

**Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) to the Universal Periodic Review mechanism established by the Human Rights Council in Resolution 5/1 of 18 June 2007**

**Fourth session of the Working Group on the UPR (5-16 February 2009)  
Azerbaijan**

**8 September 2008**

**Table of Contents**

<b>I. Background to internal displacement in Azerbaijan</b>	<b>1</b>
<b>II. Normative and institutional framework for the protection of the rights of IDPs</b>	<b>1</b>
<b>III. Achievements and challenges in upholding the rights of IDPs</b>	<b>1</b>
<b>IV. Main issues of concern</b>	<b>2</b>
- <i>The right to choose one's residence and liberty of movement</i>	<b>2</b>
- <i>The right to shelter and housing</i>	<b>3</b>
- <i>The right to the highest attainable standard of health</i>	<b>4</b>
- <i>The right to education</i>	<b>4</b>
<b>IV. IDMC's Recommendations</b>	<b>5</b>

**Attachments**

1. IDMC, 14 July 2008. *Azerbaijan: IDPs still trapped in poverty and dependence.*
2. IDMC, 12 December 2007. *Briefing Paper on Internal Displacement in Azerbaijan.*
3. Republic of Azerbaijan, 21 May 1999. *On social protection of forcibly displaced persons and persons equated to them*, No. 669-IQ. (Unofficial English translation)
4. Republic of Azerbaijan, 21 May 1999. *On status of refugees and forcibly displaced (persons displaced within the country) persons*, No. 668-IQ. (Unofficial English translation)
5. Republic of Azerbaijan, 1 July 2004. *Decree of the President of the Azerbaijan Republic Regarding the Approval of the "State Programme for the Improvement of Living Standards and Generation of Employment for Refugees and IDPs"*. (Unofficial English translation)

**The information included in this submission is taken from the following sources where it is fully referenced:**

- IDMC Azerbaijan Country Profile
- IDMC *Briefing Paper on Internal Displacement in Azerbaijan*

This information is accessible at: <http://www.internal-displacement.org/countries/azerbaijan>

## **I. Background to internal displacement in Azerbaijan**

1. Over 570,000 people are currently internally displaced in Azerbaijan due to the conflict between Azerbaijan and Armenia over the territory of Nagorno-Karabakh. The current conflict began in 1988. By the time a ceasefire agreement was signed in 1994, some 30,000 people had died and over 700,000 people had been internally displaced within Azerbaijan. In the absence of a peaceful resolution to the conflict, internally displaced persons (IDPs) are still prevented from returning to their homes.

## **II. Normative and institutional framework for the protection of the rights of IDPs**

2. Over 250 national decrees, laws and orders regulate the status, rights and duties of IDPs. The main laws are *On status of refugees and forcibly displaced (persons displaced within the country) persons* and *On social protection of forcibly displaced persons and persons equated to them*. A number of other legislative acts contain provisions relating to IDPs, including the Constitution, Family Code, Civil Code, Criminal Code, Labour Code and Housing Code.

3. National assistance to IDPs is also rooted in state programmes. The 2004 *State programme on improvement of living standards and generation of employment for refugees and IDPs* aimed to improve the living conditions of IDPs, focusing on relocation of IDPs living in tent camps and other sub-standard shelter to new villages. Amendments to this programme were adopted in 2007 that involve further settlement of IDPs into new villages, the construction of infrastructure and the creation of income-generation opportunities.

4. Within this legal framework, IDPs may enjoy all the rights and freedoms provided to citizens, and are also entitled to certain benefits on the basis of their displacement. These privileges include food and cash subsidies, exemptions from paying tax, communal services and transport costs, and free access to education and health services. Among other privileges, IDPs are also exempt from the obligation to present their employment record when seeking employment or applying for their pension.

5. The term “forcibly displaced person” is used in Azerbaijani legislation to denote the concept of “internally displaced person” as set out in the UN’s Guiding Principles on Internal Displacement. However, the definition of “forcibly displaced person” as set out in Article 1 of the law *On status of refugees and forcibly displaced (persons displaced within the country) persons* is narrower.

Article 1 of the law states:

The term Forcibly Displaced Person (FDP) (person displaced within the country) shall apply to any person who has moved to another place being forced to leave his/her permanent residence within the territory of the Republic of Azerbaijan in connection with military aggression, natural or technological disaster.

This definition does not include people displaced by generalised violence or human rights violations, as provided in the definition of internally displaced person in the Guiding Principles on Internal Displacement. However, there is no current information to suggest that the exclusion of these causes of displacement has created problems or obstacles for IDPs to access their rights.

6. Azerbaijani legislation does not fully recognise the right of internally displaced women's children to inherit FDP status. The status of children from mixed (FDP and non-FDP) marriages depends on whether the father has FDP status. Children born to a displaced mother and non-displaced father are not eligible for FDP status, whereas children born to a non-displaced mother and displaced father may be granted FDP status. However, if a woman with FDP status divorces a non-displaced man then the children from this marriage may acquire FDP status since the woman assumes the position of head of the family after divorce.

### **III. Achievements and challenges in upholding the rights of IDPs**

7. The government has made considerable efforts to improve the situation of IDPs in recent years. In addition to developing a legal framework to regulate the rights and duties of IDPs, it has established the State Committee on Issues of Refugees and IDPs, trained government officials on the rights of IDPs, raised national awareness of the internal displacement problem, collected data on the numbers and location of IDPs, resettled some 90,000 IDPs in new villages and cooperated with international and regional organisations.

8. The government has also devoted significant financial resources to assist IDPs. The \$1 million allocated by the government for assistance to IDPs in 1995 rose to \$200 million by 2006, of which \$100 million came from the State Oil Fund. In 2007, the government spent \$375 million on IDPs, \$154 million of which was from the State Oil Fund. Financial resources to implement the current government programme for IDPs should be adequate with expected revenue of \$12 billion from oil and gas in 2008.

9. These impressive efforts notwithstanding, significant challenges remain in the way of IDPs' full enjoyment of their rights. Activities in the 2004 *State programme for the improvement of employment of IDPs in rural areas* appear to have been not fully implemented, or if implemented they have not had the intended effect. Despite government intentions and efforts, the vast majority of IDPs in rural areas are unemployed. 63 per cent of IDPs live below the poverty line, compared to about 20 per cent of Azerbaijani citizens as a whole. As a result, many have left their families to find jobs elsewhere.

10. While developing policies and programmes to address the needs of IDPs, the government did not consult IDPs. It also did not ensure or facilitate the participation of IDPs in the planning and implementation of adopted policies and programmes. IDPs living in new villages have explained how they would have welcomed the chance to state their opinion on resettlement beforehand. Furthermore, the views of IDPs have not been sought in negotiations for a peace agreement.

11. IDP registration data collected by the government is quantitative and disaggregated by age and gender, but does not highlight the socio-economic situation of IDPs. Humanitarian organisations report the government has been reluctant to share its data on IDPs and in some instances has not allowed them to carry out extensive household surveys. They have therefore had to rely on the collection of project-specific data to design their assistance programmes.

12. While return remains the preferred solution for the majority of displaced and the overriding aim of the Government, continued focus on return as the only feasible durable solution may

hinder or even prevent IDPs from securing their rights in areas of displacement and from rebuilding their lives. For example, IDPs are reluctant to register land titles in their name since there are no guidelines on the impact of property purchases on their eligibility to receive restitution or compensation for housing, land and property at their original residence.

#### **IV. Main issues of concern**

##### ***Obstacles to IDPs' enjoyment of the right to choose one's residence and liberty of movement<sup>1</sup>***

13. Citizens of Azerbaijan must register their residence as part of an internal registration system, the so-called *propiska* regime. Many IDPs who move to find jobs elsewhere struggle to register their new residence. This is due to bureaucratic processes and corruption, because they lost documents when they became displaced, and because the overall government policy to prevent migration to cities, while not designed to discriminate against IDPs, has a particular impact on them.

14. Without residence registration, IDPs struggle to enjoy some other rights. They face particular difficulties accessing employment, housing, medical services, education, pensions and government assistance for IDPs. Access to these services and entitlements without residence registration typically requires the payment of bribes. The government is reportedly revising legislation on the registration system to improve the rights of IDPs to freedom of movement and choice of residence.

15. Some IDPs face restrictions on their freedom of movement as a result of relocation. New villages for resettled IDPs are segregated from the non-displaced population and are often located far from administrative centres without transport facilities near the villages. It is also not clear to what extent relocation to the new villages has been a result of a conscious, voluntary choice of displaced families, and what information was available to them beforehand on factors such as location, infrastructure and income opportunities.

##### ***Obstacles to IDPs' enjoyment of the right to shelter and housing<sup>2</sup>***

16. IDPs live in various types of shelter in urban and rural areas, which range from railway wagons and mud shacks to schools and new houses. The main categories are collective centres (33 per cent), self-built mud houses (15 per cent), abandoned apartments (12 per cent), new houses (12 per cent) and lodgings with relatives (12 per cent).

17. About 40 per cent of IDPs live in the main cities of Baku and Sumgait. Most live in multi-storey collective centres, many of which have leaking roofs and run-down kitchens, bathrooms and plumbing systems. Privacy and space is inadequate as families typically occupy one or two rooms with no separation of the sexes or age groups, and households share a kitchen and bathroom with others on their floor. Some families have managed to leave collective centres after building new homes or finding better affordable housing in the private sector. The remaining residents therefore tend to be the most vulnerable.

---

<sup>1</sup> UDHR Article, ICCPR Article 12 and ECHR Article 2(1) Protocol No.4

<sup>2</sup> UDHR Article 25.1, ICESCR Article 11.1 and ESC Article 31

18. The government has attempted to protect IDPs from eviction. The Azerbaijani government has supported some 70,000 IDPs who have been squatting in private apartments and other IDPs with a resolution and decree recommending that the courts prevent the eviction of IDPs from their residences. Court judgements have mostly rejected applications concerning the right to reclaim occupied residences, confirming that this right will be suspended as long as the conflict over Nagorno-Karabakh remains unresolved and IDPs cannot return to their homes.

19. Other IDPs reside without security of tenure. Some who fled to the Sumgait area during the conflict bought land from the municipal authorities. They have since built houses and installed their own plumbing, communication and electricity infrastructure, but have still not been granted formal title to the land. The local authorities contend that they cannot issue land titles since the settlements are not in a residential zone. Similarly, IDPs in new villages also have no security of tenure over their new housing. They were granted the right to use the houses and land until return to their original homes becomes possible. Meanwhile they cannot sell, sublet or exchange the land and houses, nor pass them on to their children. There is also no written law on resettlement to clarify the legal basis for IDPs' residence in the houses.

20. Outside of cities, IDPs live mainly in improvised shacks that are inadequate in terms of space, security, lighting, ventilation and basic infrastructure. They are built from materials such as mud bricks, rocks, frail sticks, cardboard and scrap metal all held together with wood and plaster. These shacks are usually extremely small, and the roofs regularly fly off since they are not attached securely. Inside, the floors are covered with scrap material, but this does not protect against the entry of mice and snakes. With no heating system or proper windows, these shelters fail to provide light, warmth, ventilation, physical security or privacy. Many IDPs living in such shelter must also contend with a lack of potable water and gas, and with infertile land.

21. Displaced families who have returned to their homes in Fizuli, near the line of contact with Nagorno-Karabakh, are also living in poor conditions. Upon return, they found their houses and property destroyed, the water infrastructure ruined and farmland mined. Only a minority of those who returned managed to obtain property deeds, because property restitution or compensation mechanisms had not been put in place, procedures were too bureaucratic and fees were high. The government only recently began to assist with housing repairs for those who returned.

22. Despite the effort of resettling some 90,000 IDPs from the worst IDP settlements into 49 new villages since 2001, the conditions in new villages raise several concerns. Many are located in isolated and economically depressed areas without adequate social services or public transport links. Some houses were constructed poorly, reportedly because of corruption in the construction process, and the land accompanying them is salty and infertile. There are few opportunities to earn an income and many IDPs have left the settlements to search for jobs elsewhere.

23. Some IDPs live in areas where their physical security is at risk. A few new villages and some established settlements are within kilometres of the line of contact with Nagorno-Karabakh and residents regularly hear fighting between Armenian and Azerbaijani forces. IDPs fear that they will be displaced a second time if a sustained conflict flares up again. Fizuli, where some IDPs returned, has the highest contamination of land mines and unexploded ordnance in the areas currently under the control of Azerbaijan.

### ***Obstacles to IDPs' enjoyment of the right to the highest attainable standard of health<sup>3</sup>***

24. Conflict and displacement have caused psycho-social stress among IDPs, many of whom appear to now be in need of mental health services. The displaced seem to suffer most from trauma and feelings of insecurity and isolation due to war, poor living conditions and uncertainty about the future. They also suffer disproportionately from malnutrition, infant mortality, tuberculosis, diphtheria and anaemia.

25. IDPs often have to pay to access medical services and treatment. Medical centres are not always located within the reach of IDPs living in rural areas, and with inadequate public transport infrastructure where they live, these IDPs have to pay for taxis to the nearest medical clinic or hospital, sometimes up to 20 kilometres away. While IDPs are legally exempt from paying fees for treatment and most medicines, they are nevertheless often made to pay for them. This discrepancy between the law and practice unduly burdens IDPs, although it should be noted that all citizens, whether displaced or not, are subject to informal fees.

### ***Obstacles to IDPs' enjoyment of the right to education<sup>4</sup>***

26. The access of displaced and returned children to schools is ensured, but attendance is not effectively free. Internally displaced students benefit from free school bags, uniforms, books and stationery. However, displaced parents report they do not always receive these items and so must pay for textbooks and clothing for their children. Poverty has caused some students to drop out of school, as has the movement of families and early marriage in the case of girls.

27. The quality of education is also an issue. Displaced children may attend separate or mixed schools. While the government is trying to preserve the social fabric of displaced communities through separate schools, this approach may hinder the social integration of children. Schools in areas where IDPs live are in need of repairs, furniture, supplies, playgrounds and additional qualified staff. Current information on whether and how the quality of schools and education for displaced children differs from that for non-displaced children is not available.

## **IV. IDMC's recommendations**

**At the fourth session of the Working Group on the Universal Periodic Review, the IDMC invites the Human Rights Council to consider the following recommendations:**

With respect to the Government of the Republic of Azerbaijan:

- Collect and make available detailed information on various aspects of the socio-economic situation of IDPs disaggregated by age, gender and type of residence;
- Take measures to confer legal security of tenure upon displaced households that lack titles for their property in new and informal settlements as well as villages of return;
- Amend legislation to end the discriminatory practice of granting FDP status to children on the basis of the sex and civil status of their parent(s);
- Create mechanisms for the systematic involvement and participation of different groups of IDPs in all stages of national programmes and policies affecting them.

<sup>3</sup> UDHR Article 25.1, ICESCR Article 12.1 and ESC Article 11

<sup>4</sup> UDHR Article 26.1, ICESCR Article 13 and ECHR Article 2 Protocol No. 1