

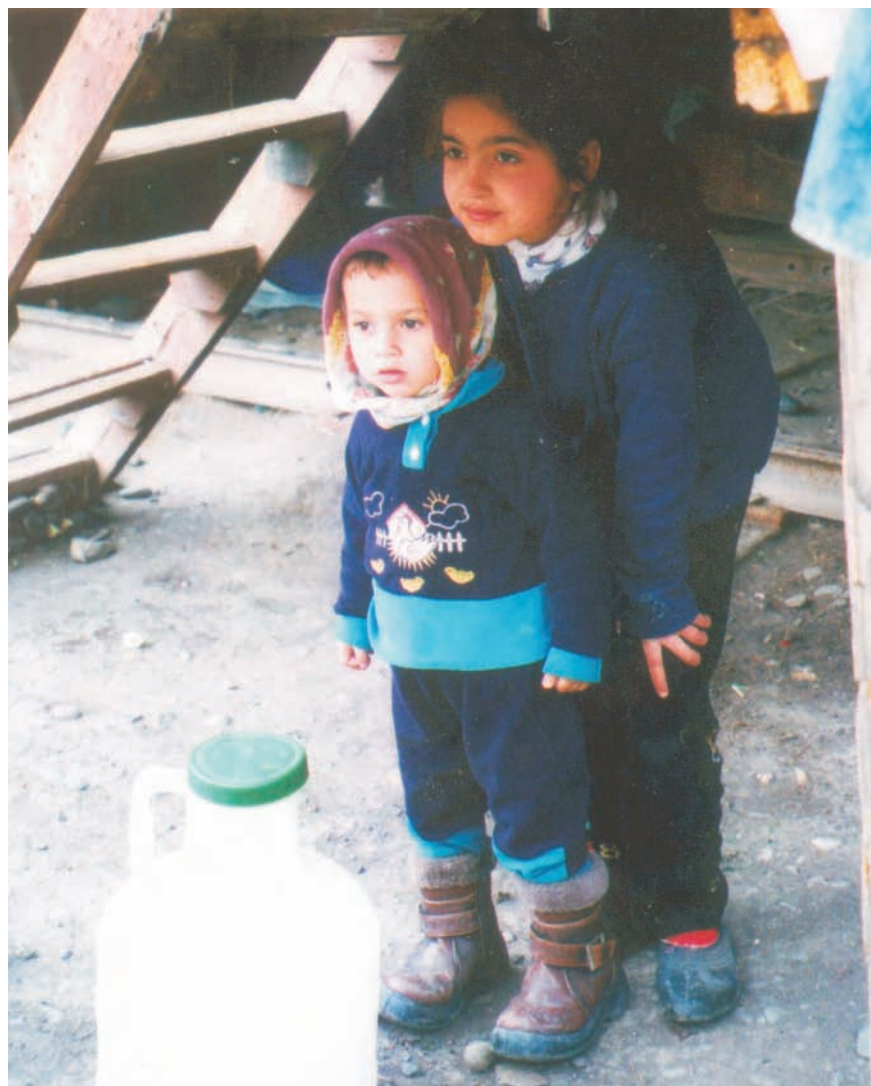
EUROPEAN COMMISSION



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Azerbaijan: Analysis of Gaps in the Protection of Internally Displaced Persons (IDPs)

October - 2009

Photo by Ramin Talibli

FOREWORD

Armenia-Azerbaijan, Nagorno Karabakh conflict generated a displacement problem which continues to be a challenge to address. According to the Government of Azerbaijan, at the time of the ceasefire in 1994, Azerbaijan hosted an estimated 250,000 Azeri refugees from Armenia, and 50,000 Mesketian Turks from Central Asia. This year the number of internally displaced persons from occupied Nagorno Karabakh and the seven adjacent districts was more than 600,000.

Today the Government estimates that there remain 1 million naturalized refugees and internally displaced persons in Azerbaijan, the vast majority of whom were displaced during the early 1990s.

This report analyzes the protection situation of the internally displaced population in Azerbaijan. Their situation and the prospects of their return to the areas from where they were displaced continue to be a major political and social concern of the Government. The aim of this analysis is to identify current gaps in government and community protection capacities as a basis for future development measures, national action plans and projects to remedy those gaps. The results of the countrywide UNHCR 2007 Age, Gender and Diversity Mainstreaming (AGDM) exercise for IDPs in the form of participatory interviews have also been incorporated into this gaps analysis.

The gaps analysis is an integrated part of the Strengthening Protection Capacity Project - Southern Caucasus (SPCP-SC) financed by the European Commission and implemented by UNHCR, which aims to strengthen protection responses to forced displacement in the region. The views expressed in this report do not reflect the official opinion of the European Union.

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LIST OF ABBREVIATIONS

AGDM	Age, Gender and Diversity Mainstreaming
ANAMA	Azerbaijan National Agency for Mine Action
AZN	Azerbaijani Manat (currency)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
DRC	Danish Refugee Council
ECHR	European Convention on Human Rights
ExComs	Executive Committees
HAYAT	Hayat International
ICCPR	International Covenant on Civil and Political Rights
ICESC	International Covenant on Economic, Social and Cultural Rights
ICLA	Information, Counselling and Legal Assistance
ICRC	The International Committee of the Red Cross
IDPs	Internally Displaced Persons
IMF	International Monetary Fund
IOM	International Organization for Migration
IRC	International Rescue Committee
MDGs	Millennium Development Goals
NGOs	Non-governmental Organizations
NRC	Norwegian Refugee Council
OSCE	Organization for Security and Cooperation in Europe
RTP	Right to Play
SC	Save the Children
SCR	State Committee for Refugees and IDPs
SFDI	Social Fund for Development of IDPs
SOFAR	State Oil Fund of the Azerbaijan Republic
SPCP-SC	Strengthening Protection Capacity Project – Southern Caucasus
SPPRED	State Programme for Poverty Reduction and Economic Development
SPAPSD	State Programme on Alleviation of Poverty and Sustainable Development
UMID	UMID Humanitarian and Social Support Center
UN	United Nations
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UNICEF	United Nations Children Emergency Fund
UNHCR	United Nations High Commissioner for Refugees
WARD	Women’s Association for Rational Development
WHO	World Health Organization

EXECUTIVE SUMMARY

The Republic of Azerbaijan was the recipient of a mass influx of IDPs resulting from Armenia-Azerbaijan, Nagorno Karabakh conflict at an early stage of independence when the country had little capacity to cope with the unfolding humanitarian crisis. Fourteen years later, the status of Nagorno-Karabakh remains contested and, according to Government statistics, over 600,000 Azeri citizens remain displaced.

The situation of the displaced in Azerbaijan is notable for three reasons. The first is that, in a country of a little over 8.5 million citizens, Azerbaijan hosts one of the largest per capita displaced populations in the world. Secondly, whereas in many situations of internal displacement it is the Government itself that contributes to the problem, in Azerbaijan the displaced generally enjoy the same rights as other citizens and do not experience any discernable discrimination. The third important distinction is that the Government of Azerbaijan, now experiencing substantial economic growth, assumes full responsibility for improving the conditions of IDPs while at the same time encouraging the continued engagement of international organizations.

There are of course many, and very substantial, challenges in improving the situation of IDPs. The following are some of the outstanding gaps identified in this report:

Participation of IDPs

IDPs are not yet systematically included in the planning of programmes aimed at improving their situation including in the construction of new settlements and their relocation. Up until now, dialogue and consultations with IDPs have tended to be rather ad hoc in nature and does not ensure that all the needs and concerns of IDP men, women, boys and girls - and in particular those with specific needs - are adequately taken into account. Whilst the Government is taking gradual steps to include IDPs in solutions relating to accommodation and education, continuous efforts are required to ensure full participation of IDPs in the decisions affecting their lives.

Gender Based Violence

Awareness of gender-based violence is low in IDP communities as among other communities, and cases are rarely reported or brought to justice. There is limited psychosocial, medical and legal support available to survivors and little knowledge of how to deal with and respond to GBV among police and medical staff.

Child Labour

There are reported cases of IDP girls and boys dropping out of schools early to work to supplement family income, however this is also true for the general rural population that lives in poverty. Adolescent girls are sometimes forced to give up their education due to early marriages. National mechanisms responding to child labour and securing education, rest and leisure for children are weak.

Persons with disabilities, older persons and other IDPs with specific needs

Although persons with disabilities, older persons and others with specific needs are

included in national IDP programmes, there are few targeted measures to identify and respond to their particular needs.

Documentation

IDPs often face difficulties obtaining necessary documentation due to the remoteness of rural settlements from relevant authorities and their limited knowledge of complex administrative and judicial procedures. In particular, IDPs that fled without essential documents quite often face bureaucratic obstacles and delays in obtaining originals from their place of origin limiting access to IDP documentation and some related assistance. This is particularly true for vulnerable groups, such as single women households.

Freedom of movement and choice of place of residence

Government policies limiting urban migration, while understandable, make it difficult for IDPs to retain associated benefits if they move to major urban centers. For some IDPs this means loss of essential government support. For others it results in separation of their family, as one family member moves to seek employment while the rest of the household remains in the place of IDP registration.

Adequate housing

The relocation of IDPs from tented camps to new settlements, whilst a very positive initiative, has provided housing solutions to less than 30% of the IDPs in the country. Many IDPs continue to live in dire conditions in collective public buildings in urban areas as well as in rural settlements badly in need of repair. The amended State Programme will next address the improvement of living conditions for IDPs in urban areas, notably those housed in schools, collective public buildings, as well as in Finnish-type settlements in rural areas.

Some new settlements have been constructed within a few kilometers of the military confrontation line raising real security concerns. The remoteness of some settlements poses problems for some IDPs in accessing employment and essential services.

Health Care

The remote location of some IDP settlements makes it difficult for IDPs to access health facilities and receive specialist services such as gynecology or treatment for chronic conditions. Despite legislation granting free healthcare, IDPs generally pay the same official and unofficial fees as other citizens.

Education

School attendance rates among IDP children and youth are not uniform for a number of reasons including costs associated with education such as clothing, transport and books. Other factors limiting attendance are the remoteness of some IDP households and early marriage of IDP girls.

Livelihoods

IDPs in rural areas, as many other citizens, face difficulties securing employment and

remain largely dependent on government assistance. The remote location of some new settlements also limits the possibilities of IDPs to become self-reliant, particularly given the limited availability of vocational training, micro-finance and support in establishing small to medium scale businesses. The isolation of single mothers, youth and those with specific needs is compounded by their limited possibilities for participating in economic life.

Property

IDPs sometimes face difficulty obtaining rights of ownership in residential property, land and businesses due to their temporary residence status. They are presently unable to acquire land and housing allocated for their temporary use in a government sponsored settlements. Financial and administrative barriers to acquiring property limit long-term possibilities for participation in social and economic life.

Durable solutions

While many IDPs have reached a state resembling integration, they are considered as 'temporary residents' of host communities pending any possible future return and to date little specialized emphasis has been given to fostering self-reliance. Given the protracted situation of the Armenia-Azerbaijan, Nagorno Karabakh conflict, the development of a comprehensive solutions strategy that includes the possibility of self-reliance whilst maintaining voluntary return as the preferable solution, would enhance the prospects of IDP men, women and children to find a meaningful resolution to their situation.

1. CONTEXT

1.1 Demographic profile

Azerbaijan has a population of 8.5 million people, of whom 7% are internally displaced. Azerbaijan has one of the highest per capita concentrations of IDPs in the world.

The majority of IDPs - approximately 90 % - originate from seven territories around Nagorno-Karabakh, which has been occupied by Armenia since the conflict between Armenia and Azerbaijan over fifteen years ago. The IDP population is more or less equally divided between women (50.4%) and men (46.6%), with a relatively high proportion of children (40.8%) and elderly persons (10.1%)¹.

IDPs live in all of the 76 administrative districts of Azerbaijan, although the majority has settled in and around the capital Baku, as well as in Sumgayit. Significant numbers of IDPs also live along the central-southern route of Fuzuli-Aghdam-Agjabedi-Barda-Mingechevir-Ganja, the northern route of Shamakhi-Ismayli-Gabala-Sheki and the southern route of Sabirabad-Saatli-Imishli-Beylagan².

While IDPs initially lived mainly in 12 IDP camps in the south, the Government started the construction of new settlements in different regions of the country in 2002, and demolished all tent camps at the end of 2007. However, a significant number of IDPs continue to live in public buildings such as schools, hostels and dormitories.

The socio-economic profile of the IDP population is diverse. Most have an agricultural background and basic primary and secondary education. However, IDPs from poor and rural backgrounds tend to have a lower level of education and less developed skills than IDPs from urban and economically well off families. The uprooting of IDPs from their place of origin has often meant an interruption of education and in many cases the inability of IDPs - in particular of youth - to continue their education.

Women, children and the elderly have been particularly affected by flight. Prolonged displacement has not only negatively impacted on their psychological and social well-being, but has often lead to isolation and marginalisation due to the greater difficulties they face in integrating fully into economic life and becoming self-reliant. The Armenia-Azerbaijan Nagorno-Karabakh conflict also generated a large number of disabled and handicapped IDPs and some cases of orphans, who are often solely dependent on their relatives or neighbours for survival.

1.2 Causes of displacement

As mentioned, most IDPs were displaced during the Armenia-Azerbaijan Nagorno-Karabakh conflict, which resulted in the occupation by Armenian armed forces of the Nagorno-Karabakh region and the adjacent seven districts. The 1994 ceasefire remains fragile with violations frequently occurring along the frontline.

¹ Figures are taken from the letter of the State Committee on Refugees and IDP Issues dated 10 February 2009

² IDP statistics with regional breakdown provided by the State Committee on Refugees and IDP Issues by letter dated 16 March 2009

Peace negotiations are conducted under the auspices of the OSCE around the core issues of the settlement of the conflict, namely, the withdrawal of the Armenian armed forces from all the occupied territories of Azerbaijan; recognition of the territorial integrity of Azerbaijan; the return of the displaced Azerbaijani population to their places of origin in and around the Nagorno-Karabakh region; and provision of normal, secure and equal conditions of life for Armenian and Azerbaijani communities living there, which will allow an effective democratic system of self-governance to be built up in this region within Azerbaijan.

The legal and political grounds for the settlement of the conflict are based upon the norms and principles of international law as reflected in several United Nations Security Council resolutions, the appropriate documents and decisions of the OSCE and the Council of Europe as well as other international organizations. These documents reaffirmed the sovereignty, territorial integrity and inviolability of the internationally recognized borders of the Republic of Azerbaijan.

The Government of Azerbaijan has started drafting a Framework Plan for the Return of IDPs (“The Great Return Programme”) with the help of the international community³.

1.3 Public perceptions

In urban areas IDPs live side by side with local populations whereas in rural areas IDPs tend to live in isolated settlements, often at long distances from local towns. Relations between IDPs and the local population are generally amicable and there is a high level of tolerance among the local population for the plight of IDPs. The participatory assessment conducted with women and men of all ages in 2007, confirmed that IDPs generally felt accepted by other communities and felt no discrimination.

The Government’s policy to assist IDPs places them in a somewhat privileged position in relation to the local population. The latter, however, generally accept this as a consequence of the displacement from Nagorno-Karabakh and the seven neighbouring regions and specifically as a means to address the poverty and vulnerability of IDPs. The high degree of support for IDPs that is reflected in Government pronouncements and policies is therefore also reflected in the media and the attitudes of local populations as necessary to address a lingering consequence of the shared loss of Nagorno-Karabakh.

Despite the high degree of understanding shown towards IDPs, it is also the case that there are instances of conflicts arising due to the special status of IDPs. In the case of mixed marriages for example, the spouse who is an IDP may have access to services to which his or her spouse is not entitled, such as privileged access to employment, government financial assistance and free health services.

Similarly, property ownership privileges of IDPs resulting from Presidential Decrees, which are not shared by the local population, can lead to tensions. In the past, tensions have arisen between locals and IDPs as a result of IDPs occupying private property, forcing property owners to vacate their land or apartments. Increasingly, locals have taken property issues involving land or apartments occupied by IDPs to court, claiming that their right to property should be respected, despite legislation which gives IDPs the

³ For more details on return planning please refer to Section 11 of this report.

right to remain in lands or apartments occupied by them. This is particularly the case in urban centers, where IDPs and locals often live in the same buildings. In rural areas, conflicts between locals and IDPs arise over land, given the increasing privatization of huge swaths of property in the regions and the encroachment of private construction on IDP settlements.

On the other hand, IDPs report that local officials do not always treat them in accordance with their special status granted by legislation with regard to free access to educational and medical facilities or public administration. Discrimination against IDPs is nevertheless not a widespread phenomenon. Isolated cases of harassment by locals have also been reported by IDPs, particularly by children and adolescents between the ages of 10 and 17 who report beatings and taunting by locals due to their IDP status.

Public awareness campaigns on tolerance and the inclusion of awareness programmes and communal activities in school curricula could promote more meaningful cohesion between IDPs and other communities. This would particularly benefit children and adolescents in schools which host both IDPs and locals.

1.4 Meaningful participation

During his mission to Azerbaijan, the Secretary General's Representative on Internally Displaced Persons observed measures initiated by UNHCR to ensure more systematic consultation with IDPs through participatory assessments engaging them in focused discussions based on gender and age group (10-13, 14-17, 18-40, 40+) as well as vulnerability (disabled, single mothers, orphans). Focus group discussions dealing with issues such as documentation, living standards, health care, education and recreation, employment and physical security were held in the fall of 2007 and IDPs have been consulted by NGOs, UNHCR and WFP in previous years on matters pertaining to specific livelihood strategies, protection risks and food assistance⁴.

Cumulatively, these consultations have enhanced dialogue with the Government of Azerbaijan on how to improve protection standards and address gaps in existing State Programmes and Action Plans and have contributed to addressing assistance needs to the most vulnerable IDPs. They have also been continuously incorporated into UNHCR programme planning and have led to the re-orientation of activities from infrastructure rehabilitation to an increased focus on legal assistance and advocacy, vocational training and income generation and community development.

While many IDP settlements in both urban and rural areas have benefited from projects including community mobilization components, such training often took place several years ago and any financial contributions which were linked to community mobilization at the time have decreased or no longer exist. While knowledge from mobilization trainings has generally been retained, the main problem of IDPs remains the lack of financial resources allowing them to conduct joint activities or to find solutions to problems within the community.

Despite the Government's efforts to include IDPs in the decision-making process, their

⁴Examples of such surveys include the 2007 DRC IDP Livelihood assessment, 2005 WFP survey on Food Assistance, 2005 UNHCR-OCHA Mission survey to assess the situation of IDPs in Azerbaijan.

participation in the planning of programmes addressing their situation - in particular the issue of resettlement to new government settlements, – remains of concern. Information exchange and communication between local authorities and IDPs varies from district to district. The presence of active community leaders, the existence of community funds and the quality of relations with local authorities and State Committee representatives also has a significant impact on the effectiveness of community participation. While many Executive Committees have established regular consultation hours for IDPs, this strategy does not benefit the vulnerable or IDPs settled in remote and rural settlements, in particular, women, elderly, single parents and orphans. Although the Government tries to involve IDPs in planning significant issues related to them, such as identifying the places of new settlements, participation of IDP communities does not seem sufficiently effective. The system of sending State Committee and Executive Committee representatives to IDP settlements contributes to improved information exchange and is a best practice in many districts. Nevertheless, a more comprehensive communication strategy could benefit both IDPs and government authorities in finding common solutions and in improving relations.

1.5 Solution-oriented approach

Since 2001, the Government of Azerbaijan has increasingly focused its economic resources on improving the situation of IDPs. In 2004, the Government of Azerbaijan approved the “State Programme for the Improvement of Living Standards and Generation of employment for Refugees and IDPs” based on a Presidential Decree⁵. While the State Programme mentions refugees in its title, this refers to ethnic Azeris who fled from Armenia, as well as Mesketian Turks from Central Asia that have since been naturalized.

On the basis of the State Programme, the Government of Azerbaijan adopted an Action Plan for its implementation, which included the construction of new settlements for IDPs living in poor conditions, including the elimination of so-called tent camps by the end of 2007 in various regions of the country; improving the living conditions of IDPs living in densely inhabited urban areas, in particular public buildings such as schools, dormitories or sanatoriums; and improving infrastructure such as water supply, electricity and sewage.

The 2004 State Programme also focused on poverty reduction and improved employment opportunities for IDPs, through training; community mobilization; income generation activities, in particular in the agricultural sector; skills training such as carpet weaving, leather and wool production; and the provision of credits to small entrepreneurs and land and financial grants for equipment.

The 2004 State Programme was also intended to ensure better coordination of the activities of international and national humanitarian agencies involved in IDP and refugee issues including in the pursuit of durable solutions and mine clearance in liberated territories, as well as to strengthen the Social Fund for Development of IDPs.

The 2004 State Programme links to the broader “State Programme on Alleviation of

⁵This State Programme followed a National Poverty Reduction Strategy which focused on IDPs and which the Government implemented in 2003-2005. Measures included food assistance, construction of settlements and improvement of infrastructure as well as the conduct of an annual survey on the IDP population. The latter was not implemented.

Poverty and Sustainable Development in Azerbaijan (SPAPSD) 2008-2015”, which aims to achieve the Millennium Development Goals (MDGs) and includes a sector which focuses on IDPs and refugees. The main goals of the SPAPSD are to improve living conditions and access to utilities, generate employment opportunities, reduce the poverty level, increase access to health care and reduce infectious disease and to increase access to education for refugees and IDPs. It also seeks to improve the current statistical data on refugees and IDPs. The newly approved SPAPSD follows the previous 2003 State Programme of the same name, and is potentially a major and long-term factor for a sustainable improvement of the situation of IDPs.

The protection of IDPs in Azerbaijan also forms an integral part of development instruments, such as the Common Country Assessment (CCA) and the United Nations Development Assistance Framework (UNDAF).

On 31 October 2007, the President of Azerbaijan issued an additional Decree⁶, which approved an amended version of the “State Programme to Improve Living Conditions and Employment opportunities of Refugees and IDPs” with the aim of generating more employment for IDPs by 2011 and construction of infrastructure, in particular 15,000 houses, as well as schools, hospitals and community facilities in an area of 8,000 square meters. A total of 1 billion AZN is required for the implementation of the State Programme⁷.

The Government of Azerbaijan has made considerable efforts to achieve the above-mentioned objectives of the 2004 State Programme, in particular in the infrastructure sector by eliminating all tent camps by the end of 2007. So far, the Government has constructed 57 settlements with a total of 16,790 houses for 75,500 IDPs, and infrastructure such as electricity and water supplies.⁸ . Increased focus still has to be given to generating employment opportunities and income generation or skills training.



New IDP settlement built by the Government in Fuzuli District

Humanitarian assistance to IDPs is generally provided by the Government without discrimination and in accordance with their privileged status in comparison to the local population. Humanitarian assistance for IDPs encompasses a financial stipend and fuel assistance and exemptions from payment of utilities. Registration as an IDP is a pre-

⁶ Presidential Decree No. 2475 “On additions to Decree 298 “State Programme on the Improvement of Living Conditions of Refugees and Internally Displaced Persons and Employment Promotion” approved by the President of the Republic of Azerbaijan on 1 July 2004

⁷ Azerpress, 01 November 2007 “State Programme to improve living conditions of refugees and IDPs is valued at AZN 1 billion” and Government sources

condition for eligibility to humanitarian assistance. In 2007, close to 530,000 IDPs received government assistance⁹.

The Government of Azerbaijan has also committed itself to development of a Framework Plan for the Return of IDPs in the event of a settlement of the Nagorno-Karabakh conflict. The primary purpose of this exercise, given the evident constraints at the present time on detailed programme planning, is to ensure common understanding among the Government and key international agencies on the principle of voluntary return, conditions for return, and the necessity of sectoral coordination mechanisms. UNHCR is playing a leading role in the development of the Great Return Programme on behalf of UN agencies in Azerbaijan, the finalisation of which depends on progress with regard to a peaceful settlement of the conflict.

⁸ Information received from Government, September 2009

⁹ Information received from Government, September 2009

2. INSTITUTIONAL PROTECTION FRAMEWORK

2.1 Applicable international law

Azerbaijan has signed and ratified almost all major United Nations human rights treaties including the International Covenant on Civil and Political Rights (ICCPR and its Optional Protocol), the International Covenant on Economic, Social and Cultural Rights (ICESC), the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol 1; the Convention on the Rights of the Child, including the Protocol on the Sale of Children, Child Prostitution, and Child Pornography and the Protocol on the Involvement of Children in Armed Conflicts and the International Convention on the Elimination of all forms of Racial Discrimination, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Azerbaijan has also ratified the four Geneva Conventions of 12 August 1949.

Azerbaijan has been a member of the Council of Europe since 2001 and is a party to the European Social Charter, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols 1 to 8, 11 and 12. It recognizes the jurisdiction of the European Court of Human Rights.

Ratified international treaties constitute an integral part of Azerbaijan's legal system¹⁰ and prevail over national legislation in the event of conflicting provisions. This rule does not, however, concern the Constitution and other acts adopted by referendum¹¹.

In 2002, Azerbaijan established a Constitutional Court. However, with the argument that no violations of the Constitution have occurred, cases relating to IDP rights are often not accepted for review there. National courts do not have much practice in application of international law and tend to refer to domestic law even if it falls short of international standards. As a result, IDPs are not always able to successfully argue their rights under international law in national courts.

2.2 National legal framework

Azerbaijan's national legislation contains a multitude of legal provisions aimed at normalizing the status of IDPs as citizens with equal rights, while at the same time affirming their special situation.

The most important law affecting IDPs is the 1999 Law of the Republic of Azerbaijan on IDPs (Internally Displaced Persons) and Refugee Status. Article 1 of the law defines an IDP as "any person who has moved to another place by being forced to leave his/her permanent residence within the territory of the Republic of Azerbaijan in connection with military aggression or natural or manmade disaster."

The State Committee for Refugees and IDPs, grants IDP status according to the law and registers all cases. IDP status ceases to exist by law if an IDP returns to his place of origin or is provided with living space in his region of origin equivalent to his previous residence or where the GoA provides adequate living space by special decision. In

¹⁰ Art. 148, par. 2 of the Constitution

¹¹ Art. 151 of the Constitution

practice, the provision of new houses to IDPs has not resulted in the cessation of IDP status.

The 1999 Law on IDPs also regulates the rights and obligations of IDPs, including the right to free accommodation, health services, social assistance, pensions and primary education. It grants IDPs equal access to markets and the right to access courts and sue for damages. Other significant provisions include the right to return to the place of origin, the right to be allocated temporary land, the provision of interest-free loans and temporary assistance in seeking employment. Compensation for movement to new residences based on government decisions and exemption from notary fees on property transactions are also included.

The 1999 “Law on the Social Protection of Internally Displaced Persons and Persons equated to them” grants IDPs the right to free temporary accommodation, assistance in finding employment, free health care, social assistance and pensions, free primary, secondary and University education, free public transport and exemption from the payment of utilities and taxes. The Law also foresees the provision of land plots to IDPs based on preferential loans and the provision of technical assistance.

The Law states that the government will attempt to provide permanent or temporary/seasonal employment for IDPs and provides for securities in cases of staff reduction. IDPs are also exempt from having to provide an employment book during application procedures and are eligible for bank loans. The Law on Social Protection regulates financial assistance to IDPs, while not excluding the possibility of humanitarian assistance by international organizations.

Various other provisions in the 1995 Constitution of Azerbaijan, the 1999 Labor Code, the 2000 Criminal and Criminal Procedural Codes, the 2001 Tax Code, the 2003 Electoral Code, the 2001 Law on Employment, the 1993 Law on Provision of Pensions to Citizens, the 1998 Law on Children’s Rights, and the 1998 Law on Citizenship¹² are equally applicable to IDPs. Over 300 Presidential Decrees also define IDP rights in more detail. The most important rights accorded to IDPs on the basis of the legislation mentioned above are the right to vote, right to work, to live in safety, to health care, to education, access to courts and legal assistance, a healthy environment and social protection. A 2004 Presidential Decree prohibits the forced eviction of IDPs from their current place of residence until their return to their place of origin¹³.

2.3 Institutional framework

The Cabinet of Ministers of the Republic of Azerbaijan is the focal point for IDPs in the country. The mechanisms for implementing the complex framework of law and policy related to IDPs are regulated by its decisions as well as by decrees of the President of Azerbaijan¹⁴.

These decrees bestow competencies for the protection of IDPs to the Cabinet of Minister’s

¹² In particular the provision that IDPs are to be registered at their place of residence - see Chapter I.

¹³ Presidential Decree “Regarding the approval of the “State Programme for the Improvement of living standards and generation of employment for refugees and IDPs”, July 1 2004.

¹⁴ For a list of relevant Decrees and Decisions please refer to Annex IV.

Department for the Problems of Refugees, IDPs, Migration and Work with International Organizations, the State Committee on Refugees and IDPs, relevant Ministries of the Republic¹⁵ and local executive committees (ExComs). The State Committee for Refugees and IDPs also has representatives in the regions of Azerbaijan where IDPs have settled.

The Government considers the refugee and IDP problem created as a result of the Azerbaijan-Armenia Nagorno Karabakh conflict, as a number one priority. Therefore, a position of Deputy Prime Minister, Head of the State Committee on Refugees and IDPs Issues, has been established in the structure of the Cabinet of Ministers. The Deputy Prime Minister is also a Chairman of the Republican Commission on International Humanitarian Assistance, established by a Presidential Decree. The Commission provides support to international and local humanitarian organisations and development agencies. With the involvement of relevant governmental authorities, the Commission is in charge of issues concerning humanitarian organisations, including registration; visa, tax and customs related issues. The Commission also coordinates activities of various actors aimed at improving living conditions and solving other problems of refugees, IDPs, and other vulnerable groups of the population, It provides directions to humanitarian organisations to determine priorities, as well as analysis on the current situation.

The coordination of these issues is centralised at the Department for Problems of Refugees, IDPs, Migration and Work with International Organizations of the Cabinet of Ministers of the Republic of Azerbaijan. Given the many cross-cutting aspects of IDP protection, such as health, SGBV, education, employment and self-reliance, legal assistance and registration, the Department faces the challenge of coordinating multiple ministries, other national state institutions and local administrative units in a transparent manner. Training of government officials responsible for IDP protection could facilitate greater efficiency and coordination.

In practice, the Government of Azerbaijan has taken full responsibility for IDPs, and has embarked on the implementation of ambitious State Programmes designed to alleviate their situation. While some gaps, which will be highlighted throughout this report, remain, it should be noted that the Government of Azerbaijan has made efforts to direct resources stemming from its rapid economic growth towards the improvement of the wellbeing of both its local and IDP population.

Since 2003, the Government of Azerbaijan has allocated a total of 590 million AZN from the state budget to alleviate the situation of IDPs, of which 163 million AZN were allocated in 2008 alone. 466 million AZN have been allocated from the State Oil Fund for the construction of new settlements since 2004, of which 145 million AZN were allocated in 2008. In 2008, 25 million AZN have been allocated by the international community to humanitarian and development programmes focusing on IDPs¹⁶.

In 2002 Azerbaijan established an Ombudsman's office which is competent to consider petitions from IDPs on their access to rights. The Ombudsman's office monitors the situation of IDPs with a particular focus on human rights violations and advocates on their behalf with other institutions. The office received 421 individual complaints from IDPs in

¹⁵ Such as the Ministries of Health, Labor and Social Services, Economy, etc.

¹⁶ Department for Problems with Refugees, IDPs, Migration and Work with International Organizations of the Cabinet of Ministers.

2007¹⁷, and when possible, the Ombudsman's office intervenes on their behalf with other Government institutions.

The State Committee for Women, Children and the Family works to raise public awareness on gender issues, SGBV and early marriages and often advocates on behalf of IDP women.

The recommendations of international and regional organisations such as the European Parliament and the Council of Europe also contribute to addressing gaps in the protection of IDPs. In September 2007, the Council of Europe's Commissioner for Human Rights highlighted gaps in the protection of IDPs in the areas of registration, freedom of movement, and health care¹⁸. In April 2007, the Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons highlighted the need to pursue a durable solution of the Armenia-Azerbaijan, Nagorno-Karabakh conflict as well as the need to create employment opportunities, to focus on self-reliance and to continue assistance to vulnerable groups. The UN Representative also emphasised the importance of consulting with IDPs in the design of national policies¹⁹.

2.4 Partnerships

A number of UN agencies and other specialized agencies are present in Azerbaijan, including UNDP, IOM, the World Bank and IMF, UNICEF, WHO and UNFPA. Furthermore, international NGOs have also implemented significant programmes focusing on IDPs, such as the International Rescue Committee (IRC), the Norwegian Refugee Council (NRC), the Danish Refugee Council (DRC), World Vision and OXFAM. A number of donors including the European Union, the United States, Japan, Germany, and Norway continue to provide necessary financial assistance and technical support to IDPs.

Nevertheless, with the growing engagement of the Government in IDP issues, international agencies and NGOs have re-orientated their activities from large scale emergency programmes to more modest programmes and projects of humanitarian assistance. The level of humanitarian assistance in Azerbaijan has significantly dropped in the last ten years from 120 million USD in 1995 to 30 million USD in 2005. This is due to the greater capacities of the Government of Azerbaijan to support IDPs, but also due to donor fatigue and the frozen nature of the Nagorno-Karabakh conflict. The Government remains keen on keeping international and national humanitarian actors engaged in supporting the displaced. An example is the donation of 3 million USD by the Government of Azerbaijan to WFP's food programme for IDPs in Azerbaijan in 2006-2008.

While Azerbaijan's IDP situation pre-dates the introduction of the 'cluster approach', some collaborative responses to IDP problems are in evidence. UNHCR is the main UN agency involved in IDP protection and acts on behalf of the UN Country Team in assisting the Government of Azerbaijan in the development of a return plan for IDPs in the event of a solution of the Nagorno-Karabakh conflict, with input from UNDP, UNICEF, WHO and

¹⁷Permanent Mission of the Republic of Azerbaijan to the UN in Geneva, Updated Information on internal displacement in Azerbaijan, 03 April 2008

¹⁸ Report by the Council of Europe Commissioner of Human Rights, Thomas Hammerberg on his visit to Azerbaijan, 3-7 September 2007, published 20 February 2008.

¹⁹UN Press Release, 7 April 2007 "UN Expert on the Human Rights of IDPs concludes visit to Azerbaijan".

UNFPA. The UNCT is conducting an awareness campaign among IDPs on HIV/AIDS. International and national humanitarian organizations have unimpeded access to IDPs and UN agencies coordinate needs assessment missions for IDPs within the UN Country Team under the leadership of UNHCR.

Given increasing state capacity in Azerbaijan, UNHCR has integrated its projects into State Programmes and focuses on advocacy and the promotion of the UN Guiding Principles on Internal Displacement, modest rehabilitation and training programmes, and the provision of technical expertise.

UNHCR collaborates closely with DRC (food assistance to refugees and asylum seekers, and income generation), SC (provision of medical and psychosocial services to refugees), WARD (prevention of, and response to sexual and gender based violence), UMID Humanitarian and Social Support Center (vocational training, community mobilization, school rehabilitation, distribution of non-food relief items), HAYAT International (HAYAT) (vocational training and health protection) and Praxis (information, counselling and legal aid)

A number of regional organizations are engaged in assisting IDPs. These include the European Union, which finances the Strengthening Protection Capacity Project for the Southern Caucasus (SPCP-SC) of which this Gaps Analysis is an integral part, the Council of Europe and the OSCE.

Finally a number of private and corporate donors support programmes aimed at improving the situation of IDPs, including the Norwegian STATOIL company and the 2006 Nansen Award winner Dr. Kanai, President of the Fuji Optical LTD, Japanese private company. The latter in particular showed immense personal engagement by donating part of the Nansen Award prize money to the financing of an artesian well in Beylagan and by conducting eye-screening and distributing eye-glasses for over 18,700 IDPs, refugees and vulnerable people during 2005-2009.

3. PROTECTION FROM THE EFFECTS OF ARMED CONFLICT

3.1 Security in IDP areas

In general, IDPs in Azerbaijan are well accepted by local communities and report that they feel safe with no threats to physical security over and above those faced by other citizens.

Exceptions relate to IDP settlements located close to the frontline, in towns such as Terter, where IDPs report mines in the near proximity to settlements as well as sporadic shooting. New government settlements in Aghdam and Fuzuli have been built close to the frontline raising feelings of insecurity on the part of IDPs. In participatory assessments with IDPs held in 2007, many IDPs expressed their concerns about moving to settlements in Fuzuli²⁰.

The Azerbaijan National Agency for Mine Action (ANAMA) is actively de-mining areas along the frontline in the occupied territories and continues clearing mines in houses and visibly marking contaminated areas²¹. Mine-laying along the frontline has stopped, but mine accidents continue to occur, with 11 injuries and 5 deaths reported in 2007. However, the number of mine victims has been significantly reduced since 2004, when casualties from mine accidents still stood at approx 2000 injured²². Landmines and explosive remnants of war do not generally hinder access of the IDP population to vital infrastructure or water, although arable land is affected.

ANAMA also conducts mine education activities with a particular focus on children together with the Ministry of Education and UNICEF. ANAMA also cooperates with IOM to provide business training and micro-credits to survivors of mine incidents. ANAMA's mine education activities have led to a heightened awareness among IDP communities of dangers and have led to an active engagement of IDP communities in the identification of sites needing mine clearance.

There is a greater need to consider security risks in the planning of new IDP settlements, including through the active participation of IDP men and women in the planning process.

²⁰Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

²¹As per October 2007, a total of 10,086,868 sq meters of land has been cleared of mines and a total of 283,837 devices have been destroyed.

²²ANAMA Monthly Consolidated Report, October 2007

4. SECURITY FROM VIOLENCE AND EXPLOITATION

4.1 Security risks deriving from common crimes

In general IDPs do not face greater security risks than the rest of the local population. The level of violence and crime is relatively low in IDP settlements in both urban and rural contexts, and IDPs report that they generally feel safe.

IDP communities report that they have unhindered access to police and are not discriminated against due to their status. Community leaders generally have good relations with local authorities and cooperate to solve crimes.

4.2 Right to family life

The Armenia-Azerbaijan Nagorno-Karabakh conflict severely disrupted family lives of those forced to flee, with many IDPs losing or unable to trace family members to this day. Many families were separated as a result of the conflict. Tracing of family members in Azerbaijan is conducted by ICRC in cooperation with the State Commission on Prisoners of War, Hostages and Missing Persons of Azerbaijan. At the end of 2008, ICRC was handling tracing cases concerning 4.066 persons who were reported missing²³.

ICRC is also working with the Azerbaijan Red Crescent Society to collect detailed data on missing persons to help Government authorities to trace missing family members.

Accurate data on the number of unaccompanied or separated IDP children is difficult to establish. During participatory interviews conducted by UNHCR with IDPs in 2007, no cases of separated or unaccompanied children were reported, although a small number of orphans were identified. Most children, who have lost their parents, live with other relatives and do not report their situation to the Government authorities. Although national guardianship procedures exist, no such guardianship arrangements for IDP children are known to UNHCR.

The Government of Azerbaijan provides social assistance to IDP orphans on the same basis as to other IDPs. IDP communities show a strong commitment in taking care of orphans through elders and the support system of the community.

4.3 Gender-based violence (GBV)

Awareness of issues of gender-based violence is low in IDP communities, as among the general population, in particular among youth. Traditional views to common forms of GBV such as domestic violence result in an unwillingness to discuss such issues publicly with trained psychological or medical personnel. Very few cases are reported to authorities and perpetrators are rarely brought to justice.

Nonetheless it is believed that domestic violence and GBV cases often occur within the family and IDP women and girls are subject to early marriage, sexual harassment and physical as well as psychological abuse. The attitudes of IDPs are not substantially different

²³ ICRC Annual Report 2008: Azerbaijan

from those of the local population in general in Azerbaijan, and IDPs are not hindered from reporting cases solely based on their status.

Reports issued by IOM and national NGOs also indicate that victims of trafficking have included women from IDP settlements. The vulnerability of IDP women to trafficking is linked to their weak socio-economic status within their communities: trafficking victims are usually unemployed, have a low level of education and belong to the poor segments of the population²⁴.

In the rare cases when GBV is reported there is often a lack of follow-up and scant mechanisms to deal with the legal, psychological and medical implications. Despite regular trainings conducted for police officers within various programs related to GBV, current skills and knowledge among police and medical staff on how to deal with the phenomenon are not sufficient to meet existing challenges.

Some local authorities are, however, introducing measures to combat GBV and domestic violence, including reporting mechanisms involving lawyers, psychologists, police and community leaders. A best practice can be found in Gabala, where the local Executive Committee has established a taskforce to deal with reported sexual and gender based violence cases.

Azerbaijan's Criminal Code prohibits and punishes those committing the crimes of slavery (Article 106), sexual violence (108), violence of sexual nature (150), forcible sexual activity (151), sexual intercourse or activity with a minor under the age of sixteen (152), coercion of minors into prostitution (171), coercion to engage in prostitution (243), and operating a brothel (244).

Domestic violence is not defined in the Azerbaijan Criminal Code. The legal system has not yet developed protective measures or restraining and barring orders. Currently, the Azerbaijani parliament is debating a draft Law on Prevention of Domestic Violence. The law is expected to be adopted in the 2009 autumn session.

The age of legal consent is 16 and a person under the age of 16 is not legally competent to agree to marriage or sexual intercourse. The marriage age is defined as 18 for males, 17 for females and may be decreased by not more than one year in certain circumstances.

Azerbaijan adopted the Law on Gender Equality on 23 October 2006. The law bans gender based discrimination and guarantees women equal rights and opportunities in the political, economic, social, cultural and other spheres. It defines "sexual harassment" and prohibits it. However, no corresponding changes have yet been made to the relevant Criminal and Civil Codes to specify punishment for this offence.

The Committee on Family, Women and Children is the national body responsible for implementing state policies and regulations regarding gender equality. The "State Programme on Alleviation of Poverty and Sustainable Development in Azerbaijan

²⁴IOM, Shattered Dreams: Report on Trafficking in Persons in Azerbaijan, September 2002; Brief Report on the Survey of Victims of Human Trafficking conducted by the Clean World Social Union for Civil Rights with the Assistance of the John Hopkins Institute, 2005

(SPAPSD) 2008-2015” includes measures aimed at combating gender-based violence. Nevertheless, funds allocated under the State Budget to combat sexual and gender based violence are insufficient and do not adequately target all state entities involved in combating the phenomenon, including law enforcement. However, identifying responsible persons on gender issues in all government bodies is a significant step and may facilitate the implementation of relevant programs in coordination with the State Committee on Family, Women and Children.

An increase in the number of trained personnel and the establishment of networks and national as well as local mechanisms of state entities, NGOs and international organizations dealing with sexual and gender based violence, could help to increase awareness and reporting of cases among IDPs, as well as follow-up of cases.

Pending the creation of stronger national mechanisms to protect women, UNHCR has developed standard operating procedures (SOP) for responding to SGBV cases in the IDP community. During individual counseling, women and girls are encouraged to report on incidents of SGBV and advised on preventive measures to avoid certain risks. SGBV survivors are referred to SC for medical assistance, legal support and psychological rehabilitation. In June 2007, UNHCR SGBV focal points conducted training session for all partners on the SGBV SOP and UNHCR Code of Conduct.

UNHCR and its partners have also initiated community based activities to raise awareness among IDPs of SGBV, early marriages and trafficking, as well as available support mechanisms. 30,000 brochures on Domestic Violence were published jointly with the State Committee on Family, Women and Children Affairs in October 2007 to provide essential information to victims, survivors and their peers. The brochure contains a telephone ‘helpline’ number for confidential free-of-charge legal counselling.

4.4 Child labour

The minimum age for work in Azerbaijan is 15 years. Given the high poverty rate among IDPs, children aged 14 and over are often obliged to drop out of school to support their families by working in agriculture, trade or construction. Girls drop out of school due to early marriage and the perception that they will be less of a burden to their families if they contribute to the wellbeing of the family by working. During participatory interviews with IDPs conducted in 2007, isolated cases of orphans under 16 working in construction were reported to UNHCR. The situation of IDP children obliged to work to alleviate their poverty is, however, not substantially different from the rest of the local population.

Awareness among Government authorities on the hazardous nature of child labour and the causes of IDP children being obliged to supplement their families’ income is low and mechanisms to prevent child labour are basic.

4.5 Child risk prevention and response

Similarly to SGBV and domestic violence cases, child abuse is underreported in Azerbaijan as a result of traditional views of such problems being a private family matter. However, IDP children are not exposed to more or different types of violence than local children and no cases of child abuse have been reported to UNHCR in IDP communities during participatory interviews.

The identification of child protection cases begins in the IDP community among community leaders; however it is a rare occurrence. Referral mechanisms in IDP communities are virtually non-existent and no specialized personnel exists to deal with child abuse.

Azerbaijan's Constitution and other legislation guarantee the protection of children's rights. Azerbaijan has been party to the Convention on the Rights of the Child (CRC) since 1992, and has ratified the Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Protocol on the Involvement of Children in Armed Conflicts. The national Law on the Rights of the Child was adopted in 1999. It defines minors as persons below the age of 18 years.

Despite the ratification of international instruments dealing with the Rights of the Child, the capacity of state authorities to deal with violence against children needs to be strengthened and more specialized personnel trained, in particular within IDP communities, where children often face dire living conditions and lack access to adequate health care or psychological support.

The Government of Azerbaijan identifies guardians for orphans and provides social assistance. To date no guardianship cases in IDP communities have been reported to UNHCR.

4.6 Persons with disabilities and older persons

During participatory interviews conducted by UNHCR, older IDPs (40+) and IDPs with disabilities pointed to insufficient social and psychological support within their communities, often resulting in loneliness and isolation, lack of recreational activity and an overall negative impact on their social and psychological wellbeing. Lack of social assistance and low pensions were seen as obstacles for a higher standard of living, although older IDPs acknowledged the importance of existing government assistance for their daily wellbeing.

The "Law on the Social Protection of Disabled Persons of Azerbaijan" determines state policy towards persons with disabilities and guarantees them the same economic, political and social rights as other citizens enjoy. The Law also provides for specialized education and vocational training as well as privileged access to the employment market and grants incentives for employers to hire persons with disabilities.

Despite the above legislation, IDPs with disabilities have not seen much improvement in their access to rights, although they do benefit from social assistance.

In general, IDPs with disabilities and older members of the community are not discriminated with regard to access to shelter and have been allocated new housing under state programmes, however the Government should consider constructing housing to meet their specific needs, such as the installation of ramps for IDPs in wheelchairs.

A number of NGOs and charitable associations provide additional assistance to persons with disabilities in Azerbaijan including through the provision of essential support and aids such as wheelchairs.

5. EQUALITY BEFORE THE LAW

5.1 Birth certificates, civil status and other documents

IDPs are eligible for civil documents such as birth, marriage and death certificates. IDPs can contact the local authorities or Executive Committees (ExComs) of their place of origin to help them obtain birth certificates, if registration took place prior to displacement. While most IDPs living in urban centers report no real problems in obtaining such documents, IDPs in rural areas face a number of administrative hurdles which are often shared by members of the local community. These include lack of knowledge of complex legal procedures, and long distances from settlements to the offices of relevant authorities.

The registration of newborns and new households as a result of marriage is thus not always comprehensive in rural districts. In particular single women complain of not being able to register their newborns, which can often result in the exclusion of whole IDP families or young family members from government registration and assistance lists.

In general, however, parents are issued with birth certificates in the same manner as other IDPs above 16 and have the possibility of contacting UNHCR financed Information, Counseling and Legal Assistance (ICLA) centers concerning registration issues, including the issuance of birth certificates. There is no risk of statelessness for IDPs who have not been issued with birth certificates, as many of them are able to obtain, or are in possession of, Azeri passports.

5.2 IDP Certificates and Registration

Registration of IDPs and maintenance of statistics of the IDP population is conducted by the Government of Azerbaijan. Monthly statistics are submitted to the State Statistics Committee by the local representatives of the State Committee for Refugees and IDPs (SCR). The State Committee for Refugees and IDPs is the custodian of registration and IDP data is kept confidential. No independent verification of registered IDPs has been conducted and Government statistics are accepted by the UN Country Team.

Generally, IDPs are eligible to obtain the same documentation as nationals, such as passports, marriage, birth and death certificates. In addition, IDPs in Azerbaijan must apply to the State Committee for Refugees and IDPs (SCR) in Baku in order to be registered and obtain IDP documentation. IDP certificates are provided to all IDPs above the age of 16 upon the provision of documentation providing evidence of their place of origin. This includes the original and copy of personal identification documents. For IDPs aged 16 and below originals and copies of identification documents of their parents have to be submitted.

This requirement creates difficulties for many IDPs, in particular for women and those living in rural areas that often have no means of obtaining such supporting documentation. Many IDPs fled their place of origin without identity documents. Additionally, women have to present proof of their father's status as an IDP as well as his military service documents for reasons of marriage, which can pose problems for IDP women or children from single headed families if they have been separated from their father or cannot obtain such documents easily. IDPs from rural areas often also have

problems accessing local authorities to obtain documentation. It is however difficult to estimate the scale of the problem, as many IDPs do not report to authorities to register for IDP certificates.

While representatives of the local Executive Committees of the occupied territories, so called 'ExComs in exile', often help IDPs to obtain documents, many IDPs still opt not to obtain IDP certificates at all, citing bureaucratic obstacles, corruption and long delays as obstacles. In addition, Government archives for Nagorno-Karabakh are incomplete and inaccessible, making it difficult for ExComs in exile to provide documentation in an efficient manner. IDPs often wait long periods before they have collected all the necessary documentation to obtain IDP certificates or other documents such as birth, marriage and death certificates.

IDP certificates state current place of residence, place of origin and have a validity period of 1 year. They are signed by an authorized official of the State Committee for Refugees and IDPs and stamped to prevent misuse and formalise any changes or additions to the data they contain.

If IDPs are not in the possession of an Azeri passport, they use the IDP certificate as an identity document. IDP certificates are formally required for IDPs to access entitlements such as free medical care and exemptions from payment of utilities. In practice, IDPs are often treated in local medical clinics without IDP documentation, but IDP certificates are always required for government assistance or exemptions from payment of utilities. In practice, the State Committee for Refugees and IDPs (SCR) in Baku attempts to make exceptions for IDPs who have extreme difficulty in obtaining original documentation from their place of origin and issues IDP cards if the place of origin can be proven through other means, such as the endorsement of the ExCom in exile. In the majority of cases, however, IDPs must access the court to establish their identity.

Elderly IDPs, single mothers, orphans and children above 16 report particular difficulties in obtaining IDP certificates, as they are usually dependent on others and have insufficient knowledge about legal procedures and necessary documentation. Many of them have limited access to local authorities and ExComs in exile. This creates obstacles for elderly IDPs to apply for pensions, or for special assistance as veterans of the Nagorno-Karabakh conflict.

The wider provision of legal assistance and dissemination of information on administrative procedures would help IDPs to access their rights. It should, however, be noted that the lack of civil status or identity documentation does not create difficulties for IDPs in establishing nationality or in accessing employment, although those IDPs without certificates may have difficulty in obtaining tax exemptions.

5.3 Policing

IDPs have the same access to police and law enforcement as the local population and generally are not hindered from taking recourse to the authorities. Their cases are followed up in the same manner as for the local population. In the 2007 participatory assessment, IDP stated that they generally felt safe in Azerbaijan and felt there was no risk in bringing cases to the police or the justice system. This was also stated in particular by women and single mothers.

IDP communities are generally vigilant and tight knit, often resorting to community leaders to take cases to police and law enforcement. IDPs are also employed as policemen, especially in rural IDP settlements.

5.4 Access to the national justice system

Azerbaijan's 1995 Constitution²⁵, the 1999 Law on Refugees and IDPs²⁶ and the Criminal Code of Procedure acknowledge the right of IDPs to access without discrimination effective remedies on the same basis as other nationals. This right includes access to courts and legal assistance.

In practice, IDPs generally have equal access to the national justice system, paying the same fees as other nationals. IDPs also consult community leaders, elders and local authorities in legal matters.

IDPs benefit from the presence of Legal Aid offices run by international organisations and NGOs. An example is Praxis' Information, Counselling and Legal Assistance (ICLA) offices, which provide legal advice for IDPs free of charge. ICLA reports that advice is sought most frequently for problems relating to documentation (birth certificates, IDP certificates), property disputes (evictions), non-registered marriages, pension rights and the rights of persons with disabilities. Some court cases have been initiated with regard to property rights, but IDPs often lack adequate legal representation. By contrast, domestic violence and SGBV cases are underreported as IDPs lack awareness on the seriousness of these problems and on the existing remedies.

Despite the above mentioned efforts, general awareness among IDPs of rights and obligations remains low, with many IDPs not being able to identify legal problems and violations of their rights. IDPs in isolated rural areas, vulnerable groups and disadvantaged urban IDPs have difficulties accessing the limited legal assistance available. A government sponsored awareness campaign and an increased focus on the provision of legal assistance by international and national organizations could contribute to improving the situation.

5.5. Freedom of movement and choice of residence

Freedom of movement, while legally granted to IDPs, is in practice limited by administrative rules restricting their choice of place of residence. The legacy of the soviet "propiska" system²⁷ restricts IDP movement from rural districts to cities in an attempt to manage urban migration.

Choice of residence is also affected by the current system regulating government assistance to IDPs. Government assistance lists are compiled based on a certain IDP population per region. IDPs that change their district of residence are therefore often not included in government assistance lists in the new district.

Although the migration of IDPs to other districts and cities of the Republic from the

²⁵ Articles 57, 60 and 61

²⁶ Article 6

²⁷ A vestige of the Soviet era, IDPs are required to register with authorities and can only live in approved areas.

districts where they are registered is not a basis for losing their IDP status, fear of losing assistance means that many IDPs will move, but remain registered in their former place of residence. In many cases the result is the disruption of family unity, as one family member - usually a male head of household - will move to another district in search of employment without de-registering in his/her original place of residence, while the rest of the family remains behind in order not to forfeit government assistance.

Households, who move to urban centres and seek registration for the first time, are often unable to do so. This results in problems obtaining related documentation. According to the current regulations, the concessions on the payment of utilities made by the Government to IDPs are based on their actual place of residence. However, if IDPs are not temporarily or permanently registered, they do not receive any concessions based on actual residence. Therefore, for IDPs who have been registered in a rural area, re-registration in another district does not automatically translate into difficulties obtaining documentation, as long as IDPs are self-sufficient and not dependent on government assistance. IDP certificates are re-issued with a new place of residence such as Baku or Sumgayit in the rare cases that their move to urban centres is approved, or if IDPs can make a convincing case that they will not need government assistance or benefits such as exemptions from the payment of utilities. Only a minority of IDPs meet these criteria.

The construction of new IDP settlements by the Government has compelled many IDPs to move to settlements located near to the frontline. This is problematic in some newly constructed IDP settlements as their proximity to the frontline impacts on the physical safety of IDPs.

5.6 Detention

Reliable data on IDPs in detention in Azerbaijan is difficult to compile. However, to UNHCR's knowledge IDPs have not been arbitrarily arrested and detained, nor are particular groups of the IDP population such as children subject to detention solely based on their IDP status.

ICRC conducts periodic visits to detention centres in Azerbaijan and helps to raise standards of the penitentiary system. In July 2007, the Government of Azerbaijan and ICRC signed a prolongation of the 2000 Detention Agreement granting ICRC access to all places of detention in the country for a further two years. Detention facilities have been improved, in particular with regard to medical facilities, and a tuberculosis control programme has been carried out²⁸.

²⁸ICRC Information Bulletin, May-August 2007

6. PARTICIPATION IN PUBLIC LIFE

6.1 Participation in political processes and in public life

By law, IDPs have the right to vote and to participate in the political affairs of Azerbaijan²⁹, albeit not in their place of origin as it is not accessible. In practice the participation of IDPs does usually not extend beyond voting in local, parliamentary and presidential elections. According to the Chairman of the Central Election Committee (CEC) IDPs will, however, not be voting in the municipal election in 2009. Many IDP women, as well as elderly and disabled IDPs, delegate their voting right to the head of family. The number of IDPs participating as candidates in elections is low, however there are encouraging signs of increasing activity - including among women³⁰.

The lack of active political participation on the part of many IDPs can be explained by the limited opportunities IDPs have to develop leadership skills, gender specific obligations such as domestic chores, and more pressing concerns such as the search for employment.

In the 2007 participatory assessment, IDPs reported having free access to information media such as TV and newspapers and generally felt well informed about political and economic events in Azerbaijan³¹.

There is no legal impediment preventing IDPs from establishing or participating in civil society organisations or NGOs and indeed many IDPs have formed such entities and are actively seeking to support IDP communities.

6.2 Internal community structures

IDP communities tend to be tightly knit, although many live side by side with the urban and rural local population. In rural areas and in the new settlements constructed by the Government, IDPs are organised by place of origin. IDPs have a strong sense of identity and of their “special status” as a result of the events surrounding Nagorno-Karabakh. Their sense of identity includes the notions of having lost their homeland and living in poverty and isolation as well as the hope of one day being able to return to their homes.

IDP communities are represented by ExComs in exile, community leaders or elders elected by the IDP community. Elected representatives are usually male, although a few IDP communities also have women leaders who are actively engaged in their communities. Nevertheless there are strong gender specific roles governing IDP communities, based on a patriarchal structure, with women often shouldering a heavy burden to support their families and with little representation or influence in community decision making structures.

²⁹ 1995 Constitution of Azerbaijan, 2003 Electoral Code

³⁰ Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007. This was reported in particular in new government settlements in rural areas, where some training on community mobilization and leadership had taken place. Goranboy is an example.

³¹ Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

This is also true for youth and the elderly, whose interests are represented by the head of household - usually fathers - who do not necessarily take into account their specific vulnerabilities or needs.

The gender specific structure of IDP communities can affect distribution of assistance within some IDP families, with male members of IDP households being privileged. Nevertheless, the majority of IDP women and youth do not feel this to be discriminatory, although in some IDP settlements UNHCR was told in confidence that there should be more equality between men and women and a balanced distribution of assistance.

7. RIGHT TO FOOD, WATER AND HOUSING

7.1 Right to food and potable water

Information on key food security indicators in Azerbaijan is outdated, with the last Food Security and Nutrition Survey conducted in 2004 by WFP. The 2005 Progress Report for the State Programme for Poverty Reduction and Economic Development (SPRED) is one of the few other sources of data for poverty indicators and Azerbaijan's progress towards the Millennium Development Goals (MDGs). New "State Programme on Alleviation of Poverty and Sustainable Development in Azerbaijan (SPAPSD) 2008-2015" has been endorsed in September 2008 by the President of the Republic of Azerbaijan.

Available data shows that IDP households feel uncertain in terms of their own food security and many households reported that they often or sometimes skip meals, have a reduced size of meals or eat less. While IDPs manage to eat on a daily basis, they often compromise on quality of food and quantity of intake. IDPs point to increases in food prices, high costs of services and illnesses within the household as the primary factors affecting their access to adequate food.

The majority of IDP households are able to meet minimum requirements for adequate food consumption, however without food aid, many households have become vulnerable. In 2004, a third of IDP families relied on food aid only, while every second household supplemented wheat rations with additional purchases³². In the 2007 participatory assessment with IDPs, households continued to confirm that they were dependent on food assistance, but they were able to meet minimum food consumption levels. Moreover, all food assistance to IDPs ended in 2008.

Water supply for the general population in Azerbaijan is limited and often unreliable. However, in the urban centers where the majority of IDPs live, potable water is available in sufficient quantities. IDPs living in urban areas generally have better access to water supply than those living in rural areas.

7.2 Access to food assistance

Participatory assessment with IDPs in 2007 showed that IDPs continued to depend on food assistance from WFP and the government. With this additional support, 33% of the IDP families had good food consumption, 61% adequate and 6% poor. Since WFP food rations were provided only to IDPs living in rural areas and were completely terminated in 2008, many IDPs are now dependent on government subsidies such as "bread-money" (USD 16 per month per person) and other allocations such as social assistance and pensions.

In the past, the Government provided food assistance to vulnerable IDPs consisting of a food package of wheat, flour and cooking oil. Food assistance was provided on the basis of registration as an IDP and based on vulnerability. There were no special feeding programmes for babies, pregnant or lactating mothers.

³² WFP Food Security and Nutrition Survey, Sept-Oct 2004, pg. 8-11

In 2007 IDPs generally reported that they received food assistance on a regular basis without discrimination and that the quality of food was adequate. Delays in food assistance were reported in some IDP settlements³³. Moreover, the level of consultation by the Government of IDP communities with regard to determining eligibility for food assistance, in particular in newly created IDP households, was low.

7.3 Adequate housing

The 1999 Law on Social Protection of IDPs stipulates in its Article 4, that IDPs are to be provided with temporary housing and privileges with regard to housing and payment of utilities. Residential, administrative and subsidiary buildings which are habitable or can be made habitable are used for settlement purposes. In comparison to the local population (in particular the urban poor), IDPs are not disproportionately affected by homelessness and are given privileged access to public housing with no restrictions except the “temporary” nature of residence.

The participatory assessment with IDPs in 2007 underscored that inadequate living conditions and infrastructure is the primary issue of concern for IDPs, irrespective of their location (urban/rural), gender, age group or vulnerability³⁴. It is also the principal issue which the government of Azerbaijan aims to address through the State Programme on the Improvement of Living Conditions for IDPs.

To date the State Programme has eliminated tent camps and the most severe cases of inadequate housing such as railway wagons. IDPs in these settlements have been resettled in newly-built houses and have generally expressed their satisfaction with the implementation of the programme³⁵.

While the newly constructed government settlements are usually planned to provide a house per IDP family³⁶ as well as all necessary facilities such as schools and clinics, it has not always been possible to provide and maintain infrastructure - in particular water and electricity - in all new settlements in a comprehensive manner. Water shortage is a problem throughout the country. Nevertheless, the new government settlements which include basic infrastructure and have the necessary construction quality, provide more than a basic standard of living for IDPs and often include parks and community centres. As the housing fund in new settlements is under the control of the State Committee on the Issues of Refugees and Internally Displaced Persons of the Republic of Azerbaijan, repair of houses, maintenance of settlements, and implementation of communal services are taken care of by the Housing Department.

The location of a number of new IDP settlements in isolated areas at long distances from essential services, employment opportunities and administrative authorities, and in a few cases very close to the frontline, is also problematic. This not only creates a sense of physical insecurity and isolation of IDPs from the local population, it also affects the ability

³³ For example in Sabirabad and Saatli

³⁴ Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

³⁵ Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

³⁶ Houses are constructed according to family size, i.e. a married couple receives one room, a family of 4 receives two rooms.

of IDPs to become self-reliant. Provision of public transports by local structures of the Ministry of Transportation of the Republic of Azerbaijan has limited effect in elimination of such difficulties.



Many IDPs continue to live in dire conditions in public buildings, in particular in urban centres such as Baku, Sumgayit, Ganja, Mingechevir, Gabala, Barda and Sheki. Problems include severe sanitation and sewage problems, hazardous electric cabling, leaking roofs, vermin and lack of water and electricity.

IDP Housing in Sumgayit

While the improvement of living conditions in public buildings is the next priority of the Government, the pace of implementation could be considered slow, given the high rate of economic growth in the country. The reasons for the delay are the need to identify suitable land plots for new settlements given the large numbers of people living in public hostels, and the lack of a strategy on the part of the Government on what to do with those IDPs living in public buildings for whom no new settlements are planned. These challenges are most acute in the cities of Baku and Sumgayit, where significant numbers of IDPs live.

Repair work to existing IDP accommodation will not suffice to improve living conditions in many locations. The increasing pressure on urban property linked to Azerbaijan's rapid economic growth further complicates the search for solutions. Cases of illegal forced eviction as a result of private or new public construction works are increasingly reported to UNHCR, albeit still relatively few. Urban pressures will only aggravate this situation in the future, should there be no real urban planning which takes into account the competing needs of IDPs, the Government and the wider community. Dual-use public buildings such as schools, kindergartens and student dormitories should be targeted first. The construction of new and the improvement or repair of existing IDP settlements therefore remains a necessity. Quick impact projects of international and national NGOs or organisations can also help to alleviate the situation.

In the 2007 participatory assessment, IDPs raised a number of concerns relating to living conditions which could usefully be channelled into government planning for housing solutions. All IDPs underlined overcrowded living conditions as a concern, although IDP children and adolescents highlighted this as a particular obstacle to privacy and personal development. Disabled IDPs, single mothers and orphans underlined the limited

possibilities of accessing living conditions which take into account their particular needs³⁷.

IDPs also cited the remoteness of some settlements and lack of transport facilities as problematic given their limited funds to move freely to access employment and essential services. Provision of transport to IDPs to better access local communities could alleviate the situation, in particular if it is provided through cooperation with the Ministry of Transport and local authorities.

In particular, IDPs have expressed concerns regarding the lack of consultation on the location of new settlements. This can result in forced evictions of IDPs from old IDP settlements or the movement of IDPs to settlements less than 5 km from the frontline causing security concerns. Lack of consultation can be particularly problematic for vulnerable IDPs and those living in isolated rural areas.

7.4 Appropriate clothing and other basic domestic and personal items

IDPs continue to depend on government assistance in the form of a financial stipend³⁸, pensions and fuel to supplement their income. According to 2005 statistics, IDPs living in rural settlements had a higher poverty rate (60.6 %) than those living in urban areas (41.2 %). As a result of economic growth in the country, the poverty rate has fallen drastically, and according to the Government poverty dropped from 46.7% in 2002 to 29.3% by 2005. The level of poverty among internally displaced persons has also declined³⁹.

UNHCR has provided non-food items to IDPs since 1997 as a result of donations made by Lutheran World Relief. UNHCR cooperates closely with the Government of Azerbaijan in planning the distribution of these items to ensure that they are provided to the most vulnerable IDPs in accordance with protection standards. The provision of non-food items (blankets, school kits, sanitary kits) to poor and vulnerable families continues to be seen as essential by IDPs⁴⁰. Increase in inflation rates⁴¹ for the last few years have had a negative impact on the ability of IDPs, as well as the population as a whole, to meet household needs. The raising of government assistance in line with inflation could help to alleviate the situation.

Rising prices have also affected elderly IDPs who receive average pensions of 70 AZN per month, and many vulnerable IDPs, in particular poor single households, orphans, disabled and the handicapped, who have difficulty obtaining social assistance due to their lack of access to necessary documentation or responsible authorities.

The slow process of inclusion of newborns and new households on government assistance

³⁷ Results of participatory interviews of UNHCR Age, Gender, and Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

³⁸ IDPs refer to this stipend as "bread money" as it is meant to cover basic living costs. It amounts to 9 AZN per month per IDP.

³⁹ State Programme on Alleviation of Poverty and Sustainable Development in Azerbaijan (SPAPSD) 2008-2015, September, 2008

⁴⁰ Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007

⁴¹ Meeting of the President of Azerbaijan with Cabinet of Ministers, 22 October 2007; published in "Azerbaijan" newspaper, 23 October 2007 put the inflation rate at 16%. Projections for 2006-2008 include a 20 % average and a maximum of 30 % annual growth rate of real GDP due to high volumes of oil and gas exports, Economist Country Forecast, April 2006, Economist Intelligence Unit.

lists is also problematic. This creates a burden for IDP families who have to support multiple households and generations. Often whole IDP families live on the pension of elderly IDPs, increasing their vulnerability.

8. RIGHT TO HEALTHCARE AND EDUCATION

8.1 Primary curative health care

There are a number of factors which continue to influence IDPs' access to health care services in Azerbaijan: poverty levels, sanitary conditions in settlements, distances to health care facilities and vulnerability. IDPs face the same problems accessing adequate health care as the overall population with the notable exception of medical or psychological factors associated with their forced displacement,

Health care centres in Azerbaijan have only basic medical equipment and their overall capacity is poor. Services include emergency care and basic diagnosis of medical problems. However, health points and clinics often lack experienced and qualified medical personnel to deal with chronic illnesses, as well as specialists able to deal with domestic and gender based violence, rape or psychological counselling.

Despite legislation granting IDPs free medical care in state health facilities, IDPs generally pay the same fees as locals for health care, and are periodically requested to pay bribes in order to receive treatment for serious illnesses, such as surgery or operations.

The main health problems facing IDPs, and in particular women and children, are malnutrition, diarrhoea, tuberculosis and a lack of skilled antenatal care. Many IDPs also suffer from mental illnesses

While access to basic health care as provided by local hospitals, doctors and clinics in urban centres is generally seen as adequate by IDPs⁴², this is not true for urban poor families and vulnerable groups such as the elderly, single mothers and the disabled who often lack resources for basic medicine and treatment and have difficulty accessing health facilities if these are located up to 10 km from an IDP settlement. This forces many IDPs to self-treat their illnesses, often leading to deterioration in their health.

Furthermore, the ability of IDPs in both urban and rural areas, irrespective of age or gender, to receive treatment for serious medical illnesses, such as chronic diseases (TB, diabetes), surgeries and mental illnesses remains limited. This is due to poverty, but also to lack of medical equipment, medicine and qualified staff at clinics or health points in or near IDP settlements. Women, and in particular single mothers, are often unable to access gynaecological care due to lack of resources or available specialized facilities and qualified staff.

Emergency services for IDPs in, or around, settlements rarely exist and this forces IDPs to organize and pay for their own transport to hospitals, which are often located up to 10-15 km from their settlements.

The circumstances surrounding IDPs' flight from their place of origin have had a negative impact on their health, with many IDPs suffering from disabilities, psychological trauma or malnutrition. Many families have also been separated and children have lost their parents,

⁴² Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

creating single parent IDP households or orphans. Vulnerable IDPs, in particular the elderly, disabled and orphans often have insufficient social and psychological support in their communities, impacting on their general and psychological wellbeing⁴³.

Awareness about HIV/AIDS is relatively high among IDPs, and some of those participating in the 2007 assessment stated that they had received trainings and viewed information campaigns on TV⁴⁴. However, condom distribution is nonexistent and no reliable data on IDPs living with HIV/AIDS exists. Further research on sexually transmitted diseases among the IDP population would shed more light on the prevalence of these diseases and help to formulate strategies for solutions, given the stigma which surrounds this issue.

Despite the Government's efforts to implement a series of measures designed to improve access for the IDP population to health care services, such as distribution of free medicine, vaccination of children, construction of health points in new settlements and exemption of IDPs from payment of medical fees, more focus should be put on improving access of vulnerable groups to basic health care services. This could for instance be done by establishing mobile medical teams to reach isolated rural settlements; establishing outpatient medical rooms in IDP settlements and train medical staff on prescription of medicine; rehabilitating health points and providing them with necessary equipment; establishing free counselling and resource centers for SGBV and HIV; and train staff on treatment of serious illnesses and psychological trauma. Disabled could also profit from the establishment of rehabilitation centers and schools.

As a result of Azerbaijan's rapid economic development, NGOs dealing with health care and medical services have increasingly phased out programmes aimed at improving health services for IDPs.

8.2 Primary preventative health care

Since their displacement in 1993, IDPs have benefited from a substantial number of preventative health care trainings conducted by international and national humanitarian organisations and NGOs. Awareness raising on the prevention of major diseases and hygiene and sanitation, have often targeted IDPs with a medical education such as doctors and nurses who work in health points in IDP settlements.

Nevertheless, lack of adequately equipped and staffed health points and sanitation and hygiene, remain major problems in the majority of IDP settlements countrywide, in particular in urban public buildings. These issues should urgently become the focus of targeted state interventions.

In September 2006, UNHCR sponsored an HIV /AIDS consultant to assess and review the national response to HIV/AIDS in Azerbaijan paying specific attention to the needs of internally displaced persons (IDPs) and refugees and to identify any gaps in programming.

⁴³ Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

⁴⁴ Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

On the basis of the consultant's recommendations⁴⁵, UNHCR participated in a joint UN initiative to address gaps in data of those most-at risk of exposure to HIV and related infections (Hepatitis B, Hepatitis C and Sexually Transmitted Infections) in 7 regions of the country. A HIV Surveillance Study was designed and implemented in line with the Draft National Programme on Prevention of HIV epidemics in Azerbaijan for 2007-2011 and the Joint UN Program of Support for 2007-2008. The results of the study are to serve as a base to target interventions for the most at-risk segments of the IDP population.

Other preventative health care activities supported by UNHCR and its partners include trainings by Parent Teacher Associations (PTAs) and community leaders which focus on hygiene, sanitation and the environment. A project sponsored by the 2007 ninemillion.org campaign linked positive messages about sports, health and sanitation among IDP children.

8.3 Primary and secondary education

Among other legislation mentioned above, the 1999 Law on Refugees and IDPs and the Constitution guarantee the right to free and compulsory secondary general education for IDPs. Secondary general education consists of primary education (grades 1-4), basic education (grades 5-9), and secondary education (grades 10-11).

Together with the local population, IDP children have equal access to primary and secondary education in Azerbaijan. Education is free for IDPs (this includes free textbooks in primary school), with the exception of private Universities. This rule is generally respected and IDPs do not pay for public education.

According to the most recent relevant official data available, the number of girls and boys in primary schools in 2006 stood at 120,000, of which approximately 58,000 were girls. Students in secondary state and non-state educational institutions for the 2006/2007 academic year stood at 87.1 % for women and 88.8 % for men. In 2006, the ratio of women and men by types of education stayed at the level of 2005⁴⁶. No reliable countrywide enrollment data for IDPs is currently available to compare to local enrollment rates.

The level of literacy of IDPs also does not considerably differ from other social groups of population (the level of literacy among refugees and IDPs is 97.1%)⁴⁷. IDPs see education as being very important for their children as it is seen as a means to escape poverty.

Problems facing IDPs in the field of education relate to the lack of adequate educational facilities: inadequate school infrastructure, lack of equipment (furniture, computers, and school supplies, science laboratories) and the lack of playgrounds. The recently approved regulation requiring children to wear school uniforms is a burden for poor IDP families, who often struggle to provide clothing for their children. IDP families attempt to cope with the situation by sewing uniforms themselves, albeit only if they have means to obtain the

⁴⁵ Situation and Response Analysis of HIV Prevention, Treatment and Care Services for IDPs and Refugee Populations in Azerbaijan in 2006

⁴⁶ Women and Men in Azerbaijan 2007, State Statistical Committee of the Republic of Azerbaijan, pg. 204-205

⁴⁷ 2005 SPRED Annual Progress Report (2003-2004), pg. 48

necessary material.

Qualified teachers per subject are also often lacking, in particular in rural IDP settlements. In the participatory assessment in 2007 IDPs highlighted their perception that physical conditions in local schools are better than in IDP schools. A general lack of kindergartens for very young children was often highlighted as hindering many IDP women from finding employment⁴⁸.

Despite these challenges, attendance rates at schools are reported as being generally very high among IDPs⁴⁹. The lack of educational facilities in IDP settlements do not generally hinder IDPs from accessing education, with the exception of IDPs living in isolated rural IDP settlements located at long distances from nearby towns. However, there are cases of IDP youth dropping out of school due to poverty, move of families in search of employment or early marriage. The latter particularly affects adolescent girls. Awareness raising activities on early marriage could help to reduce dropouts by IDP girls.

IDP children are generally schooled separately from local children, either in different school facilities or within separate classes on shared school premises. IDPs themselves do not feel this to be discriminatory or problematic⁵⁰, as IDP schools generate employment for IDPs and are often perceived as being of higher quality than local schools. This situation does however contribute to the isolation of the IDP community from the local population, and can cause tension among IDP and local children as it can appear to highlight the former's privileged status. Further obstacles to the integration of local and IDP schools are that the IDP schools are often located at long distances from IDP settlements, and the fact that parents send their children to IDP schools in accordance with their own place of origin.

The Government of Azerbaijan and the international community have demonstrated their awareness of these problems by the increased construction of schools in new IDP settlements and projects designed to improve the infrastructure of existing educational facilities, however many schools still require repair and kindergartens are in short supply.

To enhance education for IDP children it is recommended to increase, and further train, the number of qualified teachers in IDP schools. Economic incentives for teachers in IDP communities could also help to encourage IDPs or local teachers to teach in IDP schools.

8.4 Safe and non-discriminatory educational facilities

Children with disabilities in IDP communities are not generally hindered from attending schools as a matter of government policy. However, in practice they are often not able to attend school due to the lack of necessary facilities and support responding to their specific needs.

⁴⁸Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007. This was cited to be problematic in Khanlar, Yevlakh, Ganja, Barda, Sumgayit, Beylagan, Fuzuli and Ismayli

⁴⁹Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

⁵⁰Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

Implementation of legislation promoting the education of children with disabilities in IDP settlements is virtually non-existent. International and national humanitarian NGOs and organisations include children with disabilities as far as possible within their programmes; however a systematic approach towards the inclusion of disabled IDPs in the education system has been lacking to date.

The general lack of access to recreational activities has also been highlighted by IDP children, adolescents and the elderly irrespective of gender and location (urban/rural) as being an obstacle to their psychological wellbeing and development⁵¹. Drug abuse and alcohol addiction among young people can be the result. The reasons for this are the lack of existence of (or access by IDPs to) sport and recreational facilities, general lack of funds, as well as equipment and skills to organize recreational activity.

While many IDP communities have attempted to collect common funds to organize leisure activities, more support from international organizations and the Government in the organization of such activities is needed. These initiatives should also involve the IDP communities in order for them to be able to manage recreational activities independently while also including women and the disabled.

8.5 Higher education and vocational training

As a matter of State policy, IDPs have equal access to higher education and vocational training programmes as other citizens and are eligible to attend State Universities free of charge if they pass entrance examinations. However, due to the high poverty rate among IDPs, not all IDP youth are able to attend higher educational institutions if it means moving to large urban centers such as Baku.



Vocational courses for IDPs: Apprenticeship with a hairdresser

Qualifications obtained by IDPs before their displacement are recognized, but IDPs find it difficult to obtain employment linked to their academic and professional qualifications as many have been unable to practice and update their skills during their long period of displacement. One of the main gaps identified as a result of the 2007 participatory assessment with IDPs is the lack of vocational training for IDP youth. IDPs living in rural settlements identified the difficulty securing employment due to lack of vocational skills as

⁵¹Results of participatory interviews of UNHCR Age, Gender, and Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

being one of the main hardships they face in comparison to IDPs living in urban areas. Rural IDPs and poor urban IDPs felt they had little hope of self-reliant activity based on loans or micro-credits due to lack of collateral, high interest rates and lack of skill training. The problem affects the poor urban and rural non IDP population as well.

Since 2001, UNHCR and its implementing partner UMID have conducted vocational training for IDP and local youth in Sumgayit for girls and boys to strengthen their self-reliance and to enable them to start up businesses by taking up micro-credits. IDP communities are actively involved in the selection of participants in the vocational training courses and demand is high as many IDPs are able to open up own businesses or use their skills at home to support their families.

Livelihood studies for IDPs have been conducted in the past, including a UNHCR-OCHA assessment in 2005, and a recent livelihood survey conducted by DRC in 2007. The latter confirms that unemployment is more widespread among IDPs than the local population and that economic self reliance activities targeting IDP settlements are needed to combat regional poverty. The assessment showed that 81% of local residents and 74% of IDPs who are not currently involved in private business are interested in establishing a business of their own, preferably in agriculture and trade⁵².

Despite these efforts, an in-depth market analysis and livelihood study could shed more light on identifying the current needs for skills training among IDPs. A UNHCR/ DRC livelihoods assessment conducted in spring 2008 was aimed at providing strategic direction in this area.

⁵² DRC IDP Livelihood Assessment 2007, Executive summary

9. RIGHT TO WORK, SOCIAL SECURITY, HOUSING, LAND AND PROPERTY

9.1 Degree of self-reliance

Official measurement of poverty in Azerbaijan began in 2001 during the State Programme for Poverty Reduction and Economic Development (SPPRED) formulation phase. Updated poverty indicators for IDPs are available from the recently approved “State Programme on Alleviation of Poverty and Sustainable Development in Azerbaijan (SPAPSD) 2008-2015”,

Available data on poverty indicators for IDPs shows that poverty levels among the local population are slightly lower than for IDPs and refugees⁵³. However, this difference is more obvious when the data is disaggregated by urban/rural areas. Thus, the highest poverty level is found among the IDPs/refugees living in rural settlements.

In the 2007 participatory assessment conducted by UNHCR with IDPs, IDPs confirmed that they still rely heavily on government financial and food assistance, and fear losing their eligibility for assistance if they de-register their residence after moving to another district in search for employment.

9.2 Wage-earning employment

According to Azerbaijan’s legislation, IDPs have privileged access to the labor market in comparison to the local population, benefiting from State Programmes⁵⁴ designed to generate employment as well as government assistance in the search for employment⁵⁵. Furthermore, the government has established the Social Development Fund of IDPs (SFDI), which is designed to help IDPs rehabilitate small-scale infrastructure.

Despite these efforts and Azerbaijan’s growing economy, national unemployment remains high and according to statistics of 2005, salaries in significant sectors of the economy were equal to or scarcely above the minimum wage⁵⁶, impacting on the ability of IDPs to find employment and to generate enough income to significantly raise their standard of living. It is therefore unsurprising, that a substantial number of IDPs point to limited employment opportunities and income as the second main obstacle to self-reliance and an improved standard of living after poor living conditions. This is particularly the case for women and youth.

In the 2007 AGDM exercise, IDP men and women between the ages of 18 and 40 pointed to insufficient opportunities for youth employment as well as a need for further vocational training programmes to pave the way to securing jobs. Adolescents aged 14

⁵³ State Program on Poverty Reduction and Sustainable Development Republic of Azerbaijan 2008-2015

⁵⁴“State Programme for the Improvement of Living Standards and Generation of employment for Refugees and IDPs, 2004

⁵⁵Law of the Republic of Azerbaijan on IDPs (Internally Displaced Persons) and Refugee Status adopted on 21 May 1999; Law “On Social Protection of Internally Displaced Persons and Persons equated to them” adopted on 21 May 1999; Article 35 of Azerbaijan’s Constitution;

⁵⁶40.8% of those who are employed are living below the poverty line (38.9% in urban and 42.8% in rural areas). These estimates point to the large number of “working poor” in the country. 2005 SPPRED Annual Progress Report (2003-2004), pg. 31

to 17 and children aged 10 to 13 linked the unemployment of their parents and resulting household poverty as an obstacle for their continuing education⁵⁷. Women, single mothers and youth in particular felt their lack of employment and self-reliance contributed to their marginalization and isolation from economic and social life⁵⁸.

IDPs in rural settlements and the urban poor are hardest hit by limited opportunities for employment. Many view high unemployment as one of their main hardships in comparison to the local population⁵⁹. The scarcity of economic opportunities forces many IDP men to move to urban centres or even to Russia and other countries in search of employment. This leads to the separation of families as women and children remain in Azerbaijan to maintain social ties and assistance. The establishment of government settlements in unoccupied or liberated areas of Aghdam and Fuzuli districts, is a concern for IDPs who are uncertain of finding jobs and other income generation opportunities upon relocation.

Typically, IDPs have a range of skills and education levels and will engage in various activities to generate income, even if jobs do not reflect their qualifications. These include informal daily labour such as trading, construction, cleaning, repair work, gardening or agricultural activity. Some are engaged in semi-permanent jobs with local state administrations and IDP settlement facilities generating most of the employment for IDPs. While income is higher for IDPs working for local administrations or in IDP settlements⁶⁰, daily labour yields low and erratic income⁶¹. Transportation to and from work also significantly impacts on IDP resources and is a noteworthy obstacle in the ability of IDPs to search for and sustain employment in nearby towns and cities.

Given the increasing cost of living in Azerbaijan, IDPs - as other citizens - struggle to make ends meet with low wages and erratic income from daily labour. To cope, IDPs rely heavily on their neighbours, relatives and the elderly to supplement their income by pooling income, pensions and social assistance and taking credits. However, it should be noted that there is no evidence that IDPs resort to survival sex as a result of their vulnerable economic situation.

9.3 Social security, social programmes for persons with specific needs, and just and favourable conditions of work

Azerbaijan's legislation grants IDPs access to social security on an equal basis to other citizens. IDPs are eligible for unemployment and disability benefits, pensions and maternity leave⁶². IDPs also benefit from limited tax exemptions in comparison to other citizens. Those previously employed by the state before displacement, but currently

⁵⁷Results of participatory interviews of UNHCR Age, Gender, and Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

⁵⁸Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

⁵⁹Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

⁶⁰on average between 80-100 AZN per month

⁶¹on average 50 AZN per month

⁶²Law "On Social Protection of Internally Displaced Persons and Persons equated to them" adopted on 21 May 1999; the 1999 Labor and 2001 Tax Codes, the 1993 Law on Provision of Pensions to Citizens; Article 125 Labour Code

unemployed, continue to receive a monthly salary. Nonetheless, State Programmes on the improvement of living conditions and employment generation lack special measures to promote the employment and wellbeing of IDPs with specific needs.

Although the Government of Azerbaijan has made significant and laudable efforts to provide IDPs with social security benefits, not all eligible IDPs are able to access benefits in practice. This is due to lack of registration of IDPs with government authorities or disputes over whether IDPs fulfil criteria for benefits. This particularly affects vulnerable groups such as poor single headed households, orphans and persons with disabilities who face difficulties accessing necessary documentation or responsible authorities⁶³.

The capacity of government authorities to deal with IDP groups that have special needs on a local level is limited due to a lack of qualified staff and funding for projects targeting these particularly vulnerable groups.

IDP communities rely on their tight knit social structure to take care of IDPs with specific needs, resorting to the help of relatives, neighbours or schools and day care centres to take care of the disabled, orphans or single family households. While this is the ideal approach, the Government and the international community could also target their projects more specifically to the needs of these persons and involve IDP communities in their design.

9.4 Self-employment

By law IDPs have full access to self-employment in Azerbaijan. IDP legislation provides for privileged access to the labour market to registered IDPs, with state institutions being under the obligation to assist IDPs in finding gainful employment, which includes IDPs essentially having access to Government vocational training centres or business advice centres. Furthermore, legislation also provides that IDPs are to be given a plot of land for agricultural purposes.

Amendments made to the State Programme for the Improvement of Living Conditions and employment generation for IDPs in 2007 aims to enhance employment, self-reliance and income generation activities for IDPs in particular through skills training such as sewing or carpet making.

In practice, the creation of employment opportunities for IDPs has proved challenging for the Government, in particular in terms of their ability to create jobs in newly constructed settlements, which are often situated at long distances from towns or urban centres.

The government has sought to encourage self-reliance through agricultural production by providing IDPs with rights to temporary use of land plots⁶⁴ as well as 200 AZN for equipment and tools in newly constructed settlements. Nevertheless, other IDPs who were moved to settlements built at a later stage have not benefited from this right. This

⁶³Results of participatory interviews of UNHCR Age, Gender, Diversity Mainstreaming (AGDM) Exercise for IDPs conducted from July-September 2007.

⁶⁴ Up to 1 hectare for each IDP family, plus 0.12 hectare for gardening next to their houses.

is due to lack of fertile land plots next to the settlements or plots processed through land reform are given to municipalities for other purposes.

Allocated land is therefore often located at some distance from IDP settlements or near the frontline. Other problems preventing meaningful agricultural self-employment relate to the small size, or poor quality of land plots allocated, including lack of access to water supply. Additionally, as the majority of IDPs live in urban settings, the allocation of agricultural land improves self employment and reliance prospects of only a small proportion of the displaced population.

IDPs face no particular restrictions in making use of natural resources such as forests and fallow land. IDPs also face no particular restrictions with regard to movable property such as livestock or vehicles upon which their livelihood depends.

9.5 Programmes to enhance self-reliance

Although employment generation is a general challenge in Azerbaijan, more needs to be done to conduct targeted livelihood assessments and income generation activities to expand the livelihoods of the most disadvantaged IDPs, including women and youth, as well as those living in remote settlements. The cooperation of donors and the government in attracting investment and the strengthening of capacities of local authorities are key elements to improving the situation.

Existing national legislation and State Programmes for IDPs requiring state institutions to facilitate IDP employment provide some employment opportunities for IDPs at the municipal level but these are currently insufficient to address broader livelihoods concerns.

IDPs have benefited from a wide range of government programmes and projects of the international community designed to generate self-reliant activity, since their displacement at the beginning of the 1990s. Such projects are ongoing or have been completed by UNHCR, NRC, DRC, FAO, UNIFEM and UNICEF in cooperation with various national actors such as UMID, HAYAT, World Vision and credit agencies. They have targeted men and women equally.



Vocational courses for IDPs: Apprenticeship at a Bakery

Such programmes include the granting of micro-credits and loans on favourable terms, skills and vocational training, training in the development of business plans, and the provision of necessary equipment. While livelihood studies for IDPs have been conducted⁶⁵, these have not particularly focused on the economic and social impact IDPs have on local communities. Micro credit programs are implemented by the Social Development Fund of IDPs, Fund of Support to Entrepreneurship, international humanitarian organizations and the development organizations, founded by them.

The participatory assessment with IDPs in 2007 highlighted the need to develop comprehensive livelihoods strategies which proceed from targeted market assessments to the provision of micro-credits, loans, equipment and other in-kind assistance with relevant vocational training and business skills development. Rural IDPs and poor urban IDPs expressed a lack of confidence in expanding their income through loans or micro-credits due to lack of collateral or financial means, high interest rates, lack of demand for their products, and lack of skills training or knowledge of how to run businesses. This suggests the need for the facilitation of credit lending as well as the need for the expansion of processing, service and production facilities as well as the more efficient allocation of land.

Risk averseness and a lack of community mobilization among IDP youth and in rural IDP communities in general, also act as obstacles to expanding livelihoods activities. This suggests the need for greater sensitisation of the rural IDP population and training with regard to livelihood and self-reliance as well as a general more inclusive approach by the Government of IDPs when developing livelihood strategies, as to date IDPs are rarely consulted.

The situation is more favourable for IDPs living near, or in, larger towns or urban centres such as Sumgayit and Baku where higher demand for products, greater community mobilization, and easier access to skills training and financing provide greater scope for self-reliance. Vocational programmes focusing on youth in urban areas have shown that the conditions and capacity to run successful businesses exist. However, more focus should be put on poor urban IDPs, who have migrated to Baku and Sumgayit from other districts.

A nationwide analysis and evaluation of existing self-reliance and vocational programmes - which includes IDP participation - could help to prioritize needs and target certain sectors of the IDP population, and contribute to the improvement of existing activities. Surveys on the employment situation of IDPs compared to the local population could help to shape integration strategies and to assess the implementation of existing legislation benefiting IDPs in the field of self-reliance.

9.6 Housing, land and property

By law, independent settlement of IDPs is only permitted if it does not violate the rights and lawful interests of other persons. Where land disputes arise, the State Committee for Refugees and IDPs and local executive authorities must provide alternative housing for IDPs within the same district.

⁶⁵UN-OCHA Assessment 2005; DRC Livelihood assessment 2007

Article 48 of Azerbaijan's Land Code specifies that citizens of Azerbaijan can obtain land for property, use and rent. Article 56.4 mentions IDPs as a priority group in the allocation of land for use or rent for agricultural purposes. In practice, the right to own property in Azerbaijan constitutes perhaps the greatest difference between IDPs and the local population with regards to accommodation subsidized by the state.

Due to the "temporary nature" of IDPs' residence status, IDPs are by law provided cost free "temporary" housing and land as their place of origin is considered their permanent residence in Azerbaijan. They are also exempted from paying for property transactions and are provided with interest free loans and the right to obtain a plot of land⁶⁶.

While IDPs therefore appear to benefit from a privileged status with regard to obtaining living space and property, the majority of IDPs are de facto only able to obtain property rights with great difficulty. Ownership of homes and property among IDPs (15 %) is extremely low compared to local families (83%)⁶⁷.

This is largely due to a lack of own funds, government policy and bureaucratic obstacles which hinder IDPs from registering property, impacting on their ability to acquire full ownership rights in land, property and businesses and to integrate fully into Azerbaijani society. IDPs are not able to acquire ownership of land plots allocated for temporary use, affecting their long-term prospects to achieve self-reliance through agricultural activity. IDPs are also not consulted with regard to the ongoing privatization process in many rural parts of Azerbaijan, further impacting on their ability to obtain land plots.

Due to the inaccessibility of the Nagorno-Karabakh region, an assessment of the situation concerning land, housing and property left behind by IDPs is not possible at this time, however it should be noted that reports indicate that there has been substantial destruction of private and public property.

In the 2007 participatory assessment, the majority of IDPs expressed their conviction that they would be able to regain their property in occupied Nagorno-Karabakh and surrounding territories with the help of the Governments after a peaceful settlement of the conflict. IDPs stated that many of them have documentation, keys to houses and that archives exist, in which their former property is registered.

Property laws in Azerbaijan include a common property right which denotes property being owned by two or more persons (Article 213.1). Two kinds of this property right are defined in the Civil Code, namely shared property right and joint property right. Shared property right means it is possible to determine the property share of each owner, while this is not possible in joint property rights (Article 213.2). The latter also covers joint ownership of spouses, and can impact on the ability of women and girls to obtain individual property rights. However as such, property laws in Azerbaijan do not discriminate against women and girls.

Azerbaijan's inheritance law does not prevent IDPs from inheriting property as it treats them as citizens. However, in the newly constructed settlements, IDPs are given houses

⁶⁶Law of the Republic of Azerbaijan on IDPs (Internally Displaced Persons) and Refugee Status adopted on 21 May 1999 (Article 17)

⁶⁷ World Bank IDP Survey 2002

only for “temporary use” and therefore this prevents them from acquiring this property through inheritance.

9.7 Housing, land and property restitution

The issue of property restitution and compensation of land, housing and property of IDPs in occupied Nagorno-Karabakh and surrounding territories forms an integral part of the negotiations between Azerbaijan and Armenia under the auspices of the OSCE Minsk Group.

The issue of property restitution is also included within the framework of a Return Plan being developed by the Government of Azerbaijan in cooperation with UNHCR and other UN agencies in Azerbaijan for use in the event of a settlement of the Nagorno-Karabakh conflict.

By all accounts there is significant destruction of public infrastructure and private property in the occupied territories and creating the proper conditions for return will take significant time and resources. To date, the Government of Azerbaijan has preconditioned assessment, planning and coordination of restitution programmes on a permanent settlement of the conflict with Armenia including the liberation of occupied territories and return of IDPs. As a result, no information exists nor has there been an attempt to establish the scale of land, housing and property to be restituted.

The principles and the conditions of property restitution have therefore yet to be established, and thus IDPs are currently unable to access effective remedies in relation to housing, land or property that has been arbitrarily occupied, sold, damaged or destroyed. Issues of lost property and compensation will be dealt with after the peace agreement is signed.

10. DURABLE SOLUTIONS

10.1 Free and informed choice

Fifteen years into the ceasefire between Armenia and Azerbaijan, the return of IDPs remains dependent on a permanent settlement of the conflict over occupied Nagorno-Karabakh and surrounded territories. Negotiations between the conflicting parties continue, led by the OSCE Minsk Group.

Given the protracted situation of the conflict, it is unsurprising that all IDP men, women, boys and girls interviewed in participatory assessment in 2007, expressed their fervent wish for a durable solution to their situation, stating that the preferred solution was the return to their place of origin.

Expectations among IDPs are that both the government and international organizations will organize their return, rebuild infrastructure and houses and ensure their safety. A majority of IDPs felt it would be best if they returned together as a family unit, however many felt that “go and see” visits to their places of origin by senior or male family members should be held in preparation for the return. Some IDPs also stated they could not yet decide whether all family members would return, as many had built successful lives outside Nagorno-Karabakh. Elderly IDPs (40+) stated that the return to their place of origin was their only remaining wish.

The Government of Azerbaijan began to develop a Great Return Programme in 2005 in consultation with UNHCR. The framework plan aims to develop a common understanding among donors and the Government on issues such as the voluntary nature of return, conditions for return, sectoral coordination mechanisms and clarity of roles and responsibilities following any settlement of the Armenia-Azerbaijan, Nagorno-Karabakh conflict. The revised State Programme for the Improvement of Living Conditions of Refugees and IDPs also foresees planning of future economic structure of occupied regions following a settlement to be included in the Return Plan⁶⁸.

UNHCR - on behalf of the UN country team - is playing a leading role in providing technical assistance to the Government in the development of return plans and policies. Following recommendations by international agencies, the Government of Azerbaijan has accepted the principle of free and informed choice by IDPs as a precondition to return. The planning of return - once possible - should therefore be based on thorough and detailed assessments of conditions in places of origin. A government sponsored information campaign for IDPs focusing on the voluntary nature of return should follow these assessments.

10.2 Participation in planning

Although IDP community leaders often raise concerns relating to durable solutions with local authorities such as ExComs on an ad hoc basis, IDP communities are not systematically consulted by the Government in relation to the relocation of households

⁶⁸Azerpress, November 1, 2007 “State Programme to improve living conditions of refugees and IDPs is valued at AZN 1 billion”.

to newly constructed settlements in the liberated territories of Azerbaijan, or the development of the Return Programme for eventual return. In participatory assessment held in 2007, IDPs raised the lack of consultation on these issues as an issue of particular concern.

The ad hoc nature of current interventions and discussion between IDP leaders and local authorities does not adequately ensure that the views of women, children and the most disadvantaged households are heard.

In the event that conditions for return are established, structured consultation and the upgrading of available demographic information will be necessary to ensure that the views and needs of all age, gender and diversity groups are taken into account in planning, with particular consideration to the most vulnerable.

10.3 Return and relocation travel

The Government has initiated a massive temporary relocation programme of IDPs within the framework of the 2004 “State Programme for the improvement of Living Conditions and Employment of Refugees and Displaced Persons”. The construction of new IDP settlements under this programme has provided housing solutions for IDPs in tented camps and has also made possible the return of a small number of IDPs to liberated areas of the occupied territories. As such it has contributed to a limited form of a durable solution for some IDPs.

IDPs do not spontaneously return to their places of origin, and generally IDPs have not fled again after having been resettled or relocated. IDPs are not hindered from spontaneous relocation in other parts of the country, although this can have repercussions for their eligibility for assistance and affect family unity as mentioned in other sections of this report⁶⁹. Travel for IDPs within Azerbaijan is generally considered to be safe.

International agencies such as UNDP, UNHCR, and the EU as well as NGOs have supported the return of IDPs to liberated areas of the occupied territories such as Fuzuli. However, the return of IDPs to these areas has highlighted the legal uncertainty IDPs face when returning. Many IDPs face continuing problems relating to property rights, recognition of legal personality and other legal issues.

Furthermore, infrastructure is rudimentary with housing, hospitals, and schools having been destroyed. Programmes and projects of the government and the international community have targeted the rehabilitation of these facilities, but more needs to be done to ensure that return is sustainable. The creation of employment possibilities and income generating activities is essential.

Mine clearing in former occupied territories has been the major focus of the activities of the Azerbaijan National Agency for Mine Action (ANAMA) and has led to an improved security situation.

It should also be noted that returnees continue to profit from government assistance and

⁶⁹ See section on freedom of movement of this report.

humanitarian assistance projects and many have retained their IDP certificates and status. The latter means that returnees who return to liberated areas continue to benefit from privileges accorded to IDPs, which gives them much needed support to reconstruct their lives in their place of origin.

While a substantial area of Fuzuli remains occupied, return to those areas that have been liberated serves as an example of the future challenges of creating and maintaining sustainable conditions for return in the event of a permanent settlement governing other occupied areas. Lessons learned from the return of IDPs to liberated areas should therefore be incorporated into the planning of an eventual return of all IDPs.

10.4 Sustainability of durable solutions

As mentioned above, IDPs generally enjoy good relations and a generous amount of support from other citizens and communities in Azerbaijan. IDPs and locals often live side by side, in particular in urban areas, and many mixed marriages exist.

Nevertheless, IDP communities in rural areas and in new government settlements tend to be isolated from the local population. This is on one hand due to the isolated locations of many IDP settlements, but also to the fact that there are separate facilities such as health centers and schools for IDPs.

The existing policies of the Government of Azerbaijan define the settlement of IDPs as temporary, and a shift in emphasis towards local integration is unlikely in the foreseeable future. In the Government's view, return is clearly the preferred, if not only, durable solution.

Based on this premise, the Government of Azerbaijan has, in consultation with UNHCR, started to develop a framework plan for the eventual return of IDPs to their places of origin, pending a peaceful settlement of the conflict. In this regard, the principle of voluntary return has been accepted by the Government as a premise for return and it is willing to take full responsibility for the reconstruction of occupied Nagorno-Karabakh and surrounding territories.

It should also be noted that while many IDPs share the Government's view that return is the preferable permanent solution to their plight, a whole generation IDPs has been born and raised in other parts of Azerbaijan, and have never seen their homeland. This generation has naturally started to build their lives and livelihoods outside of occupied Nagorno-Karabakh and its surrounding territories.

For these IDPs in particular, and the displaced population in general, facilitating more than a de-facto local assimilation would help to secure, on a permanent basis, improved living standards and create a real choice of durable solution.

This would require a greater focus by the Government and international agencies on the ability of IDPs to become self-reliant, increase employment opportunities and create easier access for IDPs to employment networks, business advisory services and vocational training. Education of IDPs, in particular University education for youth should be prioritized to enable them to raise their standard of living, and more focus should be given to raising the poverty level of IDPs.

ANNEXES

Annex I: UN Guiding Principles on Internal Displacement

Guiding Principles on Internal Displacement

Introduction - Scope and Purpose

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:

- (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
- (b) States when faced with the phenomenon of internal displacement;
- (c) All other authorities, groups and persons in their relations with internally displaced persons; and
- (d) Intergovernmental and non-governmental organizations when addressing internal displacement.

4. These Guiding Principles should be disseminated and applied as widely as possible.

Section I. General Principles

Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.

2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.

2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.

2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Section II. Principles Relating to Protection From Displacement

Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

2. The prohibition of arbitrary displacement includes displacement:

(a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;

(b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;

(c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;

(d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and

(e) When it is used as a collective punishment.

3. Displacement shall last no longer than required by the circumstances.

Principle 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.

2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.

3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

(a) A specific decision shall be taken by a State authority empowered by law to order such measures;

- (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
- (c) The free and informed consent of those to be displaced shall be sought;
- (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
- (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
- (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

Section III. Principles Relating to Protection During Displacement

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

- (a) Genocide;
- (b) Murder;
- (c) Summary or arbitrary executions; and
- (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

- (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
- (b) Starvation as a method of combat;
- (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
- (d) Attacks against their camps or settlements; and
- (e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:

- (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
- (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
- (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.
3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
4. In no case shall internally displaced persons be taken hostage.

Principle 13

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

Principle 14

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.
2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and
- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.

3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.

4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

Principle 17

1. Every human being has the right to respect of his or her family life.

2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.

3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.

4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.

2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:

(a) Essential food and potable water;

(b) Basic shelter and housing;

(c) Appropriate clothing; and

(d) Essential medical services and sanitation.

3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.

2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.

3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

Principle 20

1. Every human being has the right to recognition everywhere as a person before the law.

2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such

as requiring the return to one's area of habitual residence in order to obtain these or other required documents.

3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.

2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:

(a) Pillage;

(b) Direct or indiscriminate attacks or other acts of violence;

(c) Being used to shield military operations or objectives;

(d) Being made the object of reprisal; and

(e) Being destroyed or appropriated as a form of collective punishment.

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

(a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;

(b) The right to seek freely opportunities for employment and to participate in economic activities;

(c) The right to associate freely and participate equally in community affairs;

(d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and

(e) The right to communicate in a language they understand.

Principle 23

1. Every human being has the right to education.

2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.

3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.

4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

Section IV. Principles Relating to Humanitarian Assistance

Principle 24

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.

2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Principle 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.
2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

Section V. Principles Relating to Return, Resettlement and Reintegration

Principle 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.
2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.
2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

Annex II: List of relevant International Instruments to which Azerbaijan is a party

Convention	Date of Accession
International Covenant on Economic, Social and Cultural Rights (1966)	13 August 1992
International Covenant on Civil and Political Rights (1966) including its Optional Protocol (1966) and its Second Optional Protocol aimed at the abolition of the Death Penalty (1999)	13 August 1992 27 November 2001 22 January 1999
Convention on the Rights of the Child (1990) including its Optional Protocol on the Rights of the Child on the involvement of children in armed conflict (2000) and its Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)	13 August 1992 03 July 2002
Geneva Conventions (1949)	01 June 1993
Convention relating to the Status of Refugees (1951)	12 February 1993
Protocol to the 1951 Convention relating to the Status of Refugees (1967)	12 February 1993
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)	11 January 1999
International Convention for the Protection of All Persons from Enforced Disappearance (2006)	06 February 2007
Convention on the Elimination of All forms of Discrimination against Women (1979) including its Optional Protocol (1999)	10 July 1995 01 June 2001
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)	16 August 1996
Convention relating to the Status of Stateless Persons (1954)	16 August 1996
Convention on the Reduction of Statelessness (1961)	16 August 1996
Convention on the Prevention and the Punishment of the Crime of Genocide (1948)	16 August 1996
International Convention on the Suppression and the Punishment of the Crime of Apartheid (1973)	16 August 1996
Convention on the non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968)	16 August 1996
International Convention on the Elimination of all forms of Racial Discrimination (1965)	16 August 1996
Convention against torture and other cruel, inhuman or degrading treatment or punishment (1984) including its Optional Protocol (1992)	16 August 1996 Signed 15 September 2005

Azerbaijan has also acceded to the European Social Charter, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols 1 to 8, 11 and 12.

Source: UN Treaty Collection, October 2007

Annex III: List of relevant Azerbaijan State Programmes for IDPs

State Programme “On the solution of refugee and IDP problems”, 17 September 1998

State Programme for the Improvement of living standards and generation of employment for refugees and IDPs, 1 July 2004

State Programme for Poverty Reduction and Economic Development (SPPRED) 2003-2005, 2003

Additions to the 2004 State Programme on the Improvement of Living Conditions of Refugees and Internally Displaced Persons and Employment Promotion, 31 October 2007

State Programme on Alleviation of Poverty and Sustainable Development in Azerbaijan (SPAPSD) 2008-2015, September, 2008

Annex IV: List of selected Presidential Decrees and Decisions of Cabinet of Ministers for IDPs

Presidential Decrees:

Presidential Decree No. 2475 “On additions to Decree № 298 “State Programme on the Improvement of Living Conditions of Refugees and Internally Displaced Persons and Employment Promotion” approved by the President of the Republic of Azerbaijan on 1 July 2004” dated 31 October 2007

Presidential Decree No. 298 “Regarding the Approval of the “State Program for the Improvement of living standards and generation of employment for refugees and IDPs”, 1 July 2004

Presidential Decree No. 80 “On measures for the improvement of social and living conditions of people displaced from Aghdam and other regions as a result of invasion of Azerbaijani lands by Armenian armed forces, and sheltered in tent camps in Barda and Agjabedi and in railway carriages in Barda and providing them assistance in the generation of employment”, 04 February 2004.

Presidential Decree No.1308 “On Waiving IDP students from the Tuition Fee at State Universities and High Schools” dated 04 August 2003;

Presidential Decrees No. 921 “On the Improvement of Social Security for IDPs”, dated 13 May 2002.

Presidential Decree No. 700 “On measures regarding the improvement of the social conditions of IDPs temporarily settled in five refugee camps in the territory of Bilasuvar district”, 13 May 2002

Presidential Decree No. 613 “On Replacement of IDP Privileges in Communal, Transport and Other Services with Allowances”, dated 26 December 2001

Presidential Decree No. 577 'Regarding some measures on the settlement of IDPs driven out of Aghdam and Fuzuli regions as a result of invasion of Azerbaijani lands by Armenian armed forces and temporarily placed in tent camps on the territory of the same districts', 07 September 2001

Presidential Decree No. 562 "On the solution of the settlement problems of Azerbaijanis deported from their historical lands in the territory of Armenia as a result of the ethnic cleansing policy conducted by Armenian nationalists", 22 August 2001

Presidential Decree No. 791 "On food security of IDPs" 15 August 2001

Presidential Decrees No. 149 "On Implementation of the "Law of the Azerbaijan Republic on Social Protection of Forcibly Displaced Persons and Persons equated to them", dated 8 July 1999;

Cabinet of Ministers Decisions:

Decision of the Cabinet of Ministers No. 2 "On approval of Regulations on provision of citizens with compensations in regard with replacement of concessions for expenses of utility, transport and other services with these compensations", dated 9 January 2002

Decision of the Cabinet of Ministers No.204 "On approval of Regulations and Conditions of credit allocations to IDPs for agricultural purposes", dated 6 November 2000

Decision of the Cabinet of Ministers No.67 "On approval of Regulation on allocation of land plots to IDPs for agricultural purposes", dated 17 April 2000

Decision of the Cabinet of Ministers No.200 "On approval of some regulations related to settlement issues of IDPs", dated 24 December 1999

Decision of the Cabinet of Ministers No. 184 "On approval of Regulations on provision of IDPs with lump sum and regular financial assistance, food and industrial products", dated 6 December 1999

Annex V: Highest concentration of IDPs in Azerbaijan (breakdown by cities and regions)

Extract form the letter of SCR dated 16 March 2009

City/Region	Number of IDPs
Baku	176,430
Fuzuli	65,099
Sumgait	44,878
Aghdam	38,874
Barda	33,842
Mingachevir	20,021
Lachin Winter Grounds in Agjabedi	17,211
Gandja	15,653
Beylagan	15,624
Agjabedi	15,588
Tertter	15,326
Absheron	13,277
Bilasuvar	12,117
Yevlakh	11,786

Total Number of IDPs in Azerbaijan: 603,251