



Policy Brief

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Individual rights, societal choices: Confronting legacies of displacement in the Nagorny Karabakh conflict

Over one million people lost their homes as a result of the Nagorny Karabakh (NK) conflict. This is a legacy that any future peace agreement must address, and reasonable opportunities to realise the right of return, or receive alternative compensation, will be central to its overall legitimacy.

After 20 years of displacement, fulfillment of rights to justice will need to take different forms, depending on the context in which a displaced individual or their descendent finds him- or herself.

But choices being made today across societies involved in the conflict are limiting the future exercise

of a full range of rights by displaced people. More sensitive policy now can safeguard that spectrum of rights in the future. This would be an investment in the legitimacy of an eventual peace deal in the interests of all sides – and allowing for justice for all individuals displaced by the Karabakh conflict.

This policy brief addresses a problem at the heart of displacement dilemmas. While pre-conflict demography and settlement patterns cannot be recreated or restored, any peace agreement failing to establish a realistic basis for some degree of return is unlikely to be seen as legitimate by all conflict parties, or by the international community.

Humanitarian concerns dominated debates about displaced Azeris and Armenians in the 1990s-2000s. While these concerns have not disappeared, the issue of displacement has subsequently become highly politicized as one among many inter-related issues at stake in the NK peace process. In recent years debates about displacement have begun to show rival tendencies reinforcing the intractability of the conflict. In particular, zero sum portrayals of return that equate the physical return of people with the return of political jurisdiction over territory, are counterposed with the creation of new 'facts on the ground' making return impossible. Consequently, debates about return remain distant from the present-day challenges and choices confronting displaced people, reflecting instead the use of the displacement issue as a tool for leverage in the peace process.

Discussions about return and its alternatives need to be reframed to put the rights of displaced people centre-stage. The future exercise of these rights must be protected from societal choices being made today that close off avenues for justice. This is a step that can be taken today towards making a future process of return feasible and legitimate, an outcome vital for long-term Armenian-Azerbaijani reconciliation.

‘Right of return in the future is being endangered by the choices that societies across the conflict are making today.’

1. Forced displacement in the Nagorny Karabakh conflict

Between 1988 and 1994 over one million people lost their homes as a result of the conflict between Armenians and Azeris for control over Nagorny Karabakh (NK). Although in terms of numbers more Azeris were displaced, in proportional terms Armenian and Azeri communities were equally affected.

In Azerbaijan, as the party less satisfied with the status quo, the return of displaced people is seen as an essential component of the return of territory to Azerbaijani jurisdiction. Azerbaijani claims tend to concentrate in particular on the return of Azeri internally displaced persons (IDPs), especially to NK itself, de-emphasizing issues associated with

refugees. Although much has been done to improve the humanitarian conditions confronting refugees and IDPs, particularly in the case of the latter there are multiple barriers to their integration in Azerbaijani society. Integration is feared as acceptance of the status quo, undermining the right of return and losing leverage assumed to come from the presence of a large and unhappy displaced population.

In Armenia and NK, as the parties more satisfied with the status quo, there have been considerable efforts to integrate Armenian refugees and IDPs, and to normalise the current ethnic demarcation. Nonetheless Armenian claims tend to emphasise a symmetrical approach to return, tying any individual scenario for return (such as Azeri return to NK) to wider scenarios (such as Armenian refugee return to Baku). Efforts to support settlement in the occupied territories around NK have not proved popular, although Organization for Security and Co-operation in Europe observers noted in 2010 that the territories

now feature an estimated population of about 14,000 Armenian settlers (mainly in Lachin and Kelbajar).

Justice arguments for displaced Armenians tend to be deployed mainly as counterweights to Azerbaijani claims, as the status quo and current pattern of territorial control are seen by many Armenians as “justice in itself”.

2. The geography of displacement and its implications

The Karabakh conflict generated three main patterns of displacement, each of which has different implications for return, restitution and justice.

A. Refugees

The first pattern involved the mass displacement of the Armenian community of Azerbaijan outside of NK (concentrated in urban centres, especially Baku), and the mass displacement of the Azeri community of Armenia in 1988-90. Although the possibility of their return in the event of a broad settlement and conciliation process cannot be excluded, few

While figures are invariably contested and cannot capture a complex and changing reality, Azerbaijan has some 200,000 refugees displaced from Armenia and some 586,000 internally displaced persons from NK and the adjacent occupied territories. Some 360,000 Armenians, mainly refugees from

Azerbaijan, were also displaced. Although most of these people stayed in Armenia, many emigrated. Armenians displaced from locations in Azerbaijan also form a significant part of the population of NK today, which rises in the inhabited parts of the adjacent occupied territories.



Decoration in a formerly Azerbaijani house in NK now home to an Armenian family displaced from Baku.

people on either side of the conflict see the return of refugees as a likely prospect.

A restitution programme allowing refugees the choice to convert their right of return into resources for lives in displacement would provide an alternative for these populations on both sides of the conflict.

B. Displacement from 'uncontested space'

The second pattern involved displacement from areas that were populated by one primary ethnic group at the time of displacement, and which is not contested today either in terms of territorial claims by the other side, or by the physical presence of post-war settlers. This pattern applies most clearly to six of the de jure regions of Azerbaijan around NK (Jebrayil, Kelbajar, Qubatty, Agdam, Zangilan and Fizuli), which were populated almost exclusively by ethnic Azeris prior to the war. Return to these areas seems the most likely and practicable, as the main post-settlement physical obstacle to return would be economic rehabilitation. However, Armenian attachment to these areas is growing over time, suggesting that new 'facts on the ground' may be created that prevent return to these areas. There are already signs that over the long term this trend may result in 'uncontested space' becoming 'contested space', with serious implications for the resolution of the conflict.

C. Displacement from 'contested space'

In a third pattern, pre-war majorities were displaced from towns or regions now populated by post-war settlers (many of whom are themselves displaced), and/or which have a particularly sensitive geographical location.

There are three principal 'contested spaces'. First, Shusha (known as Shushi in Armenian sources) was the only pre-war Azerbaijani-majority town, with a strategic location in the heart of NK overlooking Stepanakert (Khankendi in Azerbaijani sources). Second, Lachin (sometimes referred to in Armenian sources as Berdzor) was also an Azeri/Kurd-majority town, located in the strategically sensitive corridor of territory linking NK and Armenia. Both Shusha and Lachin feature post-war settler populations of Armenians. Third, the region of Shaumyan, which now forms part of the Goranboy region to the north of NK, was the only Armenian-majority region of Azerbaijan outside of NK prior to the war. Remaining under Azerbaijani control at the time of the ceasefire, it is now settled by displaced Azeris. Return to contested space presents specific challenges for inter-communal reconciliation, as returnees would be expected to live in close proximity, even intermingled, with the other ethnic community.

These patterns of displacement invite different responses to the issue of justice for displaced persons in each scenario. It should not be assumed that all displaced people want to return, should the opportunity to do so materialise. Armenian and Azerbaijani authorities do not need to wait for an elusive peace accord to initiate discussions about restitution for those displaced persons who do not wish to return and have demonstrated their commitment to building new lives in displacement.

Where return is widely deemed unfeasible (as in the case of refugees across the conflict), an open discussion on alternatives to return should be initiated. At the same time developing modalities for justice for displaced persons in one scenario should not be made contingent on resolving all scenarios simultaneously. Instituting justice for refugees or for IDPs from uncontested space should not be held hostage to resolving the undeniably thorny issues surrounding return to contested space.

3. Possible openings

The existence of displaced people on all sides of the conflict allows frameworks addressing their rights to be seen as legitimate if they are comprehensive and reciprocal. The right of return for one side cannot be blocked or rejected, without the simultaneous rejection of one's own side's right of return. A mutually reinforcing dynamic addressing the rights and grievances of both sides is possible, potentially creating a common stake in addressing this issue. For this to happen, however, some conditions may be necessary:

- Displacement and return need to be understood as a universal issue affecting the rights of all people displaced by the Karabakh conflict, whether they are refugees, IDPs, Armenians, Azeris, Meskhetian Turks, Kurds or others.
- Return is a right, but it is not an obligation. The right of displaced people to choose between return and other fulfilments of their rights, such as restitution or resettlement, must therefore be honoured. Return can only enjoy cross-conflict legitimacy if it is voluntary.
- Return needs to be understood not only as a right for one's 'own' displaced, but as an obligation to returnees from the other side. Neither side has to date engaged in serious discussion of their own

societies' capacities to accept returnees. Although claims are made that a sizeable Armenian community continues to live in Azerbaijan, this is not supported by empirical evidence; in NK the question of future co-existence is viewed with hostility, although not rejected outright. A debate needs to be opened on creating "accepting societies", linking specific issues relating to returnees to broader issues of governance and representation in each society.

- For any of the above to happen, militant rhetoric and threats of the use of force need to be curtailed: nothing hurts prospects for the return of displaced people more.

4. Future directions for policy making

A. Focus on the rights and choices of individual displaced people in their current situations, separately from intractable political frameworks.

Much more is assumed about refugee and IDP attitudes than actually known; these assumptions usually reflect the conflict parties' positions on intractable political frameworks. New information is needed about what Armenian and Azerbaijani refugees and IDPs really want. Government

policies on displacement will be more legitimate, more effective and more

accountable if they reflect displaced people's own views. Refugees and IDPs also need to be better informed about the choices available to them, rather than being encouraged to believe that national claims to territory are dependent on their decisions.

B. Acknowledgement that different patterns of displacement require different strategies, giving displaced people the choice as to what form of justice (restitution, return, resettlement) is most appropriate for them.

Refugees and IDPs have been displaced from different contexts and justice for them will take different forms. Some refugees in each country may have decided that even if it were possible, return to another state as an ethnic minority in a politically sensitive context and after years establishing life elsewhere is not what they want. Those who make this decision should be enabled to receive other forms of restorative justice, such as financial compensation (restitution).

Those who do eventually choose to return will have different needs depending on their individual

“A debate needs to be opened on creating “accepting societies”, linking return to broader issues of governance and representation in each society.”



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

situation. Policy makers need to start thinking now about these differentiated needs. IDPs and refugees returning to contexts where they may live side by side with the other ethnic community will need specific forms of preparation and protection. Contexts left behind in the late 1980s or early 1990s have changed beyond recognition; effective preparation will therefore need plausible and reliable information about attitudes and politics in the return destination. Re-establishing reciprocal contacts and movement across Armenian-Azerbaijani borders now would play an indispensable role in grounding discussions about eventual return and reconciliation in today's realities.

C. Safeguarding the future exercise of the right to choose where to live from wider conflict strategies being pursued today.

Some conflict strategies of recent years are directly incompatible with the development of conditions allowing for eventual return. The destruction or neglect of cultural heritage symbolizing space that was once shared; the creation of new 'facts on the ground' in the form of settler activity; new claims of cultural ownership over territory that has been occupied; misleading information about residual communities from the other side; and portrayals of displacement as a unilateral problem are all examples of such strategies. Pursuit of these strategies closes the space for more constructive discussion, and makes the displacement issue more vulnerable to manipulation. Without action to mitigate

these negative tendencies the displacement issue may become even more intractable.

Mitigating strategies could include:

- Innovations in the field of collaborative curation of cultural heritage symbolic of now displaced communities, and cessation of the destruction, neglect or unilateral curation of such sites aimed at changing their character;
- Cessation of support to settler activity and an information-gathering and public education campaign addressing the needs and rights of *both* settler and displaced populations;
- An honest and responsible public discussion about the capacities of Armenian and Azerbaijani societies to accept returnees as part of an overarching peace deal;
- Visits by groups of displaced people on each side to communities from which they were displaced.

D. Consideration of integration as a framework for addressing the present-day needs of displaced people; securing displaced persons' welfare now need not determine eventual choices about where to live.

In Azerbaijan the taboo of integration needs to be broached as a means to secure refugee and IDP rights and welfare. Integration into the place of displacement does not imply the rescinding of the right of return, but makes this right more likely to be

realised by investing over the long term in dignified, skilled and confident returnees. Public discussion is important to allay fears that by integrating people will lose out on their rights as displaced persons.

In Armenian contexts, the integration of people forcibly displaced to a given territory should not be pursued in ways that close off avenues for justice for those people originally displaced from that territory. A comprehensive framework needs to allow for the rights of all categories of displaced people to be addressed, avoiding hierarchies among them.

E. Situating return and restitution needs within wider governance and reconciliation processes in Armenian and Azerbaijani societies.

Both return and restitution require a wider set of societal relationships and functional institutions to make them work. They should be seen as positive aspects of future economic development and governance, rather than being tied to one-sided narratives of past grievance. Return implies a deep process of addressing grievances, dealing with past injustices and, especially where returnees will co-exist with the other side, reconciliation. It also demands governance and social infrastructure to ensure that people can return in dignity and security, which will require work on the ground long in advance. Restitution implies a set of institutions capable of delivering justice; exploratory thinking, drawing on best practices from other conflicts, is needed now on the design of institutions and mechanisms addressing justice needs in concrete ways.

The current climates of insufficient information, misinformation and misperception about the peace process, mutual isolation of Armenians and Azerbaijanis, and the resulting popularity of enemy stereotyping are working to delay justice for displaced people indefinitely. Strategies of contact across the conflict are needed to connect former neighbours, give displaced people their own voice in discussions with the other side, and broaden scope and participation in debates on justice and reconciliation. International actors have a vital role to play here in sharing experience, creating space for dialogue, investing in new capacities and developing realistic expectations in advance of political openings.

Key areas of policy relevance

- A. Focus on the rights and choices of individual displaced people in their current situations, separately from intractable political frameworks
- B. Acknowledgement that different patterns of displacement require different strategies, giving displaced people the choice as to what form of justice (restitution, return, resettlement) is most appropriate for them
- C. Safeguarding the future exercise of the right to choose where to live from wider conflict strategies being pursued today
- D. Consideration of integration as a framework for addressing the present-day needs of displaced people; securing displaced persons' welfare now need not determine eventual choices about where to live
- E. Situating return and restitution needs within wider governance and reconciliation processes in Armenian and Azerbaijani societies

This policy brief is based on research conducted by Armenian, Azerbaijani and international experts within the framework of the Karabakh Contact Group [KCG] an initiative launched by Conciliation Resources in 2010 to promote policy-relevant thinking about the Karabakh conflict.

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The research on which this policy briefing is based can be found at www.c-r.org/NK_IDP
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Cover: An Azeri refugee from Yerevan protests the demolition of her home to make way for urban development in Baku.