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Azerbaijani Nationality Law and the Current Status of Karabakh Armenians in Azerbaijan

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ABSTRACT

In September 2023, Armenians left Nagorno-Karabakh in the wake of Azerbaijan's reconquest of the region. Armenians stated that they did not trust that they would be done right by Azerbaijan's laws or administrators. The Azerbaijani government stated that Karabakh Armenians were citizens of Azerbaijan and would enjoy the same rights and protections as any other citizen of Azerbaijan. The future status of Armenians and their property in Nagorno-Karabakh is one of the key questions in the ongoing negotiations. The question then is: Are Karabakh Armenians citizens under Azerbaijani law and what are the legal and political implications of this? To answer this question, the article first provides a history of Azerbaijan's nationality law, with reference to the Karabakh question. This history, which is contextualized in the political and legal circumstances of the time, also illustrates something of the prevailing attitudes and approach in Azerbaijan as well as Azerbaijan's legislative and constitutional character. The article then proceeds to consider the present legal and political implications, in terms of individuals, interstate relations, and international law. This exercise being complete, the article concludes that Azerbaijani nationality law formally accommodates Karabakh Armenians, but that the law allows the government great implementational discretion. The article observes that this creates uncertainty – and that if one is asking what might or is likely to happen next, the political motives of the Azerbaijani government must be considered. The article proceeds to consider those motives and posits some scenarios of what a future settlement might be like and the implications, be it for individuals, Armenia-Azerbaijan relations, and international law.

KEYWORDS

Armenia, Azerbaijan, international law, Karabakh, nationality law, South Caucasus.



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Закон Азербайджану про громадянство та поточний статус карабаських вірмен в Азербайджані

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СТАТТЯ	АНОТАЦІЯ
Дослідницька DOI: 10.70651/3083-6018/2025.12.10 Отримана: 05.11.2025 р. Прийнята: 07.12.2025 р. Опублікована: 20.12.2025 р. Авторське право © 2025 автора  Цей твір ліцензовано на умовах Ліцензії Creative Commons «Із Зазначенням Авторства – Некомерційна 4.0 Міжнародна» (CC BY-NC 4.0).	У вересні 2023 року вірмени залишили Нагірний Карабах після його відвоювання Азербайджаном. Вірмени заявили, що не вірять у дотримання їхніх прав з боку азербайджанських законів чи адміністраторів. Уряд Азербайджану заявив, що карабаські вірмени є громадянами Азербайджану і користуватимуться тими ж правами та захистом, що й будь-який інший громадянин Азербайджану. Майбутній статус вірмен та їхнього майна в Карабаху є одним з головних питань поточних переговорів. Отже, постає питання: чи є карабаські вірмени громадянами за азербайджанським законодавством і які з цього випливають правові та політичні наслідки? Щоб відповісти на це питання, стаття спочатку подає історію азербайджанського закону про громадянство у зв'язку з карабаським питанням. Ця історія, яка розглядається в контексті тогочасних політичних та правових обставин, також ілюструє панівні настрої та підходи в Азербайджані, а також законодавчий та конституційний характер країни. Далі в статті розглядаються поточні правові та політичні наслідки для окремих осіб, міждержавних відносин та міжнародного права. Стаття доходить висновку, що азербайджанський закон про громадянство формально враховує карабаських вірмен, але водночас надає уряду значну дискрецію у його застосуванні. У статті зазначається, що це створює невизначеність, і що для прогнозування ймовірних майбутніх подій необхідно враховувати політичні мотиви азербайджанського уряду. Далі стаття розглядає ці мотиви та пропонує декілька сценаріїв майбутнього врегулювання та їхні наслідки для окремих осіб, вірменсько-азербайджанських відносин та міжнародного права.



КЛЮЧОВІ СЛОВА

Вірменія, Азербайджан, міжнародне право, Карабах, закон про громадянство, Південний Кавказ.

1. Introduction

Karabakh has long been ethnically mixed. When Soviet rule began, the Azeri population predominated in much of the region but not in its mountainous center, which had an overwhelming Armenian majority – on whose account the Soviets established the autonomous oblast of Nagorno-Karabakh (literally Mountainous Karabakh) within the Azerbaijani Soviet Socialist Republic. Both the administrative boundaries and the demography would remain unchanged throughout the Soviet period. However, the twilight of Soviet rule sparked considerable contention in the region, particularly a separatist movement seeking the transfer of the oblast from Azerbaijan to Armenia.

The legal and essential story, thus, starts with Azerbaijan's declaration of independence on October 11th, 1991, in response to which the government of Nagorno-Karabakh held its own referendum for independence from both Azerbaijan and the Soviet Union on December 10th, which local Azeris, who made up 20% of the autonomous oblast, boycotted. Nevertheless, it was announced that the yeas won the referendum with 99.98% of the vote, with a popular turnout of 82.17%. Nagorno-Karabakh proceeded to declare its independence on January 6th, 1991. Yet Azerbaijan had revoked Nagorno-Karabakh's autonomy on November 27th, 1991; it recognized neither the referendum nor the declaration of independence. So began the First Karabakh War.

The separatists won that war. By force of arms, they not only established their *de facto* independence in the autonomous oblast of Nagorno-Karabakh itself but also conquered almost all the rest of Karabakh. These territories became the breakaway Republic of Artsakh – reviving the name of a roughly coterminous province of Ancient Armenia. Azeris, making up the majority outside of the Autonomous Oblast, were displaced wholesale and fled to the Azerbaijani government-controlled territory. The war ended with a quadripartite (Russia, Armenia, Azerbaijan, and Artsakh) ceasefire signed in Bishkek on May 5th, 1994. Yet, Azerbaijan, despite military defeat, never *de jure* recognized the loss of either the former autonomous oblast or the rest of Karabakh. Karabakh's *de facto* independence has never had any legal consequence whatsoever for Azerbaijan.

2. Literature Review

Nationality law in post-Soviet Azerbaijan has been primarily formed and regulated by three key documents: the Declaration of Independence of 1991, the Constitution of 1995, and the Nationality Law of 1998. These documents have undergone amendments, and the regime they established underwent a major revision after approximately 2010; however, all of them remain in force. This section relates to the original provisions of these documents.

Azerbaijan adopted the so-called 'zero option' regarding citizenship, whereby all residents of the territory became citizens of the new state [21]. However, the zero option was never explicitly stated; it was a net effect of the consequences of the developments in Azerbaijan following independence. So, it was not a simple matter of everybody in Azerbaijan getting citizenship of the new state.

The first of these developments was the promulgation of the Declaration of Independence on October 18th, 1991. Article 8 identified the people of Azerbaijan, whom it declared sovereign, as all citizens "within and outside the Azerbaijan Republic subject to Azerbaijan's laws" [17], and Article 19 accepted equality before the law for all and customary international human rights law; but the document never set forth a specific definition of citizenship.

What it did do, per Article 4, was keep Azerbaijan's Soviet constitution of 1978 in operation until the promulgation of a new, post-Soviet constitution – insomuch as it did not contradict new laws. So in effect, independence transformed the 'hard' 1978 constitution into a 'soft' one: the constitution remained, but the legislature, as the ultimate authority, became able to override it. Of course, the 1978 Constitution had not discussed the question of nationality; in 1978, everybody had been a Soviet citizen, and the constitution applied to all Soviet citizens residing in the Azerbaijani Soviet Socialist Republic.

As a result, much was left unclear. Clearly, somebody who, on the day of independence, had been in his village in Azerbaijan and had remained there since was a resident and part of the people's citizenry as defined by the declaration of independence.

But what about those who lived abroad or were absent on the day of independence? It had been Soviet practice to appoint new graduates to postings all throughout the Union for a few years' time;

many white-collar Azerbaijanis, newly graduated or not, lived and worked elsewhere in the Soviet Union. Meanwhile, during the tumult of independence, many members of ethnic minorities had departed – they may have hoped only temporarily. This exodus especially affected cosmopolitan Baku. The most famous departee is probably world chess champion Gary Kasparov.

In effect, there was a legal vacuum. In practice, individual questions of citizenship defaulted to the executive, which administered the voter rolls. These circumstances lasted a long time – at least until 1995, when Azerbaijan's first post-Soviet constitution came into force. During this limbo period, Azerbaijan held five legislative elections. Indeed, it is a fact that these elections, combined with the language of the 1978 constitution and the declaration of independence, whereby Azerbaijan implicitly adopted the zero option. The period in question was formative in more ways than one; the combination of legal murkiness and practical executive authority has since remained a lasting characteristic of nationality law in Azerbaijan.

The next development in nationality law in Azerbaijan occurred with the promulgation of the first post-Soviet constitution in 1995. This constitution brought in more guarantees. It made citizenship irrevocable. It also ensured that all those born in Azerbaijan after independence were considered nationals. As such, this constitution indeed [5; 13] instituted the broadest application of *jus soli* in Europe outside Ireland. This followed the example of the Azerbaijan Democratic Republic, the regime of Azerbaijan before the Soviet takeover, which its successor, Azerbaijan, considered itself to be, but there might have been something else behind all this.

By 1995, Heydar Aliyev replaced the pan-Turkic nationalist Ebulfaz Elchibey as the president of Azerbaijan. Aliyev was a former KGB officer and a figure more strongly associated with Moscow. Aliyev's government, as well as people from the numerous non-Azeri communities in Azerbaijan, had reason to stress a territorial, rather than ethnic, conception of Azerbaijan and Azerbaijani nationality. This territorial conception – as opposed to ethnic Azeri nationalism, Turkish nationalism, or pan-Turkism – has been called *Azerbaijanism* [21]. One of its effects has been that Azerbaijan has never provided citizenship for Azeris outside its borders. This contrasts with the example of many other post-Soviet states, which did give citizenship to members of the titular nationality left outside their borders.

The last of the three documents to come into play was in 1998 with the promulgation of Azerbaijan's very own nationality law. The law did a few important things.

First and most importantly, the law automatically counted as citizens only those residing in Azerbaijan as of January 1st, 1992, who had maintained their residency since. Residence in 1992 was to be demonstrated by the *propiska*, the infamous Soviet internal passport, which doubled as civil registration. The Azerbaijani nationality law of 1998 stipulated that individual unable to present a *propiska* as of January 1, 1992, were required to register with the government within a year to maintain their residency and citizenship, or risk losing their citizenship or residency status.

This might have been particularly problematic for ethnic Azeris, generally from Georgia or Karabakh, who had come to Azerbaijan during the collapse of the Soviet Union. To prevent this, the law expressly guaranteed and confirmed the citizenship of all refugees who had come between 1st January 1988 and 1st January 1992. This also suggests that the authorities thought the chances of Azeris returning to Georgia, not to mention Karabakh, were slim. Why guarantee the citizenship of these people if it was thought they could return to where they came from?

However, the law disappointed many other ethnic Azeris. In the Soviet Union, urban centers were attractive and often needed workers. So, the requirement that people be registered in some place in Azerbaijan in January 1992 excluded many Azeris. This was not just a problem for Azerbaijanis living in Moscow or somewhere else in the former Soviet Union. It affected many people who were actually in Azerbaijan on January 1st, 1992. In Soviet times, despite restrictions on internal migration, people often lived in places where they were not registered. They may have been *limitchiki* – that is, authorized to live somewhere they were not registered to for work or married to somebody who was registered – or they may even have been just downright undocumented.

Indeed, in Azerbaijan, many people suffered from the lack of recognition of citizenship. Mark 'lack of recognition'; the law did not make the removal or denial of citizenship automatic; it left it to the government's discretion and initiative – and as it transpired, the government did not proceed to strike people off the list, as it were, once the deadline had passed. Instead, those who failed to register ended up in a quasi-state of limbo: they were neither declared citizens nor non-citizens. Yet, many of these people eventually obtained Azerbaijani citizenship, becoming recognized or naturalized through

various methods. Enfranchisement and naturalization accelerated, especially after Azerbaijan joined the Council of Europe.

Yet Azerbaijan did not control Karabakh, and this process did not take place there. Karabakh Armenians must thus be considered the worst losers of the nationality law; it effectively stripped them of their citizenship. For even if Armenians had the required *propiska*, how could they go over to government territory to register? Aside from what it would signify for the separatist cause, the demarcation line between Azerbaijan and the breakaway republic was a military frontier. Moreover, even if they had gone to the Azerbaijani government territory to register, Azerbaijan, having lost control over Karabakh, would have no record of their continued residency. Nor would any documentation from the Nagorno-Karabakh government be of any help; having been authored by a state that Azerbaijan did not recognize but regarded as a rebel entity, it would have had no legal validity in Azerbaijani eyes.

3. Problem Statement

Following Azerbaijan's 2023 reconquest of Nagorno-Karabakh, a central conflict emerged between the government's claim that local Armenians are full citizens and the Armenians' deep distrust, which prompted their mass exodus. The core problem this article addresses is the resulting uncertainty: it investigates whether Karabakh Armenians are truly citizens under Azerbaijani law and what the legal and political implications of this ambiguous status are.

4. Methods and Materials

The study applies qualitative and doctrinal research methods. It is based on an analysis of international legal instruments, national legislation of the Republic of Azerbaijan, and case law of the European Court of Human Rights concerning citizenship, statelessness, and minority rights. Secondary sources include academic literature on nationalism and statehood, analytical policy reports, and country assessments produced by international organizations. In addition, materials from reputable media outlets and official databases were used to contextualize recent political developments in the South Caucasus. Methods of comparative legal analysis, document analysis, and case-law review were employed to identify patterns, assess compliance with international standards, and formulate analytical conclusions.

5. Results and Discussion

The question of the impact of Azerbaijan's nationality law in the separatist region of Karabakh would have largely been moot until recently. Legal responsibility is predicated on actual control. Moreover, citizenship is a relationship between a state and an individual. International law is generally silent on the matter.

Despite this general silence, international conventions forbid rendering people stateless, and Azerbaijan could have but chose not to recognize the citizenship of Karabakh Armenians. There is the counterexample of Georgia: it has long recognized the citizenship of people in the breakaway republics it claims but does not control.

However, in the case of Karabakh, even this never came into play because Azerbaijan never actually formally denaturalized anybody. Essentially, Azerbaijan did not account for them as citizens because they could not prove their citizenship; however, Azerbaijan did not deny their citizenship. Affected individuals in Azerbaijan itself might, in practice enjoyed some public services for citizens or residents, but not others. As a hypothetical example, people might have been treated at the hospital but been unable to get a passport. This policy created a substantial problem in Azerbaijan, but it would have been difficult for the affected to bring suit in response in international fora.

International law safeguards the rights of persons as well as certain rights bestowed upon states, such as the right not to be attacked by a neighboring state, with some exceptions. It does not interfere in procedural matters of domestic courts or legislation. International law prescribes a few universal rights. It does not grant people rights those states may legally withhold. So, Azerbaijan only had to refrain from violating any rights that would result in the violation becoming legitimate or creating potential refugees. Refugees are people who have been so abused that they are absolutely justified in

leaving their own country and their welfare has become the business of other states. Since refugees bring responsibilities – often challenging ones – for other states, they inherently constitute the internationalization of a problem; therefore, refugees, unlike citizenship, are a proper matter for international law. In that light, someone affected could not take up their case internationally unless physically dispossessed, displaced, or starving.

2002, however, was a momentous year: Azerbaijan joined the Council of Europe. Members of the Council are required to have signed the European Convention on Human Rights. This document stimulates considerably more rights than guaranteed by the UN. Jurisdiction over the European Convention on Human Rights is held by a special court in Strasbourg. It has been claimed that the court interprets the Convention liberally, for instance, by former Supreme Court Justice of the United Kingdom, Lord Sumption [19]. It thus does not seem too surprising that Azerbaijan's newfound adherence to the Council corresponded to domestic administrative reform. No later than 2002, Azerbaijan's constitution was amended to give the president the powers to "settle the issues of citizenship" and "decide issues on granting political asylum" – incidentally, this also meant that the dualism theoretical right to nationality and actual enjoyment of it, which had existed since the very beginning of Azerbaijan's independence, got some codification.

As a result of all this, there was a great decline in the number of undocumented people in Azerbaijan. Those who were unable to register in government-held Azerbaijan were gradually absorbed into the citizenry through naturalization at worst – but of course, the process of documentation and re-documentation did not take place in Karabakh, over which Azerbaijan lacked control.

In retrospect, this was prudent. The Strasbourg court would come to rule in 2012 in *Kuric and Others vs. Slovenia* that it was unfair for Slovenia to keep Mr. Kuric, who had been a resident of Slovenia since before Slovene independence, off the register of citizens, even if Mr. Kuric had failed to comply with the relevant registration deadline [6; 12]. The court found it to be a violation of the rights under the European Convention of Human Rights to private life, effective remedy, and non-discrimination, as protected under Articles 8, 13, and 14, respectively. This stance of the Court, particularly that a lack of citizenship is a violation of the right to private life, was, in part, affirmed in 2018 in *Hoti v. Croatia* [9]. It must, however, be observed that in *Hoti v. Croatia*, Hoti's violation of private life was predicated on Mr. Hoti's effective statelessness [20]. Mr. Hoti could not achieve stable residency in Croatia because he could not become a Croatian citizen; he could not become a Croatian citizen because he could not demonstrate to the Croatian authorities that he had renounced his Albanian citizenship; the Albanian authorities would not permit him to renounce his Albanian citizenship because they did not consider Mr. Hoti to be an Albanian citizen in the first place.

Messrs. Kuric and Hoti found themselves in a situation similar to that of stateless persons in Azerbaijan after independence: they were either stateless or treated as such. If Mr. Hoti was prevented from acquiring citizenship by external forces, but Mr. Kuric could have become a Slovenian citizen, had he only registered on time, immediately after independence. If Mr. Kuric, someone who resided in government-controlled territory was excused for – or more precisely, still had a right to an effective remedy despite – not having registered, surely, in the eyes of the Strasbourg court, the Armenians of Karabakh who found themselves in a breakaway state would have even more of an excuse in failing to comply with Azerbaijan's registration mandate than Mr. Kuric did with Slovenia's.

It must, however, be observed that the court intervened on behalf of Mr. Kuric and Mr. Hoti because they found themselves subjected to the conditions of statelessness where they actually lived. Karabakh Armenians are not currently in Azerbaijan; for the most part, they reside in Armenia, where they may enjoy citizenship. So, although the court may even better understand their failure to register with Azerbaijan, the court might opine that, as there is no actual violation taking place on the ground, it has no mandate to intervene.

Here, though, the scholastic legal analysis must end: it is hard to imagine a body as committed to the spirit of the European Convention of Human Rights and the body of international law as a whole opt to refrain from judgement through such casuistry – one must in some sense admit Lord Sumption's assessment that the court is partisan is correct; the question is whether this partisanship is unwarranted or unwarranted, where different interpretations are possible – and because the very openness to interpretation on theoretical grounds, one can imagine governments being at variance on the question of the court's intervention as well.

Anyhow, as time went by, the political landscape changed, and Azerbaijan's nationality laws became more stringent. In 2008, the nationality law was amended: the five years required for naturalization now had to be consecutive. Naturalization also now requires that people have been legally and permanently resident and have an income.

This prompted amendments in Azerbaijan. Their primary effect was to grant the executive even greater discretion regarding citizenship and nationality.

On May 30th, 2014, the nationality law was changed. Children born to a foreign parent no longer got citizenship through *jus soli* (though foundlings or children whose parents were stateless still did). This contradicted the constitutional guarantee of *jus soli*, but Azerbaijan's judiciary interpreted the amendment as a restriction rather than a negation thereof. At the same time, the change criminalized getting another nationality without informing the government. It also made voluntary acquisition of another nationality, serving under another state, damaging the national interest, and fraudulent naturalization punishable by the loss of citizenship, as adjudicated by the courts. Another amendment on December 30th, 2014, required repatriates older than fourteen and all newly naturalized persons to swear allegiance. A further amendment on December 4th, 2015, added extremism and terrorism to the above list. These clearly breached Article 53 of the Constitution, which explicitly states that citizenship is irrevocable. The conflict was ultimately resolved by the repeal of Article 53 through a constitutional amendment, which was approved in a referendum on March 20, 2016.

Yet in other ways, amendments made citizenship more inclusive. The president became able to restore citizenship [14]. Anybody who had been a citizen of Azerbaijan or the Azeri SSR and had not left the country became eligible to sue for recognition as stateless and to become a citizen by naturalization. Additionally, the date of arrival of refugees became considered the day they began residency in Azerbaijan. This last reduced the time required for naturalization. Nevertheless, considerable discretion was left to the authorities. For instance, the courts became able to deny the naturalization applications of those considered to have acted against Azerbaijan's security and welfare.

On the whole, today, nationality is a highly discretionary matter in Azerbaijan, with the executive having ultimate authority. A discretionary policy toward nationality is not in conflict with international law. As mentioned, citizenship is not a question subject to much in terms of international law. The right to nationality under the Universal Declaration of Human Rights remains nominal at worst and qualified at best. The European Convention of Human Rights does not establish a firm right to acquire a nationality either, as made evident in *Karashev v. Finland* [11]. Yet it must be stressed that there is likewise nothing to formally bar Armenians from citizenship either in Azerbaijan's laws, nor would Azerbaijan be permitted to have such a law under the European Convention on Human Rights. The decision of the Strasbourg court in *Genovese v. Malta* evidences this [8].

According to Azerbaijan's current legal framework, the Karabakh Armenians, in general, are citizens of Azerbaijan. Those in Karabakh on January 1, 1992, and ever since have been citizens, as per the Nationality Law. Those born there between 1992 and 2014 are citizens per *jus soli*. The children of any of these categories of people are also Azerbaijani; the same is true of all foundlings and children born to exclusively stateless parents. These individuals may not currently be considered citizens, but only because their identity documents are invalid – an administrative issue. If President Aliyev, with ultimate say over citizenship and asylum cases, chooses to recognize their papers, despite their being authored by a state Azerbaijan never recognized, he may. People falling outside these categories, too, can become recognized as Azerbaijani citizens, but through naturalization, much like the unregistered after 1998. Of course, in practice, this might be difficult. It depends on the attitude of the authorities – but it must be stressed that Azerbaijan cannot make being Armenian itself a formal bar to citizenship, as the right to non-discrimination per the European Convention of Human Rights makes clear.

Nevertheless, legally speaking, the only people without a path to Azerbaijani citizenship or legal residency are those born before 1992, without association to the former categories of persons, and who moved to Karabakh after Azerbaijan lost control over it. The most salient category of people who fit that definition are Armenians from outside Karabakh who settled in the breakaway republic after its establishment. But even they could get citizenship. As mentioned, according to Azerbaijan's constitution, the president has the ultimate say over citizenship and asylum cases, and in extraordinary cases, he may even grant naturalization. The reintegration of a lost territory can clearly be considered an extraordinary situation.

Aliyev has stated that Karabakh Armenians are citizens; the official stance is for the full reintegration of Armenians. The only caveat is when it comes to perpetrators of massacres and war crimes and the like: Azerbaijan has expressed its intention to prosecute them. The most salient of such people are those accused of atrocities during the first Karabakh War.

It is therefore interesting that Azerbaijan called the final offensive of the Karabakh conflict an anti-terrorism operation. It must be remembered that Azerbaijani law permits revoking the citizenship of people considered to have worked against the public interest or engaged in terrorism. If the separatists were terrorists, their citizenship could be revoked. In that case, a great many – virtually anybody involved somehow with separatism – are confronted with the danger of denaturalization and, consequently, expulsion.

It must therefore be remarked that it is legally possible that masses of Armenians be denaturalized. However, it is hard to imagine that Azerbaijan's courts would take such action on their own initiative. Indeed, but for a few oddities, the courts have seldom pursued denaturalization – as they must for denaturalization to actually happen – even in normal cases. For instance, many who have other nationalities have kept their Azerbaijani citizenship. Prosecutors have simply not brought a case against them. Several Artsakh leaders are currently imprisoned in Azerbaijan. They have not been prosecuted with a view to their denaturalization either [2].

All this, however, is beside the point: clearly, the question of the Armenians' citizenship is not a legal but a political one, and it lies with President Aliyev. This is not just *de facto*, given the constitutional state of Azerbaijan. Still, *de jure*: according to Azerbaijan's constitution, questions of citizenship and asylum, however much they are adjudicated in practice by the courts, are constitutionally the president's province. And Presidential authority on these questions is unassailable. Even if the President were not able – as he is – to overrule the courts on these questions, he could even, legally and expediently, re-naturalize those they denaturalize. Indeed, by law, the normal conditions for naturalization are dispensable in "exceptional cases" [21].

All in all, Aliyev has declared that the Armenians of Karabakh are citizens of Azerbaijan. For so long as he keeps his word, then Karabakh Armenians are securely citizens of Azerbaijan. So, if President Aliyev abides by his declarations and says Karabakh Armenians are Azerbaijani citizens, their status in Azerbaijan should be quite secure, whatever the resentment resulting from thirty years of ethnic conflict in Azerbaijani society at large.

The question, then, is whether Aliyev and Azerbaijan can be trusted to keep their word. After all, in question is a state with a hard-nosed and powerful presidency, a pliant judiciary, and a legislature so unfussy that it promulgates unconstitutional laws and only thereafter goes on to change the constitution, and a legal framework for mass denaturalization is in place [21].

Yet none of this means Azerbaijan should necessarily be distrusted. One must remember that different polities are constituted differently and produce equilibria and stable outcomes in different ways [10]. So, to assess the question of whether Azerbaijan's government will keep its word or if it is interested, as often accused, in pursuing ethnic cleansing, one must consider its motives.

Whenever somebody pursues ethnic cleansing, they do so either for the sake of ethnic cleansing itself or for the sake of some other objective. There can be two reasons why somebody would want to ethnically cleanse a territory for its own sake: ideology and hatred.

Ideologically, the combination of the nation-state and democracy often happens to be a call for the institution of an overwhelming national majority in a state, for two purposes: that a nationality's mores and views may dominate a society, and that that nationality can dominate the government of that society.

The population of Azerbaijan is approximately 10 million, of which 91.6% are ethnic Azeris [3]. The Karabakh Armenians number about a quarter of a million. Azeris are assured of demographically dominating Azerbaijan, come what may. It is unlikely that a minority can overthrow the Azerbaijani state. As such, neither the Azerbaijani state nor Azerbaijani society requires ethnic cleansing for the sake of their security and perpetuation.

Might the Azerbaijanis like to ethnically cleanse the territory due to simple hatred? There may, of course, be many who might find the idea appealing. The Azeris themselves were expelled by the Armenians a few decades ago. Yet it must be remembered that these two nationalities recently lived within the same state and often in the same communities – and, historically, cohabitation has been the rule, not the exception. The last period of cohabitation lasted nearly a century. Though perhaps most

importantly of all, in the modern world, people often think of ethnic cleansing as wrong – this includes people from nations involved in ethnic strife []. Thus, military victory, the restitution and reconstruction of old property, and the punishment of the leaders blamed for injustice, together should go a long way in assuaging the thirst for revenge on the part of the Azeris. The Azerbaijani regime, meanwhile, should be strong enough to hold back those still dissatisfied.

The motive, then, that Azerbaijan might have for ethnic cleansing is not ethnic cleansing for its sake, but rather potential Armenian unrest. Artsakh's soldiers were gunned down in great numbers by Azerbaijani drones. Artsakh never got to join Armenia and never enjoyed a moment's comfort, being a breakaway republic. Baku might well think that the Armenians, if left there, resentful, if not vengeful, toward Azerbaijan, might continue to agitate, despite their republic's demise. Then Karabakh would remain a restive province and a continuing flashpoint, and maybe a violent one; after all, the mountainous terrain is suitable for guerrilla activity and insurrection. Reason suggests that avoiding such a situation is the primary motive of the Azerbaijani Government. What, then, is to become of the Karabakh Armenians?

It is unlikely that President Aliyev would change tune to go about denying or stripping citizenship left, right, and center – at least not unilaterally. Besides the above, Aliyev has publicly given his word, and his word is his defense against accusations of ethnic cleansing. In recent years, rather than debasing international law have manifested its opprobrium and damnatory force – alongside that of global public opinion. If leaders of states in relatively stronger positions are condemned – and are likely to be punished, should they ever lose power – how can one expect Aliyev, the leader of a much smaller state and a figure who has thus far acted in a largely pragmatic, calculating, and moderate manner on the international stage, to undertake such a risk?

If mass denaturalization does occur, this would probably be by means of a treaty between Azerbaijan and Armenia. An exchange of territory, at least of the parties' respective enclaves, is sure to happen. This might be accompanied by an exchange of populations with Azeris and Armenians losing the citizenship of the state they no longer want to be associated with and acquiring that of the state they identify with.

After all, upon Artsakh's surrender, almost all Armenians left Karabakh, seemingly with the endorsement of both Armenian and Artsakh authorities. It is a question of keeping Armenians – or, in the case of former Azerbaijani residents of Armenia, Azerbaijanis – out of their ancestral land rather than driving them out of it. And under the current international situation, one would expect few political, as opposed to legal and moral, objections. Those made would likely be by revanchist factions or the former leaders of the vanquished breakaway republic. As such, the parties may well opt to break international law, but probably only if they could come to a deal over it – and a deal might happen. The Armenian prime minister has not been very favorable to the Karabakh separatists. And the Armenian government, much like the Azerbaijani one, might wish to extinguish the claims of Azeris in the territory it controls. Politicians are often ambitious people. They may want to bring home a clean break and go for the first option in the interest of resolving things once and for all.

Yet, the influence of international law and the force of opinion among affected individuals clearly work against such an arrangement. A compulsory population exchange would conflict with international law. None has happened legally since 1948. Since 1945, there has been a significant shift in international law. State sovereignty has been restricted such that states nowadays basically lack the legal authority to deprive individuals of their hearth and home because of ethnicity or religion or the like. The most explicit interdiction is in the Rome Statute. Azerbaijan has not signed that, but the essential prohibition is to be deduced from the Geneva Convention of 1949, to which it has subscribed. Moreover, the question of the statutory source of the prohibition on ethnic cleansing is beside the point: the prohibition on ethnic cleansing must now be considered part of customary international law. By and large, customary international law binds both old states and new states that had no part in its establishment. It particularly binds Azerbaijan, as Article 19 of its declaration of independence explicitly commits Azerbaijan to the general corpus of international law.

Whether population exchanges are necessarily bad is debatable, but population exchanges are currently illegal – and the law matters. No solution that spurns international law can ultimately be secure; it is to hang Damocles' sword over one's head. Violations of law and decency can be used as an excuse, justification, or rallying cry against the party accused of committing them, and those who utilize them are not necessarily the parties originally aggrieved but might represent much greater powers. Big

states maybe can afford to worry less about the violations they commit. They are generally less vulnerable to everything. Small states might not be so secure. Azerbaijan is a small state.

Perhaps likelier than a settlement that directly violates international law is an open-ended and murky one, which nominally respects it but in practice allows Azerbaijan to disregard it in accordance with its interests. Armenia, too, might also find such arrangements useful to stymie the reclamation of the claims of its former Azerbaijani residents.

Southern Serbia might provide something of an example of how to honor a custom more in the breach than in the observance. In southern Serbia, there are the municipalities of Medveđa and the two municipalities of the Preševo Valley. These areas have a significant Albanian population, and Albanians are a clear majority in the Preševo Valley itself. These Albanians are full citizens of Serbia. Yet, it is reported that Serbia is discriminating against them to rid the area of its Albanian population or get a deal dividing Kosovo between Serbia and Albania. The ostensible motive is the strategic economic geography of the area: a great road south from Belgrade goes through it.

A report, *Albanian Minority on Hold: Preševo, Bujanovac and Medveđa as Hostages of the Serbia and Kosovo Relations*, goes into some detail on this. The forms of discrimination it identifies can be categorized into three types: economic, cultural, and administrative.

Culturally, the report finds a lack of Albanian-language newspapers and radio in the districts. Economically, the report finds that Albanians are underemployed in the civil service. This may be the most direct form of discrimination, affecting access to services, representation, and livelihoods. Rural underdevelopment also incentivizes emigration for economic reasons.

The form of discrimination the report identifies that is most significant and relevant to the situation in Karabakh is administrative discrimination. This is principally done through the practice of passivation. Passivation changes the official status of a person to a non-resident. Passivized persons are struck off the population register – so they cannot vote, get a passport, or get health insurance. The legal basis is Article 18 of the Law on Residence of Citizens in Serbia, which allows the Ministry of Internal Affairs of Serbia to verify whether a citizen is living at their official address. In practice, this means a police visit, often unannounced, according to the report. If the police conclude that the person in question lives elsewhere, they passivize the address. While sometimes passivation is done without a visit taking place.

The Interior Ministry does not give written notice of passivation. According to the report, generally the information is relayed orally or placed on a bulletin board. This makes appealing hard, and the deadline for appeal is eight days. People often learn that they have been passivized at the hospital or clinic, or when they are trying to renew their identification card, passport, or pay property tax. According to Deutsche Welle, once people are taken off the register, as a rule, they do not get back on it [18].

The situation in Presheva/Preševo valley resembles the situation in Karabakh, but it differs in four ways:

1. In Karabakh, in effect the whole Armenian population has been passivized, not just certain individuals.
2. While the Preševo Albanians are being actively subjected to passivation, the passivation of the Armenians is not the object of an active policy but the consequence of the interplay of many legislative actions within the context of a decades-long conflict.
3. The Armenians in question are the people of the former breakaway republic of Artsakh, which was formally unrecognized by even Armenia and came to an end with a war only a few years ago. In contrast, Albanians in Serbia do not claim citizenship of another state.
4. Serbia is often viewed as more of a democracy than Azerbaijan is, but it is arguably less strategic than Azerbaijan. Serbia is surrounded by NATO and is economically less significant. Azerbaijan, on the other hand, is a major source of hydrocarbons and can serve as a transit route between Europe/Turkey and Central Asia/China, while lying between Russia and Iran.

Since the whole population has been passivized, the situation faced by individual Azerbaijan Armenians is different from that of individual passivized Serbian Albanians. As Azerbaijan has never had an explicit policy and the reconquest of the breakaway republic occurred only a couple of years ago, on the one hand, Azerbaijan seems less blameworthy in its ways. Yet on the other hand, Azerbaijan is likelier to be held up to scrutiny: it is perceived to be less of a democracy, and there is a politically active Armenian diaspora in Western countries.

If, as it is argued, Azerbaijan lacks an inherent motive for ethnic cleansing and a straightforward and formal abjuration of the right to return is problematic, it follows that Azerbaijan will either allow a full return of Armenians in good faith or it will adopt a policy like Serbia's, which formally accepts the Armenians' right of residency – and in Azerbaijan's case, even citizenship – but somehow stymies the practical enjoyment of these.

Since there are reasonable grounds to expect that the presence of a substantial Armenian community could be troublesome in Azerbaijan's view, especially when so little time has passed since the end of the conflict and the relations between Azerbaijan and Armenia have not yet been fully normalized, a situation like in Serbia seems the likelier scenario to occur. The lack of a response by Presidents Aliyev and Trump and Prime Minister Pashinyan to a question about the return of the Armenian community to Karabakh also supports such a conclusion [1].

It must be observed that implementing a policy like Serbia's should be relatively easy. For one, to mention it again, the Armenians currently lack documentation; they could be denied re-entry into Karabakh due to a lack of papers. Yet such a straightforward policy is unlikely; it would be too obvious a circumvention and tantamount to the mass denaturalization discussed above. But one might well expect a more targeted denial of re-entry. One must remember that participation in terrorism can legally lead to denaturalization in Azerbaijan. If supporting a separatist entity falls under terrorism, as Azerbaijani courts might well see it, many Karabakh Armenians are likely to have fallen foul of Azerbaijani law. This could be used to block the return of many who might or might not have fought, especially fighting-aged men. The ostensible aim would be state security, and, after a war, this would not be the most incomprehensible thing in the eyes of the international community. Not only would this block the return of fighting-age men, those likeliest to start an insurgency, but it would discourage the return of the Armenian population at large: if returning to Karabakh meant having to live without their men, other Armenians might not come back either.

There is also the matter of property. Property rights are far weaker in Karabakh in Serbia. There was no private property in the Soviet Union. The succeeding national governments inherited public property. Therefore, in post-Soviet breakaway regions such as Abkhazia, South Ossetia, Transnistria, and Nagorno-Karabakh, individuals lack internationally recognized titles to property. Consequently, there is no mechanism to stop *voluntary* emigration from entailing the abandonment of property. The right to return to one's home, stemming from the prohibition of ethnic cleansing, does not necessarily mean an absolute right to go on living in the very same building with the same proprietary arrangements. Nationalization is a common practice in many countries and is widely recognized as legitimate. In Karabakh, in the process of being reconstructed for the return of Azeris, people's houses might be destroyed or converted to other buildings, and people whose houses are no longer there might think returning is not worthwhile. Indeed, for many, considerations of property might trump those of citizenship or residency. People often care more for their possessions than their political rights or homeland. Ernst Gellner famously argued that modern nationalism is less about one's nation and native soil than about social and economic mobility in the modern world [7].

Moreover, the settlement itself might establish a mechanism restricting the transfer of property rights to the descendants of the dispossessed. For instance, a refusal to move back to Karabakh because one would have to live without one's husband and son might be officially regarded as voluntary abandonment of property and thus entail the extinguishment of one's claim to it. (Although if done too brazenly, this can have all sorts of diplomatic ramifications.) Armenia and Azerbaijan might also succeed in getting people to abandon their property in the other state if they continually discourage people from living in the other state. Such abandonment and emigration would, strictly speaking, be voluntary.

Some of the above seem sure to happen, but how much – the extent to which international law will be openly abjured as opposed to how much it will merely be subject to practical circumventions – will depend on the stance of the international community.

6. Conclusions

Formal abjuration on one hand, and practical circumvention on the other, may have the same consequences for individuals; they are both violations of international law, but there is a great difference between them from the standpoint of international law. A murky and open-ended solution is preferable to one that formally abjures international law, because practical circumventions and incongruities can

be, and often are, eventually scrapped whenever the parties come to heed the law again. Circumventions and incongruities can also, and often do, fade away as the political situation which occasioned them changes – and things in Karabakh are sure to change. The Nagorno-Karabakh conflict is the primary issue between Azerbaijan and Armenia. While the Presevo valley constitutes a strategic link to the rest of the Balkans for Serbia, for Azerbaijan, Nagorno Karabakh leads nowhere but to Armenia. So, once the current questions are resolved, there is no reason not to expect cordial interstate relations. Those, consequently, would conduce to better ethnic relations and thereby also incentivize scrapping the impediments Azerbaijan happens to have against the Armenian population. It is not rational to continue a policy against international law unnecessarily, especially if it is embarrassing or hampers investment or profit.

In a recent interview with *The Rest is Politics*, the Greek Cypriot president Nikos Christodoulides suggested a new model of diplomacy in the Near East: parties would start with and resolve issues where they can agree, and then move on to the more intractable questions, making these latter questions easier in the process. This contrasts with the previous trend in regional diplomacy of nothing being agreed until everything was [15]. The agreement and the subsequent arrangements regarding Karabakh may be the first instance of such a new approach in regional diplomacy [16].

After all, the less blatant the violations and incongruities of an arrangement, the easier it is to backtrack from them; whereas more blatant violations and incongruities make more dramatic reckonings likelier, which may then take terrible proportions. Perhaps one must again turn to Cyprus for an illustration of this truth. There was a movement on the Greek side to join Greece and a radical move to this end: a coup by the militant Nikos Samson. This made the Turkish response in turn radical; desperate times calling for desperate measures, Turkey felt it could not but invade. The resulting division has still not been overcome. As for the Caucasus, it is an even more sensitive region than the Eastern Mediterranean.

“Magnanimity in victory and goodwill in peace,” to quote Churchill [4], are not merely virtues valued for their own sake. Rather, they reflect an understanding that, without a degree of cordiality in international relations – most clearly institutionalized in international law – the international system is reduced to the rule of the big stick, with no certainty as to who will wield the larger one tomorrow, a reality the Karabakh separatists have come to understand all too well.

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