

TABLE OF CONTENTS

Introduction.....	1
1. The Nagorny Karabakh conflict.....	5
1.1. Mass population exchange	5
1.2. Occupied territories razed and looted	7
1.3. The formation of a de facto state in Nagorny Karabakh.....	9
1.4. A stalled peace process	10
1.5. Internally displaced disadvantaged compared to the rest of the Azerbaijani population	11
2. Internal displacement in Azerbaijan: legal standards and policy responses	12
2.1. Legal standards	13
2.2. From an international to a national framework.....	16
2.3. Corruption and reporting on corruption.....	18
2.4. Participation of the internally displaced in public affairs	20
2.5. Conclusion	22
3. Azerbaijan's internally displaced population: principal human rights concerns	23
3.1 Freedom of movement and registration issues.....	24
3.2 Forced displacement	27
3.3 The right to family life	29
3.4 The right to adequate housing.....	30
3.4.1 Housing in the new settlements	32
3.4.2 Forced evictions of internally displaced people in urban context.....	34
3.4.3 A lack of security of tenure.....	36
3.5. The Right to Health.....	37
3.6 The right to work	41
3.6.1 The internal registration system: a barrier to the right to work	42
3.6.2 Unemployment in the new settlements	43
4. Conclusions and recommendations.....	45
4.1 Recommendations.....	48
Annex1 Use of geographical names in this report.....	51

Azerbaijan

Displaced then discriminated against – the plight of the internally displaced population

Introduction

'We don't exist, this is not a life. We are ready to live with the Armenians of Karabakh and we have not forgotten our historical home there. But we won't see peace for at least ten years, that's why we want decent living conditions now.'

-Internally displaced Azerbaijani man, Goranboy region.

'I don't need benefits, I'd rather have my compensation and integrate into society here in Baku. I'd gladly lose my status as a displaced person. The government should stop deceiving me that I'll be able to return. So many people have already died since being displaced – and they have nothing to leave to their descendents. It's my choice whether to return or not.'

-Internally displaced Azerbaijani man, Baku.

Displacement resulting from the territorial conflicts of the former Soviet Union is no longer news. Except for occasional ceasefire violations the conflicts of the South Caucasus region passed into post-violence phases in the mid-1990s, although peace processes have yet to offer much glimmer of hope for their resolution. Yet the legacy of displacement remains long after the international community has moved on to more current crises elsewhere on the planet. Azerbaijan in the South Caucasus has one of the largest populations of internally displaced persons (IDPs) per capita of any state in the world.¹ Some 600,000 Azerbaijanis have lived in internal displacement for over a decade as a result of the territorial conflict in and around Nagorny Karabakh between 1991 and 1994. These are the ethnically Azeri residents of the former Nagorny Karabakh autonomous region, whose Armenian population claims independence from Azerbaijan, and the seven Azerbaijani provinces surrounding it, occupied since the early 1990s in whole or in part by Armenian forces.

In the immediate aftermath of displacement the Azerbaijani government, with the assistance of international actors, provided emergency relief aimed at safeguarding minimum essential levels of basic human rights. However, in a context of protracted displacement Amnesty International believes that these measures are insufficient to guarantee the progressive fulfilment of internally displaced people's economic and social rights, as required by international human rights law. The progressive fulfilment of economic, social and other human rights requires the removal of a number of obstacles, such as limitations imposed by

¹ Internally displaced persons differ in legal terms from refugees in that they have not crossed an international boundary as a result of their displacement.

the internal residence registration system and the definition of all provisions for displaced people as ‘temporary’, currently obstructing displaced people’s full participation in economic and social life.

Amnesty International is calling for action to improve the human rights standards enjoyed by internally displaced people in Azerbaijan. The central concern explored in this report is that a system of practices which in effect discriminate against internally displaced people is compounding the problems posed by displacement. Consistent violations of the rights to freedom of movement, adequate housing, health care and work inhibit internally displaced people’s capacity to exercise these and other human rights, and stall the development of self-reliance. Despite legal guarantees of displaced people’s equal exercise of human rights alongside other Azerbaijani citizens, Amnesty International is concerned that a set of discriminatory practices is serving to encourage the internally displaced population to accept its current situation as temporary, pending the conclusion of a peace settlement. This restricts their capacity to exercise a choice between return to their original homes, integration or permanent resettlement in another part of the country under conditions that respect their human rights. This in turn compounds displaced people’s dependence on the state and their vulnerability to other pressures. In the words of an Azerbaijani journalist the internally displaced are ‘hostages to peace’, who must wait for a peace settlement before their human rights will be fully respected.

Amnesty International is publishing this report on internal displacement in Azerbaijan now because the reduced involvement of international actors has meant increased responsibility for the Azerbaijani state for the protection of the rights of displaced people. Compared to international actors states can be motivated by a different set of factors in dealing with protracted internal displacement, and this can have serious human rights implications for the internally displaced population concerned. National authorities’ policies towards their internally displaced must therefore be the subject of careful scrutiny to assess compliance with human rights obligations. This is especially the case in cases of protracted displacement requiring more than protection of minimum essential levels of human rights.

A key aspect of Azerbaijan’s policy on internal displacement since 2001 has been the re-housing of displaced people from emergency relief centres to more durable housing in new, purpose-built settlements across the country. While addressing immediate needs for improved housing for the displaced relocated from emergency relief camps, the resettlement policy has been marred by a lack of consultation with those being relocated, construction of settlements in economically unsuitable locations and insufficient infrastructure to support relocated communities. Urban IDPs have been relatively neglected by the state, and although they have more opportunities to find work in the urban economy, they are particularly vulnerable to housing shortages.

Although the new settlements are superficially impressive, Amnesty International is concerned that they cannot be considered as adequate housing for those in situations of protracted displacement. The new settlements are often located in remote parts of Azerbaijan, have poor communication links and are isolated from employment opportunities and health

and education services. Furthermore, the housing units provided are often of very poor quality and Amnesty International has received reports of dangerous incidents related to structural failings. As such, the new settlements do not respect the right to adequate housing of IDPs and frustrate the efforts of displaced people to realise their rights to work, to health care and to an adequate standard of living. Azerbaijani human rights activists and internally displaced community leaders share these concerns, describing the new settlements to Amnesty International as ‘open prisons’ and a kind of ‘reservation system’.

Urban IDPs have been relatively neglected in Azerbaijani state policy on displacement. Displaced people in the capital Baku and its suburbs told Amnesty International that they are ignored by the state and have to pay for various services they are entitled to receive for free under Azerbaijani law. Many eke out an existence in informal trading, while others work without a residence permit, forfeiting local access to a number of services to which they are legally entitled, as they are unable to re-register.

The displaced are also penalized by the maintenance of an internal registration system that ties certain rights and benefits to a fixed residence. As the internal registration is notoriously difficult to change many displaced persons are forced move in search of employment without a legal residence permit. Many displaced families are broken up as a result, as husbands and sons move to urban centres while wives and children remain at the household’s registered residence. Alternatively, displaced people must pay bribes in order to change their registration.

Other concerns addressed in this report include the absence of consultation of the displaced in decision-making processes directly affecting the exercise of their human rights, and different ways in which corruption diminishes the impact of state-run programmes to fulfil these rights. International human rights law confers on IDPs, as well as other citizens, the right to participation in public affairs and to be consulted in decision-making processes that have a direct impact on them. Amnesty International is concerned, however, at the absence of mechanisms allowing displaced people to fulfil these rights. For example, displaced people relocated to new settlements report not having been consulted on the location of the settlement in which they were re-housed. This lack of consultation amounts to a pattern of mass forced displacement, in violation of both the right to adequate housing and the right to freedom of movement and to choose a residence.

Displaced people confront corruption and bribery at virtually every level of their interaction with official structures. This also applies to other Azerbaijani citizens, yet the displaced typically have far fewer resources to offset the demands made on them by corrupt officials. Official structures reportedly extort bribes from displaced people for a wide range of services, for example in the form of so-called ‘processing fees’ for which there is no legal basis; by contrast during election periods displaced people report being offered bribes in order to vote for pro-governmental candidates. Amnesty International has also received reports of corruption in the expenditure of funds allocated to IDP programmes, resulting in a vastly reduced impact in terms of fulfilling the human rights of their beneficiaries.

Amnesty International does not take a position on territorial disputes, including that over Nagorny Karabakh. Regardless of the origins of the conflict or the outcome of negotiations, however, displaced people from both sides of this dispute, as in any other, remain entitled to a set of rights. These include the right to return to their original homes in conditions of dignity and security. They also include the rights to integration or resettlement elsewhere in the country.

Given the steps taken in recent years by the Azerbaijani government to relocate internally displaced people out of emergency shelter, this report focuses on the contexts of newly constructed purpose-built settlements for displaced people and displaced populations in urban environments, principally the capital Baku.

The information in this report was gathered on successive visits to Azerbaijan and research conducted in a number of different sites within the country. Interviews were conducted with civil society activists, representatives of displaced communities, state officials, representatives of international organizations, health professionals dealing with displaced populations and a wide variety of displaced persons. Numerous reports published by international and domestic humanitarian organizations and the Azerbaijani state were also referred to.

1. The Nagorny Karabakh conflict

The conflict over Nagorny Karabakh is one of several minority-majority conflicts contesting sovereignty between former federal units of the Soviet Union. Known in the Soviet Union as the Nagorno-Karabakh Autonomous Oblast (NKAO, with Oblast signifying an administrative region in Russian), Nagorny Karabakh was a region populated by a local Armenian majority within Soviet Azerbaijan. With the onset of political liberalization in the Soviet Union in the late 1980s, the Armenians of Nagorny Karabakh began to campaign for separation from Azerbaijan and union with Armenia.² The conflict escalated into a full-scale war in 1991, ending in 1994 with the *de facto* secession of Nagorny Karabakh from Azerbaijan. The Armenians of Nagorny Karabakh and Armenia portray this separation as the national self-determination struggle of a repressed minority. Azerbaijanis portray the separation as the result of aggressive Armenian desires to acquire territory.³ A number of proposals have been put forward to resolve the conflict by the ‘Minsk Group’, a body created within the framework of the Organization for Security and Co-operation in Europe (OSCE) to mediate in the conflict, although no proposal thus far has been acceptable to all parties to the conflict. No state, including Armenia, has recognized the self-declared Nagorno-Karabakh Republic (NKR).⁴

1.1. Mass population exchange

A key feature of the conflict was forced population movements. During the course of the conflict Armenians and Azeris suffered harassment, mass killings, forced expulsions and the expropriation of their property. Statistics on numbers of refugees and the internally displaced vary due to post-displacement movements (including return in some cases to recaptured territories) and logistical difficulties in collating data (see textbox). Overall, it is estimated that over 400,000 Armenians became either refugees from Azerbaijan to Armenia or were

² Although conflict over ownership of Nagorny Karabakh has existed since the early twentieth century, the current phase of the conflict may be dated back to 1988. For accounts of the conflict see Thomas de Waal, *Black Garden. Armenia and Azerbaijan through peace and war* (New York: New York University Press, 2003); Michael Croissant, *The Armenia-Azerbaijan conflict: causes and implications* (London: Praeger, 1998); Ali Abasov and Haroutiun Khachatryan, *Karabakh Conflict. Variants of Settlement: Concepts and Reality*, 3rd ed. (Baku and Yerevan: Areat/Noyan Tapan, 2005).

³ These views are reflected in different strategic definitions of the conflict. While Azerbaijan refuses to negotiate with the Armenians of Nagorny Karabakh and defines the conflict as an inter-state conflict between itself and Armenia, the Armenians of Nagorny Karabakh define the conflict as one between themselves and Azerbaijan.

⁴ Different variants of the name Nagorny Karabakh are in use. Many sources, as well as the English language literature and insignia of the NKR, use the term ‘Nagorno-Karabakh’. Since *nagorny* (‘mountainous’) is a Russian adjective, this report uses the simplified formula ‘Nagorny Karabakh’ as one which complies with Russian linguistic norms. There is no difference in meaning between Nagorno-Karabakh and Nagorny Karabakh.

internally displaced in border regions contiguous to Azerbaijan.⁵ Over 200,000 Azeris became refugees from Armenia to Azerbaijan, while the number of those internally displaced in Azerbaijan peaked in 1993 at some 780,000. At that time the Azerbaijani government announced the presence of more than one million refugees and internally displaced persons on its territory, a figure still regularly cited in official Azerbaijani sources. According to independent experts and international organizations the figure today is probably considerably lower, although most sources agree on the unreliability of data due to the absence of regular surveys of the internally displaced population.

The timing of the various waves of refugees and internally displaced in Azerbaijan is significant. The main influx of refugees from Armenia was complete by September 1990, by which time a total of 201,000 Azeri refugees from Armenia were registered in Azerbaijan. The main displacement flows resulting from Armenian military control of Nagorny Karabakh and the regions surrounding it took place three years later in 1993. Having arrived first and facing no realistic prospect of return to Armenia, Azeri refugees from Armenia were to a considerable extent integrated into Azerbaijani society. Indeed Azeris from Armenia, known in Azerbaijan by the (for some pejorative) term *yerazi*, became one of the leading political-economic clans in the country, displacing other previously prominent groups.⁶ Those subsequently displaced by the occupation of territories surrounding Nagorny Karabakh faced less favourable conditions for integration.

⁵ This figure is cited by International Crisis Group, based on data provided by Arif Yunusov, a leading scholar of displacement in the Karabakh conflict. International Crisis Group, *Nagorno-Karabakh: Viewing the Conflict from the Ground*, Europe Report No.166, (Tbilisi/Brussels, 2005), p.2.

⁶ Rasim Musabayov, 'The Karabakh conflict and democratization in Azerbaijan', in Broers, *op.cit.* ft.21, p.62.

Table 1 Refugees from Armenia to Azerbaijan, 1990

	Registered February	Registered September
Azeris ⁷ from Armenia	186,000	201,000
Kurds from Armenia	18,000	2,500*
Russians from Armenia	3,500	1,500*

*many Russian and Kurdish refugees moved to Russia during 1990

Table 2 Azerbaijan State Statistical Department figures for Azerbaijanis displaced from Nagorny Karabakh and seven occupied regions, 1993

	April	December
	243,000	779,000

Source: Laura Baghdasarian and Arif Yunusov, 'War, social change and 'no war, no peace' syndromes in Azerbaijani and Armenian societies', in *Accord: The Limits of Leadership. Elites and Societies in the Nagorny Karabakh Peace Process*, no.17, edited by Laurence Broers (London: Conciliation Resources, 2005), p.53.

Statistics published in 2005 by the Azerbaijani State Committee for Refugees and Internally Displaced Persons put the total number of those internally displaced in Azerbaijan at 686,586.⁸ In 2004 the United Nations High Commissioner for Refugees (UNHCR) put the total number of the internally displaced in Azerbaijan 'of concern to UNHCR' at 578,545.⁹ Statistics published by the State Programme of Poverty Reduction and Economic Development (hereafter SPPRED) suggest that a total of 577,906 internally displaced persons were living in Azerbaijan as of 1 December 2004.¹⁰

1.2. Occupied territories razed and looted

Military victory resulted not only in Armenian control over virtually the whole territory of Nagorny Karabakh itself, but also the occupation (in whole or in part) of seven districts of Azerbaijan surrounding it. Collectively, territories forming part of Soviet Azerbaijan now

⁷ In this report the term 'Azeri' is used to refer to ethnically Azeri populations and the term 'Azerbaijani' to refer without ethnic distinction to the citizens and state institutions of the Republic of Azerbaijan.

⁸ *Information on about one million refugees and internally displaced persons formed as a result of ethnic cleansing policy in Armenia and occupation of 20 percent of territories of Azerbaijan by Armenian armed forces* (Baku: State Committee on Refugees and Internally Displaced Persons, 2005), p.10.

⁹ *UNHCR 2004 Statistical Yearbook* entry for Azerbaijan, accessible at <http://www.unhcr.org/cgi-bin/texis/vtx/statistics>

¹⁰ State Programme of Poverty Reduction and Economic Development (SPPRED), *Azerbaijan progresses toward the achievement of the Millennium Development Goals, Progress Report 2003-2004* (Baku, 2005), p.44.

under Armenian control amount to some 13.6 per cent of Azerbaijan's total area.¹¹ The *de facto* authorities in Nagorny Karabakh and Armenia make no claim to those lands outside the boundaries of the former NKAO with the exception of the so-called 'Laçın corridor',¹² a strip of territory linking Nagorny Karabakh to Armenia and providing its sole supply route to and from the outside world.¹³

Formerly relatively prosperous agricultural regions populated almost exclusively by ethnic Azeris, the occupied territories around Nagorny Karabakh have become wastelands as a result of the conflict. With the exception of Laçın for reasons noted above, the territories' major towns – Ağdam, Fizuli, Kəlbəcər and Cəbrayıl – have been literally razed to the ground. All removable materials - glass, electric wiring, plumbing, metalwork – have been taken away and sold for scrap or used in the re-construction of Armenian settlements.¹⁴ The ruins of these towns would consequently require considerable time and investment to be rehabilitated and made fit for human habitation.

Four resolutions adopted by the United Nations (UN) Security Council in 1993 demanded the 'immediate withdrawal of all occupying forces' from the districts of Kəlbəcər, Ağdam and Zengilan. Resolution 884 "*particularly condemns the occupation of the Zangelan district and the city of Goradiz, attacks on civilians and bombardments of the territory of the Azerbaijani Republic*" and called upon "*the Government of Armenia to use its influence to achieve compliance by the Armenians of the Nagorny Karabakh region of the Azerbaijani Republic with resolutions 822, (1993), 853 (1993) and 874 (1993), and to ensure that the forces involved are not provided with the means to extend their military campaign further*". Notwithstanding these UN resolutions the three districts remain occupied.¹⁵

¹¹ This figure is taken from de Waal, *op.cit.*, p.286. Azerbaijani sources consistently refer to 20 per cent of Azerbaijani territory being under occupation, a figure that most international commentators see as exaggerated.

¹² Some Armenians, particularly in the diaspora, support the notion of defining the occupied territories outside of the NKAO as 'liberated territories' to be appended to Armenia. This position is not endorsed by officials in either Armenia or Nagorny Karabakh.

¹³ The *de facto* authorities in the NKR also refer to part of the NKR's territory being under 'Azerbaijani occupation'. This refers to parts of the Martuni and Mardakert districts formerly constituting part of the NKAO, in addition to the Shahumian district and Getashen settlement to the northeast of the NKAO formerly settled by Armenians who also supported secession from Azerbaijan in 1991. Laçın never formed part of the NKAO and was not populated by Armenians prior to the conflict.

¹⁴ Sometimes these materials have found their way into Armenia. See Edik Baghdasaryan's article 'A Licence for Robbery' describing how businessmen have purchased licenses from local branches of the NKR administration to dismantle and remove damaged buildings from Laçın, retrieved on 18 October 2006 at <http://www.hetq.am/eng/society/0609-license.html>

¹⁵ According to reports the prospect of the 'phased release' of these territories, with those territories lying between the NKR and Armenia (principally Kəlbəcər district and possibly parts of Laçın) being retained after an initial withdrawal from those territories to the east of the NKR as a guarantee of fulfilment of Azerbaijani obligations under any peace agreement, was a key subject of negotiations in

The question of re-population of the occupied territories by Armenian settlers was raised by Azerbaijan at the OSCE, prompting an OSCE fact-finding mission to visit the territories in 2005.¹⁶ The fact-finding mission found limited and significantly variable settlement in the districts of Kəlbəcər, Fizuli, Cəbrayıl, Ağdam, Zəngilan and Qubadlı, with incentives by the de facto NKR authorities ranging from the turning of a blind eye to autonomous settlement and economic activity to the provision of pro-active incentives in the form of housing, modest infrastructure, tax exemptions and social welfare.¹⁷ In Laçın district a more concerted and consistent effort to provide incentives for settlement was observed by the fact-finding mission; nonetheless the mission estimated that fewer than 8,000 people lived in the district overall, comparing with a pre-war population of 67,000 (virtually all Azeris). Prospects for internally displaced Azerbaijanis to return to these territories are therefore made more complex by the extensive need for rehabilitation and the limited post-conflict settlement of parts of these territories by ethnic Armenians.

1.3. The formation of a de facto state in Nagorny Karabakh

Another key consequence of the 1991-94 war is the formation of a *de facto* state in Nagorny Karabakh, the self-declared NKR.¹⁸ The NKR holds presidential and parliamentary elections, which are not recognized by international bodies such as the OSCE, Council of Europe or European Union. Following the expulsion of the Azeri population, the political institutions developed in the NKR are mono-ethnic: of the pre-war Azeri population of the NKAO (40,700 or 21.5 per cent of the population in 1989) only a few scattered individuals remain.¹⁹ The authorities in the capital of Nagorny Karabakh, Stepanakert (known as Xankəndi to Azeris), insist that the return of Azeris displaced from Karabakh must be dealt with in tandem with the return of Armenian refugees to Azerbaijan.²⁰ While the NKR expresses no claim to the occupied territories beyond the borders of the former NKAO (with the exception of the Laçın corridor), these territories are widely seen as a 'buffer zone' and guarantee of concessions from Baku on the issue of Nagorny Karabakh's final status. Withdrawal from the occupied territories, and therefore the possibility of these territories' repopulation by its

2006. This raises by implication the prospect of the staggered return of displaced populations, with those displaced from Kəlbəcər and parts of Laçın having to wait longest before being enabled to return.

¹⁶ OSCE, 'Report of the OSCE Fact-Finding Mission (FFM) to the Occupied Territories of Azerbaijan Surrounding Nagorno-Karabakh (NK), 2005.

¹⁷ Ibid, pp.25-29.

¹⁸ For a survey of current conditions in Nagorny Karabakh see International Crisis Group, *op.cit.*, ft.3, pp.3-15.

¹⁹ Officials of the NKR assert that provided the right of return is mutual, Azeris are welcome to return to Nagorny Karabakh. However, they would be accepted only as a national minority and not a state-forming nation equal to Armenians in Nagorny Karabakh. This position is unacceptable to most IDPs.

²⁰ This ignores the fact that the vast majority of ethnic Armenian refugees from Azerbaijan do not entertain hopes of return, reflected in the increasing numbers of Armenian refugees naturalizing as citizens of Armenia. See Ron Redmond, 'Armenia: one of the most successful voluntary naturalisations in recent decades', *UNHCR Briefing Notes*, accessible at <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&page=home&id=40237a7f7>

former inhabitants, is contingent from their side on agreement on the process and mechanisms by which the final status of the territory of Nagorny Karabakh will be determined.

1.4. A stalled peace process

Since 1994 a peace process between Armenia and Azerbaijan has been mediated by the Minsk Group of the OSCE.²¹ Internally displaced Azerbaijanis are represented at the negotiations by the Azerbaijani state and have no separate representation; the Armenians of Nagorny Karabakh also have no separate representation at the talks, reflecting Azerbaijan's view of the conflict as an inter-state conflict between itself and Armenia. Although several proposals have been put forward by the Minsk Group none has succeeded in eliciting the support of all significant players in the conflict. The key issues under discussion at the talks include mechanisms for determining the status of Nagorny Karabakh, the timing and sequence of Armenian withdrawal from the occupied territories and what role international peacekeeping forces might play.

In their discussions with Amnesty International most internally displaced people asserted their belief that return will be possible in the foreseeable future, at least to the occupied territories surrounding Nagorny Karabakh, if not Karabakh itself or the Laçin corridor.²² However, some of the internally displaced believe that return will not be a viable option during their lifetime and seek to integrate into the communities where they live in displacement.

There are few opportunities for the concerns and opinions of the internally displaced population to feed upwards into the peace process. The Azeri community of Karabakh is headed by Nizami Baxmanov, a presidential appointee in charge of the Şuşa (known to Armenians as Shushi) 'Executive Authority in Exile'. Although some prominent Azerbaijani politicians have expressed approval of the idea of intercommunal contacts between the Karabakh Armenian and Karabakh Azeri communities outside the formal peace process, there are in fact virtually no opportunities for such contacts to take place.

Even if the conflicting sides were to agree on the modalities of the right of return, years of rehabilitation and construction due to damage and degradation since the outbreak of the conflict would be necessary before the internally displaced could return to their homes in conditions of dignity. This situation makes starkly evident the need for their fundamental rights and freedoms to be guaranteed during the intervening period of displacement.

²¹ The Minsk Group is permanently co-chaired by Russia, France and the United States.

²² Amnesty International interviews with IDPs and those of other international organizations attest to the fact that IDPs are more likely to express positive attitudes towards co-existence with Armenians than other segments of the population.

1.5. Internally displaced disadvantaged compared to the rest of the Azerbaijani population

Since their displacement most internally displaced people have had restricted access to economic and social rights compared to the rest of the population. Amnesty International is concerned that these restricted rights are contributing to a vicious cycle of disadvantage, dependency on the state and marginalisation for Azerbaijan's internally displaced population.

The internally displaced suffer from higher rates of poverty compared to the rest of the population (this is especially so for the internally displaced in rural contexts), and have consequently remained highly dependent on subsidies and aid. In 2004 the UN World Food Programme reported that a quarter of the displaced population still relied on food rations.²³ According to a UN Development Programme (UNDP) report published in 2002, a majority of the internally displaced was still living in unsatisfactory accommodation with insufficient access to sanitation and a direct water supply.²⁴ Poverty in turn contributes to disproportionately high incidences of anaemia, tuberculosis, malnutrition, ontological diseases and mental health problems among IDPs. Between 1998 and 2002 the infant mortality rate among displaced children was some three to four times higher than in the rest of the population. Displacement has also seriously impacted the quality of education received by internally displaced children, many of whom have had to attend school in shifts. According to data published in 2001 some 95 per cent of internally displaced and refugee families reported difficulties with obtaining school materials, while the number of teenagers over the age of 16 with incomplete secondary education was twice the national average at 38 per cent.²⁵ Although it is difficult to obtain an accurate picture of statistics for employment, most sources agree that the internally displaced suffer disproportionately from unemployment and under-employment.

Furthermore, as a result of displacement the internally displaced have not been able to deploy the same coping mechanisms as the rest of the population, such as the sale of assets or the cultivation of kitchen gardens. Although there is a lack of regularly conducted surveys that would provide a basis for more comparison, the surveys of different agencies further suggest that the situation of the internally displaced has not improved over time. On the contrary, conditions for food security and self-reliance have deteriorated as families have grown and food rations have remained the same.

²³ World Food Programme, *World Hunger: Azerbaijan*, October 2004, cited in Norwegian Refugee Council/Global IDP Project, *Profile of Internal Displacement: Azerbaijan* (2005), accessible at <http://www.idpproject.org>, p.45.

²⁴ United Nations Development Programme (UNDP), *Azerbaijan Human Development Report 2002*, cited in Norwegian Refugee Council/Global IDP Project, *Profile of Internal Displacement: Azerbaijan* (2005), accessible at <http://www.idpproject.org>, p.54.

²⁵ Cited in Norwegian Refugee Council/Global IDP Project, *Profile of Internal Displacement: Azerbaijan* (2005), accessible at <http://www.idpproject.org>, p.73.

2. Internal displacement in Azerbaijan: legal standards and policy responses

On the basis of its own Constitution and other domestic legislation and the international treaties to which it is party, the Azerbaijani government is obliged to respect and protect the rights of its internally displaced population and other citizens without discrimination. While acknowledging the efforts and resources expended to this end, Amnesty International is concerned that after some 14 years of displacement measures established to provide minimum essential safeguards of human rights may now be insufficient to comply with the progressive full realization of their human rights. Emergency relief measures implemented during the early years of displacement, such as emergency shelter and food subsidies, need to give way to more the more durable and self-sustaining fulfilment of rights to adequate housing, means of gainful employment and so on.

With the development of the oil economy the resources available to the Azerbaijani state to fulfil its obligations have increased significantly. Two particular aspects of the relationship between resource allocation and the fulfilment of Azerbaijani internally displaced persons' human rights are a source of concern to Amnesty International. First, the organization is concerned that high levels of corruption within government institutions is impeding the effective allocation and deployment of these resources. While impressive sums have been allocated on paper to IDP programmes, this expenditure does not appear to be reflected in an improvement in the realization of the internally displaced population's human rights. This is in part due to a lack of transparency and accountability in the expenditure of these funds.

Second, Amnesty International is concerned by the reported absence of mechanisms allowing the internally displaced population to contribute to decisions concerning the realization of their human rights. The right of every citizen to participate in public affairs is widely recognised in international human rights law. Affected populations, including IDPs, are entitled to be informed, consulted and to exert influence on public institutions and public policies affecting them. Moreover, the right to participate in public affairs is an integral aspect of the fulfilment of other human rights, such as the rights to housing, health and work. Yet internally displaced persons reportedly have very few channels to exert influence of the decision-making processes involved in the allocation of resources to respect and protect their human rights.

This chapter outlines a number of international and national legal standards specifying the obligations of the Azerbaijani state to respect and fulfil the rights of IDPs. The chapter then examines compliance of policy responses with these obligations and looks at the above concerns in greater detail.

2.1. Legal standards

Human rights treaties which Azerbaijan has freely entered into require it to respect and protect the rights of the internally displaced to life, and adequate standard of living, including adequate food, water and housing, the right to the highest attainable standard of health, the protection of the family, as well as the rights of women and children, without discrimination.²⁶ These legal provisions provide a vital framework for the protection of the rights of IDPs.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) emphasizes the progressive nature of steps required of states to fulfil the full realization of the rights it specifies: according to Article 2(1) of the ICESCR, states' parties must ensure the "progressive realisation" of economic, social and cultural rights (which include rights to adequate housing, water, sanitation and the right to the highest attainable standard of health), "according to the maximum of their available resources" including those available through international assistance. Although the wording of the ICESCR recognizes that the realisation of rights may in some cases be progressive rather than immediate, in all cases 'core' levels of these rights must be prioritized. In all cases there can be no discrimination regardless of whether the provision of rights is immediate or progressive.

In addition to its various treaty obligations, the United Nations Guiding Principles on Internal Displacement (hereafter Guiding Principles) a collection of norms derived from international human rights, humanitarian and refugee law, set out the obligations of the Government of Azerbaijan, in addition to other actors.²⁷

In addition to the above obligations, the United Nations Commission on Human Rights published in 2005 a series of 12 benchmarks of national responsibility aimed at providing a

²⁶ Among the main human rights treaties Azerbaijan is party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the European Convention for the Protection of Human Rights and Fundamental Freedoms, the revised European Social Charter, the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination (CEDAW).

²⁷ The Guiding Principles do not create new norms but collate, restate and to some extent interpret a range of norms and principles enshrined in a range of existing human rights standards. In some cases the Guiding Principles provide an explicit or express guarantee of rights not explicitly articulated in other instruments of international human rights law. In this sense the Guiding Principles seek to bolster the legal protection of IDPs through the explicit articulation of a right relevant to the needs of IDPs deriving from a more general norm or principle. This is evident, for example, with regard to the principle of non-discrimination. A number of international treaties prohibit discrimination on a number of grounds, including any 'other status' of the person concerned. While this could of course be interpreted comprehensively to include the status of being internally displaced, the Guiding Principles provide the first explicit inclusion of this category as a criterion of non-discrimination in an authoritative – if not binding – legal instrument. See Robert K. Goldman, 'Codification of international rules on internally displaced persons', *International Review of the Red Cross*, no.324 (1998): 463-466; accessible at URL <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/57JPG8>

normative framework for state responses to internal displacement.²⁸ Based on the Guiding Principles the benchmarks consist of a number of practical steps aimed at fulfilling national responsibilities. These are:

- Prevent displacement and minimize its adverse effects
- Raise national awareness of the problem
- Collect data on the number and conditions of IDPs
- Support training on the rights of IDPs
- Create a legal framework for upholding the rights of IDPs
- Develop a national policy on internal displacement
- Designate an institutional focal point on IDPs
- Encourage national human rights institutions to integrate internal displacement into their work
- Ensure the participation of the internally displaced in decision-making
- Support durable solutions
- Allocate adequate resources to the problem
- Cooperate with the international community when national capacity is insufficient

These benchmarks provide further valuable criteria for protecting and asserting the rights of the internally displaced.

At a domestic level the Azerbaijani Constitution guarantees a number of basic rights and freedoms, including the rights to life, physical and mental integrity, freedom of movement, association and political participation and freedom from discrimination. Notably Article 25.3 guarantees the equality of rights and freedoms for all irrespective of ‘race, nationality, religion, gender, origin, property status, social position, convictions or political, trade union or social affiliation’; Articles 35, 38, 41 and 42 guarantee the rights to work, social security, health care and education respectively. These constitutional guarantees are further defined and articulated in greater detail in other legislative acts and laws.

The key document on internal displacement in national legislation is the ‘Law of the Republic of Azerbaijan on the status of refugees and forcibly displaced persons’, adopted on

²⁸ The Brookings Institution-University of Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility*, April 2005; UN Document E/CN.4/2006/71/Add.1.

21 May 1999 (hereafter ‘Law on the Status of Forcibly Displaced Persons’).²⁹ This law provided for a range of benefits providing emergency humanitarian assistance to IDPs, including free transport to and from the location of temporary residence in displacement; free medical assistance and everyday foodstuffs for the elderly, children, the economically disadvantaged and bereaved families; receipt of one-off ‘start-up’ payments and other assistance from the state; the pursuit of compensation in respect of property lost or damaged and recognition of the right to return to the original place of residence (Article 6).

Although Azerbaijani officials assert that all internally displaced persons receive the same treatment and level of assistance from the state, the internally displaced in collective centres and new settlements appear to be marginally better off in terms of state subsidies than urban IDPs. In addition to the monthly allowance of 8 new Azerbaijani manats (approximately US\$9), internally displaced persons residing in collective centres and new settlements are eligible to receive monthly allocations of basic foodstuffs (rice, butter, tea and sometimes meat). Internally displaced people in new settlements in Biləsuvar region visited by Amnesty International received monthly allocations of one kilogram of wheat, one kilogram of rice, five kilograms of flour and one litre of sunflower oil per person. Those in urban contexts do not receive these monthly food packages, but have to make do with their monthly allowance and the subsidization of communal amenity costs (gas, electricity, sewerage). However, significant numbers of the internally displaced do not enjoy the benefit of free gas or electricity provision because they live in areas of Baku or Sumqayıt where there is no gas or electricity.

Article 14 of the Law on the Status of Forcibly Displaced Persons further stipulates under what conditions a person ceases to have IDP status: upon return to their original place of residence or upon provision with alternative accommodation in another region. Article 16

²⁹ IDPs are referred to in Azerbaijani legislation as forcibly displaced persons (FDPs). A FDP is defined as ‘a person who, as a result of military aggression and natural and technological disasters on the territory of the Republic of Azerbaijan, has been forced to leave the place of his/her permanent residence and settle in another part of the country’; the definition contrasts with that of the Guiding Principles only through the omission of ‘generalized violence’ and ‘human rights violations’ as causes of displacement. Some analysts have drawn attention to the confusion arising from the Azerbaijani definition of ‘forcibly displaced persons’ (FDPs). One of the anomalies of Azerbaijani legislation is that it does not distinguish between IDPs who are and remain citizens of Azerbaijan, and refugees who require international protection as aliens persecuted by their country of origin. Hence, according to the Law on Social Protection of Forcibly Displaced Persons, persons abandoning permanent places of residence as a result of ethnic conflict in Armenia or other states will be comparable to IDPs. Therefore in Azerbaijani law, the concept of FDP reaches beyond that of IDP in the Guiding Principles to include refugees. This has led some analysts to recommend the introduction of separate laws on IDPs and refugees in Azerbaijan. Imran Veliyev and Elkhon Asadov, ‘Report on the *Guiding Principles on Internal Displacement* and the Law of the Republic of Azerbaijan’, in *The Guiding Principles on Internal Displacement and the Law of the South Caucasus. Georgia, Armenia, Azerbaijan*, edited by Roberta Cohen, Walter Kälin and Erin Mooney (Washington D.C.: The American Society of International Law, 2003), pp.275-277.

further obliges the appropriate executive authorities to render assistance to the internally displaced in the securing of employment, while Article 17 specifies the distribution of land plots for cultivation and/or 10-year interest-free loans for internally displaced persons that desire them.

In addition to the general constitutional guarantees of the right to privacy and respect for the home a 1994 parliamentary resolution 014/7-398 forbade the forced eviction of any internally displaced person from properties they had occupied; a presidential decree of 1 July 2004 confirmed an right of occupation for internally displaced persons of any property they moved into between 1992 and 1998. This decree therefore privileges the rights of internally displaced occupants over that of resident owners. While providing some security of tenure for IDPs, most lawyers whom Amnesty International spoke to agreed that there has been little consistency in the application of this decree. Lawyers interviewed in the Baku suburb of Sumqayit said that as a rule the courts there found in favour of IDPs, ruling that internally displaced occupants must move out of the properties they had occupied but only after a peace settlement.³⁰ However where owners have been agents of the state, it is the internally displaced that have lost out.

According to information received by Amnesty International from the Ministry of Foreign Affairs of Azerbaijan, former inhabitants of Azerbaijan of Armenian ethnicity, now refugees in Armenia or elsewhere, sold or exchanged their properties in accordance with contemporary legislation. However, Armenian sources continue to refer to the need for compensation to be paid to those Armenians who lost their property as a result of displacement.

2.2. From an international to a national framework

The respective contributions of international and national actors aimed at ensuring the rights of the internally displaced in Azerbaijan have shifted over time. International responses to the displacement of Azerbaijanis in the Karabakh conflict since 1993 can be described in terms of three key phases.³¹ In the first phase, lasting until the mid-1990s, the response was one of emergency relief to a humanitarian disaster, providing for minimum essential levels of shelter, food and water. International assistance was at its peak during this phase, with international funding reaching US\$120 million in 1994-5. In the second phase, international involvement shifted towards relief assistance, with the construction of more permanent shelter, the rehabilitation of public buildings housing IDPs, health care and income generation. In the third phase, relief goals were replaced by longer-term development goals accompanied by a reduction in the extent of international involvement. International funding of IDP-related programmes had reportedly dropped to US\$40 million in 2002.³² By the early 2000s Azerbaijani government expenditure on aid to the internally displaced was three times that of

³⁰ Amnesty International interviews with lawyers in Sumqayit, 9 July 2006.

³¹ Amnesty International interview with UNHCR official, Baku, 7 July 2006.

³² Azernews, 28 November 2003, cited in Norwegian Refugee Council/Global IDP Project, *Profile of Internal Displacement: Azerbaijan* (2005), accessible at <http://www.idpproject.org>, p.112.

international agencies. Among the reasons for this fall in international funding of IDP programmes are the length of displacement, ‘donor fatigue’ and the greater capacity of the Azerbaijani state to become actively involved in IDP-specific programmes. Today the World Food Programme, the World Health Organization, the International Organization for Migration, numerous UN agencies, international non-governmental organizations (NGOs) such as World Vision, Catholic Relief Services, Mercy Corps, OXFAM and the Norwegian Refugee Council, and the International Committee of the Red Cross are the principal international actors providing assistance to the internally displaced in Azerbaijan.

Increased government capacity to resource IDP programmes is related to Azerbaijan’s robust economic growth. According to data provided by the Asian Development Bank over the five-year period 2001-2005 there was an average annual growth in Azerbaijan’s GDP of 10.7 per cent.³³ Revenues from the Caspian oil industry have begun to enter the Azerbaijani economy and are projected to reach very high levels over the next decade. Some of these resources have been allocated to IDP programmes, financed by funds from the State Oil Company of the Azerbaijan Republic (SOCAR). From 2004 the State Oil Fund of the Azerbaijan Republic (SOFAZ) that had assumed responsibility for allocations of oil revenues to social programmes, including resettlement programmes and the improvement of conditions for IDPs.³⁴

In 2006 the Government of Azerbaijan announced that it would allocate US\$210 million to internally displaced and refugee assistance programmes.³⁵ These funds are used to provide a number of benefits to IDPs. Displaced people are eligible to receive a range of subsidies including exemptions from communal utility costs, a monthly allocation of the equivalent of US\$9 per person for the purchase of basic foodstuffs (commonly referred to as ‘bread money’ in Azerbaijan; this was raised from the equivalent of US \$6 as of 1 January 2007), exemption from car registration fees and discounted income tax (calculated on a sliding scale basis), free higher education for those who pass entrance exams, and food and medicine for those living in collective centres or new settlements. Very high rates of growth in inflows into the State Oil Fund are anticipated over the next few years. Whereas in 2006 US\$150 million went into the Fund, the allocation in 2007 is projected at US\$ 650 million. During the peak years of oil production the allocation is expected to reach US\$15 billion annually.³⁶

Increased national assistance to the internally displaced has been defined in a number of presidential decrees issued in 2001, 2002 and 2004. The first and second State Programmes on IDPs, issued as presidential decrees, have provided the principal policy packages

³³ Asian Development Bank, [Asian Development Outlook 2005 : II. Economic trends and prospects in developing Asia : Central Asia](http://www.adb.org/Documents/Books/ADO/2005/aze.asp), available at <http://www.adb.org/Documents/Books/ADO/2005/aze.asp>

³⁴ State Programme on Poverty Reduction and Economic Development (SPPRED) 2003-2005, *Azerbaijan progresses toward the achievement of the Millennium Development Goals Progress Report 2003/2004*, Baku, 2005, p.23.

³⁵ *AzerNews*, 8 February 2006.

³⁶ Yigal Schleifer, ‘Azerbaijan Oil: A Mixed Blessing’, *Christian Science Monitor*, 30 December 2005.

addressing the rights of IDPs. The second programme (entitled 'State Programme on improvement of living conditions and employment of refugees and displaced persons') was initiated on 1 July 2004. The focus of the Second State Programme was the construction of new settlements for the relocation of internally displaced populations residing in camps and other improvised shelter, and the provision of greater employment opportunities for the internally displaced as a means to increase their self-reliance.

Since 2002 Azerbaijan has pursued a policy of relocating internally displaced people housed in tent camps and improvised shelter to new purpose-built settlements. President Ilham Aliyev has pledged that no tent camps will remain by the end of his first term at the end of 2007. By the end of 2005 the government had constructed some 6,400 new houses; according to the Second State Programme new settlements housing some 15,354 internally displaced households will have been constructed by 2007, financed mainly from the State Oil Fund.³⁷ Between 2003 and 2005 the Azerbaijani Government implemented a National Poverty Reduction Strategy, which targeted the internally displaced as a vulnerable group and provided resources for the resettlement of some 412 internally displaced households.³⁸

Internally displaced people in urban contexts were relatively ignored in international and national IDP programming during the 1990s. Few international organizations were involved in the rehabilitation of settlements and accommodation for urban IDPs until 2005. The first new centres for the internally displaced in urban contexts were constructed in 2004, reportedly for internally displaced persons from the Laçın region, suggesting that the need for longer term solutions for this particular internally displaced population is recognized by the authorities. International NGOs have been involved in the rehabilitation and construction of accommodation for urban IDPs.³⁹

2.3. Corruption and reporting on corruption

International and domestic observers agree that corruption is prevalent at all levels of economic and political activity in Azerbaijan. International corruption watchdog Transparency International ranked Azerbaijan 130th out of 163 countries surveyed for its 'Corruptions Perceptions Index 2006'.⁴⁰ Corruption in Azerbaijan is attributed variously to low salaries of public officials, the lack of independence of judicial institutions, the weakness

³⁷ State Program on improvement of the living conditions and raising employment for refugees and IDPs, Baku, 2005, pp.63-65.

³⁸ See Norwegian Refugee Council/Global IDP Project, *Profile of Internal Displacement: Azerbaijan* (2005), accessible at <http://www.idpproject.org>, p.110.

³⁹ Amnesty International interview with the Norwegian Refugee Council, Baku, 7 July 2006.

⁴⁰ The index is a poll of polls, reflecting perceptions of corruption among resident and non-resident business actors and country analysts. According to the Index Azerbaijan scored 1.9 out of 10, where scores of 3.0 and below are defined by Transparency International as indicative of 'rampant corruption'. Transparency International, *Annual Report 2004*, available at www.transparency.org/policy_research/surveys_indices/cpi/2006

of legal guarantees of property and responsibility, the absence of anti-corruption enforcement mechanisms and the Soviet legacy.⁴¹

According to reports received by Amnesty International corruption affects the internally displaced through the siphoning off of funds allocated to IDP programmes. An example documented in this report (see below) is the theft of building materials allocated for the construction of settlements for the internally displaced and the partial theft of salaries payable to construction workers by firms contracted to build the settlements.

Internally displaced people also consistently report being compelled to pay bribes to state officials for services that by law they are entitled to receive without charge. For example, many reported having to pay ‘processing fees’ they are obliged to pay for basic and essential services, such as the receipt of identity documents, from state officials. Amnesty International is concerned that the petty corruption confronting ordinary citizens, including IDPs, in their everyday interaction with officials acts as a tacit, regressive tax on the most vulnerable strata of society and directly impedes their efforts to realise their human rights.

Allegations of a wide variety of corrupt practices have accompanied the development of Azerbaijan’s oil industry and the construction of the Baku-Tbilisi-Ceyhan (BTC) pipeline, most of them beyond the scope of this report.⁴² Claims of revenues lost due to corruption are notoriously difficult to quantify and verify, although in June 2003 the independent Azerbaijani trade union the Committee of Oil Industry Workers’ Rights Protection (COIWRP) reported to a fact-finding mission organized by international environmental NGO the Friends of the Earth that over US\$100 million had been lost to corruption in the BTC pipeline project.⁴³

Amnesty International is further concerned by the reported difficulties with investigating and publicizing of corruption, within a wider context of decline in conditions for the exercise of the right to freedom of expression in Azerbaijan. This decline has been documented by Amnesty International and other human rights organizations (see *Azerbaijan: the contracting space for freedom of expression*, AI Index: EUR 55/003/2007). There have been numerous incidents of unresolved beatings of journalists reporting on corruption in high office; in other cases, journalists and media outlets have been given punitive fines for allegedly ‘insulting the honour and dignity’ of high-ranking officials they have claimed are implicated in corruption. Media outlets known for independent or opposition views have been denied broadcasting licences, evicted from their premises, had their editors-in-chief arrested and sometimes imprisoned and their earning potential from advertising restricted. Journalists who blow the whistle on corruption in high office currently operate in an environment of

⁴¹ See the results of a survey conducted in 1999 published by Sabit Bagirov, ‘Problem of Corruption in Azerbaijan’, available at <http://www.transparency-az.org/files/27>

⁴² See the Amnesty International Report, Human Rights on the Line. The Baku-Tbilisi-Ceyhan Pipeline Project, May 2003, accessible at <http://www.amnestyusa.org/business/humanrightsontheline.pdf>

⁴³ Friends of the Earth, Second International Fact-Finding Mission to Baku-Tbilisi-Ceyhan Pipeline, Azerbaijan Section, Initial Summary Report, 4 June 2003, available at www.foe.org/camps/intl/institutions/AzFFMO3.pdf

impunity for assaults against them, resulting in serious restrictions on their exercise of the right to freedom of expression.

These violations of the right to freedom of expression have had a chilling effect on the reporting on corruption in Azerbaijan. Opponents to aspects of the Caspian oil industry have been threatened and intimidated. A fact-finding mission organized by Friends of the Earth, the CEE Bankwatch Network, the Azerbaijani NGO Centre for Civic Initiatives and others reported receiving information from NGOs that they are under surveillance by the Azerbaijani Ministry of Internal Affairs as a result of statements made in relation to the Baku-Tbilisi-Ceyhan pipeline.⁴⁴

2.4. Participation of the internally displaced in public affairs

‘State officials are not interested in the problems of IDPs’

– Azerbaijani IDP, Baku.

‘These people in the Mæclis [Azerbaijani Parliament] are speaking for us when they have never been to see IDPs in tent camps or student halls’

– Azerbaijani internally displaced man, Sumqayit.

The right of every citizen, without discrimination, to participate in public affairs is recognised, *inter alia*, in the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights and Fundamental Freedoms (ECHR) and the Guiding Principles, as well as specific provisions in other human rights treaties including the CEDAW. Affected populations, including IDPs, are entitled to be informed, consulted and to exert influence on public institutions and public policies affecting them. Moreover, the right to participate in public affairs is an integral aspect of the fulfilment of other human rights. For example, the United Nations Committee on Economic, Social and Cultural Rights has stated that national health strategies “should respect the principle of people’s participation...the right of individuals and groups to participate in decision-making processes, which may affect their development, must be an integral component of any policy”.⁴⁵ Similarly the Committee on Economic, Social and Cultural Rights has observed with regard to the right to adequate housing that “[A]ll those affected, including the homeless and the inadequately housed must

⁴⁴ Centre for Civic Initiatives (Azerbaijan), CEE Bankwatch Network, Green Alternative, Friends of the Earth England, Wales and N. Ireland and Les Amis de la Terre, ‘Third Fact Finding Mission Azerbaijan-Georgia-Turkey Pipeline Project, Azerbaijan Section, October 2004, p.11. Accessible at http://www.bankwatch.org/documents/ffm_azeri_report_05_05_2.pdf

⁴⁵ Committee on Economic, Social and Cultural Rights, General Comment 14 on Article 12 of the ICESCR: The right to the highest attainable standard of health, paragraph 54. Adopted 11 August 2000, E/C.12/2000/4, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358b0e2c1256915005090be?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument)

participate in national strategies and be extensively and genuinely consulted”.⁴⁶ Fulfilment of the right to participation in public affairs is therefore closely related to and essential for the fulfilment of numerous other rights in the ICCPR and ICESCR.

Amnesty International is concerned that the internally displaced have been excluded from key decision-making processes directly impacting on them, such as the location of new settlements constructed to house them. The approach of the Azerbaijani authorities appears to be a ‘top-down’ one whereby decisions and policy directives are issued by officials, often without direct experience of the issues involved. Nor do institutional mechanisms exist for the concerns of the internally displaced population to reach government officials. The resulting lack of consultation not only infringes the right of the displaced population to participation, but results in the inefficient and wasteful expenditure of resources.

The main state institution for policy and programming on internal displacement is the State Committee of the Azerbaijani Republic on Issues of Refugees and Internally Displaced Persons (hereafter the State Committee). The State Committee was established in November 1993; its chair is a Deputy Prime Minister of the Azerbaijan Republic. The State Committee does not, however, have sole decision-making authority on internal displacement issues, sharing this authority with a number of other state agencies, including the Ministries of Labour and Social Security, Health and Education and local bodies of the executive.

Policies on internal displacement are also managed at the district level through local executive bodies, headed by internally displaced persons appointed by the president. These are known as the ‘ExComs in exile’, preserved with the stated aim of maintaining community structures, retaining community coherence and facilitating return in the event of peace.⁴⁷ Most internally displaced people that Amnesty International spoke to appeared to support the preservation of the ExComs in exile in principle, although many complained of inefficiency and corruption in their personal dealings with ExComs. ExComs in exile are also responsible for the issue of registration and identity documents necessary in order to receive state subsidies and exemptions. ExComs were on the whole initially located close to concentrations of ‘their’ IDPs, although over time settlement patterns have changed. This means that in some instances internally displaced people must travel long distances to reach their ExComs. Internally displaced people have the right to vote in municipal elections in their current places of residence, but are prohibited from running for office there. There are no municipalities in exile.

At the national level, internally displaced people elect members of parliament for their pre-war districts of residence. There are seven seats for the seven wholly or partially

⁴⁶ Committee on Economic, Social and Cultural Rights, General Comment 4 on Article 11(1) of the ICESCR: the right to adequate housing, paragraph 12. Adopted 13 December 1991, available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/469f4d91a9378221c12563ed0053547e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument)

⁴⁷ Amnesty International interviews with State Committee officials, Baku and Biləsuvar, July 2006.

occupied districts and two seats for Nagorny Karabakh itself.⁴⁸ The Azerbaijani Parliament (Milli Məclis) has limited powers in a strongly presidential system, and parliamentary elections in Azerbaijan have never been described by international election observation missions fielded by the OSCE as ‘free and fair’.

The internally displaced are disadvantaged in terms of access to representation compared to other Azerbaijani citizens. The fact that the internally displaced vote for candidates to represent their pre-war regions in parliament – and not for candidates representing the region where they live now – creates significant logistical problems for candidates campaigning among their geographically dispersed constituents. Candidates campaigning in internally displaced constituencies must therefore travel great distances in order to meet with the relevant constituents due to scattered settlement patterns of the internally displaced. A parliamentary candidate for the Şuşa-Fizuli-Xocalı-Xocavənd constituency in the 2005 parliamentary elections reported having to visit 37 districts of Azerbaijan in order to meet with this constituency’s voters.⁴⁹ He was forced to use his own funds in order to achieve this. Second, Amnesty International has received persistent reports of the obstruction of opposition candidates seeking access to the internally displaced in collective centres or new settlements. In urban contexts access to the internally displaced is less easily restricted, and in some cases it appears that only opposition candidates have campaigned among compactly settled internally displaced populations in urban areas.

Finally, at the community level the Karabakh Azeri community is headed by Nizami Baxmanov, head of the Şuşa Executive Committee in exile appointed by the president. However, his remit and functions as community leader do not appear to be defined in Azerbaijani law.

The general absence of channels of communication allowing the views and concerns of the internally displaced to move upwards results in limited access and input into fundamental decision-making processes affecting the internally displaced. This is a violation of their fundamental human right to participate in public affairs without discrimination and to be consulted in decision-making processes directly affecting them.

2.5. Conclusion

Amnesty International acknowledges the efforts of the Azerbaijani state, together with international actors, to supply emergency relief measures providing minimum essential levels of rights for people in the immediate aftermath of their displacement, often under difficult conditions. The organization also acknowledges that the Azerbaijani government has made efforts to allocate adequate resources to the problem, to establish a legal framework protecting the rights of the internally displaced population and to develop a national policy. However,

⁴⁸ One formally represents Stepanakert, the other Şuşa-Fizuli-Xocalı-Xocavənd. The Armenian population in Nagorny Karabakh has played no role in any elections to these seats.

⁴⁹ Amnesty International interview with Kərim Kərimli, IDP activist and parliamentary candidate (independent), Baku, July 2006.

Amnesty International is concerned that these efforts have not fulfilled Azerbaijan's obligation to progressively realize the full human rights of the internally displaced commensurate with higher levels of respect and protection of rights demanded by the length of displacement and the increase in resources available.

This is in part due to the fact that the legal framework established to respect and protect the rights of the internally displaced has not been implemented in tandem with wider legal and constitutional guarantees. Although impressive sums have been allocated to IDP programmes, the process of expending these funds has not been a transparent one protected from corruption. As subsequent sections in this report will demonstrate in detail, the funds allocated to IDP programmes have not been seen in the quality of the end product, for instance in the field of housing construction. Housing projects originally planned as more durable responses to the right of the internally displaced to adequate housing have as a result of sub-standard construction failed to fulfil this right. Furthermore, despite the legal framework established to protect their rights the internally displaced are not protected from corruption in their everyday dealings with officials, the costs of which in terms of the bribes required offset the benefits and subsidies allocated to them.

Amnesty International acknowledges that a range of institutional focal points have been created to deal with internal displacement. However, the organization is concerned that these do not provide an adequate basis for fulfilling the right of the internally displaced to participate in decision-making processes affecting them. Institutions dealing directly with the internally displaced are headed by individuals appointed by the executive and do not provide forums for consultations with the wider internally displaced population. Internally displaced persons' right to participation in public affairs are further restricted by the retention of pre-displacement electoral constituencies, which in a context of geographic dispersal hamper the chances of non-governmental candidates to gain representation. In other contexts, such as collective centres for the internally displaced in rural regions, the right to access to a full range of political views and platforms is reportedly restricted.

3. Azerbaijan's internally displaced population: principal human rights concerns

This chapter summarizes Amnesty International's principal concerns regarding the fulfilment of the internally displaced's rights to freedom of movement, family life, adequate housing, health care and work. In many instances restrictions in the exercise of one right has a direct bearing on an individual's capacity to exercise another. For example restrictions on the right to freedom of movement entail in many instances corresponding restrictions in the right to access to employment. Taken together current limitations on the exercise of the above rights, while not deriving from discriminatory legislation in itself, are resulting in *de facto* practices of discrimination and segregation for Azerbaijan's internally displaced population. Some of

these practices appear to be aimed at maintaining Azerbaijan's internally displaced population as a distinct community, and are justified by state officials on the grounds that measures for the internally displaced must be 'temporary' in nature pending their ultimate return to their pre-war homes. However, after some 14 years of displacement Azerbaijan has an obligation to ensure more than the minimum essential levels of rights for internally displaced persons appropriate in an emergency response, and as noted in the previous chapter Azerbaijan has sufficient resources available to fulfil this obligation.

In this context Amnesty International is concerned that the internally displaced' right to choose between return, integration in the communities where they live in displacement or resettlement in another part of the country is not being sufficiently protected. The internally displaced population is consistently encouraged, through violations of fundamental rights to work, adequate housing and health care, to see return as the only option available to them and therefore to comply with the official view that their current locations are 'temporary'. As the Council of Europe Commissioner for Human Rights has observed, '[N]ational authorities are [...] often reluctant to encourage the greater integration of IDP populations into local communities for fear reducing the political pressure on opposing authorities (and the international community) to resolve the conflicts in question.'⁵⁰ Amnesty International shares these concerns in the context of Azerbaijan, where despite legal guarantees of equal rights a *de facto* series of bureaucratic and other obstacles creates a discriminatory framework preventing the internally displaced population from equal access to economic, social and other human rights.

3.1 Freedom of movement and registration issues

'Everyone wants a residency permit for Baku, and it's very difficult to get one precisely because everyone wants to come here. So the authorities stop people from coming here by making them eligible for their benefits only where they are registered. What happens is that part of the family stays there and the men come here to work'.

- Displaced Azerbaijani man, Baku.

The system of internal registration, known by its Russian term as the *propiska* system, violates the rights of the internally displaced in Azerbaijan to freedom of movement and the right to choose a place of residence, enshrined in international law. Restrictions resulting from the application of the registration system also impede the enjoyment of other rights including the rights to health care, housing and work.

As a party to the ICCPR and Protocol 4 to the ECHR, Azerbaijan is under the obligation to respect the rights of everyone lawfully within its territory, including internally displaced persons, to freedom of movement and freedom to choose a place of residence.

⁵⁰ Council of Europe Commissioner for Human Rights, *3rd Annual Report January to December 2002, to the Committee of Ministers and the Parliamentary Assembly*, Strasbourg, 19 June 2003, p.42.

Article 12 of the ICCPR and Article 2(1) of Protocol 4 to the ECHR, state that “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence”. While these rights are not to be absolute, Azerbaijan must ensure that any restrictions to freedom of movement are provided for in domestic law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are necessary and proportionate.⁵¹ Article 28 of the Azerbaijani Constitution also guarantees freedom of movement for all those legally present on the territory of Azerbaijan.

The *propiska* system was inherited by Azerbaijan and other post-Soviet states from prior Soviet practice. The *propiska* consisted of a certification in the internal passport of the holder’s right to reside in a given location. It was a system designed to control internal population movements, and prevent unauthorized migration, by tying individuals, and their access to social services, to a fixed abode. The *propiska* fulfilled the role of a residency permit, required to access health care, employment, housing and many other basic social services. An important function of the *propiska* was to restrict migration to large cities; *propiskas* for large cities were historically difficult to obtain. Changing one’s *propiska* without the authorities’ permission was illegal and the failure to register was punishable by law. While some post-Soviet states have completely abolished the system, others have retained aspects of the system, sometimes unconstitutionally. Although formally abolished from the Azerbaijani Constitution, the *propiska* system is still referred to in some laws and citizens of Azerbaijan are still required to register their residence.

The retention of the system has particularly negative implications for internally displaced persons, since it restricts them and their eligibility to receive aid and social services to a fixed residence. For many internally displaced people this residence was determined by chance as they were re-registered as resident in their new locations immediately following displacement. Such locations were often in economically depressed regions in central Azerbaijan. With the authorities keen to stem rural to urban migration, residence permits for large cities, above all the capital Baku, are notoriously difficult to obtain. Many internally displaced households are caught in a protection trap: tied to their registered residence in order to receive food aid and other assistance, but unable to move in search of employment opportunities elsewhere. As a result many internally displaced families have been broken up as husbands move without a *propiska* to Baku to work, while other family members remain behind in the place where they are registered. In these cases internally displaced persons working in major cities must return monthly to the place they are registered in order to receive their food packages. The internally displaced are further obliged to circumvent the law in

⁵¹ The scope and meaning of these permissible restrictions, which are set out in Article 12 of the ICCPR and Article 2 to Protocol 4 of the European Convention on Human Rights have been clarified in the Human Rights Committee’s General Comment 27 on Article 12 of the ICCPR. Adopted 2 November 1999, CCPR/C/21/Rev.1/Add.9, available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6c76e1b8ee1710e380256824005a10a9?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6c76e1b8ee1710e380256824005a10a9?Opendocument) and by the case law of the European Court of Human Rights.

order to receive health care or to work in locations for which they do not have a *propiska*. This typically requires the payment of bribes for services which according to Azerbaijani legislation, the internally displaced are entitled to receive for free.

Changing one's *propiska*, and in particular re-registering in order to move to the capital Baku, is a cumbersome process surrounded in corruption. Government officials do not disguise the fact that they are keen to stem migration of the internally displaced to Baku. Amnesty International was told by representatives of international organizations of government plans to move internally displaced communities out of Baku to new purpose-built settlements in Sabirabad and Saatli.⁵² Government officials explained this policy to Amnesty International by referring to the explosive growth in Baku's population and resulting strains on the city's infrastructure and resources. They also emphasize that the internally displaced population is easier to count and provide for when they are settled compactly in purpose-built settlements, whereas in Baku or Sumqayit internally displaced people "disappear and run their own businesses and livelihoods".⁵³

In addition to the authorities' reluctance to see further population growth in major cities, re-registration is also made difficult for internally displaced people as applicants for a *propiska* in a given location must show that they have secured a contract for housing available in their new location. Without homes to sell to secure the necessary capital to purchase housing elsewhere, the internally displaced are less able to secure contracts on new housing. Movement from Baku to rural regions also appears to be a complicated process. Re-registration may reportedly be secured, however, through the payment of bribes to officials, reportedly in the region of US\$ 50-100.

Sevda is a 70 years old. She was displaced from the province of Ağdam and now lives in former student accommodation in the Baku suburb of Sumqayit. She cannot get used to her change of circumstances. 'The wind and dryness here are unbearable. We're country folk, we never lived in big cities. Where I come from we had fields, fruit orchards, countryside. We're used to the wind coming down off the mountains, not off the sea!' She has been attempting to re-register in the part of Ağdam province remaining under Azerbaijani control for eight years without success.

International organizations have acknowledged the violation of the right to freedom of movement represented by the *propiska* system. Reflecting his visit to Azerbaijan from 21 May to 1 June 1998, the Representative of the UN Secretary General, in an addendum to the report on internal displacement he submitted to the Commission on Human Rights in 1999, clearly asserted that the system of the *propiska* such as that implemented in Azerbaijan was "inconsistent with the right to liberty of movement and freedom to choose one's residence... It restricts individuals to one legal place of residence, thereby restricting freedom of

⁵² Amnesty International interviews with representatives of international organizations, Baku, July 2006.

⁵³ Amnesty International interview with Telman Mammedov, State Committee for Refugees and IDPs, Baku, 11 July 2006.

movement, and regulates the right to work, to education and to other civic activities. The Azeri Constitution has officially abolished the *propiska* system but in practice violations are still happening since a number of laws continue to refer to it.”⁵⁴

3.2 Forced displacement

Violations of the right to freedom of movement and to choose a place of residence include forced displacement.⁵⁵ Many internally displaced persons reported to Amnesty International that they had had no say in the location of newly constructed settlements to which they had been moved from emergency relief collective centres. This would be a violation of the right to consultation and due process. Internally displaced people in urban contexts are strongly resistant to the idea of being relocated to rural locations in central Azerbaijan, but reported that no official body had elicited their views. Commenting on rumoured proposals to resettle internally displaced people to Saatlı and Sabirabad regions one community leader in Sumqayıt told Amnesty International that “we know full well there is no livelihood there: even snakes cannot survive there”.⁵⁶ Instead, internally displaced people in urban contexts would prefer to see new settlements constructed around Baku that would enable them to contribute to and benefit from the urban economy.

In the movement of internally displaced populations from emergency relief centres to new settlements, there were reportedly attempts made to preserve communities. Hence internally displaced people from Zengilan, for example, were relocated to settlements inhabited by others displaced from that region. However, there was reportedly no choice offered to displaced people as to the location to which they would be moved. The right to choose a place of residence involves the right to be informed and consulted in this regard. Amnesty International is concerned that without consultation and consent of those being moved, population shifts from tent camps to new settlements may assume the character of forced displacement.

Furthermore, the right to choose one’s residence in the context of internal displacement requires that internally displaced people must be given various alternatives regarding their place of residence, namely between return, integration or resettlement in another part of the country. Most internally displaced people approve of the attempt to preserve their communities, yet some reported to Amnesty International that they would prefer to integrate now rather than exercise their right to return as and when return becomes viable. In accordance with Principle 28 of the Guiding Principles, the Azerbaijani authorities

⁵⁴ 25 January 1999, E/CN.4/1999/79/Add.1,

<http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/c4b0fea3859395d78025675a0035e2b3?OpenDocument>, paragraph 45; 199 (e).

⁵⁵ This was recognised by the UN Human Rights Committee in its General Comment on Article 12 of the ICCPR – General Comment No. 27. Accessible at

<http://www.unhcr.ch/tbs/doc.nsf/0/6c76e1b8ee1710e380256824005a10a9?OpenDocument>

⁵⁶ Amnesty International interview with IDP community leader, Sumqayıt, 9 July 2006.

should also facilitate the reintegration of resettled internally displaced persons as a legitimate alternative to return.

Forced evictions are prohibited by all human rights instruments. This prohibition applies to any place that is occupied for residential purposes. Although the internally displaced in Azerbaijan generally do not own the places they occupy, they are protected against forced eviction under human rights law. It should be noted however that this prohibition is not absolute.

The Committee on Economic, Social and Cultural Rights has defined the term "forced eviction" as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.⁵⁷ The Committee on Economic, Social and Cultural Rights further elaborates that "[T]he practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions" (paragraph 4).

Article 11 of the ICESCR, as clarified by the two general comments of the Committee on Economic, Social and Cultural Rights, clearly outlaws forced evictions. In addition, forced evictions are prohibited under Article 17 of the ICCPR which protects the right to the home. "Home" has been interpreted by the independent experts of the Human Rights Committee (HRC) in General Comment 16 as encompassing any place where a person resides. Therefore, IDPs occupying public or other places in Azerbaijan are protected under Article 16.

By contrast, at the European level, Article 1 of Protocol 1 of the ECHR, inasmuch as it applies to "possessions", does not protect them. However, they are protected from forced eviction under Article 8 of the ECHR which articulates the right to the home. Indeed, the European Court of Human Rights (ECtHR) has also applied this provision to places that were not owned by the individuals occupying them. Finally, although Azerbaijan has not accepted Article 31 of the European Social Charter (Revised) on the right to housing, it has accepted Article 16. In light of its interpretation by the ECSR in a case involving Roma in Greece, Article 16 provides for protection against forced eviction.

If forced evictions occur, they must be accompanied by protective measures and respect certain conditions. Procedural protection must accompany evictions, before during and after it

⁵⁷ Committee on Economic, Social and Cultural Rights, General Comment 7 on Article 11(1) of the ICESCR: The right to adequate housing, 20 May 1997, available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument), paragraph 3.

is carried out, and alternative housing or compensation must be provided in any case. This is recognised and developed within the ICESCR, the ICCPR and the ECHR systems, through their respective General Comments and case law. In the Committee on Economic, Social and Cultural Rights' General Comment 7 on Article 11 of the ICESCR, it is stated that "Even in situations where it may be necessary to impose limitations on [the right to adequate housing and not to be subjected to forced eviction], full compliance with Article 4 of the Covenant is required so that any limitations imposed must be "determined by law only insofar as this may be compatible with the nature of these [i.e. economic, social and cultural] rights and solely for the purpose of promoting the general welfare in a democratic society" (paragraph 5)."

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Evictions must cumulatively be compatible with the Covenant, namely "in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality."(para. 14) This includes appropriate procedural protection (consultation, prior notice, information, government officials' presence during eviction...) and due process (para.15). They must entail available legal recourses and remedies to those affected. Victims of forced eviction "have a right to adequate compensation for any property, both personal and real, which is affected." Article 2(3) of the ICCPR also "requires States parties to ensure "an effective remedy" for persons whose rights have been violated and the obligation upon the "competent authorities (to) enforce such remedies when granted"."

Moreover, "States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force" (para.13).

3.3 The right to family life

Restrictions on the freedom of movement have a knock-on effect on the enjoyment by the internally displaced of their rights to family life.

Article 10 (1) of the ICESCR requires Azerbaijan to ensure that "the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society". Under Article 16 of the revised European Social Charter Azerbaijan has undertaken "to promote the economic, legal and social protection of family life" by such means as "social and family benefits, fiscal arrangements, provision of family housing, benefits for newly married", "[w]ith a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society". Principle 17 of the Guiding Principles clarifies that to give effect to the rights of internally displaced populations to family life, "family members who wish to remain together shall be allowed to do so".

However, the *propiska* system and lack of adequate housing have led to violations of the rights to family life of the internally displaced. As noted above, the retention of the internal

registration system coupled with the fact that the internally displaced in rural contexts have been housed in places with little or no access to work have resulted in men leaving for the cities in search of means to make a (better) living, while women and children remain in the household's registered residence in order to remain eligible for food and other state assistance which they may only receive there.

Ayaz (not his real name) was displaced from Cəbrayıl and now lives in former student halls in the Baku suburb of Sumqayıt. In his fifties, he shares a room measuring five by three metres with his wife and two adult sons. There are 30 families living in his corridor of some 12 rooms; some of them live with up to 10 people in a room. Ayaz's room is crammed with bags and boxes, everything that an extended family might need over the course of a year. "We cannot live like human beings for as long as this peace process goes on", he says. Ayaz's elder son Telman and his wife Gulşan sleep at one end of the room with only a curtain to separate them from the rest of the room. The municipal authorities have not responded to Telman and Gulşan's request for registration as a separate family unit. Their only choice is to illegally construct a shack in the grounds of the student halls. They would like to have children, but say they must wait until their living conditions have improved before they can do so. Ayaz's younger son Şahin is 21 years old and has a fiancée. Although they would like to marry, Şahin says he must wait his turn until Telman's housing problem is resolved before he can marry.

As Ayaz's case described above shows, the registration of new families as separate households is another problem. Over time internally displaced families have had children; as children grow up and marry, however, municipal authorities have reportedly refused the registration of new family units.⁵⁸ Extended families have been therefore effectively forced to remain as one household and economic unit. Benefits allocated on the basis of households have consequently decreased relative to the number of heads in the household, with the result that welfare provision decreases in proportion to the number of heads per household. This in effect violates both the right of families to protection and assistance and the right to an adequate standard of living. According to representatives of international organizations interviewed by Amnesty International, the reasons for refusing the registration of new families are government reluctance to see the number of family units eligible for benefits grow, and in the case of the capital, reluctance to do anything that would further encourage the migration of internally displaced persons from rural areas to Baku.

3.4 The right to adequate housing

Under Article 11(1) of the ICESCR Azerbaijan has undertaken to ensure the right of 'everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions'. Furthermore, as noted above, under Article 16 of the revised European Social Charter,

⁵⁸ Amnesty International interviews with representatives of international organizations and IDPs, Baku and Sumqayıt, July 2006.

“[W]ith a view to ensuring the necessary conditions for the full development of the family, Azerbaijan has undertaken to “to promote the economic, legal and social protection of family life by such means as social and family benefits, [and]... provision of family housing...”. The right to housing has been interpreted in the Committee on Economic, Social and Cultural Rights’ General Comment 4 as not referring exclusively to the material commodity but also to the right to live somewhere in security, peace and dignity (paragraph. 7).⁵⁹ Housing must be adequate, meaning “adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities –all at a reasonable cost” (citing the Commission on Human Settlements and the Global Strategy for Shelter). Adequacy “is determined in part by social, economic, cultural, climatic, ecological and other factors”, but basic elements must be respected in all cases: legal security of tenure, availability of services and infrastructure, affordability, habitability, accessibility and cultural adequacy.

The 2004 Report of the Representative of the Secretary General (RSG) on internally displaced persons, Francis M. Deng, to the Commission on Human Rights also reports on the “most extreme violations” of the fundamental right to housing. These comprise “overcrowded public buildings to mud huts, tents made of torn bits of fabric, railway wagons, iron containers, cardboard boxes, barns and stables, and even no shelter at all. Inasmuch as many of such spaces were never meant for human habitation, conditions can be unbearable, including lack of heat and ventilation, poor sanitation, lack of access to water and transportation and lack of privacy” (paragraph 56).⁶⁰

General Comment 4 of the Committee on Economic, Social and Cultural Rights on Article 11(1) of the ICESCR clarifies that the right to adequate housing refers both to the material commodity and also to the right to live somewhere in security, peace and dignity (Paragraph 7). Adequacy “is determined in part by social, economic, cultural, climatic, ecological and other factors”, but basic elements must be respected in all cases: legal security of tenure, availability of services and infrastructure, affordability, habitability, accessibility and both cultural and material adequacy.

Inherent in the right to adequate housing and the obligation to ensure security of tenure is the duty of states to prohibit unlawful forced evictions (see textbox above). In addition, under international law, respect for the right to adequate housing requires that Azerbaijan ensure the participation of those directly concerned by housing policies, including the internally displaced, in related decision making. General Comment 4 of the Committee on Economic, Social and Cultural Rights clarifies that “[a]ll those affected, including the homeless and the inadequately housed must participate in national strategies and be extensively and genuinely consulted” (Paragraph 12).

⁵⁹ 13 December 1991, accessible at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/469f4d91a9378221c12563ed0053547e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument)

⁶⁰ 4 March 2004, E/CN.4/2004/77, <http://daccessdds.un.org/doc/UNDOC/GEN/G04/115/38/PDF/G0411538.pdf?OpenElement>

Amnesty International is concerned that Azerbaijan is failing in its obligation to fulfil the right of the internally displaced to adequate housing. Although the movement of internally displaced people from emergency shelter to more permanent settlements is a key aspect of current IDP programming, the organization is concerned that housing in the new settlements does not satisfy the criteria identified in international law as constituting 'adequate housing'. Several aspects of the new settlements, including security, consultation processes on their location, the availability of social services, the availability of employment, construction quality, sanitation, heating, and displaced people's access to security of tenure are sources of concern. Overall, as the situation of displacement has endured for a significant period of time, Amnesty International believes there is no longer any reasonable justification on the part of the government of Azerbaijan to limit its obligations regarding the right to adequate housing of the internally displaced to some lower standard – e.g. "basic shelter"⁶¹ – as would be appropriate in an emergency response.

3.4.1 Housing in the new settlements

'All of these houses are being built as temporary. Displaced people don't have the right to own them.'

State Committee for Refugees and IDPs official, Baku

The construction of new settlements to re-house internally displaced populations previously inhabiting emergency relief shelter in collective centres is a key aspect of Azerbaijan's national policy on internal displacement. Yet Amnesty International is concerned that housing in the new settlements does not fulfil their inhabitants' right to adequate housing, in part due to material inadequacy, reportedly attributable to a corrupt construction process, and in part due to the location of new settlements distant from employment opportunities and other amenities and infrastructure.

The improvement of housing for the internally displaced population has been a key focus of government IDP programming. The Azerbaijani government has already reportedly re-housed all those living in dug-outs and old farm buildings; it aims to re-house all those in tents or disused railway carriages by the end of 2007. As a result of these initiatives the number of internally displaced living in newly-built houses increased from 10,511 in 2003 to 67,779 in 2004.⁶² Nonetheless, survey data for 2004 suggest that the majority of the internally displaced population still lives in hostels and non-residential premises. These categories are the principal target of the ongoing construction of further new settlements.

⁶¹ Principle 18 of the Guiding Principles states that competent authorities shall provide internally displaced persons with and ensure safe access to, *inter alia*, basic shelter and housing.

⁶² SPPRED, *Progress Report 2003-2004*, p.45.

Originally from the village of Xocalı, Elvira was forced to flee her home during hostilities in February 1992 that killed the majority of the inhabitants of her village. She and her two sons fled to Ağdam, only to be displaced again when Armenian forces occupied Ağdam in 1993. She then fled to Baku. After living in a guesthouse for a number of years, she was allocated housing in one of the new settlements in Goranboy region. Elvira was given a one-room house for her and her two sons; they added two small additional rooms, in addition to a kitchen, at their own expense. Although there is an electricity supply to the house, there is no gas or running water; Elvira must go to a nearby stream to fetch water. Some two years on from moving into the house, the plaster is falling off the walls, there are severe structural cracks across several walls and in places the floor is caving in. Elvira says the house is freezing in winter, but she sees little choice but to remain.

The physical appearance of the new purpose-built settlements in rural regions is at first sight impressive. Orderly, well-tended rows of small houses arranged according to a grid system with attached plots of land undoubtedly represent a significant improvement over living conditions in emergency relief centres (popularly known as ‘tent cities’ in Azerbaijan). The new houses in these settlements, as built, do not feature internal sewerage or plumbing, but this is far from unusual in rural Azerbaijan. In a number of houses visited by Amnesty International, the inhabitants had installed bathrooms and internal plumbing, at their own expense. Couples receive a single-room house, a four-member family receives a two-room house, while families of six or more receive a three-room house. The state also provides half a hectare of land with each house and a one-off starting up payment equivalent to US\$220 for each household. As in urban contexts, the registration of new families as separate households is difficult; unlike in urban contexts, however, internally displaced people in new settlements may have the option of constructing additional rooms to their houses to accommodate extended family. However, if they leave these houses, including in the event that they are able and chose to exercise their right to return to their pre-war homes, they are not eligible to receive any compensation for the improvements made to the houses at their own cost.

Internally displaced people cannot gift, sell or sub-let the settlement houses, which remain the property of the State Committee. They therefore have no legal security of tenure, and the fact that they have no contractual ownership of their housing further encumbers any attempt on the part of internally displaced people to change their internal registration (*propiska*). According to state officials this situation is necessary because the new settlements are being constructed as a ‘temporary solution’ to the problem of displacement. In the words of a representative of the State Committee for Refugees and IDPs in Baku, in the event of a peace settlement internally displaced people “will be returned” to their original homes.⁶³ The situation with refugees, who are granted a right of ownership and deeds to the houses they inhabit, is different. Refugees are entitled to sell their allocated houses if they so wish. This is a *de facto* acknowledgement of the fact that refugee return to Armenia is unlikely. However, Amnesty International is concerned that this differentiation results in the violation of the right of the internally displaced population in the new settlements to security of tenure if they were

⁶³ Amnesty International interview with Telman Mammedov, State Committee, Baku, 11 July 2006.

to exercise their right to resettlement rather than return in the event of a peace agreement. The official emphasis on return as the only long-term choice for the internally displaced consequently results in a discriminatory framework denying their right to security of tenure accorded to other citizens of Azerbaijan and indeed refugees from Armenia.

While acknowledging the improvement over tents and wagons, inhabitants of the new houses voiced various complaints with regard to the quality of the housing on offer. The testimony of internally displaced people living in these settlements suggests a yawning gap between the project plans and the final result. In the words of one, “we would have European towns if [the new settlements] had been built to plan”. Unless their occupants had refurbished the houses themselves, most of the new houses visited by Amnesty International featured sometimes severe structural damage arising from inadequate construction. In one incident recounted to Amnesty International a floor collapsed during a wake held for a deceased relative. The new houses do not have heating, although winter temperatures may drop as low as -30° C in some areas. Climatic conditions have not been considered in the design and construction of the new housing.

It is alleged that one of the reasons for the poor quality of the new houses is failures in the process of construction including the failure of government to pay construction companies. The new settlements have been rapidly constructed, reportedly within two months in some cases, and in many instances were built by workforces composed of internally displaced people. Amnesty International met with internally displaced men in Goranboy who had formed part of the workforce constructing a new settlement. They reported that salaries were not paid by the State Committee to the building firms, who then appropriated some of the materials designated for construction as “compensation”. In their view this explained the shoddiness of construction in their town; they themselves received only two-thirds of their agreed salaries.

3.4.2 Forced evictions of internally displaced people in urban context

‘The state has never shown any interest in the problems of urban displaced people. We don’t hear anything from the state, so what happens is that IDPs just take land belonging to the municipality around Sumqayit for themselves. Then they come back to us and say, you’re just temporary here, you can’t have land here. Still, it’s better to be here than in one of those new settlements with police checkpoints and no sewerage’.

Internally displaced Azerbaijani man, Sumqayit

A different set of problems confronts the urban internally displaced population. Following displacement internally displaced populations in urban centres found shelter in public buildings, schools, kindergartens, student halls and dormitories and unfinished apartment blocks. State Committee officials acknowledge that urban displaced population has received less targeted programming than those in rural collective centres. However, according to the

Second State Programme 268 public buildings housing the urban displaced population are due for rehabilitation by the end of the Programme, and 77 have already been renovated.

While some renovation of public buildings may have taken place, the property boom in Baku has resulted in forced eviction for others. In one case recounted to Amnesty International by a Baku-based lawyer, Mehriban, displaced from Zengilan district, occupied with her family a small house located on the outskirts of Baku after being displaced in 1993. The house belonged to the Ministry of Defence and was originally designated for military personnel. In 1999 the Ministry of Defence attempted to reclaim the house and took Mehriban to court. The family lost the case in the local court and their first appeal in the Court of Appeal. Unable to afford a lawyer registered with the Azerbaijani Collegium, who are the only lawyers qualified to take the case to the Supreme Court, Mehriban turned to a legal advice centre for internally displaced people in order to take the case further. In the event, she also lost her case at the Supreme Court and was evicted. She and her family were given alternative accommodation in an uncompleted apartment block on the outskirts of Baku without running water, gas or electricity.

As noted above international human rights law has recognised that forced evictions constitute gross violations of a range of human rights, in particular the right to adequate housing (see textbox above). Amongst other provisions of international human rights law, forced evictions violate the right to adequate housing in Article 11(1) of the ICESCR, and Article 17 of the ICCPR which prohibits “arbitrary or unlawful interference” with one’s home, as well as European human rights law.⁶⁴ As a State party to the ICESCR, and the ICCPR, Azerbaijan has the obligation to refrain from and prevent forced evictions, as well as to take steps, including through international cooperation and assistance, to progressively achieve the full realization of the right to adequate housing for all, prioritizing the most vulnerable – including the internally displaced.

The prohibition on forced evictions therefore extends not only to cases of home ownership, but also to housing or land which the internally displaced occupy. As noted above the internally displaced are also protected from forced eviction by the presidential decree of 1 July 2004. The Committee on Economic, Social and Cultural Rights has set out a number of measures to be followed by state parties to the ICESCR, where evictions are necessary as a last resort in order to safeguard the rights of persons subjected to evictions. These consist of: "(a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly

⁶⁴ The European Court of Human Rights has upheld several claims for violation of Convention rights in respect of forced evictions, as has the European Committee on Social Rights in respect of the European Social Charter.

identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts."⁶⁵ These conditions have not been fulfilled in instances of forced eviction of internally displaced people in Azerbaijan.

The onset of a construction boom in Baku in particular and Azerbaijan as a whole has created significant demand for land and the demolition of public buildings to make way for new high-rise developments.⁶⁶ Private businessmen reportedly buy such properties from municipal authorities or public organizations and internally displaced people resident in these buildings are often evicted without notice, consultation, an opportunity to challenge an eviction order, adequate compensation, or adequate alternative accommodation. In these instances the presidential decree prohibiting forced eviction is violated. Evictions of this variety clearly violate the principle that "[E]victions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available."⁶⁷

3.4.3 A lack of security of tenure.

According to information supplied to Amnesty International by the Azerbaijani Ministry of Foreign Affairs, under the 'Law on Property' and the Constitution internally displaced people have an equal right to register legal title to housing – a necessary measure to secure tenure over housing and protect oneself from forced eviction. According to official information exercising this right would not affect IDP status or eligibility to receive its associated benefits. In practice, however, many internally displaced people who spoke to Amnesty International feared that the exercise of this right may result in the loss of IDP status and its associated benefits. Legally this should not be the case, since according to the Azerbaijani 'Law on the Status of Refugees and Persons Forcibly Displaced inside the Country' internally displaced people lose their status only in the case of return to their original place of residence or provision with other housing in the same region, or, if such relocation is impossible, and they are provided with housing by state decree elsewhere in the country. However, internally displaced people told Amnesty International that they fear registration of legal title to housing in one's own name would result in a *de facto* loss of IDP status.

⁶⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 7, para 15.

⁶⁶ According to a report dating from 2004, property prices in that year rose by 50-60 per cent. Samira Husseinova and Kamil Piriev, 'Relentless Baku Building Boom', *IWPR Caucasus Reporting Service*, 28 April 2004.

⁶⁷ Paragraph 16, Committee on Economic, Social and Cultural Rights General Comment 7 on Article 11 of the ICESCR: The Right to Adequate Housing: Forced Evictions, adopted 20 May 1997, available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/959f71e476284596802564c3005d8d50?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?Opendocument)

Another incentive not to register legal title in one's own name appears to be the fear that this will result in the loss of eligibility to receive restitution for housing, land and property on return. It is a source of concern that with government rhetoric that emphasizes return over other options for internally displaced people, and without clear legal guidelines, internally displaced people are misinformed as to their rights to purchase property and settle. Several internally displaced individuals told Amnesty International of their fear of losing out on the right to restitution or compensation if they took active steps to integrate. In one case reported to Amnesty International, an internally displaced man told how he had bought a house outside Baku under a friend's name since he fears that as a home-owner he would lose out on rights to housing, land and property restitution in the event of a peace agreement. He told Amnesty International that this is not unusual, since it is rumoured that internally displaced people would only have a right of restitution in their original places of residence. This is a reflection of the fact that no clear framework for restitution and compensation has yet been elaborated by the Government of Azerbaijan, and internally displaced people have little idea of how their actions in displacement may or may not affect their right to restitution in the future. The result is that those seeking to register legal title to housing operate in a context of legal ambiguity.

3.5. The Right to Health

Everyone has the right to the highest attainable standard of physical and mental health, including access to an acceptable system of health services. As a state party to the ICESCR and the revised European Social Charter Azerbaijani is obliged to respect, protect and fulfil the right to health. The Guiding Principles further reinforce the internally displaced's rights in this regard. Furthermore, the Committee on Economic, Social and Cultural Rights has observed that the right to health is closely related to and dependent upon the realisation of the other rights contained in both the ICCPR and ICESCR. It includes health care and "socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment".⁶⁸ In the context of internal displacement, decisions regarding the location of settlements for the internally displaced and their suitability for human habitation therefore have a direct impact on the enjoyment of the right to health, and should take this factor into consideration.

Amnesty International is concerned that Azerbaijan is failing in its immediate obligation to give the highest priority to ensuring that the whole population, including those in a particularly vulnerable situation such as the internally displaced, have access to, at the very least, minimum essential levels of health services, including reproductive health care, as

⁶⁸ Committee on Economic, Social and Cultural Rights, General Comment 14 on Article 12 of the ICESCR, adopted 11 August 2000, E/C.12/2000/4, paragraph 4. Available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358b0e2c1256915005090be?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument)

required under Article 12 of the ICESCR, and Article 12 of the CEDAW. Although resources have been expended on providing basic health care infrastructure for the internally displaced, Amnesty International is concerned that this has not been matched by a commensurate investment in health care professionals, creating a significant disjunction between the quality of basic infrastructure and the quality of the health care provided. Furthermore, Amnesty International has received persistent reports that internally displaced people must pay for health care services and medicines which according to Azerbaijani law they are entitled to receive without charge.

As a party to the ICESCR, Azerbaijan must take immediate, concrete and targeted measures to realise at the very least minimum essential levels of the right to health. The Committee on Economic, Social and Cultural Rights has interpreted these to include, among others⁶⁹:

- ensuring the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups;
- ensuring reproductive, maternal (pre-natal as well as post-natal) and child health care;
- ensuring access to the minimum essential food which is nutritionally adequate and safe, to ensuring freedom from hunger to everyone;
- ensuring access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;
- providing essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;
- ensuring equitable distribution of all health facilities, goods and services.

The international community too, holds a particular obligation to assist Azerbaijan to realise at least these minimum essential levels of the right to health.⁷⁰

The internally displaced in Azerbaijan typically suffer disproportionately from health problems, due to the increased levels of stress and trauma to which they have been exposed, reduced access to primary health services and essential medicines and the unsanitary conditions in which they live in displacement. In particular they suffer disproportionately from malnutrition, infant mortality, tuberculosis, diphtheria, anaemia and mental health problems.⁷¹

⁶⁹ Adapted from Committee on Economic, Social and Cultural Rights, General Comment No. 14, *The Right to Health*, para 12.

⁷⁰ *Ibid*, para 18.

⁷¹ Morbidity and Mortality Report, 16 July 2004, Prevalence of anaemia among displaced and nondisplaced mothers and children – Azerbaijan, 2001 [53 (27); 610-614; cited in Norwegian Refugee Council/Global IDP Project, *Profile of Internal Displacement: Azerbaijan* (2005), accessible at <http://www.idpproject.org>, pp.61-67; United Nations Commission on Human Rights, 25 January 1999,

According to the Azerbaijani ‘Law on the social and economic rights of Internally Displaced Persons’ of May 1999, the internally displaced are eligible for free health care wherever they live. The implementation of this provision in practice appears to be variable. In a survey conducted by the International Medical Corps in 2000, utilization of local medical services in southern Azerbaijan was very low among the internally displaced, with 30.7 per cent of respondents claiming the lack of funds as the principal reason for not seeking medical aid.⁷² A 2003 survey, however, suggested that 85.2 per cent of respondents were provided with free medical services.⁷³ However, internally displaced people consistently told Amnesty International that in practice most are in the same predicament as other Azerbaijani citizens of having to purchase basic medical consultations and medicine. One internally displaced doctor told Amnesty International: “I work in a state hospital and I know that the internally displaced pay”.

In urban contexts the availability of a wider range of health services and infrastructure may alleviate this situation, but for the internally displaced in new settlements the health infrastructure provided caters only for the most elementary of health care and patients must still pay. For those still inhabiting tent camps only rudimentary health care is available within the grounds of the camps. For medical care beyond basic needs and first aid, such as reproductive health care, internally displaced people are frequently required to travel long distances at their own expense.

With regard to those in new purpose-built settlements, Amnesty International is concerned that while significant resources have been allocated and expended on the creation of basic infrastructure, there are insufficient numbers of health care professionals to staff them. Inadequate salaries for health professionals are part of the problem in more remote settlements populated by the internally displaced. Without additional weighting of salaries there are few incentives for health professionals to seek employment in the remote and often harsh locations in which many settlements for the internally displaced have been constructed. According to healthcare professionals and human rights activists interviewed by Amnesty International this problem is compounded by an informal ‘principle’ that public sector posts in these settlements should be reserved for the internally displaced, thereby in theory maintaining community coherence. Adherence to this principle ignores other considerations of the rights of the internally displaced to access quality medical services. The deficit between the expenditure of resources and strategic planning for their effective use is aptly illustrated in the words of one Azerbaijani human rights activist: “internally displaced people in these new settlements have hospitals but no doctors, schools but no teachers”.

Report of the Representative of the Secretary-General, Mr Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1998/50, Profiles in displacement: Azerbaijan (E/CN.4/1999/79/Add.1).

⁷² International Medical Corps, *Population Health Needs and Health Service Utilization in Southern Azerbaijan*, November 2000, p.10.

⁷³ SPPRED, *Progress Report 2003-2004*, p.48.

A further concern is that there are insufficient funds to support the services necessary for the health care infrastructure to properly function, for instance funds to pay fuel costs for ambulance services. These costs are passed on to the internally displaced. In new settlements in the Goranboy region, for instance, they must travel 35 kilometres to the regional capital Goranboy for many health services. Amnesty International was told in one settlement in Goranboy region that although transport links did now exist with the towns of Goranboy, Gənjə and Barda, this was at the internally displaced's own initiative. Prior to that they had lived in complete isolation.

Clusters of new settlements are typically equipped with one hospital and a number of first-aid stations staffed by one nurse and a medical assistant. For example, in Biləsuvar, 2,000 internally displaced people are served by a 50-bed clinic and five first-aid stations. Although new settlements are provided with infrastructure to provide medical care and some feature sparklingly clean hospitals and surgeries, the quality of the health care delivered is reportedly poor. According to an ExCom in exile official in a new settlement in Goranboy region, the newly constructed clinic "has equipment but no expertise". The absence of healthcare expertise also has a particular impact on women. Female health care is a problem attested by human rights activists and on-site health professionals in the new settlements, for instance, the absence of elementary gynaecology.

In the same settlement in Biləsuvar Amnesty International met with the doctor at the clinic. Himself displaced, he was the only qualified health professional in the town. He told Amnesty International that his key problems were a lack of qualified staff and the absence of equipment and medicine. One of the consequences of affiliation with a particular ExCom in exile is that his clinic must apply directly to the Ministry of Health for medical supplies, rather than the hospital in the nearest large town of Goranboy. The clinic is equipped with two ambulances, but only 20 per cent of the allowance for petrol is typically received. Clinic staff are therefore obliged to pay for the remainder out of their own pocket, a cost ultimately transferred to the patient through informal charges. The consequences for internally displaced residing in remote new settlements are that they must cover long distances at their own expense to receive anything more than elementary health care, which they must in any case pay for out of their own pocket.

Kərim lives in a settlement in Goranboy made up partly of new housing, partly of old houses formerly belonging to Armenians. He was displaced in 1993 from Kəlbəcər, but complains that for some reason although displaced people from Xocalı received new housing in the settlement, those from Kəlbəcər were not allocated new housing. Kərim still lives in an old Armenian house and has not received a land allocation or start-up payment either. He, his wife and two children must share an apartment formerly inhabited by Armenians with another family, making eight people in all. Many of the windows of the building have no glass and all of the children in the apartment suffer from rheumatism. The families have diverted wires from the central electricity supply in order to have electricity in the apartment; open wiring lines the walls and ceilings of their apartment. They cannot afford to buy crockery or cutlery and must take it in turns to eat and drink with what they have. Kərim's daughter Zarema has anaemia. Although legally Kərim has the right to receive treatment for his daughter's condition for free, in practice he can only get treatment for her in Baku, a six-hour bus ride away. He must pay for the transport and treatment costs himself. Others reported having to pay for medicines past their expiry date.

3.6 The right to work

Under international human rights law, Azerbaijan has the obligation to take steps to progressively realise the right of everyone to freely chosen work and to earn a decent living. Article 6(1) of the ICESCR asserts the right to work, including "the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take the appropriate steps to safeguard this right." Article 6(2) specifically requires Azerbaijan to: "take steps to achieve the full realization of [the right to work] and full and productive employment under conditions safeguarding fundamental and economic freedoms to the individual". Article 1 of the revised European Social Charter, which Azerbaijan has accepted, also upholds the right to work in similar terms. Although the right to work does not amount to an absolute right to obtain employment, as clarified by the Committee on Economic, Social and Cultural Rights it implies "the right of access to a system of protection guaranteeing each worker access to employment" and "the right not to be unfairly deprived of employment".⁷⁴

Azerbaijan is obligated to ensure the "progressive realisation" of the right to work by refraining from arbitrarily interfering in its realisation and by protecting and facilitating its fulfilment. In the light of these obligations, several aspects of the current situation of the internally displaced in Azerbaijan, including the *de facto* retention of the internal registration system, the number of internally displaced people employed in the informal or grey market and the locating of settlements for the internally displaced in remote and economically depressed parts of the country are a source of concern to Amnesty International.

Most internally displaced people that Amnesty International spoke with identified securing employment as their most urgent problem. Most collective centres, camps and many

⁷⁴ Committee on Economic, Social and Cultural Rights, General Comment 18 on Article 16 of the ICESCR, adopted 6 February 2006, E/C.12/GC/18, paragraph 6. Available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.GC.18.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.GC.18.En?OpenDocument)

of the new settlements are situated in central Azerbaijan or outlying regions where there are few opportunities for work. Many in urban contexts are employed in informal trade and construction. While survey data again can only give the broadest of indications, in 2004 surveys indicated that only some 30 per cent of IDPs of working age were employed. Estimates of those in permanent employment put the figure at 19.3 per cent, with 55 per cent of employed respondents working in state-owned enterprises.⁷⁵ In collective centres and new settlements the only options for employment are within administrative structures or infrastructure belonging to their settlement, where the internally displaced typically benefit from a recruitment system favouring their appointment over outsiders, or seasonal agricultural work. Outsiders in any case have few incentives to work in the poor and often remote regions where settlements for the internally displaced are located.

Unemployment plays a central role in the disproportionate levels of poverty among the internally displaced compared to the rest of the population. Estimates of poverty levels in 2003 suggest that poverty levels among the local population are slightly lower than for internally displaced people and refugees (44.1 per cent and 50.3 per cent respectively). The difference grows significantly, however, when the data is disaggregated into urban and rural categories. The highest poverty levels are found among the internally displaced and refugees living in rural areas (60.6 per cent), whereas those in urban zones have a poverty incidence of 41.2 per cent (compared to an average of 44.4 per cent among the local population).⁷⁶ The internally displaced population has been particularly disadvantaged as a result of losing out in the privatization of land: 12.4 per cent of local populations work on their private farm as their main source of income, whereas only 2.8 per cent of the internally displaced do so.⁷⁷ Internally displaced people also show a much higher rate of continued dependence on benefits as their main source of income: 8.5 per cent compared to less than 0.1 per cent of local residents.⁷⁸

3.6.1 The internal registration system: a barrier to the right to work

“The right not to be discriminated against in the enjoyment of rights guaranteed by the Convention is also violated when states, without objective and reasonable justification, fail to treat differently persons whose situations are significantly different.”⁷⁹

The *de facto* retention of the internal registration (*propiska*) system despite its abolition in the Azerbaijani Constitution interferes with the exercise of the internally

⁷⁵ SPPRED, *Progress Report 2003-2004*, p.47.

⁷⁶ SPPRED, *Progress Report 2003-2004*, p.46.

⁷⁷ Through the 1990s the privatization of land and state enterprises was an ongoing process in Azerbaijan. Azerbaijani citizens were eligible to receive shares in privatized state enterprises in their districts and to own land. Due to displacement and the occupation of their lands IDPs were excluded from this process.

⁷⁸ SPPRED, *Progress Report 2003-2004*, p.46.

⁷⁹ European Court of Human Rights, *Thlimennos v Greece*, Application no 34369/97 judgement of 6 April 2000.

displaced's right to work, and serves to neutralize some of the beneficial conditions established to alleviate their situation. The internal registration system prevents them from moving around the country in search of gainful employment. In most cases those who move from rural areas to work in urban centres must do so without being able to change their internal registration, thereby obliging them to return to their registered residence to receive benefits, or they must pay bribes in order to do so.

Although the internal registration system applies to all citizens, the situation of the internally displaced is qualitatively different due to their lack of contractual ownership of housing, the tying of their eligibility to receive aid to their registered residence and the reluctance of the authorities to see movements of the internally displaced around the country. On account of these factors, Amnesty International is concerned that although Azerbaijani legislation in this field is not in itself discriminatory the retention of the internal registration system results in discrimination against the internally displaced in practice. It is difficult to see what objective and reasonable justification could be offered for treating the internally displaced in the same way as the rest of the population when their situation is different.

Furthermore, the internal registration requirement restricts enjoyment of some of the privileges established to enable self-reliance among the internally displaced population. The internally displaced are legally entitled to special measures to enable self-employment. For example, enterprises managed by the internally displaced enjoy a preferential 0.2% profit tax rate in rural areas. They also pay lower rates of income tax. However, these advantages are outweighed by *de facto* discrimination arising from their status as IDPs. They face problems in securing loans from local banks because they are not officially registered as residents; they may only receive microcredits, usually from international organizations. This makes it difficult for them to make purchases with significant outlays, such as cars or homes.

3.6.2 Unemployment in the new settlements

'Where would I get a job here? There is only work in Baku. If there is a company or firm operating out here they only give jobs to their relatives. For young people especially, there's no work out here'.

- Displaced Azerbaijani man in Biləsuvar.

The Committee on Economic, Social and Cultural Rights has clarified that respect of the right to an adequate standard of living, enshrined in Article 11(1) of the ICESCR requires that housing must be located so as to "allow access to employment options, health care-services, schools, child-care centres and other facilities". (Committee on Economic, Social and Cultural Rights General Comment 4 on Article 11(1) of the ICESCR). This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households" (Paragraph 8). The experience of the internally displaced housed in new settlements suggests that the provision of housing and access to employment have not been coordinated, with the result that finding

work was identified as the main problem by most inhabitants of the new settlements interviewed by Amnesty International.

Another internally displaced family in Biləsuvar told Amnesty International that while their allocated plot of land allowed them to feed themselves it was not sufficient to produce crops for sale. They remained dependent on state benefits to make ends meet. Internally displaced households in new settlements receive land plots of up to 1,200 square metres; in addition in some cases they may also receive plots of up to one hectare outside the perimeter of the settlement. Yet they were not supplied with agricultural equipment to farm this land. The one-off starting up subsidy (in the region of US\$220) is insufficient to purchase tractors or other equipment, and in any case is often expended on securing diplomas, identity documents and other bureaucratic charges.

Public sector employment in the structures of the relevant ExCom in exile and agricultural activity represent the only forms of livelihood in the new settlements visited by Amnesty International. However, several informants reported that without relatives or informal connections who could expedite the securing of employment in the public sector, jobs could only be obtained through the payment of bribes. A few individuals are able to survive as informal traders in sundries such as cigarettes, beverages and so on, others as taxi drivers. The only alternative is for male family members to emigrate as migrant workers to Turkey or Russia; in Russia, Azeris and other Caucasian nationalities face routine discrimination and harassment at the hands of police and in wider society.⁸⁰

Central to the problem of unemployment is the choice of location for the new purpose-built settlements for the internally displaced. Location decisions are taken by government officials in Baku with little regard or even knowledge as to the suitability of the locations involved. These decision-making processes are in any case non-transparent and do not include opportunities for consultation, let alone genuine participation, in violation of Committee on Economic, Social and Cultural Rights General Comment 4 on Article 11(1) of the ICESCR: the right to adequate housing, paragraph 12.⁸¹ Officials making these decisions reportedly do not visit proposed locations, and some locations, such as those within close range of the line of contact, are manifestly unsuitable for human habitation. Some new settlements in Ağdam and Tartar districts are located within sniper fire range of the line of contact, making agricultural activity impossible. Other locations suffer from other problems, including the lack of irrigation, salty soil unsuitable for agricultural activity or the absence of transportation links to relevant markets. Representatives of some international organizations attest to reports that some new settlements remain standing empty due to their unviable

⁸⁰ Amnesty International has documented the incidence of violent racism directed, among others, at ethnic groups from the South Caucasus in its report *Russian Federation: Violent racism out of control*, 4 May 2006, AI Index: EUR 46/022/2006. Available at <http://web.amnesty.org/library/Index/ENGEUR460222006?open&of=ENG-RUS>

⁸¹ Adopted 13 December 1991, available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/469f4d91a9378221c12563ed0053547e?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument)

nature.⁸² According to data gathered by the Azerbaijani NGO Aran, long distances between new settlements and district centres results in substantial travel expenses for families to obtain the allowances to which they are entitled, expenses sometimes comparable to the amount they are eligible to receive.⁸³

Amnesty International visited a complex of new settlements in the region of Biləsuvar. The settlements were located some 50 kilometres away from the nearest major market town of Biləsuvar, and overwhelmingly populated by some 2,000 internally displaced from Cəbrayıl region. Although minibuses run four times a day to Biləsuvar, informants in the settlements told Amnesty International that they have very little contact with Biləsuvar, forming instead a sort of ‘subsistence micro-economy’ of their own. Internally displaced people in many of the new settlements experience extreme feelings of isolation. In one settlement in Goranboy region, Amnesty International was told that outsiders came to this settlement for the first time only two years ago and that this was the first ever visit by a foreigner.

Resettlement in remote and barren parts of Azerbaijan, resulting from the official policy of maintaining community coherence, is resulting in violations of the right to adequate housing – one component of which is proximity to public services. Large numbers of the internally displaced are being transferred to new regions which do not include the necessary infrastructure to support a meaningful economic or community life. In the words of one Azerbaijani human rights activist, the new settlements are ‘open prisons’, locking their inhabitants into a continued relationship of dependence on the state, contravening the stated aims of the Azerbaijani Government to restore livelihoods for the internally displaced and increase their self-reliance.

4. Conclusions and recommendations

Amnesty International believes that everyone, irrespective of status, is entitled to respect for and protection of their human rights. The entire population of Azerbaijan, including the internally displaced, should therefore be able effectively to enjoy all human rights guaranteed under domestic and international human rights law, without discrimination. The principle of non-discrimination in the enjoyment of rights is enshrined in Articles 2(1) and 2(2) of the ICCPR and ICESCR respectively, and acknowledged in no less than four Principles in the Guiding Principles (1, 4, 22 and 29). Article 2(1) of the ICCPR obliges Azerbaijan to "ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the

⁸² Amnesty International interviews with representatives of international organizations, Baku, July 2006. One interviewee reported being physically attacked by the residents of a new settlement in the Mingəçevir region, who complained that their “husbands had left them for Baku”.

⁸³ Aran/Oxfam, *Final report of the survey on changes in the lives of internally displaced persons rehoused in newly established settlements* (Barda, 2005), p.19.

present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origins, property, birth or other status."

Since the onset of the Nagorny Karabakh conflict the government of Azerbaijan, with the assistance of the international community, has struggled to address the needs of the population internally displaced as a result of the conflict. Amnesty International acknowledges these efforts, and that they are driven by the right of displaced people to return to their original homes in conditions of dignity and security. This remains a key aspiration for many displaced people, and fulfilling this right to return to their previous homes is likewise a key plank in the Azerbaijani government's policy towards the displaced. However, displaced people do have the right to make other choices, and this right to chose between return, integration or permanent resettlement in another part of the country is being restricted by ongoing violations of a number of their other rights.

This report has outlined a series of practices which in effect discriminate against and segregate the internally displaced population. These include restrictions imposed by the unconstitutional retention of the internal registration (*propiska*) system, the construction of geographically and economically isolated settlements to house the internally displaced population and their exclusion from consultative processes. This may in part be attributed to efforts to maintain community coherence in displacement, a principle with which many displaced people that Amnesty International spoke to agreed. However, it remains a concern that the current emphasis on "temporary" solutions to problems arising from internal displacement is resulting in violations of fundamental human rights. National authorities' insistence on return as the only option for the internally displaced in unresolved conflicts has been acknowledged by the Council of Europe's Commissioner for Human Rights in his 3rd Annual Report:

'The instrumentalisation of IDPs is frequently expressed through boisterous political rhetoric insisting that an eventual return is the only real solution to the current plight of IDPs. They are all too often misinformed as to the extent of their rights and encouraged to believe that local registration and greater integration will result in the forfeiture of the right to return.'⁸⁴

In the case of Azerbaijan, although the government appears willing to allocate substantial resources on paper to social programmes for the internally displaced, these programmes are not being implemented in ways that safeguard the human rights of their supposed beneficiaries. State officials consistently emphasise the "temporary" nature of measures instituted to provide for the internally displaced population, an emphasis increasingly at odds with the protracted nature of displacement. As a result many individuals remain uncertain of

⁸⁴ Council of Europe Commissioner for Human Rights, *3rd Annual Report January to December 2002, to the Committee of Ministers and the Parliamentary Assembly*, Strasbourg, 19 June 2003, p.43. <https://wcd.coe.int/ViewDoc.jsp?id=43435&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>

their rights and, as this report has documented, many do believe that steps towards integration where they currently live will result in diminished rights in the event of a peace settlement.

Reluctance to see the long-term integration or permanent resettlement of the internally displaced population results in a deficit between the resources dedicated to IDP programmes and the effectiveness of these programmes in achieving their stated goals in practice. Although physical conditions for those transferred from emergency relief centres to new settlements may have improved and monthly allowances raised, the enjoyment of fundamental human rights has not significantly improved. The situation creates concern that the construction of settlements which are geographically and economically isolated, as part of a policy aimed in part at preserving displaced people as a constituency for return, in effect deprives such people of equal conditions for the fulfilment of their rights to integration or permanent resettlement. This strategy may be self-defeating as by effectively depriving internally displaced communities of the means of subsistence, the new settlements will in themselves encourage rural to urban depopulation processes. If the Azerbaijani government aims to stem migration to Baku it must create the conditions for viable self-reliant communities among the internally displaced population elsewhere. However, current new settlements do not respect the right to adequate housing and impede the realisation of other rights.

The internally displaced have been excluded from consultation at all levels and their rights to genuine participation in decisions affecting them are not respected. Government officials continue to view internally displaced persons as passive objects of policy rather than active bearers of rights. Decisions with crucial consequences for the internally displaced, such as the location of new settlements to house them, are taken without consultation, nor do effective structures for such a consultative process exist. As a result policies are less effective than they would be if their intended beneficiaries were consulted, an opportunity cost currently borne by the Azerbaijani government. Amnesty International was told consistently by individuals of the indifference of officials, or worse, their exploitative attitude towards the displaced.

Underlying many of the human rights concerns outlined in this report is the fact that there is, as yet, no clearly elaborated document establishing what rights to restitution and compensation the internally displaced population will have in the event of return or permanent integration/resettlement. This means that they do not have a clear conception of how their present actions will affect their future rights. It is therefore a matter of urgency that a full explanation of principles of restitution and compensation be agreed, in consultation with representatives of the wider internally displaced population, codified and published as soon as possible. The Ministry of Foreign Affairs of Azerbaijan has informed Amnesty International that an Action Plan on the 'Great Repatriation', defined as 'a programme of return of displaced persons to their permanent [residence]', is currently in the process of preparation. A 'Law on Restitution' will be adopted within this programme. In developing standards appropriate to this Action Plan, consideration should be given to the so-called "Pinheiro principles" currently under consideration by the UN Human Rights Council. These principles are based on existing international human rights law and standards, as well as lessons-learned

from other post-conflict situations. However, instruments governing processes of restitution and compensation must include provisions for those who opt for integration or resettlement in a location other than their pre-war homes.

The Azerbaijani economy is developing fast after the initial post-Soviet collapse, and is already seeing the inflow of substantial oil revenues. These are set to increase dramatically over the next decade. This new abundance of resources requires a commensurate increase in those devoted to the progressive realisation of economic, social and cultural rights. Positive steps have been taken in this regard, including the devising and publishing of a national strategy and the allocation of funds from the State Oil Fund. However, as this report has documented, the shortfall between formal policy and budgetary allocation on the one hand and implementation on the other remains considerable. Like other policy domains, the quality of IDP programmes and services is significantly compromised by corruption at all levels of government.

4.1 Recommendations

Amnesty International calls upon the Azerbaijani authorities to:

Take steps to ensure the right of the internally displaced population to genuinely participate in decisions affecting the exercise of their human rights. Such steps may include:

- Creating consultative structures with representatives of the internally displaced population who have the possibility, for example, of influencing decisions on the selection of locations for new settlements and other issues involved in their construction.
- Elaborate and publish a framework outlining the rights of displaced people in the event of a peace agreement, clearly detailing rights to restitution and compensation.

Amend residence registration procedures to ensure that they do not violate human rights, including those of the internally displaced population. In particular:

- Reform Azerbaijani laws, policies and practices still upholding the internal registration (*propiska*) system to make them consistent with the abolition of this system in the Azerbaijani Constitution, and ensure that any system replacing it fully respects and protects human rights, including the rights to freedom of movement and choice of residence.

Take steps to eliminate discrimination in practice against long-term internally displaced persons, including:

- Ensure that the internally displaced are not impeded in the registration of new family units as separate households with full eligibility to subsidies and benefits as guaranteed in law.
- Ensure that the internally displaced have an equal right in practice to access to social services and health care as guaranteed in law, including through taking steps to eradicate all direct, indirect and informal charges levied to internally displaced persons to access essential health care.
- Ensure that internally displaced persons housed in new settlements are guaranteed security of tenure over housing and land, and have equal access to procedures to secure legal title.
- Ensure that internally displaced persons are fully informed as to their rights to return or to resettlement or integration with local society if they so wish.
- Collect disaggregated data to monitor the realisation of rights by the internally displaced population through the implementation of regular and comprehensive surveys.

Take progressive steps to ensure that adequate resources are allocated to the realisation of the human rights of the internally displaced population:

- Comply with the obligation under Article 2(1) of the ICESCR to devote the maximum of available resources to achieving progressively the full realisation of economic, social and cultural rights, without discrimination against internally displaced persons. To this end Azerbaijan should devote a level of resources to the realisation of, at the minimum, essential levels of these rights commensurate with Azerbaijan's increasing economic development and prosperity.

Ensure that all settlements built for the internally displaced respect the right to adequate housing. In particular:

- End the construction of new settlements in remote, infertile or otherwise unsuitable locations. Settlements should for example be close to basic health and education services and well communicated with adequate opportunities for employment.
- Those internally displaced persons already living in settlements which do not meet international standards of adequacy in terms of material conditions or infrastructure should be given the option of being relocated elsewhere.

- Accept and implement Article 31 of the Revised European Social Charter on the right to housing.
- Review and monitor construction processes of further settlements constructed for the internally displaced to ensure the material adequacy of the housing provided.
- Prioritize and allocate resources to meet the housing needs of the internally displaced in urban contexts through a transparent, consultative process.

Take steps as a matter of priority to progressively realise the right of the internally displaced population to the highest attainable standard of health. In particular:

- Ensure sufficient numbers of qualified medical professionals are available and accessible to address the health needs of IDPs living in remote or poorly communicated settlements.

Amnesty International calls upon the international community to:

- Continue support of IDP programmes, while encouraging the government of Azerbaijan to devote the maximum of its available resources towards ensuring progressively the full realisation of the human rights of the population, in particular minimum essential levels of economic, social and cultural rights of the internally displaced population.
- Continue and redouble efforts to monitor and support conditions for the enjoyment of the rights to freedom of expression, assembly, association and participation to ensure that full and transparent debates over the direction of policy on internal displacement may be ensured.

Annex1 Use of geographical names in this report

In this report Azeri place names are rendered in the Azeri language, using some Azeri letters that may be unfamiliar to some readers. There are often several competing spellings for the same place name, due to the transliteration of the original Azeri from competing Cyrillic (now no longer used) and Latin scripts. For convenience major place names used in this report are listed below, with common alternative spellings in brackets. The exception is the use of the internationally recognized name for the capital, Baku, rather than the Azeri Bakı. Where an alternative spelling has been used in a source quoted in this report, that spelling is of course retained. In cases where parties to the Nagorny Karabakh conflict use alternative place names for the same location, that name most commonly in usage at the onset of the conflict in the late 1980s will be used here while the alternative will be indicated in brackets after the first usage, e.g. Stepanakert (known as Xankəndi to Azeris).

Ağdam	(Aghdam, Agdam)
Ağcabədi	(Aghjabedi)
Biləsuvar	(Bilesuvar, Bilasuvar)
Cəbrayıl	(Jebrail)
Kəlbəcər	(Kelbajar, Kalbajar)
Xocalı	(Khojaly, Khojalu)
Xocavənd	(Khojavend)
Laçın	(Lachin)
Qubadlı	(Gubatly, Gubatlu)
Saatlı	(Saatly)
Sumqayıt	(Sumgait)
Şuşa	(Shusha)
Zəngilan	(Zangelan)
Xankəndi	(Khankendi)