguing that the question of repatriation of Armenian refugees from parts of Azerbaijan outside of NK should be dealt in parallel with recognition of similar rights for the Azerbaijani refugees from Armenia. To counter Armenian linkage between Kelbajar and Goranboy, Azerbaijan has similarly settled displaced families, mainly consisting of Azerbaijani refugees from Armenia, IDPs from Khojaly in NK and Kelbajar itself in Goranboy's formerly Armenian-settled villages. Such mirroring positions divert attention away from human aspects of return and instead turn refugees into pawns at the hands of nationalist politicians.

Although some Armenian politicians declare support for Armenians' return to Goranboy, in practice they are more interested in retaining Kelbajar, as an alternative strategic land link between Armenia and NK in addition to Lachin. According to this underpublicized position, return of Armenians to Goranboy can be sacrificed if that would solidify Armenian control over Kelbajar. Azerbaijan shoots itself in the foot by imitating Armenian settlement policy, because such politically-motivated relocations only further complicate any possible return process, thus playing into the hands of the Armenian hardliners.

Armenians, who are genuinely interested in their return to Goranboy should detach such return from the demand to transfer jurisdiction of the region's territory to NK. The focus should be on creating conditions for safe return of the Armenian refugees and establishing effective municipality structures for their self-governance.

As strange as it may sound to Azerbaijani ears, the return of Armenians to Goranboy may also be in the interest of Azerbaijan, since it would release lands and properties belonging to displaced Azerbaijanis in Kelbajar, and thus, would facilitate their return.[44] It would also send a strong message to Karabakh Armenians and the world that Azerbaijan is ready to provide for security guarantees to Armenians living on its territory.

The Azerbaijani government must start preparing contingencies for allowing the choice of return of Armenians to Goranboy district, including if necessary, planning for alternative housing for Azerbaijani refugees and IDPs, who currently live in formerly Armenian-owned houses. Such bold moves can help Azerbaijan overcome Armenian nationalists' strategy of not only denying Azerbaijanis return, but also keeping their displaced locked in to certain areas as an instrument of advancing territorial claims.

6. Making return happen

Regardless of how distant the prospect of return for Azerbaijani IDPs is, it is necessary to discuss contingencies for their return. Such discussions are not merely theoretical exercises, but constitute an important element of the peace-building effort.

Azerbaijanis in general and Azerbaijani IDPs in particular do not usually differentiate between the Azerbaijanis from NK and the more numerous displaced populations from adjacent areas, identifying them all as "Karabakhis" (Qarabağlı). But in practical terms, it is unavoidable to differentiate between these two subgroups of IDPs. This differentiation is required given the different conditions and timing in which return will be addressed.

Thus, in the context of Azerbaijanis' return to areas outside of NK, we are talking about so-called "majority returns", whereby returning populations will constitute a majority in the area of return and will be placed under direct Azerbaijani jurisdiction. In the context of Azerbaijanis' return to NK itself, and most likely to parts of the Lachin district, the land corridor separating NK from Armenia, we are most likely talking about the final phase of return, so-called "minority returns", whereby returning populations will constitute a minority, and will have to share power with the local Armenian

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44. Creating conditions for mutual returns in specific areas, often called a 'return axis', played an important role in facilitating minority returns in Bosnia.

majority as part of an interim arrangement designed for NK.

The success of return efforts and of the peace process in general, will be largely determined by the way the minority returns take place.

6.1 Return and the issue of legitimacy of Nagorno-Karabakh

Unlike in Bosnia, where international efforts were aimed at keeping the integrity of the country, or Kosovo, where the Western segments of the international community supported secession from Serbia, the international community holds no pre-determined view on the final status of NK. It supports an open-ended process, which guarantees neither restoration of Azerbaijani sovereignty over NK, nor its eventual *de jure* secession from Azerbaijan.

However, Armenians demanding self-determination for NK must understand that responsibility is a necessary corollary of a right. As a matter of principle, the international community will never recognise the legitimacy of the NK's *de facto* authorities as long as the latter retains the territory ethnically cleansed of Azerbaijanis. Recognition of these authorities as a legitimate (and not only a *de facto*) power in charge of self-government functions within the entity will require satisfaction of complex measures relating to internal governance and protection of the Azerbaijani minority in NK.

As mentioned earlier, the shape of the discussions on return to NK is deeply influenced by the ongoing talks revolving around a population vote, the modalities of which have yet to be agreed, to determine NK's final status. While both sides should agree that the population of NK should have a key role in determining their status, Armenians' insistence on starting negotiations from final status is a prescription for indefinite delay.

To move the process forward, the negotiations should focus more on the human dimension of the conflict, such as adequate security guarantees for local Armenians, similar guarantees for Azerbaijani returnees, and a local governance system based on the rule of law. Such measures would in the long term provide more security and legitimacy to NK than the present policy of keeping territories and people hostage to knee-jerk demands for NK's independence or unification with Armenia.

6.2 Return to Shusha

Return of Azerbaijanis to Shusha will be a litmus test for the success of the return process and of the peace process in general. Shusha was the only town and district in NK with an overwhelming Azerbaijani majority (over 90 percent) before the conflict. Being the historical capital of Karabakh and home to many prominent cultural figures, it is perceived by Azerbaijanis as one of the cornerstones of their national identity.

Azerbaijani attitudes to any future peace deal will largely depend on how effectively that deal provides for Azerbaijani return to Shusha. The inability to return to Shusha would be exploited by nationalist forces as a proof that Azerbaijanis cannot get a dignified peace by peaceful means. It would also discredit international efforts to achieve a genuine peaceful co-existence between Armenians and Azerbaijanis.

When contemplating Azerbaijani return to Shusha it is useful to look at the similar case of Bosniak and Croat returns to Brčko, a strategic district at the juncture of the eastern and western halves of the Republika Srpska. Brčko has a special status as a condominium between Republika Srpska and Bosniak-Croat Federation and is governed autonomously without external intervention from either of the two entities. Certain elements of Brčko condominium could be usefully implemented in Shusha and in the Lachin corridor.

Brčko and the Bosnian experience in general also provide useful lessons on how to deal with the issue of secondary occupants. Many Armenians displaced from Azerbaijan proper have settled in the abandoned properties of Azerbaijanis. Over the years they have built a new life in the occupied territories, a whole new generation of Armenian displaced was born and raised in NK and some adjacent areas. Naturally, these people would be at the forefront of Armenian opposition to return of Azerbaijanis, because of fear of being uprooted again from their newly founded livelihoods.

In Bosnia the international community has found a creative solution to alleviate the tension between the problem of displaced secondary occupants and return of original residents. Based on UNHCR proposals, it supported local integration and building of houses for displaced settlers only in municipalities which allow minority returns. In a similar manner, the Armenian refugees who have settled in Shusha could be allowed to legitimately remain in Shusha or elsewhere in NK and be eligible for housing and other assistance provided that they do not obstruct the return of Azerbaijanis to their properties.

Certain limitations over the number of Armenian settlers to remain in Shusha could be considered to avoid politically motivated overpopulation and maintaining mutually acceptable demographic balance. The Annan Plan for Cyprus, for example, introduced a concept of "permissible limitations" to residence by Greek and Turkish Cypriot citizens in each other's constituency. In a similar manner,

temporary derogations could limit the right of non-Karabakhi Azerbaijanis and Armenians to reside and to buy property in NK. Azerbaijan and international donors could also consider certain financial inducements to persuade some Armenian settlers to leave Azerbaijani properties and seek resettlement either in Armenia or elsewhere in NK.

6.3 Getting popular support for return

The success of any peace process is dependent on popular support. It is critical that Armenians and Azerbaijanis build pro-peace constituencies supporting return processes. Again, the Balkan experience provides some useful lessons in this regard. The international community supported in Bosnia the so-called "Coalition for return", a grassroots movement of the displaced from the opposing ethnic groups, who wanted to return and who would publicly support each other's right to return. The Bosniak, Croat and Serb members of this movement succeeded in avoiding politicization of their movement and infiltration attempts by nationalist groups wishing to use it for political manipulations.

In the context of the Armenian-Azerbaijani conflict, groups of IDPs who genuinely want to return could similarly be encouraged to combine in jointly advocating for their right of return. As the International Crisis Group notes, referring to this initiative, "displaced persons' organisations are the best channels for discrediting the nationalist parties' propaganda and persuading displaced persons that their interests would be better protected if they too returned rather than violently opposed the returns."[45]

The key for the success of such a grassroots initiative is to avoid becoming hostage to nationalist discourses, which use manipulated arguments to make return impracticable, such as the "reciprocity" argument, elaborated above. For a grassroots initiative such as "Coalition for return" to succeed, return of all Armenians and Azerbaijanis wishing to do so should be supported without political conditionalities. The issue of return, particularly in the context of Azerbaijani return to NK and Armenian return to parts of Goranboy should be delinked from the issue of final status for NK and should be discussed in the context of provision of human security, rule of law and better governance.

7. Conclusion

This paper was an effort to discuss major issues relating to the issue of return in the context of the Nagorno-Karabakh conflict. However, given limitations of space and scope, the issues touched upon in this paper are only the tip of the iceberg. There are still many things that Azerbaijanis and Armenians need to discuss, understand and agree among themselves.

Return will certainly not be an easy process in the Karabakh conflict. It will most likely be implemented in phases, over a long time span. But time should not be wasted, because in the Karabakh conflict time works against the long-term interests of everyone. It is of utmost importance that Armenians and Azerbaijanis both on official and civil society levels start seriously discussing contingencies for their displaced to return.

The discourse of Armenians and Azerbaijanis on return is still largely exclusive, limited to their own positions, often disregarding the interests of the opposite side. Such exclusive discourses serve only to polarize and perpetuate existing insecurity, misery and massive displacement that scar the societies both physically and morally. Both Armenians and Azerbaijanis must rethink the language they speak to each other and develop more deferential and inclusive discourses towards each other.

Return will play an important role in breaking the false stereotypes and premises about "ethnic incompatibility" of Azerbaijanis and Armenians that nationalist politicians have tried to instill in people's minds. Once Azeris and Armenians start living side-by-side again, they will rediscover the wealth of positive cultural and historical experiences that far outweigh their negative experiences and can bring about a new rapprochement.

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45. International Crisis Group, Report no. 33, *Minority return or mass relocation?,* 14 May 1998, p. 36.

An Azerbaijani refugee from Yerevan in July 2011, reacting to the imminent destruction of her home in central Baku to make way for urban development.

4. The return of refugees and internally displaced people to their homeland: a view from Azerbaijan

Azer Allahveranov

Introduction

Negotiations to resolve the Armenian–Azerbaijani conflict around Nagorny Karabakh (NK) have been going on for over 16 years. Despite the efforts of the two countries' political leaderships, the Minsk Group of the OSCE, and various international organisations, the problem is still at an impasse. At the same time there are some signs of positive changes linked primarily to the agreement on several aspects of the substantive issues at stake, reflected in various declarations[1] and joint statements by leaders of the countries involved in the negotiation process.[2]

The negotiations process is closely observed by all strata of Azerbaijani society without exception[3], and by refugees and internally displaced persons (IDPs) in particular. Everyone is waiting with great anticipation for the conflict parties to finally arrive at a consensus on substantive issues and to sign a peace treaty which would set in motion the process of return for refugees and IDPs.

1. See, for example, the *Meindorf Declaration* on Karabakh signed on 2 November 2008.

2. See, for example, political statements made on on 10 July 2009 at l'Aquila, on 26 June 2010 in Muskoka, on 27 October 2010 in Astrakhan, and on 1 December 2010 in Astana.

3. Results of numerous sociological surveys carried out by a variety of public associations (for example, the Baku Press Club) and news agencies (e.g., *Day.az*) show that NK is seen as problem number one, ahead of other issues such as democratic reforms, human rights, corruption etc.

Storage for lives on hold. *Source: Internews Azerbaijan*

True to the "do no harm" principle, the author of this article has chosen not to digress into the history of the NK conflict. Instead, the author has set out to analyse the view of the Azerbaijani public regarding the return of refugees/IDPs to places of their former residence after a potential future peaceful settlement of the NK conflict, and to study social and psychological aspects of this scenario.

1. Present policies on refugee and IDP return

1.1 The general situation of refugees and IDPs in Azerbaijan

It is no secret that refugees and IDPs are the most vulnerable segment of the population in Azerbaijan. In Baku, Sumgait, Ganja and other large cities IDPs have been rehoused in government buildings, schools, kindergartens, student halls of residence. According to the data supplied by the Asian Development Bank, refugees and IDPs remain one of the poorest groups in Azerbaijan and as such have been identified as a priority group in need of special attention in the poverty reduction plan. At present refugees/IDPs still suffer from absence of proper water and sewerage facilities as well as inadequate healthcare and education provisions. The UN Secretary-General's Special Representative for Human Rights Walter Kelin drew attention to the scale of existing problems in these areas during his visit to Baku in May 2010. According to Kelin, "tens of thousands of Azerbaijani IDPs still live in derelict, excessively cramped and highly unhygienic collective settlements."[4]

Malnutrition is widespread, infant mortality stands at 26%, compared with the national average of 10%, and unemployment among IDPs is a very serious problem.

To improve this situation and IDPs' living conditions the government is taking steps to provide regular aid and build new settlements for IDPs. The government programme on improving the social and economic conditions of refugees and IDPs has begun to yield fruit in recent years. Thus, in the past four years the poverty level among IDPs fell from 75% to 25%.

1.2 Statistical data on refugees and IDPs

There are huge discrepancies between different international documents and reports compiled for public consumption regarding the actual number of refugees/IDPs. This leads to doubts and well-founded accusations of falsifications of facts.[5] Given the importance of this research we looked at and used data from official sources.[6]

According to official information, in January 2010 there were 248,000 refugees from Armenia (accounting for 29.7% of the total number of refugees/IDPs) and 586,000 IDPs (accounting for 70.3%, respectively). Of the latter, 242,000 IDPs (41.3%) lived in Baku and Sumgait, while 344,000 IDPs lived in other parts of the country (58.7%).[7] While 138,000 refugees (55.6%) lived in urban areas, 110 000 refugees (44.4%) lived in rural areas.

It must be noted that the overall figures on refugees and IDPs in Azerbaijan do not include statistical data on residents of 21 Azerbaijani villages on the border with Armenia. Villages outside the boundaries of the former NKAO and seven districts around it were occupied by

4. The UN pledges further aid to Azerbaijan's IDPs (in Azeri); see http://www.milli.az/news/politics/11710.html

5. See A.Yunusov, *Migration processes in Azerbaijan* (Baku, 2009), pp. 28-31; International Organization for Migration, *Population migration in the CIS countries: 1997-1998* (Geneva, 1999), pp.24-25

6. The study of the total number of refugees/IDPs was based on the statistical data which appeared in the letter by the State Committee for Refugees and IDPs addressed to the UNHCR Baku Office of 22 January 2010.

7. Ibid.

Armenian troops during the war.[8] According to the Administration of the President of Republic of Azerbaijan there were 128,000 people living there at the time.[9] After the occupation residents of those villages did not leave the territory of their districts but settled in neighbouring villages and towns. If we add their number to the total number of IDPs, we could say that this segment of the population accounts for a 700,000-strong population.

1.3 Government assistance for refugees/IDPs

Since 2001, with the significant increase in Azerbaijan's oil revenues, the republic has had significant opportunities to build new townships for IDPs and to finance their relocation. From 2001 to October 2010 the State Oil Fund of Azerbaijan (SOFAZ) allocated AZM 692,900,000 manats (approximately USD $866,100,100) to the construction of new townships. This money was used to build townships in different parts of the country, complete with energy, water, gas and other social and technological infrastucture. In total, 57 new townships have been built with government money and with the active involvement of the State Committee for Refugees and IDPs, the IDPs' Social Development Fund and Azerbaijan's Agency for Rebuilding and Reconstruction of Territories. The total number of new houses built and handed over to IDPs stands at 16,677, with an additional 287 multi-purpose administrative buildings.[10] According to official data, around 100,000 refugees/IDPs have already been resettled in these new townships, including 11,000 refugees and 89,000 IDPs. The process of resettlement for refugees/IDPs who are living in hostels and halls of residence has started this year (2011).[11]

We must stress that the new village houses offered to new settlers are not owned by them; they receive them in accordance with contracts between refugees/IDPs and the State Committee for Refugees and IDPs. When the occupied territories pass from Armenia's control to that of Azerbaijan and IDPs go back to their homes, they will have no further need of these houses, which will be used for other purposes. There is no conscious strategy of integration in Azerbaijan.

1.4 Impact of the "no war, no peace" status quo on the refugees/IDPs' attitude to return

The existing "no war, no peace" situation is heavily charged with the threat of a new escalation. Belligerent rhetoric in the media on both sides of the conflict divide, stalled negotiations and regular deaths along the Line of Contact (LOC), have led to the torpedoing of peace initiatives on the one hand, and to the increase of warmongering on the other. A military solution to the conflict would, however, lead to massive human casualties on both sides of the conflict divide and turn into a national tragedy for both nations. This is the reason why the Republic of Azerbaijan is trying to liberate occupied territories and to resolve the NK conflict by purely peaceful means.

Whatever the scenario (military operations or peace negotiations), a peace treaty will be signed by the parties and this will lead to the de-occupation of the occupied territories both in NK and around it, resulting in the return of IDPs to their former homes. This is not an easy process and it would require considerable resources aimed, on the one hand, at rebuilding the infrastructure of the liberated territories[12], and on the other, at organising the whole process of IDPs' return. De-mining of the territories, rebuilding infrastructure destroyed in the war and the socio-economic development of NK, in general, require not just enormous financial investments but also enormous efforts. Similar efforts would be required to organise a voluntary return of the IDPs who are ready to embark on this process. Social, political and economic factors which could strengthen the process of return, together with socio-psychological factors, will be important components of this process. In order to analyse the situation through this prism and to identify elements of the return process which are of particular interest to refugees/IDPs meetings and open discussions on the most burning issues were conducted during the preparation of this article in November–December 2010.

2. The degree of refugee/IDP integration and how it affects the return process

The extent to which refugees/IDPs are integrated is directly linked to their attitude to voluntary return. In order to build a full picture of the potential scenario of the entire IDP population's (and even, perhaps, some of the refugee population's) return it is necessary to identify clearly differences in the degrees of their integration.

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8. During the war around NK one village in the Nakhichevan Autonomous Republic, 30 villages in the Terter district and seven villages iin the Kazakh district were occupied. Source: Azerbaijan's State Committee for Refugees and IDPs see: http://www.refugees-idps-committee.gov.az/az/pages/29.html

9. *The Armenian-Azerbaijani, Nagorno-Karabakh conflict* (in Azeri), p.15 www.elibrary.az/docs/azerbaijan/gl8.pdf

10. Source: State Oil Fund of Azerbaijan, source.: http://www.oilfund.az/az/content/10/87

11. The process of IDPs' resettlement in the new townships will continue in Azerbaijan. http://news.day.az/society/240054.html

12. The term "liberated territories" was introduced into usage in Azerbaijan in the mid-1990s and implies the liberation of NK and the seven districts surrounding it.

2.1 Differentiation of refugee groups from Armenia

Four basic categories of refugee groups from Armenia can be identified: assimilated, integrated, isolated, and marginalised refugees.

Assimilated refugees include those who partially abandoned their former identity (that of Khallavar, Lyambyaliets, Nyuvyadinets, etc[13]) and who have tried to merge with the local communities in their current places of residence in different regions of Azerbaijan. Using family or other ties, they have integrated into the local communities and tried to redefine their identity, linking it to their new place of residence where they have acquired flats. They link their future plans to putting down deeper roots in their present place of residence rather than returning to Armenia. It is hard to estimate the exact number of these assimilated refugees but in the surveys 90% indicated that even in the event of an organised process of return to Armenia, they would not go back there. This reflects the prevailing opinion among these refugees.

Integrated refugees, who were able to retain their cultural identity, are close to the assimilated ones. When discussed, the issue of refugee integration is often understood as a simple merging of this group with Azerbaijani society. In fact, when considered from the point of view of cultural identity, this is not integration but assimilation. The integrated refugees, on the other hand, combine their former identity linked to the Azeri culture which once existed in Armenia, with their new acquired identity as residents of Baku, Ganja etc. Neither the assimilated, nor the integrated refugees have any plans to go back to Armenia and there are no discussions among this population segment of such a return.

Isolated refugees are those living in compact settlement centres for refugees. They stick together, usually make up a single community and still define themselves as natives of Armenia. Far from rejecting their old identity, they strengthen and deepen it. They occupy a particular niche in the employment market with their collective involvement in small businesses and trade. These refugees keep a certain socio-psychological distance from the rest of the local population and enter into marriages only with members of their own refugee community. They resist assimilation into the local communities.

Marginalised refugees are also not assimilated, but have lost the sense of a link with their former identity. They experience the syndrome of total alienation, both from the locals and from those native to Armenia. Officially, they are still registered as refugees but psychologically they do not identify themselves with other refugees.

If assimilated refugees consider the local community as their reference group, for isolated refugees the refugee community itself constitutes their reference group, while marginalised refugees lack support in both the local community and the refugee community. Such alienation and self-alienation are exacerbated by their low social status and low incomes. Isolated and marginalised refugees constitute the smallest proportion of all refugees and are the most passive part of this population segment, being totally reliant on external help: from the government, society and relatives.

2.2 Differentiation of IDP groups

In contrast to refugees, IDPs from NK and the seven districts around it have settled mostly in other regions of Azerbaijan, according to a system that reproduces in exile the governmental infrastructure of the region where they are registered (for example if an IDP from Shusha region lives in Baku now he still remains a resident of Shusha region and is registered with the executive branch of the local government-in-exile of Shusha). Like refugees, IDPs have also formed new and similar socio-cultural categories: integrated and assimilated, isolated, and returnees.

Integrated IDPs are those who have managed to find a place to settle down, mostly in Baku and other large cities of Azerbaijan (Sumgait, Ganja and Mingechaur) and are more or less well integrated into their local communities; they constitute the plurality of all IDPs. According to official data, 278,000 IDPs (who represent 47.4%) have managed to settle down in the above-mentioned cities. This urban segment of the IDP community actively participates in the social and political life of the country. These are mostly natives of Zangilan, Qubatly, Fizuli, Jebrayil and Agdam districts.

Assimilated IDPs are those who resettled quite spontaneously in different parts of the country, some distance away from the areas bordering the LOC. Local district infrastucture, close contacts with the local population, and marriage with local people strengthened assimilatory trends, especially where they settled in smaller numbers, and finally led to the disappearance of noticeable differences between the local populations and IDPs. According to rough estimates the number of assimilated IDPs stands at around 115,000, which constitutes 19.6% of the total number of IDPs.

Isolated IDPs constitute a relatively small maverick group. During the conflict the majority of IDPs

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13. Khallavar are Azeri refugees from the former Azerbaijani district of Khallav in the Gugar region in the Armenian Soviet Socialist Republic (AmSSR); Lyambyaletsy are from the Azerbaijani village of Lyambyali in the Allaverdi district of the AmSSR; Nyuvyadevtsy from the village of Nyuvadi in the Meghri district of the AmSSR.

Boys attending a Shushavian school in exile.
Source: Internews Azerbaijan

rushed to leave the military theatre and settled in those areas closest to NK. Refugee tent camps, Finnish huts [a kind of emergency housing – *Ed*.] and shelters were hastily erected along principal highways leading to NK, which subsequently became compact IDP settlements, relatively isolated from the surrounding world. Due to this isolation they have managed to preserve customs, traditions, way of life and their skills. A review of recent statistical data on IDP's settlement distribution brings us to the conclusion that their number has halved over recent years to around 74,000 people, or 12.7% of the total number of IDPs.

Finally, the last group in our notional differentiation are those IDPs living in new townships built in the Terter, Fizuli and Agdam districts. These so-called "returnees" have not integrated due to their relative isolation until their recent resettlement in new townships. The process of repatriation in new townships, being a pilot model of repatriation in future, has to start now in order to prepare for a smooth process of repatriation after the future release of the occupied territories. At present their number stands at 118,000 people, i.e. 20.3% of the total number of IDPs.

2.3 What these degrees of IDPs and refugees' integration have in common and prospects for organising their return

Refugees/IDPs who we have defined as assimilated and integrated, residing in Baku and other large cities, are not hopeful regarding the potential return of lost territories. Indefinite stalling of the peace process only intensifies integrational processes in society and contributes to the rapid loss of a sense of belonging to Karabakh soil. Already there are some integrated and assimilated refugees/IDPs who do not want to go back to Karabakh

under any circumstances. Although the majority of IDPs we met when researching this article always stressed their readiness to return to Karabakh, whatever desolation and destruction they might find there, some did not. One focus group participant made the following statement: "I do not want to experience all the suffering and torments of an IDP ever again!" A female refugee from Armenia expressed a similar sentiment when she said that her "great grandfather was deported from Armenia in 1918-1920, my father was deported in 1948-49 and returned in 1950, and then it was my turn in 1988 when I was finally deported with her whole family". She has no desire to go back because she "fears that her children would have to suffer deportation and exile". At the same time this refugee's brother, also present at the focus group discussion, proudly declared his readiness to go back to Armenia and start a new life there.

Isolated refugees and IDPs experience their total isolation from everyday life keenly and do not have an idea of what the future holds for them. This category of refugees/IDPs is characterised by disorganisation, indecision, suspiciousness, inner tension and aggression, hopelessness and despair. These syndromes must be considered in the light of any plans to implement their return in the future. It is crucial to commence cross-cutting work with these people to create favourable conditions for their integration, including accelerated resettlement in new townships and temporary accommodation being built in different districts, and by encouraging initiatives to revive their former social and cultural identity. A number of five-storey buildings are ready in Gabala, Goranboy and Yevlakh regions to accommodate them.[14]

3. Potential scenarios for IDP return to liberated territories

In order to piece together potential return scenarios we must ascertain the volume of likely rehabilitation work, including de-mining, in the liberated territories.

3.1 The volume of reconstruction/ rehabilitation work

In order for return to the de-occupied territories to become reality, according to the calculations of the State Commitee for the Assessment of Damage from the Karabakh Conflict these territories necessitate infrastructure for 900 new towns and villages, 131,000 new accommodation units, new roads, electricity supply networks and telephone lines. Considering that building a township for 500 families takes four months, building 131,000 accommodation units would take over five years.

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14. 'В Азербайджане будет продолжено переселение беженцев в новые поселки' - see http://news.day.az/society/240054.html

It has been estimated that damage from the conflict stands at USD $60 billion.[15] In a subsequent briefing on the issue of IDPs' repatriation Chairman of the State Committee for Refugees and IDPs stated that implementaton of the Reconstuction and Repatriation Programme ("The Great Return") would require USD $62 billion, although this figure is subject to revision. But it is already clear that the sum is going to exceed USD $70 billion.

An important component of the rehabilitation programme is the de-mining of the territories and the removal of unexploded ordnance. In 1988 the National Mine Clearance Agency of Azerbaijan (ANAMA) was created. In over 20 years of its existence this agency (with a staff of 547 in December 2010), helped by professional sappers, bomb technicians, rapid reaction forces, specialist equipment and 32 search dogs has managed to disable and remove 621,964 mines and unexploded shells from an area of 138 million square meters of the Azerbaijani side of the LOC and territory in Fizuli, Agdam, Goranboy and other regions neighbouring NK.[16] The total area identified by ANAMA as needing clearance is 280 million square metres; the agency is expected to clear 22–27 million square metres a year which is not a bad number, even by international standards.

According to ANAMA, as a rule only those parts of the occupied territories where fighting took place got mined. After the release of all occupied districts the area needing mine clearance is expected to range from 350–830 million square meters, containing 50–100,000 mines.[17] This accounts for 4% of the entire occupied area. According to the Agency's calculations a thorough de-mining of these territories would require 8-14 years.[18] What is not known is the total amount of money needed to finance this process. According to the United Nations Mine Action Service (UNMAS), in the more than 90 countries across the world where de-mining takes place, humanitarian non-government and commercial organisations carry out 95–98% of all the work in de-mining.[19] The funding needed to do this work comes from the relevant states and in the form of loans by the World Bank.

3.2 Hypothetical scenarios of return

During meetings to study refugees/IDPs' opinions on various aspects of return, repatriation and restitution, we came across surprising and varied

results. IDPs are divided on the issue of whether to return or not. Between polar opinions there is a whole spectrum of positions and approaches, with some IDPs willing to return unconditionally, others under certain conditions, while others are unwilling to return under any circumstances. This last category includes integrated and assimilated IDPs who have managed to create fairly good living conditions in their new places of residence and who fear for the future of their children.

Given the fact that 16 years have passed since they were expelled from their native land and that several decades will be required to rehabilitate and restore their homes, the return of integrated IDPs poses difficult problems. The most likely to return first would be those IDPs temporarily housed in new townships, and those isolated IDPs living in Finnish cabins and hostels. On the whole, the relevant executive agencies would be able to relocate people living in special IDP townships as they already have positive experience of doing so. Yet it would take many years to relocate those who have settled down in large cities – in municipal buildings, with relatives, in private accommodation, and so on.

In any case, it is important to determine what these potential scenarios of the NK settlement are and try to match them with the hypothetical programmes for organising IDPs' return. In order to make predictions of potential scenarios of IDPs' return we may usefully refer to the examples of scenarios for the political settlement of the NK conflict identified by the Azerbaijani political analyst Shahin Abbasov.[20] According to Abbasov, there are three potential scenarios: "optimistic", "pro-Russian" and that of a "broad political consensus."[21]

Under the optimistic scenario conciliation would focus around the Madrid Principles (return of five districts, special conditions for the return of Lachin and Kelbajar and deferred referendum on the status of NK). Under this scenario the first stage will see the resettlement/relocation of the non-integrated IDPs, in particular, the "isolated IDPs", which would gradually move to the Agdam, Fizuli, Zangilan, Jebrayil and Qubatly districts. In the next stage IDPs from Lachin and Kelbajar who currently live in municipal buildings, spas/sanatoria in Baku and other large cities, could move into the vacant accommodation in the new townships. With a favourable turn of events this process could be accomplished within seven or eight years. In this

15. The Armenian-Azerbaijani, Nagorno-Karabakh conflict (in Azeri), p.15, see www.elibrary.az/docs/azerbaijan/gl8.pdf
16. 'My dream is to see the entire 600m square meters of the mined surface area completely free of mines.' *Ekho* newspaper, 25 September 2010 - http://www.echo-az.com/archive/2010_09/2376/obshestvo03.shtml
17. http://www.anama.gov.az/index_az.htm
18. 'My dream is to see the entire 600m square meters', 2010.
19. 'Ukraine's de-mining activities. Organisational problems'; see http://www.defense-ua.com/rus/hotnews/?id=18045

20. See Shahin Abbasov, 'Karabakh 2014: No war but a difficult journey to peace', in *Karabakh 2014 Six analysts on the future of the Nagorny Karabakh peace process* (London: Conciliation Resources, 2009, pp.26-36).
21. We have not considered the last scenario of 'no change', suggested by Abbasov, in our speculation on different scenarios of IDP return because there are no prospects for return in this last scenario.

An Azerbaijani IDP working as a market trader. Source: Internews Azerbaijan

case outstanding issues would be the return of IDPs to Shusha and other settlements in NK, which could be resolved after the referendum to determine its status. In either case, under the optimistic scenario IDPs from NK would also be moved to Karabakh, and, presumably, to Shusha and other neighbouring Azerbaijani villages, followed by the process of building a peaceful future.

In the pro-Russian scenario considered by Shahin Abbasov, we see a similar unfolding of events but with a much stronger vector towards increased Russian influence over Azerbaijan as well as Armenia and over the NK peace process. Abbasov sees this as effectively freezing the conflict over the foreseeable future since resolution in favour of one or other party would result in one's party long-term exit from Russia's influence. In this scenario, we can see the repeat of the first scenario of IDP return, when IDPs move initially to the five liberated districts, with the prospect of Azerbaijani IDPs moving to the Lachin and Kelbajar districts only in the distant future with no fixed timeframe. Return of Azerbaijani IDPs to NK itself remains an open and undetermined issue. In fact, this scenario is not acceptable to Azerbaijani IDPs.

The broad geopolitical consensus scenario, which envisages the de-occupation of six districts (apart from Lachin), withdrawal of Armenian troops back to the border of the former NKAO, introduction of police and border guards by Azerbaijan, deployment of peacekeeping forces on the agreed section of the Armenian-Azerbaijani border, Shusha and Lachin handed over to Azerbaijan after the settlement of the status issue, also contains all elements of the return process applicable to a best case scenario of political settlement. But under this scenario the entire process of return would take 10-12 years, because it involves the development of a conceptual framework for the active engagement of the population of NK – both its Armenian and Azeri communities – in the social and political life of the country.

Relations between Azerbaijani returnees and the Armenian population of NK are given serious consideration by another Azerbaijani analyst, Tabib Huseynov.[22] Huseynov considers Armenian settlement in the Lachin and Kelbajar districts "the most likely source of tensions" which would "hamper the peace process, especially in its initial stage."[23] Another crucial factor which could hinder the process of return is the artificial barriers potentially created by the local government of NK.[24] Demographic issues remain central. The Armenian community of NK is concerned by the yearly growth in the number of Karabakh Azeris and impacts on any future referendum on Karabakh's status. Meanwhile

22. Tabib Huseynov, 'The day after tomorrow: an agreement reached on the Basic Principles, what next?', *Karabakh 2014*, 2009, pp.37-46.
23. Ibid, p.40.
24. Ibid. pp.44-45.

the Azerbaijani community is concerned by Armenian settlement in NK and the surrounding districts, which is undoubtedly aimed at achieving numerical superiority over the Azerbaijani side. Each community tries to use demographic factors to consolidate a numerical advantage. If an effective mechanism to reduce the impact of the demographic factor on the whole process of return could be developed, this could yield positive results both in the area of interethnic relations and in the political arena as well, which would be the key to future stability.

3.3 Key factors to be considered when organising return

In addition to political and demographic factors, any process of IDP return needs to consider other factors such as the sentiments, expectations and agendas of IDPs themselves. Analysis and consideration of these factors would allow us to roughly model possible reactions of potential returnees to different scenarios of return to the de-occupied territories. One could distinguish four categories of social issues for IDPs: day-to-day problems; adaptational tasks and associated stresses; the stress of uncertainty and the need to plan one's life; post-traumatic stress and overcoming its consequences.

IDPs have had certain problems in common. Difficult living conditions, economic and social crises, rising prices, unemployment and the daily struggle of survival below the poverty line characterise the existence of most Azerbaijani IDPs irrespective of their place of residence. Yet integrated or assimilated refugees and IDPs link all their hopes and future plans with their present environment, while isolated IDPs pin all their hopes and plans on the earliest possible return to NK. Many of them think that whatever the difficulties they have to face on their return, they would manage to deal with them in NK faster and more effectively. An important element in this context is the special preparation work with potential returnees among Azerbaijani IDPs, including the promotion of such values as tolerance, endurance and a constructive approach.

The process of adaptation to the new conditions of life in exile, to the new status and role prescriptions, linked to the fact that these individuals are refugees or IDPs, requires a certain change of identity. It can be conjectured that many of them led what they considered to be a wonderful life in NK, were quite well off, and now, having lived through many sacrifices and deprivation, they have become exiles from their native land, left without a roof over their head and taken in by others, and have sunk to the lowest level of economic (in-)security. Such a drastic change in their social and economic status was

also connected to the fact that the very label of a "refugee" or "IDP" is a stigma for them. They believe that NK is only that place where they would feel "at home", where they would not feel alien. In addition, refugees/IDPs are also characterised by the symptom of uncertainty.

This analysis brings us to the conclusion that to make the implementation of the programme or a smooth realisation of any of the scenarios of return to NK more effective, it is important to resolve these issues within a socio-psychological and security framework. This would require complex government measures for working with refugees/IDPs in order to overcome consequences of a deep traumatic experience at the social level. Small groups of 'spoilers' could do a great deal of damage in re-awakening past traumas.

4. Prospects for peaceful co-existence after the signing of a peace agreement

4.1 Differences in attitudes towards peaceful co-existence

The prospect of peaceful co-existence after the signing of a peace agreement is a hotly debated topic in Armenian and Azerbaijani societies. Results of surveys and studies which are periodically conducted in both societies indicate that there are two views on this issue.

The first of them – the official Armenian position – consists of the total rejection of the potential co-existence of Armenians and Azeris, backed up by statements from the Armenian political elite, including former Armenian President Robert Kocharian and Chairman of the Permanent Parliamentary Committee for External Relations A. Rustamian about the genetic incompatibility of Azerbaijanis and Armenians.[25] Some ordinary Armenians also disagree with Kocharian, Rustamian and other political figures.[26] Articles in the Azerbaijani media have referred to ordinary Armenians who wish to return to Azerbaijan, in whose sincerity there is no reason to doubt.[27]

The official Azerbaijani position is linked to the fact that the Azerbaijani public sees the future of NK as one of the most dynamic districts of Azerbaijan with both communities living side by

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25. Head of the Armenian Parliamentary committee for external relations: 'Armenians and Azeris are genetically incompatible'. See http://www.rol.ru/news/misc/newssng/04/02/28_013.htm
26. In recent years the author has taken part in many conferences on peaceful resolution of the NK conflict. He has come across examples of Armenian delegates who reacted with understanding to the statements about co-existence of Armenians and Azeris, and even discussed the idea of pilot villages where representatives of both communities would live side-by-side.
27. 'Бакинские армяне хотят вернуться в Баку', see http://news.day.az/armenia/29922.html

Former residents of Cebrayil outside a village school building for IDPs from that region.
Source: Internews Azerbaijan

side. "Armenians who currently live in Nagorny Karabakh and Azeris who would go back there, would live under the status of the highest possible autonomy", remarked Azerbaijani President Ilham Aliyev in one of his recent statements.[28] We can also refer to the famous statement of Azerbaijan's Ambassador in Russia Polad Bulbuloglu during his visit to Karabakh[29]: "How can it be that Armenians and Azeris can live and do business together in Moscow but not here, on this patch of land... Neither Armenians, nor Azeris will ever disappear into outer space... I am certain that in future years everything will sort itself out, everything will be fine and we shall live together, side by side" – such was his optimistic prediction during his meeting with the Armenian community of NK. But the official view is that this can only happen after Armenian withdrawal and the return of displaced Azeris.[30]

Opinions of the majority of ordinary Azeris reportedly coincide with the official line. "If Armenians stop hating us without any reason, and give back everything they took from us, then we might be able to live together in peace", reasoned one of Baku's female residents who took part in

the regular survey conducted by the *SalamNews* news agency on the streets of the capital. It must be noted, on the whole, that the vast majority of those surveyed spoke positively about the prospects for Azeris and Armenians living side by side after signing a peace agreement. They did note, however, that it is up to the Armenians to make the first step.[31]

4.2 Possibilities of peaceful co-existence and positive experience: for and against

The possibility of peaceful co-existence between Armenians and Azeris is the focus of attention not only of political circles and NGOs in both countries but of international participants in the negotiation process. The OSCE Minsk Group's co-chairs' statement in Canada, and specifically the item on the right of all IDPs and refugees to return to their former places of residence, sparked off some activity, especially among the Armenian refugees from Azerbaijan. According to the Head of the State Migration Service of Armenia G. Yeganian, "many refugees approach different departments, including the Migration Service, in order to find out details and deadlines for the implementation of this decision."[32] It is also worth noting that

28. 'Territorial integrity of Azerbaijan never was and never will be subject to discussion', see http://news.day.az/politics/205769.html
29. 'Why can Armenians and Azeris live side-by-side in Moscow but not on this tiny patch', see http://novostink.ru/sng/300-pochemu-armyane-i-azerbajdzhancy-v-moskve-mogut.html
30. 'Армяне хотят вернуться?', see http://www.echo-az.com/archive/2010_07/2332/politica05.shtml

31. 'Do Azeris want to live in peace with Armenians after the resolution of the Nagorno-Karabakh conflict?', see http://www.salamnews.org/ru/news/read/17510/opros-salamnews-xotyat-li-jit-azerbaydanci-v-mire-s-armyanami-posle-resheniya-karabaxskogo-konflikta-video/
32. 'Armenian refugees from Azerbaijan want to go back to their homes', see http://www.regnum.ru/news/polit/1307259.html

"Armenian refugees from Azerbaijan see this issue as realistic and attainable."[33] Without a doubt such statements have behind them a political rationale.

The return of Azerbaijani IDPs to NK and possibly of Azerbaijani refugees to Armenia is still an undecided issue in the Armenian position. It is known, however, that Karabakh Armenians have repeatedly stressed their opposition to the prospect of becoming a minority in Azerbaijan, citing the hierarchical nature of relations between Azerbaijan's leadership and the Armenian administration of NK.[34]

Without going into details of these statements by the Armenian side, we would like to concentrate on the sentiments in Azerbaijani society. We can distinguish two themes here: peaceful co-existence in NK and a possibility of Armenians' return to Azerbaijan.

As far as peaceful co-existence of the two communities in NK is concerned, here the position of Azerbaijan is quite simple: Armenians resident in NK have been and remain citizens of Azerbaijan. The government would always be willing to listen to its citizens from both communities which would live in NK in the future. They would enjoy the same rights and freedoms as Azeris, within the framework of Azerbaijan's constitution. It goes without saying that Karabakh Azeris do not want to see a settlement of the NK conflict which could turn them into a "new minority" within NK under the political leadership of Armenians. In this context it is important that both communities discuss the issue of their future co-existence at a certain stage in the negotiations. Today one can conclude that many Karabakh Azeris, who number 75,000, according to Bayram Safarov, Chairman of the Azeri community of NK[35], are ready to go back to NK if they are provided with security guarantees and a degree of autonomy equal to that of Karabakh Armenians.

There is an active promotion of the opinion – on both sides of the conflict divide – that after all that has happened Azeris would not be able to live in peace with Armenians. Safarov is confident that this approach is fundamentally flawed and that, "Azeris do not have and would not have any problems with peaceful Armenians who respect the territorial integrity of Azerbaijan. We can peacefully co-exist with Armenians. To make this

possible, the Armenian leadership should first withdraw its troops, we should be able to go back to our homeland and start rebuilding that land together."[36]

It is worth pointing out that such statements by the official representatives of the Azeri community of NK regarding the co-existence of Azeris and Armenians are deeply rooted in reality. It is a well known fact that there is a large number of ethnic Armenians who lead a peaceful life and are actively involved in different sectors of our economy in Baku.[37] According to statements by the Chairman of the State Statistics Committee A. Veliyev[38] and Head of Presidential Administration R. Mehtiev[39], there were 20,000 ethnic Armenians living in Azerbaijan a few years ago. According to the revised figures received from the Head of Azerbaijan's Ministry of Foreign Affairs' Press Office E. Polukhov there are 30,000 Armenians currently resident in Azerbaijan.[40] These figures do not include Armenians currently resident in NK. According to the 1999 census there were 120,700 Armenians living in Azerbaijan at the time.[41]

Armenians who live in Azerbaijan, for example, in Baku, enjoy full rights under Azerbaijan's constitution as citizens of Azerbaijan.

Ethnic Armenians, natives of Baku, live predominantly in those boroughs of the city where there used to be a closely-knit Armenian community in the past: Armenikend and Papanin (Nasimin district), Khutor (Binagadin district), Montina and Zavokzalnaya (Nariman district).

The majority of ethnic Armenians are wives of ethnic Azeris and children from mixed marriages who are fully engaged in different sectors of the economy without any problems. According to the information provided by the Director of Azerbaijan's Migration Centre A.Aliyev, ethnic Armenians, in the age group 30 and older, some of whom have Azeri surnames, occupy prominent positions and are directors of large companies. So far there have been no serious incidents of inter-ethnic tensions in these sectors.[42] It is these positive aspects of relations with Armenian residents of Baku that have a good impact on the results of various surveys on the topic of Azeris

33. 'Azerbaijan must pay Armenian refugees the sum of $100 bln', see http://armtoday.info/default.asp?Lang=_Ru&NewsID =29104&SectionID=0&RegionID=0&Date=07/22/2010&PageP osition=1
34. Tabib Huseynov, 'A Karabakh Azeri perspective', *Accord: Elites and Societies in the Nagorny Karabakh Peace Process* (London: Conciliation Resources, 2005); see http://www.c-r. org/our-work/accord/nagorny-karabakh/russian/russian6. php
35. See http://xronika.az/azerbaijan-news/10166-armyanskaya-obshina-karabaxa-xochet-zhit-v.html

36. 'We could peacefully co-exist with Armenians'; see http://interfax.ru/txt.asp?sec=1483&id=147704
37. Please see footnote 8 of Chapter 7 – *Ed.*
38. "There are around 20,000 Armenians resident inAzerbaijan "; see http://www.regnum.ru/allnews/308707.html
39. http://azerbaijanfoundation.az/az/2010/01/22/da287l305q-qaraba287305-231305xmaqla.html
40. "There are 30,000 Armenians resident in Azerbaijan " (in Azeri); see http://faktxeber.com/21700_az399rbaycanda-30-m304n-erm399n304-ya350ayir.html
41. http://www.azstat.org/statinfo/demoqraphic/az/1_4.shtml [this figure appears to include NK though the census was not carried out there. – *Ed.*]
42. http://www.bizimyol.az/index.php?mod=news&act=view&n id=33661

and Armenians co-existing side by side. Despite the fact that 52.6% of those surveyed answered negatively, one third of the respondents, i.e. 37.4% gave a positive answer while another 9.9% did not know what to answer (had not made up their mind).[43] This points to the fact that if those who are still undecided choose to answer positively on the question of co-existence of Azeris and Armenians it would make the number of those who view this issue in a positive light to be almost half of the respondents (47.3%).

Notwithstanding, the general public's attitude to the Armenians who want to return to Azerbaijan is extremely negative. 73.4% gave a negative answer to the question of "whether Armenians should be allowed back into Azerbaijan", while 88.3% of the respondents thought that Azeri society was not ready for such a scenario. Besides, 75% do not believe that such a return would help resolve the NK conflict.[44]

5. Conclusions

A variety of potential scenarios of the developments around the NK conflict could only have successful, constructive outcomes if there were dedicated, well-researched work on promoting ethnic tolerance and mobilisation of these communities, involving different groups of refugees/IDPs. This would enable the process of return to former places of residence in a more organised fashion, to develop a clear mechanism for selecting potential returnees, to overcome the consequences of past trauma and the syndrome of victimisation.

Preparing the process of return and IDPs' return to the de-occupied territories are bound to be difficult, and the main difficulty will be linked to the psychological aspects of return.[45] Absence of hope, confidence and certainty are the main problems hindering the process of IDPs' return. Today Azerbaijani IDPs are ready for a voluntary return to their homes. These sentiments would only grow if their rights and freedoms were ensured and their security guaranteed. To achieve this they should be provided with detailed information on the material provisions, legal remedies, education, healthcare and other important areas of public life on the ground, in places where they will be returning to. This requires the creation of more attractive and stable economic, social and legal conditions.

An important condition of IDPs' return to their homes is the process of restitution of the land plots they had abandoned, of their property, their former estates, in short, an effective implementation of restitution policies. Unfortunately, the issue of restitution is not discussed in Azerbaijan, although some aspects of this policy, including the size of financial damage from the conflict as well as a rough estimate of rebuilding and rehabilitation costs are currently being studied. There is no discussion of Azeri refugees' return to Armenia or Armenian refugees' return to Azerbaijan, although occasional surveys carried out in order to gauge the public's position on this issue mainly show an extremely negative reaction of the public to this issue.

43. http://www2.600min.az/index.php?s=e7b12b2052bcdbd144 9e39ca850592a1&showtopic =206012&pid=7296680&st=0& #entry7296680
44. http://www4.disput.az/index.php?showtopic=133843&st=0
45. This fact is the focus of PACE's attention at the moment - http://azerbaijanfoundation.az/az/migdestiny/ 410-avropada-601n-231ox-qa231q305n-v601.html

The town of Lachin, now under Armenian control. *Source: Internews Armenia*

5. Part One: Reflections on return and its alternatives in the Nagorno-Karabakh Republic – Azerbaijani conflict

Masis Mayilian

1. Introduction

This research was dedicated to the following questions: how pressing is the issue of forced displacement in Karabakhi society and in other societies party to the conflict? Can this issue be resolved without being linked to other crucial political issues at stake in the Nagorno-Karabakh (NK) conflict, such as the international legitimation of the status of the Nagorno-Karabakh Republic (NKR), and issues of territory and security? Are the peoples and societies of both parties ready to reach a compromise, or indeed to arrive at any decisions at all?

Forced displacement is one of the most important issues in resolving the Nagorno-Karabakh conflict. Other key issues are usually said to be the determination and recognition of the NKR's status, questions of territory and borders, of unblocking transport and energy communications, and security guarantees for the NKR.

If the desire for freedom and equality, declared by the Armenian majority of NK was the *cause* of renewed conflict with Azerbaijan, then forced displacement (together with a number of other problems) arose as a *consequence* of this conflict. *Therefore it would be more methodologically correct to resolve the issues connected with the cause of the conflict first, and then to embark on the elimination of its consequences.* International recognition of the NKR and the delimitation of its borders with Azerbaijan would clarify the situation for those wishing to return to their former abode. People cannot return to uncertainty, they have the right to know which country's laws they will be living under. For example, citizens of the NKR can return to Shaumyan district if the NKR's territorial integrity is restored and if the republic has real jurisdiction over this district.[1]

The latest peace proposal generated by international mediators in the Minsk Group of the OSCE, known as the Madrid Principles, suggests the deferral of final status determination for NK until the latter stages of the peace process. The mediators apparently see other problems, relating to the consequences of the conflict, as needing to be resolved first. It is evident that this is an attempt by the co-Chairs of the Minsk Group to put the cart before the horse.

Political parties and NGOs in the NKR have assessed the Madrid Principles negatively.[2] Azerbaijan has declared that it accepts the Principles with some reservations. According to the Armenian Ministry of Foreign Affairs, these 'reservations' extend to the majority of the mediators' proposals.[3] In Armenia attitudes towards the Madrid Principles, which suggest unilateral concessions by Yerevan and Stepanakert, are altogether negative.

Forced displacement was the subject of negotiations between delegations from the NKR, Azerbaijan and Armenia under the aegis of the OSCE until April 1997. The *Draft Ceasefire Agreement* mentioned, *inter alia*, the need to create conditions for the "guaranteed safe, voluntary and balanced return of displaced persons and refugees, irrespective of nationality, to their former fixed abode".[4] The subsequent 'package' (July 1997), 'step-by-step' (December 1997) and 'common state' (November 1998) proposals also contained provisions and separate proposals regarding displacement during the conflict.[5] A universal right of return for all internally displaced persons (IDPs) and refugees is also noted in the Madrid Principles. *The right of Armenians and the Azeris to return, with some exceptions, is not disputed: the problem lies in the current lack of legal-political conditions for the realisation of this right.*

International and other bodies of law acknowledge a right to restitution for displaced persons or at least mechanisms for compensation for their violated rights; international law and practice therefore make provision for alternative solutions. Of great importance is the determination of responsibility, that is, identification of the party whose actions led to the violation of the rights of the category of people in question.

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1. This reflects the Karabakh Armenian understanding that today's *de facto* Nagorno-Karabakh Republic (NKR) is distinct from and larger than the Nagorno-Karabakh Autonomous Region (NKAO), since it is claimed to include the Shaumyan district (known to Azeris as part of the Goranboy region) – *Editor's Note.*

2. 'Nagorny Karabakh NGOs: Madrid principles are adopted to please Azerbaijan', http://www.kavkaz-uzel.ru/articles/156804?=%23
3. 'Azerbaijan has more reservations', http://www.armtown.com/news/ru/lra/20100318/12987/
4. For the Draft Ceasefire Agreement, see http://www.vn.kazimirov.ru/doc20.htm
5. See http://www.vn.kazimirov.ru/doc16.htm, http://www.vn.kazimirov.ru/doc17.htm, http://www.vn.kazimirov.ru/doc18.htm

A resident of central Shusha on her balcony, 2011.

The problem of forced displacement can be analysed, but the practical implementation of any recommendations arising will be linked to the solution of other key political problems. For example, without mutual recognition of the legal status of the conflict parties it is impossible even to unequivocally identify the status of a displaced person. Whilst the personal status of each displaced person is presumed to invest them with various rights, those rights are regulated by separate international legal documents.[6] For example, according to the laws of the NKR the former Armenian residents of Baku and other cities of the Republic of Azerbaijan, some of whom are now resident in the NKR, are qualified as 'refugees'; conversely, according to the laws of Azerbaijan they are IDPs. From Baku's point of view, this category of people did not cross an international state border. The same situation applies to Azeris from the NKR, who today live in the Republic of Azerbaijan. In Karabakh they are considered refugees, in Azerbaijan – IDPs.

2. 'Demography as a weapon' in the Karabakh conflict

The attitude of Karabakhi society to the problem of forced displacement is profoundly ambivalent. On the one hand, this is an acute social issue for NK and it requires a final resolution. According to official data of the NKR, in the post-war period over 30% of the population in Karabakh are made up of Armenian refugees from Azerbaijan and IDPs who left their homes in the NKR as a result of Azerbaijani armed aggression.[7] It should be noted that in summer 1992 approximately half of the NKR's territory was under Azerbaijani control, and civilians in these occupied districts were annihilated or ethnically cleansed.[8]

In this respect a message from the chair of the CSCE (now OSCE) Minsk Group on NK, Mario Rafaeli, to acting chairman of the CSCE Josef Moravcik dated 23 September 1992 is noteworthy: "How can the Minsk Group indifferently continue the negotiations, whilst the subject of the negotiations (NK - M.M.) is gradually disappearing? …If Nagorny Karabakh were again to fall under the control of [Azerbaijan] as a result of the offensive, what will remain of the subject of the negotiations?"[9] Azerbaijan still controls 15% of the NKR territories (Shaumyan district, including the sub-district of Getashen in its entirety, and Martakert and Martuni districts in part). These territories are now settled by non-Armenians, and the names of residential areas and administrative boundaries in these occupied districts have been changed.

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6. *Convention Relating to the Status of Refugees,* http://www.un.org/russian/documen/convents/refugees.htm, *Guiding principles on Internal Displacement,* http://www.idpguidingprinciples.org/

7. For data on refugees, IDPs and territories in Nagorny Karabakh and Azerbaijan, occupied during the conflict, see http://www.karabah88.ru/history/karabah/21.html

8. Caroline Cox and John Eibner, *Ethnic Cleansing in Progress, War in Nagorno Karabakh* (Zurich, London and Washington: Institute for Religious Minorities in the Islamic World, 1993).

9. Archives of the NKR Foreign Ministry, p. MK-02, 1993.

Government and society in the NKR treated the problem of refugees as a humanitarian issue and for the whole duration of the conflict they tried to ease the situation of refugees and internally displaced persons. Unlike oil-rich Azerbaijan, Karabakh did not create tent cities for show or politicise this problem. The people of Karabakh provided refugees with emergency housing. To this day, without international support, the state continues to build housing for the refugees and those IDPs who came back to former places of residence liberated from occupation.[10]

On the other hand, there is an understanding in the NKR that the return of refugees to their former homes will create new problems, of both a humanitarian and security nature, for these returnees. According to a social survey carried out in October 2010 in the NKR by the British organisation Populus and the Armenian IPSC,[11] the population of Karabakh is categorically against the return of IDPs and refugees to the territories surrounding the NKR.[12] *The return of refugees in conditions of unresolved conflict, international non-recognition of the NKR and a lack of minimum trust between the conflict parties threatens the future security of the NKR and can become a new source of regional destabilisation* [author's emphasis]. The political leadership of Armenia is of a similar opinion.[13]

These are not random concerns originating in Karabakhi society. Demography has been used as a weapon by Baku since the 1920s, when the Bolsheviks decided to transfer Karabakh to Azerbaijan as an autonomous territory. Attempts on the part of the leadership of Azerbaijan to change the ethnic picture in NK to the advantage of the Azeri minority there continued throughout the years when the Armenian autonomy was part of that Soviet republic.

The Soviet Azerbaijani authorities carried out a deliberate policy to stimulate the artificial growth of the Azeri population in Karabakh. It should be noted that the natural population growth rate of the Azeri population was higher than that of the Armenian population. But in addition to the natural factor, artificial factors were engaged as well: the migration of Azeri labour and students to NK was

planned by the leadership of Azerbaijan and was realised under the control of party structures.[14]

This policy became more intense from the beginning of the 1970s, when Heydar Aliyev became the First Secretary of the Azerbaijani Communist Party Central Committee. The Baku newspaper *Zerkalo* ('The Mirror') quoted on 23 July 2002 revelations by Aliyev, now president of the independent Republic of Azerbaijan:

> "I am talking of the time, when I was first secretary, and helped the development of Nagorny Karabakh a lot. At the same time I tried to change the demography there. Nagorny Karabakh raised the issue of founding a higher education institute there, a university. Everybody was against it. I had a think about it and decided to found it. However, with a proviso, that there should be three sectors there — Azerbaijani, Russian and Armenian. It was founded. We sent Azeris from the neighbouring areas there, and not to Baku. We opened a large shoe factory there. We were sending the Azeris from the neighbouring areas there. By doing this and other things, I tried to increase the number of Azeris there, and reduce the number of the Armenians in Nagorny Karabakh. Those who worked in Nagorny Karabakh at the time know about it."

Azerbaijani sources hold many other testimonies to the discriminatory policy of Baku towards Karabakh.[15] This policy achieved results. During the first 10 years of Heydar Aliyev's rule, only 1 in 10 Armenians born in NK remained there.[16]

Below are some additional statistics:

• According to the census in agricultural areas in Azerbaijan in 1921, 94.4% of the population resident in the territories which were later in 1923 incorporated into the newly created Nagorno-Karabakh Autonomous Oblast (NKAO), were Armenian and 5.6% were Azerbaijani Turks[17] and other nationalities;[18]

• According to the 1926 census there were 125,300 people in the NKAO: 111,694

10. 'The NKR is developing a concept to resolve the refugee housing issue', see http://defacto.am/index.php?name=pages&op=view&id=1537
11. The Institute for Political and Sociological Consulting (IPSC) is a research institute in Armenia, specializing in market researches, sociological surveys, public opinion polls, qualitative and quantitative research and consulting. http://www.ipsc.am/eng/
12. http://regnum.ru/news/fd-abroad/karabax/1350287.html
13. 'The return of the refugees before time can provoke new outbreaks of the conflict', see http://www.panarmenian.net/rus/politics/news/36458
14. Armenian Academy of Sciences, 'Nagorny Karabakh' (Yerevan, 1988) see http://www.karabah88.ru/history/karabah/34.html
15. Arsen Melik-Shakhnazarov, *Nagorny Karabakh: facts against lies,* Chapter 2 (Moscow, 2009); see http://sumgait.info/caucasus-conflicts/nagorno-karabakh-facts/nagorno-karabakh-facts-contents.htm
16. Armenian Academy of Sciences, 1988, 'Nagorny Karabakh'.
17. Various terms were used to refer to modern-day Azerbaijanis until 1936: "Turks", "Azerbaijani Turks", "Caucasian Tatars". In 1936 the Turkish spoken in Azerbaijan was redesignated as "Azerbaijani" on Stalin's orders, and Azerbaijani Turks as "Azerbaijanis". See Farid Alekperi, "Towards the history of the ethnonym TURK in Azerbaijan", at http://www.proza.ru/2011/01/17/351
18. *Nagorny Karabakh during the Soviet years (short statistical book)* (Stepanakert, 1969), p. 7.

Armenians (89.1%), 12,592 Azerbaijani Turks (9%), and 596 Russians (0.5%)[19];

• The following fact is notable: during the first five years after the transfer of NK to the Azerbaijan Soviet Socialist Republic and three years after the creation of the NKAO, the Armenian population for different reasons decreased by 11–12,000;

• According to the last USSR census (1989), there were 40,600 Azeris in the NKAO, i.e. 21.5% of the total population;

• Therefore during the time NK was part of Soviet Azerbaijan, the Azeri population grew from 4.9% to 21.5% (a growth rate of 484%), and the Armenian population decreased from 94.8% to 76.9%.

A resettlement policy and games surrounding the creation and abolishment of 'Red Kurdistan' were further used to turn NK into an enclave. On the same day as the NKAO was created, an autonomous Kurdish district was also announced on 7 July 1923 on part of Karabakh's territory. But when the Kurdish district was later abolished it was decided that its territory would be assigned as administrative units of the Azerbaijani Soviet Socialist Republic (AzSSR). At the same time part of the NKAO's territory bordering Armenia was removed and incorporated into the newly-created Lachin district of the AzSSR. The AzSSR authorities removed part of the territory from the NKAO immediately bordering with the Armenian Soviet Socialist Republic (ArSSR) to the south of the village of Abdallyar. Later on this village, through repopulation with Azeri settlers, turned into the town of Lachin.[20] *Therefore as a result of manipulations with the Kurdish district ('Red Kurdistan'), the Kurds lost their short-lived autonomy (1923-1929), and the NKAO lost its border with the Soviet Armenia, i.e. it was turned into an enclave* [author's emphasis].

Karabakh's status as an enclave almost proved fatal for the people of the NKR at the beginning of the 1992-94 war. Only thanks to immense efforts over many months was it possible to break the siege and open a humanitarian corridor connecting Karabakh with the outside world. Many thousands of people in the NKR were saved from imminent death.[21]

Before the military phase of the conflict, parallel to the expulsion of hundreds of thousands of Armenians from Azerbaijan (from 350,000 to 500,000 people depending on the sources)[22], the authorities in Baku settled the Azerbaijani-populated areas of NK with settlers from Azerbaijan and with Meskhetian Turks from the Fergana valley in Uzbekistan.[23]

All these and other facts are still fresh in the memory of citizens in the NKR. The older generation in Karabakh remembers the discriminatory policy of Azerbaijan[24], the de-armenianisation of Nakhichevan[25], and the use of demography as a weapon to make the Armenians of Karabakh lose their motherland. It is common knowledge that with the weakening of the Kremlin, Baku unilaterally liquidated Karabakh's autonomy and, using Azerbaijani Interior Ministry special troops, organised the open deportation of the Armenians from dozens of villages in NK during Operation Ring in spring 1991.[26] Previous caution and quiet encroachment on the part of Azerbaijan under Soviet rule gave way to armed aggression and to ethnic cleansing in Karabakh after the disintegration of Soviet power and Azerbaijani independence.[27]

Whatever the essence of the conflict, it cannot be factually disputed that, "the Republic of Azerbaijan is responsible for the blockade of Nagorny Karabakh, armed attacks on civilians, artillery and

19. *All-Union Census of the Caucasus Socialist Federative Soviet Republic 1926* (Moscow: Central Statistical Division of the USSR, 1929), Volume 14, p.5.
20. Ashot Melik-Shakhnazarov, 'Who annexed the land corridor between Nagorny Karabakh and Armenia and when?', *Respublika Armeniya* (newspaper), 5 June 1992.
21. Cox and Eibner, 1993, *Ethnic Cleansing in Progress.*
22. The 1989 census was carried out one year after the beginning of the Karabakh conflict, after the pogroms of Armenians in Sumgait, Kirovabad (Ganja) and other places, which caused the mass out-migration of the Armenian population of Azerbaijan. For this reason the figures of the 1989 census, which give the figure of 390,505 Armenians in Azerbaijan, cannot be considered exact. Azerbaijani sources also acknowledge this. It is indicative that the 1979 census, carried out during more peaceful times, 'revealed' an Armenian population of 475,486 in Azerbaijan. See http://demoscope.ru/weekly/ssp/sng_nac_79.php?reg=7
23. Georgy Deev, 'Castles of lies built on human suffering', at http://sumgait.info/khojaly/khojaly-deev-1.htm
24. 'Political parties, NGOs and Unions of creative professions of the NKR made an appeal to the Chairman of the OSCE', http://www.regnum.ru/news/polit/1334935.html
25. According to statistical data, in 1917 there were 53,900 Armenians (approximately 40% of total population), in the ancient Armenian region of Nakhichevan. By 1926 their numbers had fallen almost fivefold; according to the 1979 census, there were 3,400 of them, i.e. 1.4% of total population. Out of 44 Armenian villages which existed before the 1917 Revolution there were only two villages left at the start of Karabakh conflict. Of those who were saved from the 1918—1921 massacre and left their motherland, the Nakhichevan Armenians were forbidden to return, and they were obstructed from doing so by the decisions of the Central Executive Committees of Azerbaijan and Nakhichevan. In 1922-1926 Armenian refugees from Nakhichevan sent numerous petitions to the governments of Azerbaijan and Nakhichevan, stating that their homes were under lock and key and their land abandoned. However, on 24 July 1922 the chairman of the Council of People's Commissars of Azerbaijan in his telegram to the Council of the People's Commissars of Armenia stated, that 'by the decision of the Central Executive Committee of Azerbaijan, mass relocation of the population into the boundaries of Azerbaijan is prohibited'. See *Nagorny Karabakh,* (Yerevan: Armenian Academy of Sciences, 1988).
26. Melik-Shakhnazarov, 2009, *Nagorny Karabakh: facts against lies,* chapter 17.
27. Cox and Eibner, 1993, *Ethnic Cleansing in Progress.*

An image of the Tatik Papik (Grandfather, Grandmother) monument created in plasticine by children from displaced families at the Naregatsi Art Institute in Shusha.

air bombardments of villages, forcible annexation of territory of the NKR [28] and expulsion of its population, as well as other war crimes. At the initial stage of the armed conflict, when international organisations[29] responsible for the preservation of peace between nations failed to act, self-defence was the only means to protect the lives and freedoms of the civilians of the NKR".30

To overcome the blockade, to stop the aggression and to ensure security of civilians, the NKR's armed forces were forced to take control of territory being used by Azerbaijani armed forces for military and other hostile actions against the NKR. The Republic of Azerbaijan, ignoring the norms of international law and the demands of the UN Security Council, chose the path of escalating armed conflict.31 Joint efforts by the NKR, as the main party to the conflict, and by the Republic of Armenia, as a party drawn into the conflict, forced the Republic of Azerbaijan to stop its aggression and to conclude the existing armistice with the NKR and the Republic of Armenia.

International recognition of the Republic of Azerbaijan took place on terms detrimental to the principles of the *Helsinki Final Act*, the *Paris Charter for a New Europe* and other OSCE documents. This created an opportunity for the Republic of Azerbaijan to ignore its responsibility for reparations for human rights violations32 perpetrated against the Armenian population of

28. In summer 1992 about half of the territory of the NKR was under Azerbaijani occupation, and Karabakh was effectively disappearing as an entity. Many researchers make the mistake of basing their conclusions exclusively on the basis of the post-war map of the region. If one looks at maps of the situations in 1988, 1991, 1992, 1993 and 1994, the dynamic evolution of the situation becomes evident (movement of territory back and forth between the sides), and it becomes possible to discern the causes and consequences of these developments, i.e. to establish relations of cause and effect.

29. Here it is the United Nations and OSCE which are referred to. The armed phase of the conflict intensified after the collapse of the Soviet Union and new independent republics were formed. In the view of the authors of the *Declaration* cited in footnote 30 the selective recognition of new republics and their accession to international inter-governmental organizations was a stimulus for violence. It seemed to Azerbaijan that it had carte blanche to opt for a military solution. If in 1991-1992 the NKR had received international recognition, events would have unfolded peacefully.

30. From the draft *Declaration of the Right of the NKR People to Peace and Free Development,* adopted by the NKR NGOs, http://www.regnum.ru/news/1350898.html

31. See 'Azerbaijan is guilty of thwarting the UN resolutions on Karabakh conflict resolution, according to V.Kazimirov' at http://www.panarmenian.net/rus/politics/news/11685/

32. Statement of authorised representatives of the refugees from Azerbaijan dated 9 December 2010, see http://defacto.am/index.php?name=news&op=view&id=5005

the AzSSR, to deny the rights of self-determination and development to the people of the NKR, and to consider lawful the use of military force against the NKR and the occupation of its territory. This situation presents a serious obstacle to conflict resolution under the aegis of the OSCE.

3. The politicisation of a humanitarian problem

The humanitarian problems of refugees and IDPs are highly politicised. Until recently, tent camps for refugees were used in Azerbaijani international propaganda to cultivate the image of a victim. Exaggerated figures of some '20%' of lost territories and one million Azeri refugees and IDPs are used indiscriminately.[33] This particular category of citizens is being used in Azerbaijan *for the purposes of resolving internal political issues*[34]*, and receiving humanitarian aid* from international organisations. As a vulnerable part of the community, refugees and IDPs as a rule have no choice during elections but to vote, in their hundreds of thousands, for the party in power. Refugees are purposefully turned into hostages of state policy and they are servicing the needs of the ruling elite of Azerbaijan.

As regards the process of finding a political settlement Azerbaijan is only concerned with the *territorial aspect of the issue*, and not the issue of compensation for violated rights. Hoping to regain territories lost in the war, tens of thousands of people in Azerbaijan continue to be kept in difficult conditions. In the meantime, according to experts at the Armenian Migration Department, there is sufficient accommodation in Azerbaijan abandoned by Armenians to accommodate Azerbaijani refugees and IDPs.[35]

The position of Azeris formerly residing in NK and now citizens of the Republic of Azerbaijan is contrasted by the authorities in Baku with the lawful position of the NKR citizens, who created and defended their Republic's independence. At the suggestion of Turkish diplomats the newly independent Azerbaijani state adopted the idea of splitting Karabakh into two communities. The Cyprus scenario was played out and a large Azerbaijani military contingent was introduced into the district of compact Karabakh Azeri settlement. In May 1992, however, these armed groups and the remaining population left the territory of the NKR. Whilst in Cyprus the scenario of introducing troops and partition brought some dividends for Turkey, after the movement of Azeris out of the NKR to Azerbaijan and their acquisition of the Azerbaijan citizenship the Cyprus scenario lost any relevance.

The return to Karabakh of former residents of Azeri origin, now holding Azerbaijan citizenship, under conditions of an unchanged anti-Armenian policy in Azerbaijan, could lead to extremely negative consequences for the NKR. In such an event the 'Cyprus-isation' of the Karabakh conflict would be irreversible.

Azerbaijan continues to present to the world an image of the Karabakh nation as if it consisted of two communities. It does this *with the purpose of preventing international recognition of the NKR.*[36] In fact, Azeri refugees from the NKR have become an instrument *for solving Azerbaijani foreign policy issues* and this very same factor is used by numerous international agencies to justify their position of ignoring the rights of the Armenian population in the NKR.

Introducing the Azeri community from NK into discussion of the right to self-determination of the people of NK invests the Azeri minority, *a priori*, with a certain status, proceeding from which one might believe that the right to self-determination of the people of NK can only be realised on the basis of consensus between the two communities. This position is legally groundless. The right to self-determination of the people of NK did not depend on the existence or otherwise of consensus between Armenians and Azeris. The choice whether to be part of Azerbaijan, part of Armenia or to be independent, was determined by a majority of the population.

Consensus between majority and minority becomes important when the constitutional foundations of a new state are being created, since non-recognition by a compactly settled national minority of the sovereignty of a new state creates a problem for the territorial integrity of that state. In this scenario, there is a territory populated by people who do not recognise the sovereignty of the new state, and who cannot be forced to acquire citizenship of that state. In this case, this national minority cannot return to be part of the national community from which it was previously expelled, without tangible legal guarantees that its rights as a minority would be respected and that it would be guaranteed self-governance. This problem concerns all parties to the conflict in equal measure. The Azeri community in NK cannot be granted more rights or more favourable conditions for its development than the Armenian community in northern Karabakh or in Baku.[37]

During the period of Soviet disintegration and the formation of the NKR and Republic of Azerbaijan,

33. Speech of Ilham Aliev at the VII OSCE summit, see http://www.president.az/articles/1208?locale=ru
34. 'In Azerbaijan refugees will be included in the electoral roll', see http://www.trend.az/news/politics/1678832.html
35. 'Refugees', see http://www.karabagh.am/4bejenci.htm

36. Elmar Mammadyarov: 'The Azeri and Armenian communities must determine the status of Nagorny Karabakh within the inviolable territory of Azerbaijan', http://deyerler.org/ru/14599-jelmar-mamedjarov-azerbajjdzhanskaja-i.html
37. Author's interview with the legal expert Andrias Gukasyan, Stepanakert, 13 December 2010.

the Azeri population of NK had full opportunity to decide on its future. The Azeri minority could, together with the Armenian majority in NK, have participated in the creation of the independent NKR. To that end all the necessary conditions were created: in December 1991 all the independence referendum ballot papers were prepared and provided in three languages, including Azeri; seats for Azeri deputies were provided in the highest authority – the Supreme Council of the NKR.[38] The founding documents of the NKR, adopted on 2 September 1991 and 6 January 1992, recognise the primacy of human rights, including the freedoms of expression, conscience, political and public activity and all other civil rights and freedoms recognised by the international community, including the right of national minorities to use their native language, without limitations, in economic, cultural and educational spheres. The NKR's founding documents refer to respect of the principles laid down in the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*.[39]

However, the Azeri community made a conscious choice to ignore their rights. In summer 1988 local Azeris expelled all Armenians from Shushi, they supported Baku's anti-Armenian policy in every way, including the decision to use force, they participated actively in the military operations against the NKR, then, having suffered military defeat in 1992 they left the NKR together with Azerbaijani armed units and assumed Azerbaijani citizenship.[40] The former Azeri population of the NKR therefore had a hand in Azerbaijani aggression against the NKR.

In contrast to the Azeris of the NKR, the Armenians in Azerbaijan, despite being an indigenous population of the country, were deprived of the right to participate in the determination of the fate of the republic. They were expelled before Azerbaijan's referendum on independence took place [author's emphasis].

New statistics on the former Azeri populations of NK and Lachin district are noteworthy. As noted above, according to the last Soviet census in 1989 there were approximately 40,000 Azeris in NKAO. According to new Azerbaijani data, the number of people in this category has now reached 65,000.[41] Azerbaijani opinion believes

that the problem of Lachin (not part of NKAO but now the Kashatag district of the NKR) is similar to the neighbouring Shushi district, and that these districts can be united.[42] According to this Azerbaijani scenario, at least 72,000 refugees[43] must return to Lachin district. According to some Azerbaijani pro-governmental experts, the return of 137,000 Azeris to Karabakh will not only restore the control of Baku over the main Stepanakert-Yerevan highway, but will ensure the results that Baku needs in a vote on the final status of Nagorny Karabakh, as stipulated by Madrid Principles. At the same time the Azerbaijani leadership "generously" agrees to postpone the return of Lachin and Kelbajar, after other districts are transferred back to Azerbaijan.[44]

Therefore the Azerbaijani leadership intends to use the possible return of the refugees to the conflict zone to its own political ends – as an instrument of 'drawing' the blockade circle around the NKR and to predetermine the results of any referendum regarding the status of NK proposed by the OSCE Minsk Group. Azerbaijan's constant policy, irrespective of the regime in the country, to subjugate Karabakh and unremitting military threats engender mistrust and serious concerns amongst the citizens of the NKR. As a result, the NKR's security becomes the only prism through which Azerbaijan's actions and intentions are read [author's emphasis].

4. Possible alternatives

Given the impossibility of the return, in the foreseeable future, by Armenians and Azeris to their homes, mediators in the Karabakh-Azerbaijani conflict must suggest alternatives.

4.1 Population exchange

Population exchange or population transfer have featured as strategies for the long-term resolution of inter-state conflicts featuring a fundamental component of interethnic antagonism.[45]

A well-known example is the exchange of Turkish citizens of the Greek Orthodox faith resident in Turkey ("Greeks"), for Greek citizens of Muslim faith resident in Greece ("Turks") at the end of the Greco–Turkish war of 1919-22. According to the *Convention Concerning the Exchange of Greek and Turkish Populations*, signed at Lausanne

38. Cox and Eibner, 1993, *Ethnic Cleansing in Progress.*
39. *Declaration on the Proclamation of the Nagorno-Karabakh Republic,* at http://www.president.nkr.am/ru/nkr/nkr1, *Declaration on State Independence of the Nagorno-Karabakh Republic,* at http://www.president.nkr.am/ru/nkr/nkr2
40. *European Convention on Nationality,* see http://conventions.coe.int/Treaty/rus/Treaties/Html/166.htm
41. 'According to Azerbaijani sources currently there are over 65 thousand Azeris from Nagorny Karabakh living in different regions of Azerbaijan', at http://www.trend.az/news/karabakh/1538584.html

42. Before the massacre of the Armenians in Shushi in March of 1920, the Armenians were the majority in the city, see Kavkazsky kalendar (1917) (Tiflis, 1916), pp. 190-196.
43. 'Demography – a mythical 'resource' of Azerbaijan', see http://www.panorama.am/ru/comments/2009/12/09/azerbaijan-demography/
44. 'Has Baku seen the light at the end of the tunnel?', http://kavkasia.net/Azerbaijan/article/1288684063.php
45. M. Agadzhanyan, 'Exchange of populations between states as an element of long-term resolution of ethno-political conflicts', see http://www.noravank.am/rus/issues/detail.php?ELEMENT_ID=2070

A displaced Armenian family's kitchen, Shusha.

on 30 January 1923, approximately 1.4 million Greeks relocated to Greece while some 400,000 Turks relocated to Turkey. The Convention contained a number of provisions regarding compensation for the property and a ruling to create a mixed commission comprising the Greek, Turkish and neutral representatives to control the implementation of that convention.

A massive formalized exchange of populations also took place between India and Pakistan in 1947. Approximately 14 million people were relocated. The possibility of population exchange was also reviewed by the British Royal Commission headed by Lord Robert Peel as one of the necessary elements for resolution of the Arab-Israeli conflict before the creation of the State of Israel.[46] Until recently Ariel Sharon, Israel's prime minister in 2001–2006 was the main ideologist and proponent of the process of land division within the country.

In the Karabakh-Azerbaijan conflict, which also affected Armenia, the exchange of populations, as well as territories, took place de facto*, without the signing of a relevant agreement* [author's emphasis].

The exchange of populations between Armenia and Azerbaijan took place before the military phase of the conflict. In that period there were also cases of Armenian–Azerbaijani property exchange. In addition, in 1989 the government of the ArSSR unilaterally paid compensation to Azerbaijani families for abandoned property to the amount of 70 million rubles (USD $110 million today). By contrast nobody from the more than 400,000 Armenian refugees from Azerbaijan received any compensation, having fled the country under immediate threat to their lives, with all the ensuing material, property and moral losses.[47] Some of those Armenians found refuge in NK in 1988-1991. The Armenian population of Shaumyan district and almost all of Martakert district left their homes in 1992. Most of the Azeri population left the NKR in May 1992, and that of the districts neighbouring the NKR in 1993. *A massive ethno-territorial delimitation between the NKR and Azerbaijan therefore took place during the course of the 1992–1994 war initiated by Azerbaijan* [author's emphasis].

The possible signing of an agreement on the exchange of populations must contain principles of mutual lodging of property claims by the parties, leaving room for further negotiation. A mutually acceptable option of formalizing population exchange could ratify *de jure* objective realities as they exist on the ground *de facto*.

4.2 Compensation

On 16 December 2005 the UN General Assembly adopted the *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.*[48]

Article 15 of Chapter IX of the document notes that, in accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to that State, and which constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, this party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

The Azerbaijan Soviet Socialist Republic, as a state initiating a mass forced exodus of its Armenian citizens demonstrated very clearly its position towards this category of people. Neither Soviet Azerbaijan nor its successor, today's Republic of Azerbaijan, took steps towards recognising political and legal responsibility towards its former citizens, and neither has assumed any moral responsibility for what was done whatsoever.[49]

According to the above-mentioned *Basic Principles*, victims of gross violations of international human rights law and serious violations of international humanitarian law should be provided with full and effective reparation, which can take the following forms: *restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.* Compensation should be paid for any damage which can be economically evaluated, and such compensation should be appropriate and proportional to the gravity of the violation and the circumstances of each case.

Over the last five to six years, some Armenian pro-governmental and independent researchers[50] conducting applied research on these issues have made a number of pertinent suggestions. According to some authors and representatives of refugee organisations, the NKR must take concrete measures to ensure the protection of and compensation for the breached rights of

46. *The Peel Commission Report,* see http://chaimsimons.net/transfer19.html

47. M. Agadzhanyan, *Nagorno-Karabakh conflict in the light of human rights protection: political and legal aspects* (Yerevan, 2009), p.150.

48. http://www.un.org/russian/documen/convents/principles_right_to_remedy.html

49. M. Agadzhanyan, 'Military phase and humanitarian consequences of the Karabakh conflict: political and legal aspects', see http://www.ipr.am/rus/publr/nkr/3.pdf

50. Minasyan S., M. Agadzhanyan and E. Asatryan, *Karabakh conflict: refugees, territories, security* (Yerevan 2005), *Azerbaijan against the people of Karabakh: political-legal consequences of aggression and their influence on the prospects of regional security* (Yerevan, 2006).

Soviet Azerbaijan's Armenians. According to the chairman of the NGO Refugees of the NKR, for example, the development of a strategy to settle the vacant lands [territories surrounding the former NKAO – *Ed.*] and to transfer these lands to refugees from Azerbaijan as partial compensation is long overdue.[51] According to Arman Melikyan, former foreign minister of the NKR, compensation of Armenian refugees must be achieved using Azerbaijani resources.[52] The civil society network Refugees and International Law, which includes a number of NGOs representing the interests of the Armenian refugees from Azerbaijan, is of the same opinion.[53]

In the view of expert Mikhail Aghajanyan, the NKR can provide Armenian refugees with an opportunity to settle in those territories that it controls, bearing in mind that these people before their expulsion had a stable political and legal connection with the AzSSR, and through that republic – with the USSR. Proceeding from this fact they therefore have the right to settle in territories of the AzSSR as their refugee status is temporary and in itself presumes the possibility of their return to the place of their last citizenship.[54] The continuing failure by the Republic of Azerbaijan to provide redress to Armenian refugees and IDPs gives grounds to view the NKR as the only state subject capable of assuming responsibility to reinstate the rights of those people who suffered most from the conflict and to take action to compensate them for property damages.[55]

The approach, discussed in the societies of the NKR and the Republic of Azerbaijan is in line with Article 16 of the *Basic Principles*, according to which: "States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations". *Therefore the NKR can create mechanisms of redress for the victims of the conflict, since Azerbaijan does not wish to fulfil its commitments.*

In international practice there are cases, when a country has lost part of its territory as punishment for aggression. The determination of liability of each conflict party details their obligations to provide resources to resolve the problem. In this way the minimisation of the humanitarian costs

caused by the conflict gains real material and legal substance. Each party will be incentivised to take a decision, to provide territorial compensation to the other party and to absolve itself of the responsibility to provide for the expelled national minority or to provide, both financially and legally, the national minority community with all it needs to guarantee its future development.[56]

The issue of forced displacement will not be fully resolved for as long as discussion encompasses only the right of refugees to return to their homes. This right is self-evident and undeniable. What needs to be discussed is not only the right to return, but the responsibility of the conflict parties before those people who lost the right to live and develop freely in their homeland as a result of the conflict.[57]

In the event of the renunciation of force to resolve the conflict, the demonstration of good will and mutual respect of rights, the establishment of a constructive dialogue between the NKR, Azerbaijan and Armenia, the conflict parties could, together with other problems central to resolving the conflict, resolve the acute humanitarian problem of refugees and IDPs using, according to each individual case, various forms of redress, such as restitution, rehabilitation, satisfaction and non-repetition [author's emphasis]*.*

51. Interview with Sarasar Saryan in the *Karabakh Kurier,* April 2010, see http://armnn.ru/filesx/press/KK30.pdf
52. Interview of Arman Melikyan, *Armenian TV* - N2, 11 June 2005.
53. According to the civil society network Refugees and international law, a constitutional referendum is in the interests of the Artsakh people, http://newsarmenia.ru/karabah/20061214/41619012.html
54. M. Agadzhanyan, 'Military phase and humanitarian consequences of the Karabakh conflict'.
55. Ibid.

56. Author's interview with the legal expert Andrias Gukasyan, Stepanakert, 13 December 2010.
57. Ibid.

The Cathedral of Christ the Holy Saviour, key symbol of post-war Armenian-controlled Shusha.

5. Part Two: Return and its alternatives: opinions and comments from Nagorny Karabakh

Ashot Beglaryan

Refugees comprise one of the most vulnerable population categories in post-war Karabakh. The issue of displacement with its socio-political, social, humanitarian and moral aspects, is further exacerbated by the unresolved Azerbaijani-Karabakhi conflict and the lack of international recognition of the Nagorno-Karabakh Republic (NKR). Unlike those in Azerbaijan, refugees in Nagorny Karabakh (NK) do not have international status as such, depriving them of overseas aid and imposing further difficulties on this part of the population, which has already suffered more than its fair share of horror, hardship and loss. This article presents Karabakhi perspectives through the views of the political establishment in the NKR, civil society, NGOs and refugee organisations and

ordinary refugees, mainly gathered in interviews conducted by the author in November 2010 with some additional media sources.

1. Who are the refugees in Karabakh and how do they live today?

Originally the issue of refugees was predominantly viewed in NK through the prism of morality, which brought both merits and disadvantages. The following unwritten rule applied: those who had come to NK and most of whom had Karabakhi roots must not feel alien in their native land. They were therefore not referred to as 'refugees', and there was consequently no issue of their return or even compensation for lost property. *Integration was deemed a priority, and any artificial subdivision of NKR citizens into 'refugees' and 'non-refugees' has never been accepted*

Children from displaced Armenian families playing in Shusha.

by Karabakhi society. Over time, however, the problems of those who abandoned ancestral homes and property on the other side of the border are becoming more pressing and demand more than a purely humanitarian response. "The former Azerbaijan Soviet Socialist Republic and much less so the current Republic of Azerbaijan made no moves towards accepting their political and moral responsibility for the flagrant violation of their former citizens' rights", according to Ruzanna Avakyan**,** a representative of the NGO Refugees of the NKR in Stepanakert.

The *Law on Refugees in the NKR* was adopted in 2004, according to which refugees were granted some financial compensation by the state for the loss of their property, moral and psychological damage and so on. However the provision of accommodation remains an acute problem. According to Avakyan, approximately 3,200 refugee families are registered in Stepanakert today, and half of them do not have their own accommodation: "in 2009 approximately 20 families were resettled in the Achapnyak neighbourhood. In 2010 there were no such programs, because of the world financial crisis." In the meantime the Karabakh government, despite reductions in the state budget for construction, promises to continue its construction activities in 2011 to provide accommodation for refugees.

Albert Sarkisyan, a refugee from the town of Ali-Bairamly, war veteran, sculptor, and a member of the NK and Armenian Artists' Union, had his accommodation problem resolved immediately upon arrival in Stepanakert: "Today I do not feel like a refugee. I feel a fully-fledged citizen of the NKR. I vote in all the elections, I participate in the socio-political life of the republic. I received a house the first year I moved to Stepanakert, in 1988. The only thing I could possibly wish for is that all the refugees, and all other citizens of the NKR, will have a roof over their heads".

Internally displaced persons (IDPs) are also rebuilding their lives. The Karabakh village of Nor Erkedzh (New Erkedzh) celebrated its tenth birthday recently. The village was founded in 2000 in the Karvachar [Kelbajar - *Ed.*] district of the NKR by a number of people from Erkedzh village, who, together with the populations of the Manashid, Buzhlukh and other residential areas of the Shaumyan district of the NKR, were deported in July 1991, as a result of the Azerbaijani Interior Ministry special forces' 'Operation Ring'. In the beginning 10 houses were built in Nor Erkedzh, and today there are 25 houses in the village with a population of 130. Arutyun Khachatryan, the local school cadet leader, recounted how mourning the loss of their native village, they had to make a life for themselves in a new place: "New Erkedzh became the motherland for all the children born

here. However, we still are harbouring hopes, that some day we shall return to our native place".

The Refugees of the NKR NGO was founded at the beginning of the Karabakh movement, when in 1988–1989 Armenian refugees from Sumgait, Baku, Kirovabad [Ganja] and other districts of Azerbaijan fled to Karabakh. "Armenians lived in almost every town in Azerbaijan, and they were forced to abandon their homes for obvious reasons", says Sarasar Saryan, chairman of the organisation**.** "Initially we were mainly working to house the refugees, to provide them with humanitarian assistance. A number of social projects were organised – acquisition of houses for the refugees, distribution of gas cookers to those living in 'Finnish cottages' [a type of emergency housing-*Ed.*], provision of material assistance, and so on. However that activity was interrupted because of the war".

According to Saryan, Armenians from Baku today live all over the world; the majority of those who came to NK were those with roots in the area. "If they had no opportunity to defend their rights on the territory of Azerbaijan, then they defended their rights during the war, on the territory of the NKR. Many refugees died during the war and many became disabled". According to the NGO's data, currently there are approximately 25,000 refugees and an equal number of IDPs in the NKR. The NGO intends to continue the struggle for the compensation of moral and material damages by Azerbaijan.

As part of a program to assist their integration, the NGO also ran Armenian language and computer literacy courses. Psychological rehabilitation was offered with the assistance of foreign experts, especially from New York, and assistance given to low-income families, students and those requiring treatment in Yerevan. However, the issue of housing remains insurmountable.

"We must face reality: the salvation of Karabakh lies in filling it up with people", Saryan says. "A strategy to populate the vacant lands has been long overdue. This needs to be seen as partial compensation to refugees from Azerbaijan who left their ancestral homes and property in that republic. Our refugees cannot understand why Azerbaijani refugees are allowed everything – to occupy Armenian houses, use Armenian property and on top of that to receive multimillion international humanitarian aid, while Armenian refugees, who suffered more than they did, are allowed nothing."

2. Refugees from Northern Karabakh

Ruben Zargaryan, a political scientist and historian, stresses the issue of the refugees from northern Karabakh as another essential component of any

final resolution, together with the issue of the refugees from the Shaumyan district and those parts of Mardakert and Martuni districts now under Azerbaijani occupation.

"Up until 1988 the Armenians represented the vast majority of the population in those areas of northern NK that were compactly settled, which encompassed the mountainous parts and some lowland areas of the Khanlar, Dashkesan, Shamkhor, Kedabeg districts and of the town of Gandzak of the former Azerbaijan Soviet Socialist Republic. In 1988 these lands in northern NK, despite forced emigration due to deliberate and systematic pressure from the Azerbaijani authorities, were home to one third of the overall Armenian population of NK" – over 83,000 people.[1] According to Zargaryan, this population was forcibly deported, beginning in the summer and autumn of 1988; the deportation was completed after the start of the armed phase of the Azerbaijani-Karabakhi conflict. The last remaining Armenian residential areas – Getashen and Martunashen – were devastated in April-May 1991. Shaumyan district of the NKR was later seized by Azerbaijan during hostilities against the already independent NKR in 1992, and its 20,000-strong Armenian population was either killed or expelled.

To complete the picture, it should be noted that even before the mass exodus of the Armenians from Azerbaijan at the end of 1987, Azerbaijani Ministry of Interior forces tried to intimidate and quell the emerging liberation movement in Karabakh. They carried out a pogrom in the large Armenian village of Chardakhlu in Shamkhor district, homeland of the famous Soviet generals Ivan Bagramyan and Amazasp Babajanyan. Between July and December 1987 the first secretary of Shamkhor district party committee, Asadov, supported by Azerbaijani party leaders, drove out the indigenous Armenian population from Chardakhlu. These repressions intensified and the deportation of the people of Chardakhlu continued for a year, until November 1988 when the last Armenian left Chardakhlu. This famous Armenian village, the homeland of two heroic generals of the Second World War, was no more after five centuries of existence.

3. Exploiting the issue of refugees

Zargaryan further writes, "the leadership of Azerbaijan is a proponent of the Turkish-Azerbaijani doctrine vis-à-vis Armenian refugees, which in essence is not to allow under any circumstances their return to the homeland". Elsewhere in the same article he writes, "Azerbaijan refuses, categorically, to discuss and resolve the

issue of Armenian-Karabakhi refugees. The attempt to distinguish between different classes of refugee – putting Azeris first and Armenians second – is illegal and amoral, and it must be condemned by the international community".

According to David Karabekyan, an independent analyst in Karabakh, "the notion of 'refugee' in Azerbaijan is manipulated to serve the manifestly cynical policies of the authorities…instead of resolving these people's problems, the government of Azerbaijan prefers to use them to further its own propaganda and political goals, to make a show of the tent camps, in order to persuade the world that the situation of the refugees is difficult". Why did the government of the most affluent republic in the South Caucasus create such difficult conditions for its own citizens, whose interests, if the ruling circle is to be believed, are so important? Why are refugees accommodated near to the Line of Contact, and made to live in the waterless steppes? Will these refugees become the first victims of renewed violence, considering the Azerbaijani leadership's threats of a new war? These are hardly idle questions.

4. Is the return of the refugees possible today?

Recently the return of the Azeri refugees to NK has been debated in Karabakhi society. "The broad paradigm of conflict resolution proposed by mediators, naturally foresees the return of refugees and IDPs to their places of former residence. However, this applies to all refugees and must be viewed equally and proportionally in relation to all conflict parties. It is unacceptable to talk about the return of the refugees from one party to the conflict and forget about the other party", according to Vagram Atanesyan, Chairman of the Permanent Commission on External Relations of the NKR parliament.[2] "Azerbaijani propaganda tries to portray Azeri refugees as the only object of a return policy. But 18,000 Armenians were deported from Shaumyan district. From a humanitarian point of view, these 18,000 refugees are equal to all those on whose behalf Azerbaijan speaks today. This is a humanitarian problem demanding a comprehensive solution".[3]

Bako Sahakyan, President of the NKR, also insists on the need for a comprehensive approach to the issue. "If we are talking about Azeri refugees, then we must not forget the half million Armenians forced to leave their homeland. Therefore we cannot accept any one-way interpretation of the return of displaced people. We are ready to consider this issue holistically, i.e. including the

1. Ruben Zargaryan, 'Cases against the Azerbaijani authorities in the European Court of Human Rights'; available at www.stoletie.ru.

2. Interview with REGNUM; www.regnum.ru, 12 March 2010.
3. Interview with REGNUM, 21 September 2010.

interests of Armenian refugees", confirms the Karabakhi Head of State.[4]

Georgy Gazaryan, coordinator of the NKR League of War Reporters takes a tough stance: "Currently there is a generation in Karabakh born and raised hiding in basements. Azerbaijan is to blame for this. A generation whose childhood was spent in fear and horror will not want to repeat the mistakes of their ancestors. Many of these children are now in the military and it is impossible to bring them around. The people of Artsakh are not going to live together with Azerbaijan."[5]

According to Gagik Bagunts, Chairman of the Artsakh Intelligentsia Union, refugee return is fraught with multiple dangers: "Against the background of staging the 'return of the peaceful Azeri population' multiple incidents will unfold, which will be presented as Armenian aggression. This situation will deteriorate over time, and the implementation of the referendum, proposed by mediators will look increasingly doubtful."[6]

Sarasar Saryan agrees: "without a doubt I can say that the return of refugees is quite impossible today. This is a difficult, even global issue, which at this time invites strong emotional rejection, and so logically it cannot be put on the agenda. Why? Firstly, the territory of the NKR gave shelter to numerous Armenian refugees from Azerbaijan, and second, Azerbaijani and Karabakhi societies recently experienced a modern war. It is impossible to talk about the return of the refugees for as long as NK does not have *de jure* status. Only after the status issue has been resolved, together with social issues, will it be possible to prepare societies for mutual concessions on return. These are processes for the future".

At the end of 2010 the International Center for Human Development published a report, *The Resolution of the Nagorno-Karabakh Issue: What Societies Say*, surveying the results of parallel Armenian and Azerbaijani 'town hall' discussions about the conflict. Respondents from Karabakh in particular expressed the view that first of all the NKR's independence needs to be recognised, and only then can other issues, including refugee return, be tackled. In response to a question about a referendum on status after the return of Azeri refugees, NKR respondents noted that Azerbaijan will try to send more refugees to NK than were there originally.

5. Measures to resolve the issue of refugees

The civil society network Refugees and international law, which includes a number of NGOs, representing Armenian refugees from Azerbaijan, has produced a draft paper 'On citizenship of the NKR'. The document suggests several options for acquiring NKR citizenship, principally through birth. NKR citizenship is the birth right of any individual of any nationality living in the NKR when its independence was announced. But this particular paragraph does not apply to those Azeris who left together with the Azerbaijani army during the course of military operations, or from the territories located outside of the NKR's borders at the time when it became independent but over which the NKR has control today. These Azerbaijanis recognised and acquired the citizenship of the Republic of Azerbaijan instead.

In turn, the acquisition of NKR citizenship gives Armenian refugees from Azerbaijan an opportunity to turn to the NKR government to assist them in obtaining compensation for their losses in Azerbaijan starting in 1988. This includes reparations in the form of territories now under NKR control. So far, however, this notion remains at the level of discussion only.

In the meantime, lamentable as it may be, the issue of refugees, together with escalating tension in the conflict zone and deepening mistrust, is becoming ever more intractable and threatens to become a Gordian knot. However, it should be remembered that this particular knot will be impossible to cut, since it comprises a huge number of real people. Therefore the only feasible solution is to recognise existing realities, take an objective approach and to attempt to resolve the issues one step at a time.

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4. Interview with *Nezavisimaya Gazeta,* 27 May 2010.
5. Interview with Arminfo; www.arminfo.info, 3 December 2009.
6. Interview with Arminfo, 3 July 2010.

Staying on: there is a small, dwindling and contested number of people of Armenian origin still living in Azerbaijan. The story of this woman is told in one half (At home among strangers), *of a joint Armenian-Azerbaijani film entitled* At the 8th Kilometre. *The film was made within the framework of the Dialogue through Film project, supported by Conciliation Resources, and can be viewed at http://vimeo.com/12369644*

6. Return, restitution and rights: addressing legacies of forced displacement in the Nagorny Karabakh conflict

Laurence Broers

1. Introduction

Although a universal right of return is routinely mentioned as a core aspect of the Madrid Principles, the current basis for Armenian-Azerbaijani negotiations, Armenians and Azerbaijanis have sharply divergent expectations of a process of return. Public discussion of return on each side remain locked within tight ideological parameters emphasizing unilateral rights of return with no discussion of reciprocity, of what is required from societies accepting returnees, or the role that provisions on return would be likely to play in legitimizing any eventual peace deal.

This reflects the fact that the return of displaced people is one of the most emotive and symbolically laden issues in the resolution of conflict. Internally displaced people and refugees embody both the human tragedy of conflict in a way that few other actors do, and at the same time represent in human form national claims to territory. For the conflict party that has lost control over territory, their claim to that territory loses meaning without a population to return there. For the conflict party in control of disputed territory, the return of displaced people is widely perceived as diluting their control, a security threat, and a reversion to the pre-war situation. These conflicting political imperatives impose severe constraints on displaced communities in their ability to make decisions about whether to integrate where they now live, or to invest in uncertainty by focusing more on the idea of return, and the myths that often accompany it.

Public understandings and expectations of return in Armenia and Azerbaijan are consequently deeply divergent. Azerbaijani society is encouraged to believe that all displaced people will be able to return, while Armenian societies are encouraged to believe that return of Azeris will never happen (and indeed that Armenian settlement in parts of the occupied territories will be long-term or irreversible).

Why focus on an issue that seems, given the current realities of long-term impasse in the Karabakh peace process, purely hypothetical? At today's juncture, the return of displaced people looks very unlikely to happen in the foreseeable future given circumstances on the ground. One reason is that return is both routinely mentioned as a standard component of any eventual peace deal, and, in Azerbaijan, invoked as an imminent possibility. One purpose of this publication, then, was to focus attention on the contradictions between the idealized, maximalist visions of return encountered in national rhetoric on the one hand, and the pragmatic choices and incomplete outcomes likely to characterize any return process in practice on the other. 'Thin' sound bites of the kind commonly heard about return do little to prepare populations for the 'thick' conceptual challenges and the inevitably messy realities of implementation. Underlying these contradictions is the fact that state-sponsored visions and individual choices are unlikely to coincide: the choices of displaced people cannot, after 20 years, be reduced to glib generalizations.

A second purpose of the publication was to outline the parameters of international community responses to this issue. Proposed solutions to the problem of forced displacement in the Karabakh context, like any other, will be assessed at least to some extent according to their compliance with wider international norms. While geopolitics can trump international moralities, there is nonetheless a rich seam of international thinking and practice that can be drawn upon. This broad legal and institutional architecture for resolving displacement is rarely considered in local discussion of the problem.

Third, the papers here provide clear evidence of the different starting points of different parties in coming to debates about not only return, but the broader, implicit issue of Armenian-Azerbaijani co-existence in a single state. According to Tabib Huseynov in this volume:

> "Azerbaijan wants the restoration of pre-war demographics to reverse Armenian war acquisitions and regain its sovereignty in the occupied territories, including in NK. Armenians, on the other hand, want to entrench ethnic demarcation obtained through the use of force in order to secure their control over the territory."

Masis Mayilian, also in this publication, frames the same issue differently by stressing the difference between cause (the status of NK) and consequence (forced displacement); according to this logic, causes must be addressed before consequences.

The papers in this publication are indicative of the distance between the conflict parties' positions in approaching the issue of return. They also vividly illustrate the distance between these respective positions and an approach that could legitimately fulfill the right of displaced individuals to exercise their right to choose between different options. Among other things they provide further confirmation (if more was needed) of the urgent necessity for genuine confidence-building measures. Furthermore, these papers (even if implicitly) provide clear evidence of the need for institutions capable of offering accountability and justice for war crimes. No such mechanisms exist in the Armenian-Azerbaijani case, yet without them the viability of any return process must be seriously doubted.

2. The policy dilemma at the heart of managing return

The essays in this publication reveal, and in very different ways explore, a central paradox at the heart of any debate over displacement and return in the Karabakh conflict. This paradox lies in the fact that no return process can recreate or restore the pre-conflict demography and settlement pattern, yet any peace agreement that fails to create a realistic basis for some degree of return is unlikely to be seen as legitimate by all conflict parties, or by the international community.

The protracted nature of displacement, dissociation among some groups with their former places of residence and the entrenchment of ethnic exclusivity across the region explain why any attempt to recreate pre-war patterns of settlement are likely to fail. Yet international norms and practice, particularly after the experience of Bosnia, has evolved in such a way that international acquiescence with legacies of forced expulsion is unlikely. The likely shape of an eventual compromise between these realities will be structured by both trade-offs on other core issues, such as status and security, and the individual choices made by potential returnees.

3. Conceptualizing forced displacement in the Karabakh conflict

In total over 1 million people were displaced as a result of the Karabakh conflict. Behind this figure, however, lie differing patterns of displacement and categories of displaced person that are important in discussing possible resolutions of the displacement issue in the Karabakh case.

3.1 Refugees and internally displaced people

Forced displacement in the Karabakh conflict featured both refugees and internally displaced people (IDPs). Numbers are inevitably contested,

and, given the nature of the conflict with its contested borders, some groups of forcibly displaced people are referred to by one side as refugees and by the other as IDPs.

3.1.1 Refugees

Armenians living outside of NK constituted Soviet Azerbaijan's largest minority (approximately 390,000 in 1989), living predominantly in Baku and other urban centres. Azerbaijanis also constituted Soviet Armenia's largest minority (approximately 200,000 in 1989), residing predominantly in rural areas. These populations were almost entirely displaced as a result of massive mutual expulsions in 1988–1991, and are referred to without controversy as refugees, since they crossed what is now an internationally recognised border (between Armenia and Azerbaijan). A small, dwindling and contested number of Armenians, mainly wives in mixed Armenian-Azerbaijani and Armenian-Russian families, remains in Azerbaijan to this day.[1]

The essays in this publication attest to what amounts to a tacit acknowledgement on all sides that the return of refugees is extremely unlikely. As Artak Ayunts observes in his essay, "In Armenia, the return of Armenians to Azerbaijan has rarely been considered as a way to address the refugee issue even in the long term," (p.27) and Armenian refugees "themselves generally do not express interest in return to Azerbaijan" (p.30). According to Azer Allahveranov, in Azerbaijan it is only a small minority of those refugees most isolated from surrounding society that adheres to a residual identity as Azeris from Armenia; Azeris of Armenian origin are indeed known for forming one of the most integrated and successful solidarity groups in Azerbaijan.

One important reason for the eclipse of the return option for refugees is that Armenia and Azerbaijan are recognized states, and face few international pressures to accept refugees from a belligerent state. As various observations in this publication attest, the return of refugees figures most prominently as a rhetorical weapon to deny the possibility of return for other categories of displaced person.

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1. In his essay in this publication Azer Allahveranov cites official Azerbaijani figures for the numbers of Armenians (not including NK and the occupied territories) in Azerbaijan today, 20–30,000. However, empirical research, while not able to offer alternative statistics, does suggest that the real number is much smaller, and is in any case difficult to establish due to contested criteria of who qualifies as 'Armenian' in contemporary Azerbaijan (Melanie Krebs, 'When the native city became a foreign country: Armenians in Baku today'. Paper presented at the 2011 Annual Convention of the Association for the Study of Nationalities, Columbia University, 15th April 2011). Either way, there is no Armenian community life in Azerbaijan today.

3.1.2 IDPs

The largest single category of people (approximately 586,000) displaced by the Karabakh conflict are internally displaced persons displaced when Armenian forces took control (in whole or in part) of several Azerbaijani provinces surrounding Nagorny Karabakh (Kelbajar, Gubatly, Fizuli, Aghdam, Jebrayil, Zangelan and Lachin[2]) in 1992–1993. The populations of these regions were virtually all ethnically Azerbaijani (with a small number of Muslim Kurds in Lachin and Kelbajar). These people were all displaced to other parts of Azerbaijan. The classification of these people as internally displaced is largely unquestioned.

Azer Allahveranov in his contribution provides a typology of IDP and refugee populations in Azerbaijan and the extent to which they have integrated with surrounding society in Azerbaijan. He provides evidence of a fundamental divide in the Azerbaijani displaced population, between those who are to a greater or lesser extent integrated with surrounding society, who include most refugees, and those who are not, whom he refers to as 'isolated': "integrated or assimilated refugees and IDPs link all their hopes and future plans with their present environment, while isolated IDPs pin all their hopes and plans on the earliest possible return to NK" (p.54).

A number of Armenians were also displaced from the former Shaumyan (Goranboy) district and the eastern edges of Mardakert (Agdere) and Martuni (Khojavend) districts, those parts of NK that were under Azerbaijani control at the time of the ceasefire. Both sides refer to this category as internally displaced people.[3]

3.1.3 Disputed categories

A central feature of displacement in the Karabakh context is the specific social landscape of forced displacement in Nagorny Karabakh itself, the primary subject of dispute between Armenians and Azerbaijanis. The population of the Nagorno-Karabakh Autonomous Oblast (NKAO) in 1989 was 189,000; of which Azerbaijanis accounted for 40,700. This population was displaced almost in its entirety during the course of armed hostilities. Azerbaijan and the international community refer to Karabakh Azerbaijanis as IDPs, since they have not crossed an internationally recognised border. The Armenians of Karabakh, however, refer to

them as refugees as they define the boundary of the *de facto* NKR as an inter-state one.

For the Azerbaijani claim to Karabakh the return of the Karabakh Azeri population is a central imperative. As Masis Mayilian's essay in this publication clearly demonstrates, however, the notion that Karabakh is a shared homeland is fiercely rejected in Karabakh today.[4] Furthermore, as all Armenian contributions here document, Karabakh has become home to many Armenians displaced from Azerbaijani locations. Armenian positions privilege the right of these displaced Armenians to resettle in NK over the right of Azeris to return there, especially in light of the fact that there is little prospect for the return of Armenians to Azerbaijan.

As noted by Tabib Huseynov a critical feature of the specific context in Karabakh is the fact that the NKR is not recognized: "Recognition of [the NK authorities] as a legitimate (and not only *de facto*) power…within the entity will require satisfaction of complex measures relating to internal governance and protection of the Azeri minority in NK." Recognised states already enjoy international legitimacy and face few pressures to accept returnees if they do not want them (as noted above in the case of Armenia and Azerbaijan). It may be true that unrecognised states, whose status lies at the heart of conflicts, ultimately seek international legitimacy, and are under different pressures to address legacies of forced displacement on which their current demographic realities are based. However, it is also true that many unrecognised states have successfully resisted pressures to accept returnees to the point where, as has already begun in the case of the NK conflict, intergenerational change transforms the nature of the displacement issue.

This issue is understood more categorically in NK itself. Karabakh Armenians believe there is a double standard in international acceptance that refugee return to Armenia and Azerbaijan is unviable, while IDP return to Karabakh is seen as not only viable but desirable. In particular, they ask why should Azerbaijan be absolved of obligations to its displaced Armenian community, while NK is pressured to accept Azerbaijani returnees? There is no easy answer to this critique of international expectations of return; mediators can indeed reflect on how the divisive impact of this inconsistency can best be mitigated. However, if return is seen as part of a package of elements meeting other Karabakh Armenian needs as well as realising full restitution for all refugees, and with

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2. In some Armenian sources, alternative names for the occupied provinces surrounding the former NKAO are sometimes used: Karvajar (Kelbajar), Kashunik (Qubatly), Akna (Agdam), Jabrayil (Jebrayil), Kovsakan (Zangilan) and Kashatag (Lachin).

3. This obscures the underlying contradiction that both Azerbaijan and the *de facto* Nagorno-Karabakh Republic (NKR) claim the former Shaumyan district as their own. I draw no inference here on the relative validity of these claims.

4. This is reflected especially in fierce rejection by Armenians of the "community" label, i.e. rejection of the notion that there are two equivalent communities of Nagorny Karabakh. Conversely, this is the terminology used in Azerbaijani sources.

Graffiti on bus-stops in Yerevan, adding the outline of Nagorny Karabakh, with the adjacent occupied territories, to a map of Armenia used in a mobile phone advertisement.

actual levels of return to NK likely to be low for reasons discussed below, the inconsistency may not be so great.

4. Thinking hypothetically about the geography and sequencing of a return process

Gerard Toal's typology of return contexts in Bosnia provides useful tools in considering the geography of return in the Karabakh conflict. He distinguishes between what he terms return to "contested" and "uncontested" space, where the defining feature is the previously bi- or mono-ethnic character of the territory.

4.1 Return to uncontested space

Uncontested space refers to those areas that were mono-ethnic prior to the conflict and where no settlement has taken place by representatives from the other side. It is space that is neither legally contested (it is not territory forming part of a secessionist claim), nor is it contested by the physical presence of post-war settlers.

In the Karabakh context this description most obviously applies to six of the seven provinces around NK currently wholly or partially occupied by Armenian forces: Jebrayil, Kelbajar, Gubatly, Aghdam, Zangelan and Fizuli. The seventh district, Lachin, is a special case (see below, Section 4.2.2). These territories did not form part of Armenian self-determination claims at the inception of the conflict, featured no significant Armenian population prior to the conflict and came under Armenian control only as a result of battlefield outcomes. Villages and towns in these districts are virtually all abandoned and ruined. In the event of a comprehensive peace agreement, the primary practical obstacle to resettlement of these territories is their physical rehabilitation (demining and reconstruction). However, as this publication attests there is an evolving context of Armenian attitudes vis-à-vis these territories, which sees them increasingly included in maximalist definitions of the *de facto* NKR (see below, section 5.4). Put differently, the occupied territories are being transformed over time from uncontested space into contested space, with very serious implications for the eventual transformation of the conflict and the possibility of return.

4.2 Return to contested space

Return becomes inherently more complicated where returnees would be returning to contexts where they must live with populations from the other side. This context calls on returnees to achieve renewed co-existence, and ultimately reconciliation, with some of the most radicalized representatives of the other side who may themselves be living in displacement.

With the return of refugees to Armenia and Azerbaijan effectively ruled out, there are three core contested space return scenarios in the Karabakh conflict.

4.2.1 Return to Shusha

One contested space context is the return of Azerbaijanis to NK itself. Prior to the conflict Azerbaijanis had formed a local majority (98%) in only one major town in NK, Shusha, where they formed a population of 17,000 in 1989[5]; elsewhere in Karabakh Azerbaijanis generally lived in a dispersed pattern. Shusha is one of the most symbolically important locations in the entire Karabakh conflict, imbued by each side with enormous significance as a cradle of identity and the claim to Karabakh itself. Commanding the heights above Stepanakert, the town is also of geo-strategic importance, and as Tabib Huseynov observes the "return of Azeris to Shusha will be a litmus test for the success of the return process and of the peace process in general." (p.45).

After the war, Shusha remained mostly abandoned for several years, retaining only its pre-war Armenian population. Gradually a population of Armenian settlers displaced from Azerbaijan came to settle in Shusha, which reportedly has a population now of some 4,000.[6] Although there was for many years little reconstruction or development in Shusha, recent years have seen more concerted efforts to restore the town, including the restoration of numerous roads and settlements, as well as religious monuments.

4.2.2 Return to Lachin

Another key contested return context is in Lachin, the eponymous capital of one of the provinces around Karabakh under Armenian control. Lachin's significance lies in its geographical position as the narrowest point between NK and the Republic of Armenia. Retaining control over a land corridor running through Lachin is a geopolitical imperative for Armenians, preventing Karabakh's reversion to being an enclave within Azerbaijan.

Azerbaijanis constituted an overwhelming majority in Lachin district before the war, the next biggest nationality being Kurds. Some 20,000 people from both groups were displaced from Lachin district during the war. However, since the ceasefire Lachin has been the focus of attempts to settle Armenians into this geopolitically sensitive area. Amid harsh socio-economic conditions these attempts have not succeeded in a radical transformation of realities on the ground. In 2006 Lachin's population was claimed by an Armenian source to be around

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5. This compares with a 92% Azeri population of the overall district of Shusha at 23,000 in 1989.
6. A census carried out in Nagorny Karabakh in 2005 identified the population of Shusha at 4,324 people.

Older Azeri IDPs and refugees have little prospects for return in their lifetime; young displaced Azeris face choices about attachment to homes that no longer exist or they may never see, and living in the present. *Source: Internews Azerbaijan*

5,000 (comparing with the OSCE's estimate of 9–12,000 in the occupied territories overall), a population composed of both Armenians displaced from elsewhere in Azerbaijan and Armenians from Armenia.[7]

4.2.3 Return to Shaumyan

Lying to the north of the former Nagorno-Karabakh Autonomous Oblast (NKAO), the Shaumyan region did not form part of the NKAO in Soviet times, but was the only Armenian-majority region in Soviet Azerbaijan outside of NK. In 1989 Shaumyan's local Party Committees voted to join NK in declaring independence from Azerbaijan; this is the basis for the addition of the region to the territory claimed as part of NK. The region was under Azerbaijani control at the end of hostilities in 1994, however, hence Karabakh Armenians refer

to it as "occupied territory", since in their view it is part of Karabakh occupied by Azerbaijan. Here, Karabakh Armenian rhetoric replicates Azerbaijani calls for the restoration of territorial integrity. Azerbaijanis reject these claims; although not co-extensive with it, Shaumyan today forms part of the Goranboy region of Azerbaijan.

Armenian and Azerbaijani population movements into and out of Shaumyan reflected those of Shusha and Lachin, but in reverse. In 1991–1992, some 20,000 Armenians were forcibly displaced from the district. Since the ceasefire in 1994 Shaumyan was renamed Aghjakend. Azerbaijani refugees and internally displaced people were settled in the district.

5. Specific problems

In light of the above discussion, a number of specific problems, dealt with in different ways in the essays in this volume, need to be addressed.

5.1 Sequencing

An obvious problem is the sequencing of return with other core aspects of a framework agreement, most notably measures for providing security (such as the deployment of an international peacekeeping force) and a procedure for determining the status of NK. As Artak Ayunts observes and Ashot Beglarian's quotations from interviews with interlocutors in NK itself show, Armenian positions emphasize that status and security must precede any return process. Conversely, Azerbaijani positions emphasize that return must precede status determination.

There is no straightforward solution to this chicken and egg situation. It can only be noted that the Armenian view that the Karabakh referendum of 1991 obviates the need for any further public expression of will is not widely supported in the international community.[8] At the same time any future referendum or plebiscite that excludes either the real possibility of Karabakh's *de jure* independence or Karabakh Azerbaijani participation is also unlikely to be seen as legitimate. The experience of Kosovo shows that the capacity of an entity seeking recognition to guarantee a full set of collective rights for all ethnic groups is a key standard in securing international recognition.[9] On the other hand,

7. Onnik Krikorian, "Armenia's Strategic Lachin Corridor Confronts a Demographic Crisis", available at http://www.eurasianet.org/departments/insight/articles/eav091506.shtml

8. This is true of other autonomous republic or region-level referenda carried out at that time. It can be argued that these referenda were carried out in an atmosphere of fear and already hostile inter-communal relations, and there were no international observers present. From a Karabakh Armenian perspective, however, these factors are not accepted as detracting from the legitimacy of the result, a majority of people in NK voting for separation from Azerbaijan.

9. See the discussion in, for example, Marc Weller, *Negotiating the final status of Kosovo,* Chaillot Paper No.114, (Paris: European Union Institute for Security Studies December 2008), pp.28–29.

Kosovo's experience also shows that once a process of status determination is embarked on it can be difficult to restrict the outcome.

This discussion makes evident some of the dilemmas associated with sequencing facing actors in the Karabakh conflict. Armenians and, especially, Karabakh Armenians are effectively confronted with a choice between accepting what would probably be a symbolic or residual population of Azerbaijani returnees in return for a process culminating in internationally recognised status, yet without an iron-cast guarantee that that this status would be the internationally approved independence (or union with Armenia) that they seek. In this light their preferred strategy is to opt for the status quo, *de facto* secession without international recognition, the indefinite blocking of any Azerbaijani return to NK and the preservation of an ethnic monopoly on settlement in NK and the surrounding territories.

Azerbaijan is confronted with a similarly no-win situation. It could opt for a genuinely open-ended process on status determination with a limited degree of Azerbaijani return to NK, but with the risk that Azerbaijani returnees would become part of a society quite separate, that is to say independent, from Azerbaijan – possibly in a situation comparable to Serbs in Kosovo. Its alternative, and currently preferred, strategy is to block any open-ended process of NK's status determination, but at the cost of simultaneously blocking any possibility for not only Karabakh Azeris, but all Azerbaijani IDPs, to return to the occupied territories.

5.2 Likely reach and legitimacy of a zone of separation

Gerard Toal's essay highlights possible problems with the establishment of a zone of separation (ZOS) between Armenian and Azerbaijani forces. If the Bosnian model were followed, this zone would be controlled by international peacekeepers and would be the area in which initial, "break-through" return processes would begin. Given the geography of the conflict, establishment of a symmetrical ZOS would offer opportunities for the smaller number of Armenian return sites to be rehabilitated for return long before the much larger number of Azerbaijani sites. As Toal observes, this would offer rich opportunities for spoilers. To avoid this he suggests that: "One way around this, if the ZOS model is to be pursued at all, is to start with a small symmetrical ZOS as a gesture of good faith and confidence building, but then extend it in a phased way into the bulk of the occupied territories."[10]

5.3 Minority returns

Although Azerbaijanis constituted majorities in Shusha and Lachin before the war, the (respectively) symbolic-military and geopolitical centrality of these locations to Armenian conflict goals means that local Armenians are unlikely to be willing to see these majorities restored. For reasons discussed below, it is unlikely that the numbers of people desiring and able to return would match pre-war numbers. What returnees to Shusha and Lachin may confront is "minority return", "the return of ethnic/national groups to territories now controlled by another ethnic/national group, even though the returnees may have been among the majority before the war".[11]

Armenian returnees to Shaumyan would face an analogous situation to Azerbaijani returnees to Shusha or Lachin, returning as a minority to a district where previously they had formed a majority. These three contexts[12] returnees would confront a locally entrenched population that has itself experienced displacement.

A key question in thinking about possible and likely patterns of return to contested locations, then, is whether both Armenians and Azerbaijanis are prepared to accept minority returns. The policy implications of minority returns, especially to locations of particular symbolic and/or geo-strategic significance (e.g. Shusha, Lachin), therefore need to be carefully considered. Returnees who once lived in the majority would face a radically altered demographic landscape, to which they return as a member of a new minority. Local economic resources are likely to be in the hands of locals and difficult to penetrate. The risk from spoiling actions, covering a spectrum from soft bureaucratic obstructionism to physical violence, is considerable.

5.4 Practical and cognitive barriers to release of the territories around NK

As noted above in the discussion on Lachin, positions differ on the extent of systematic or state-sponsored attempts to populate the occupied territories surrounding the former NKAO with Armenian settlers. An OSCE observer mission in 2005 found no significant state-sponsored settlement of these territories outside of Lachin, although it did report finding some small-scale settlements in Kelbajar and parts of Aghdam too, with financial incentives provided by the *de facto* authorities in Stepanakert (in some cases channeling diaspora funds).

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10. Another idea with potential to offset the divisive potential of a ZOS is the rehabilitation of the Aghdam-Stepanakert-Shusha-Goris road and its extension to Nakhchivan, providing a live artery connecting Armenians and Azeris, rather than separating them.

11. Gerard Toal (Gearóid ó Tuathail) and Carl Dahlman, 'Post-Domicide Bosnia and Herzegovina: Homes, Homelands and One Million Returns', *International Peacekeeping,* Vol.13, No.2, June 2006, p.249.

12. I infer no equivalence between these contexts except in their structural similarities.

An OSCE assessment mission in December 2010 estimated the number of settlers at 14,000, almost all located in Lachin. This figure is less than that claimed by any conflict party but the mission's very presence in the field sparked demands for the accelerated Armenian settlement of these territories, particularly by Armenians originally displaced from other parts of Azerbaijan before the 1994 ceasefire.[13] Although there is evidence that some diaspora funds and agendas are converging with the needs of Armenian displaced persons to establish new Armenian settlements in the occupied territories (some of them named after former Armenian settlements in historical eastern Turkey – or 'western Armenia' in popular Armenian discourse[14]), this is not – as yet – a large-scale or systematic trend deserving of the term "ethnic engineering".

Perhaps more significant are cognitive obstacles to the release of the occupied territories. One primary psychological barrier to the release of territory, as recognized in Tabib Huseynov's paper, is the constant threat of the use of force and military display in Azerbaijan. This strategy just confirms Armenian perceptions that security is not deliverable through political frameworks, only the ransom of occupied territory.

Yet the papers in this volume evidence a deeper cognitive shift obstructing the release of territory. Artak Ayunts and Masis Mayilian both provide striking evidence of shifts in Armenian perceptions of these territories. Although these territories are usually referred to by the international community as occupied territories, they have traditionally been referred to in Armenian sources as the 'security' or 'buffer' zone, effectively a zone of separation between NK and Azerbaijani armed forces. Releasing control of these territories was traditionally seen as a vital bargaining chip to secure other Armenian conflict goals, including provisions for the determination of NK's status on favourable terms.

The Armenian papers reflect the evolving metaphors to describe these territories. They are increasingly referred to "liberated territories", implying that they do form part of (Karabakh) Armenian territorial claims (see Artak Ayunts, p.28). Although rejected by officials in Yerevan, this approach is popular in NK itself and with some Armenian political parties, including the Armenian Revolutionary Federation (Dashnaksutiun).[15] An

increasing psychological bond to these territories is being popularized through the notion of "42,000 square kilometres"[16], i.e. the territory covered by Armenia, NK and adjacent occupied territories, and reinforced, for example, through popular maps on sale in Karabakh and Armenia showing these territories as part of Karabakh. Masis Mayilian and Ashot Beglarian's contributions to this publication highlight a further shift, suggesting that these territories can serve as "land-as-reparations" for what they define as Azerbaijani aggression.

While such a view would be unlikely to gain international support or approval, it is indicative of significant cognitive barriers to the release of these territories back to Azerbaijani jurisdiction. Reference to these territories as forming part of the *de facto* NKR reflects a maximalist Armenian position according to which these territories can never be returned to Azerbaijan. The more time that goes by, moreover, the more entrenched this view becomes. What began as a self-determination struggle in NK is sliding slowly and almost imperceptibly over time into conquest of territory that never formed part of the dispute over Nagorny Karabakh.

In Masis Mayilian's analysis, drawing on wider Armenian commentary, and the popular opinions in NK explored in Ashot Beglarian's contribution, this problem is resolved through through the portrayal of the emergent (*de facto*) state in Nagorny Karabakh as a 'refuge state' for Armenians displaced from homes in Azerbaijan with no other recourse to legal redress. According to this scenario, NK takes upon itself the responsibility to reinstate the rights of Armenians who lost their homes due to the conflict and cannot secure compensation.

Mayilian also provides evidence of further cognitive obstacles to return to NK in the form of popular understandings of population movements as "weapons of demography". He shows how this view characterizes Karabakh Armenian understandings of both population movements and boundary changes during the period of NK's incorporation as an autonomous region in Soviet Azerbaijan. It is of course arguable whether union republic-level authorities or the Soviet system as a whole are "to blame" for developments seen as detrimental to Karabakh Armenian interests (and in demographic terms Karabakh Armenians were in a significantly better situation than most other autonomous region or republic-level nationalities in the Soviet Union). Nonetheless, the experience of dysfunctional Soviet ethno-federalism that

13. http://www.armenianow.com/karabakh/25304/armenia_karabakh_liberated_lands_population_population_population

14. One example is the recent 'renaming' of Aghdam as 'Akna', with an alleged population of 460 people. See Tabib Huseynov's article in this publication.

15. Article 142 of the Constitution of the *de facto* Nagorno-Karabakh Republic states that "until the restoration of the state territorial integrity of the Nagorno Karabakh Republic and the adjustment of its borders public authority is exercised on the territory under factual jurisdiction of the Nagorno Karabakh Republic".

16. See Thomas de Waal, *The Karabakh Trap. Dangers and Dilemmas of the Nagorny Karabakh Conflict* (London: Conciliation Resources, 2009), p.7; available at http://www.c-r.org/our-work/caucasus/documents/Nagorny-Karabakh-report-AW.pdf

privileged majority groups as a further obstacle to any change in the current demographic monopoly.

What these reflections demonstrate is the yawning gap between the assumptions inherent in the Madrid Principles and lived reality in Nagorny Karabakh. This is a direct consequence of the exclusion of the population of NK from meaningful participation in the formulation and discussion of the Madrid Principles. The feeling is "nothing about us, without us", a conundrum that the Minsk Process has yet to resolve.

5.5 Obstructionism

The importance of Karabakh Armenian buy-in is evident in Gerard Toal's discussion of obstructionism. Drawing on the experience of Bosnia, Toal highlights a number of strategies used on the ground to prevent return from happening. These may range from outright physical intimidation and violence to softer, "bureaucratic" forms of obstructionism. A crucial difference between the Bosnian and Karabakh contexts, however, is that international presence and capacity on the ground is likely to be much less in Karabakh than it was in Bosnia. This will increase the likely scope for obstructionism in any process of return that does not enjoy local, as well as international, legitimacy.

6. Alternatives to return

In cases of protracted displacement lasting more than 20 years, both maximalist national agendas for the return of all compatriots and the language of universalism in human rights instruments are unlikely to be matched by physical numbers of people willing to return. Where displacement is protracted, no return process can reproduce or restore the pre-conflict demography and settlement pattern. This may suggest that alternative, less then maximal outcomes, such as minority returns or options other than return may need to be considered. A number of alternatives to return are considered in the essays presented here.

6.1 Ratification of the status quo

Masis Mayilian in his contribution discusses the possibility of *de jure* ratification of the *de facto* population swap that occurred between Armenian and Azerbaijani societies during the conflict. Such a move would effectively replicate the Greek–Turkish population swap in the early twentieth century. While this option could be argued to be the most realistic in the current circumstances of complete impasse in the peace process, it seems unlikely to find popular support given the sense that there is at least an aspiration among international actors to move beyond the clean logic of the Lausanne Treaty at which the Greek-Turkish swap was agreed. The Balkan wars of the 1990s resonated with calls
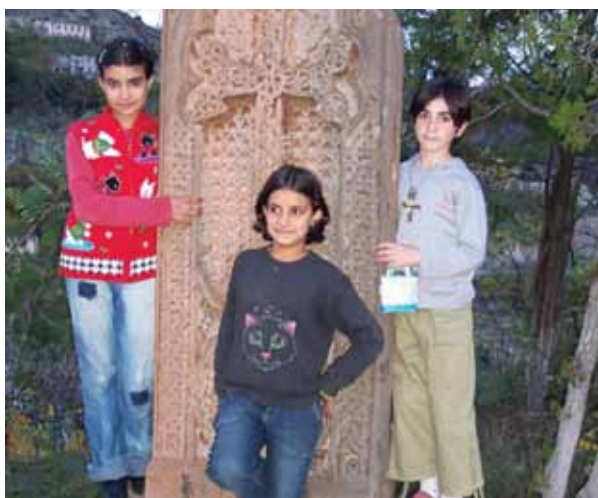
Like their Azeri counterparts, older Armenian refugees face few prospects for return; young Armenians from displaced families growing up in the Armenian-controlled territories around Nagorny Karabakh face an uncertain future. Source: Stepanakert Press Club and Internews Armenia.

for "no more Lausannes", reflecting the fact that formalized population swaps cannot incorporate principles and pragmatics of individual choice, now the central planks in international thinking and practice in addressing forced displacement.

6.2 Integration

Integration of refugees and IDPs is controversial precisely because it appears to be a strategy endorsing and accepting the status quo. In cases of protracted displacement, however, integration is a spontaneous process that happens across displaced communities with or without official approval or support. In such cases, integration can only be prevented through artificial means: the construction of separate communities, restrictions of movement and other forms of segregation, the imposition of special identity categories on displaced people and their descendants, and restriction of participation in mainstream political and social life. Preventing integration in the name of preserving a community for eventual return can, however, easily translate into human rights violations, discrimination and renewed displacement – this time to the political, social and economic margins of society.

As Azer Allahveranov's essay highlights, many of those living in protracted displacement are integrated by necessity over the passage of time into societies physically and socially distant from their ancestral homes. They and especially their descendants are likely to feel ambivalent about return, even when it does become possible.

Both Armenia and Azerbaijan have quietly undertaken the integration of refugees from each other's countries. Return for these populations is not considered a live issue, and they have been effectively integrated into national societies (or at least do not face substantive obstacles to doing so). The integration of internally displaced people in Azerbaijan is seen differently. Although significant progress has been achieved in improving the material conditions of most IDPs, their integration is proscribed on the grounds that this is seen as compromising the likelihood that they will return once conditions exist for them to do so.

Yet integration does not have to mean the surrender of the right of return. Integration can be understood instead as the fulfillment of a displaced person's full entitlement to a range of economic, social, cultural, civil and political rights during displacement. This should continue until such time as conditions allow for them to exercise a choice between return, resettlement or the final ratification of their integration with the exercise of a right to dispose of their former property (or its financial value) as they choose. As discussed below, this right may be understood and exercised in different ways, and even in cases of protracted displacement IDPs and refugees are unlikely to disappear as a political constituency.

6.3 Restitution: making individual choice central

Restitution remains a largely taboo theme in public debates in Armenian and Azerbaijani societies.

Although there were some spontaneous processes of *ad hoc* 'property settlements' in the form of property exchanges at the time of displacement this applies to a minority of cases and only among refugees.[17]

There is an emerging set of international norms and practices which treat restitution as an important process separable from return. These norms, in the form of the *Pinheiro Principles*, do not presume the physical return of displaced people as their starting point. Restitution may mean the return of former property as a legal and material good. This can be converted into financial resources for its former owner to deploy in choosing between alternative 'durable solutions' (return, integration, resettlement). This focus on individual choice empowers displaced persons but also reflects international experience that reintegration and reconciliation of violently unmixed peoples cannot be based on forced return.

Gerard Toal highlights the fact that it is the incentive structures built into the architecture of an Armenian-Azerbaijani framework agreement that will have decisive impact on the choices that people make. In the Bosnian case the international community financed and therefore incentivized 'minority returns' (returns of members of a former ethnic majority to former residences but now as an ethnic minority), while it did not finance, or therefore incentivize, compensation or local integration. This outcome was related to international desires to see forced displacement reversed.

The Karabakh context differs from that in Bosnia in a number of ways. For one thing unlike in the Bosnian conflict, there was a clear winner in the Karabakh war. Even-handedness and a focus on individual choice may clash with a sense of collective entitlement on the ground related to the outcome of the war. Also unlike Bosnia, the war-derived pattern of property ownership and settlement has endured long beyond the 'war years', through the much longer 'no war, no peace' period too. On-the-ground realities are likely to be much more deeply entrenched and difficult to reverse than they were in Bosnia.

Furthermore, as Toal concedes, international presence and on-the-ground influence is likely to be much less in Karabakh than it was in Bosnia. There are no international vehicles for accountability and justice in the South

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17. There were also isolated cases of 'village exchanges', where local people organized the exchange of property for entire villages. This has been documented in the case of the villages of Kizil-Shafag and Kerkenj, in S. Huseynova, A. Akopyan and S. Rumyantsev, *Kizil-Shafag and Kerkenj: history of villages exchange in situation of Karabakh conflict* (Tbilisi: Heinrich Böll Foundation, 2008).

Caucasus corresponding to the role played by the International Criminal Tribunal for the Former Yugoslavia and domestic judiciaries are lacking in independence. Crucially, the conflict parties to date use justice arguments as support to position demands, rather than to promote the cause of justice itself. A cognitive relocation of the true source and purpose of justice is needed.

Finally, there appears to be a clear substantive distinction between refugees and IDPs. No one expects refugees to go back to Armenia and Azerbaijan, suggesting that restitution in the form of property rights converted into financial resources will be the dominant pattern so far as refugees are concerned. One particular problem is how to deal with those refugees who were 'beneficiaries' of *ad hoc*, improvised compensation schemes at the time of their displacement: how should they be included? Where IDPs are concerned there appears to be greater likelihood that the choice of return will be deemed a feasible, practicable right. Particularly in contested space locations of special symbolic significance, it seems likely that restitution of property rights (including the right to use property) will be balanced with the right of return as a challenge to the geo-demographic order imposed by war.

What this points to is that it is individuals who will decide what to do with their former homes – live in them, or convert them into resources either for the life they have built in displacement, or for starting out afresh somewhere else. It is through individual pragmatism, and not national visions of obligatory return, that real justice can be done.

7. The parameters of compromise

As suggested in Azer Allahveranov's analysis, any process of return is contingent on a reframing of Armenian-Azerbaijani relations and a rehabilitation of Armenian-Azerbaijani coexistence. Today's militant rhetoric and mutual isolation is leading in precisely the opposite direction. Under current circumstances this situation suits Armenian interests better, since it is Armenian interests that are more fulfilled by the status quo of separation and ethnic unmingling. As Artak Ayunts notes in his contribution, there is a strong sense among many Armenians that the status quo is "restitution enough". Yet in the long term it seems evident that no overall conflict settlement that does not adequately address the issue without some degree of return will be legitimate or sustainable.

Azerbaijan's stated preferred conflict outcome – the reintegration of NK with its Armenian population intact – assumes that Armenian-Azeri coexistence is possible and desirable. Current Azerbaijani rhetoric and the overall human rights context in Azerbaijan are, however, working directly against this outcome. There is

much that Azerbaijan could do to increase its chances of eventually securing some degree of Azerbaijani return. This would involve, among other things, policies securing complete and secure rights for Armenians and Armenian heritage in Azerbaijan, and facilitated Armenian-Azerbaijani movement across the border between Armenia and Azerbaijan.[18] Armenian goals of long-term security, whatever the formal nature of territorial arrangements, would also be served by corresponding policies on the Armenian side.

The essays in this publication make clear the one-sided nature of debates on return in each society. Conflict parties talk only of the return of 'their' displaced, omitting the reciprocity that is implicit and necessary if any process of return is to be part of resolving conflict rather than reigniting it. Yet the intermingled nature of pre-war Armenian-Azerbaijani settlement patterns means that the aspiration to return cannot be divorced from self-reflection on readiness to accept returnees from the other side. Regardless of eventual outcomes, return in the Karabakh conflict cannot be conceptualized as a one-way street, just as no one group holds a monopoly on loss and grievance. Reciprocity and a holistic philosophy of return encompassing real choices along the return-restitution spectrum for all those displaced by the Karabakh conflict can shift debates on return beyond familiar red lines.

18. Reciprocal visits were a part of the peacebuilding repertoire in the late 1990s. In recent years, with the exception of two high-profile visits of 'intelligentsia' figures organized by the Armenian and Azerbaijani ambassadors to Russia, there has been strong resistance to reciprocal visits organized by civil society. Officials across the region, however, agree when prompted that they would welcome such visits in theory. Reciprocal visits could certainly play a central role in restoring mutual confidence, interest and rapport between Armenians and Azeris.

Biographies

Azer K. Allahveranov received a degree in History from Kazan State University and completed doctoral studies in Social Philosophy at Baku State University. He is currently a post-doctoral fellow at the Institute of Philosophy and Political–Legal Research at the Azerbaijani Academy of National Sciences. He is the author of more than 100 articles on topics relating to conflict resolution, migration, national identity, human rights and civil society, social and geopolitical issues. Azer is also founder of the Eurasian Civil Initiatives' Platform and the Executive Director of "Dialogue for Peace and Progress" Consortium.

Artak Ayunts has MA degrees in Sociology and Conflict Resolution from Yerevan State University and Bradford University (UK) respectively. He completed his PhD studies at Yerevan State University in 2004 on the topic of the Nagorno–Karabakh conflict and currently he is an Assistant Professor of Conflict and Peace Studies at the same institution. Recently he was a Tavitian Fellow at the Fletcher School of Law and Diplomacy, Tufts University (USA). Prior to that Artak was the representative of the International Alert and a consultant for IKV Pax Christi in Armenia. His research interests include conflict transformation, peace research and discourse analysis.

Ashot Beglarian completed literary and Russian studies at Yerevan State University, and has worked as a journalist for more than 20 years. He has reported for newspapers *Golos Armenii* (Voice of Armenia) and *Novoe Vremya* (New Times), news agencies SNARK, Arminfo and REGNUM, and for the Institute of War and Peace Reporting. He is a member of the NKR Union of Journalists, the Stepanakert Press Club, and the Union of Writers in both Nagorno-Karabakh and Armenia. Ashot's articles, essays and fictional works have been published in Stepanakert, Yerevan, Moscow, other Russian cities, as well as United Kingdom, Abkhazia, Georgia, Kazakhstan, Ukraine, Belarus, Bulgaria and the United States.

Laurence Broers joined Conciliation Resources (CR) as Projects Manager in the Caucasus Programme in November 2008. Before this he worked for two-and-half years at Amnesty International as a researcher on Armenia and Azerbaijan. He previously edited CR's *Accord* publication on the Nagorny Karabakh peace process. Available at http://www.c-r.org/our-work/accord/nagorny-karabakh/index.php
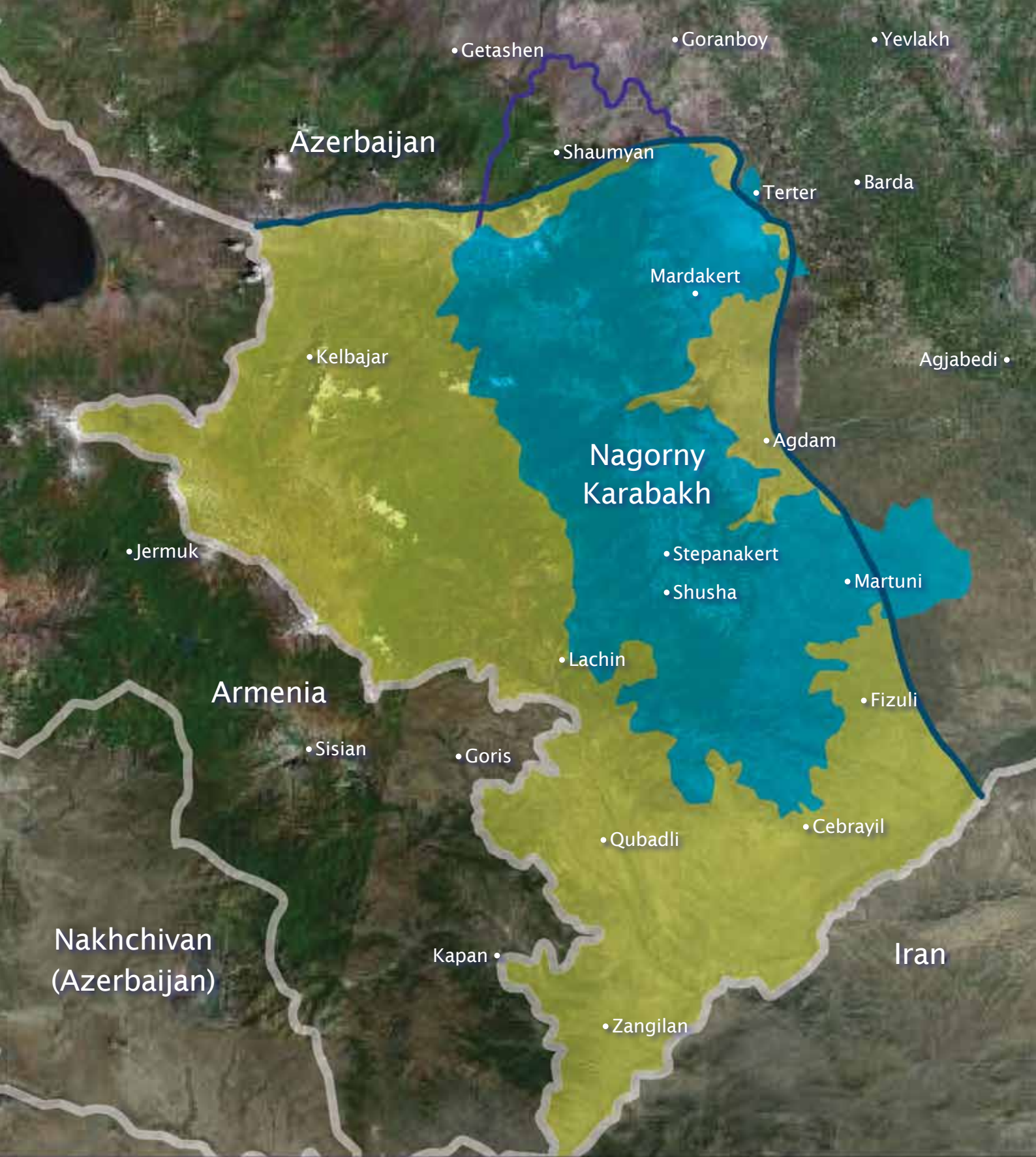
Tabib Huseynov is a political analyst based in Baku. From 2007 to 2011 he worked with the International Crisis Group, conducting research and writing reports relating to regional politics and conflicts, with a particular focus on Azerbaijan and the South Caucasus region. From 2004 to 2007, he worked as the Political Programs Officer with the International Republican Institute, developing and conducting training programs. From Shusha in NK, he regularly takes part in dialogue and academic meetings about the Karabakh conflict and Caucasus. Tabib is co-author of *The European Union and the South Caucasus* (Gütersloh, 2009) and author of *Resolving Ethno-territorial Conflicts: A Case for Mountainous Karabakh* (Berlin, 2008) and a number of other independent publications. He holds an MA in International Relations and European Studies from the Central European University, Hungary.

Masis Mayilian previously served as leading specialist of the Department of Information and Press at the Government of the Nagorno-Karabakh Republic, head of desk for international organizations at the Ministry of Foreign Affairs and Deputy Foreign Minister from 2001 to 2007. Masis has also been a member of the Nagorny Karabakh delegation at the peace negotiations. He currently chairs the Foreign and Security Policy Council, a Stepanakert-based NGO and think-tank. He possesses the diplomatic rank of the Envoy Extraordinary and Minister Plenipotentiary.

Gerard Toal (Gearóid Ó Tuathail) writes about US foreign policy, geopolitics, and conflict regions. A Professor of Government and International Affairs at Virginia Tech's campus in Alexandria, he has a PhD in Political Geography. Born and raised in the Irish border region during 'the Troubles,' he grew up learning about the power of nationalism, geography and place. He is still studying these subjects. Gerard lives in Washington DC with his wife and two daughters.

Azerbaijan

• Getashen

• Goranboy

• Yevlakh

• Shaumyan

• Terter

• Barda

Mardakert

• Kelbajar

Agjabedi •

Nagorny
Karabakh

• Agdam

• Stepanakert

• Martuni

• Shusha

Armenia

• Jermuk

• Lachin

• Fizuli

• Sisian

• Goris

Nakhchivan
(Azerbaijan)

• Qubadli

• Cebrayil

Iran

Kapan •

• Zangilan

This map shows places referred to in
this publication for illustrative purposes
only and does not imply the expression
of any opinion on the part of Conciliation
Resources concerning the legal status of
any country or territory, or concerning the
delimitation of frontiers or boundaries.

Line of Contact

internationally recognized boundary

post-war Armenian claim line including former
Armenian-majority region of Shaumyan

territory of the former Nagorno-Karabakh
Autonomous Oblast (NKAO)

de jure Azerbaijani territory outside of the
former NKAO under Armenian control

The forced displacement of over one million people is a key legacy of the Nagorny Karabakh conflict. This publication presents the research findings of Armenian, Azerbaijani and international analysts grappling with policy-related questions arising from this legacy. Their essays reveal the fundamentally opposed nature of Armenian and Azerbaijani approaches to resolving this issue, provide evidence of popular attitudes towards the return of displaced persons, and explore possible modalities, likely obstacles and alternatives to return.

Conciliation Resources is an independent peacebuilding charity with over 15 years experience working to prevent and resolve violent conflict. Our practical and policy work is informed by the experiences of people living in countries affected or threatened by war. We work with partners in the Caucasus, East and Central Africa, West Africa, Kashmir, Colombia, the Philippines and Fiji.

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