

**Submission from the Internal Displacement Monitoring Centre (IDMC)
of the Norwegian Refugee Council (NRC) for consideration at the
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(Pre-Sessional Working Group)**

Azerbaijan

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Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC) was established in 1998 by the Norwegian Refugee Council (NRC) and monitors conflict-induced internal displacement worldwide. The Geneva-based Centre runs an online database providing comprehensive and regularly updated information and analysis on internal displacement in more than 50 countries. Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations. The sources of information contained in this submission can be found in IDMC's online database, which can be accessed at www.internal-displacement.org

I. Background to internal displacement in Azerbaijan

1. Over 599,000 people are currently internally displaced in Azerbaijan due to the conflict between Azerbaijan and Armenia over the territory of Nagorno-Karabakh. The conflict began in 1988, and by the time a ceasefire agreement was signed in 1994, some 30,000 people had been killed and over 700,000 people had been internally displaced within Azerbaijan.

2. Before the two parties agreed to a ceasefire in 1994, about 50,000 internally displaced people (IDPs) were able to return to their homes. However, in the absence of a resolution to the conflict 18 years later, Azerbaijan does not have effective control over Nagorno-Karabakh and seven surrounding districts, and the remaining IDPs continue to be prevented from returning to their homes.

3. The Government of Azerbaijan has allocated significant financial resources towards improving the lives of IDPs. This has mainly been through settlement of over 100,000 IDPs to new apartments and homes within the framework of the 2004 *State Programme on the Improvement of Living Conditions of Refugees and Internally Displaced Persons and Increasing their Employment*. These efforts have improved housing conditions and decreased the poverty rate of tens of thousands of IDPs.

4. While the majority of IDPs have yet to benefit from government housing and livelihood assistance, not all are in need of the same support. After nearly two decades since their displacement, IDPs have become a heterogeneous group with varying outstanding displacement-related needs. A comprehensive profiling exercise is needed to determine which IDPs remain vulnerable and the type of assistance they require.

II. Issues of concern and questions for the Government of Azerbaijan

Article 3 – Equal rights of men and women

5. The term “forcibly displaced person” is defined in the law *On status of refugees and forcibly displaced (persons displaced within the country) persons* of 21 May 1999. Article 1 of the law states the following:

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

By creating FDP status, the government helped many IDPs gain access to basic rights. Among other benefits, IDPs with FDP status are entitled to temporary accommodation, medical assistance, education, transport and utilities free of charge.

6. The children of IDPs with FDP status are eligible for the status, though there are limitations. Unlike men with FDP status, women with FDP status are not always entitled to confer FDP status on their children. The status of children is determined based on the status of the head of the household. According to an internal regulation of the State Committee for Refugees and IDPs, men are primarily considered the heads of household. Therefore men with FDP status may confer the status on their children

regardless of whether the mother of the children has the status, but women with FDP status married to men without the status may not confer the status on their children. Unmarried or divorced women with FDP status assume the position of head of the household and may confer the status on their children.

7. Furthermore, Article 4 of *Instructions regulating the distribution of monthly food allowances to IDPs* of 5 February 2002 states the following:

The following persons acquired status of internally displaced may receive monthly food allowances:

- 4.1 Persons in the territory of Azerbaijan Republic and holding an FDP status;
- 4.2 Children with parents, both of whom are FDPs;
- 4.3 Children with father who holds an FDP status. [unofficial translation]

8. Men and women with FDP status do not enjoy it equally. Married men may confer FDP status on their children regardless of whether their spouse has the status, while women cannot. Women are discriminated against on the basis of their civil status and the possession of FDP status by their spouse. The result is discriminatory conferment of FDP status.

9. The 3rd Periodic State report (E/C/12/AZE/3) submitted by the Government of Azerbaijan on 16 May 2011 does not contain information on FDP status. In this regard, IDMC recommends that the Committee pose the following question to the Government of Azerbaijan during consideration of its 3rd Periodic State report:

- **Please outline the justification for the FDP status of children born to internally displaced persons being dependent solely on the status of the head of household.**

Article 6 The right to work

10. There are no formal limitations on IDPs' right to work in Azerbaijan. On the contrary, the government has put employment quotas in place for IDPs and retained IDPs who worked as civil servants before their displacement. IDPs with FDP status also receive a monthly financial allowance of approximately USD 20 and have an advantageous right to maintain employment in the case of redundancies. The government and international organisations have also implemented programmes to improve the self-reliance of IDPs.

11. Despite these measures IDPs reportedly continue to suffer from disproportionately high poverty and unemployment rates as compared to the overall population, particularly in remote rural communities. Official statistics put unemployment among IDPs living in temporary government-provided accommodation at about 10 per cent, but local NGOs say the actual rate is much higher and especially affects women. There are no estimates of the unemployment of IDPs living in private accommodation that they rent, own or otherwise occupy at their own initiative.

12. Article 17 of the law *On status of refugees and forcibly displaced (persons displaced within the country) persons* of 21 May 1999 states that IDPs are entitled to land plots.

However, not all IDPs have received land plots and some of those who did complain the land is infertile and far from their residence. Due to the lack of river water for irrigation many IDPs rely on waterholes, which do not meet the demand of their communities and quickly wear out. IDPs report that limited social capital and risk aversion prevents them from finding other income-generating opportunities.

13. The result of their unemployment and limitations on earning an income from agriculture is that IDPs depend on government benefits and remittances from relatives working away as their main source of income. Many regularly take on debt with family, friends and local business owners to get by. Poverty in internally displaced families has meant that some internally displaced children have taken up agricultural or construction work in order to supplement family income; their school attendance has often suffered as a result.

14. The 3rd Periodic State report (E/C.12/AZE/3) submitted by the Government of Azerbaijan on 16 May 2011 does not contain information on the right to work of IDPs. IDMC therefore recommends that the Committee pose the following questions to the Government of Azerbaijan during consideration of its 3rd Periodic State report:

- **Please provide disaggregated information on the socio-economic situation of IDPs according to sex, location and type of accommodation.**
- **Please indicate what effective measures the government has taken to reduce the level of unemployment among internally displaced persons, particularly women.**
- **Please outline which barriers IDPs face to gaining employment and how the government plans to eliminate these barriers.**

Article 11 The right to an adequate standard of living – adequate housing

15. IDPs live in collective centres (such as former hostels, schools, kindergartens and sanatoriums), makeshift accommodation (such as rail wagons, so-called Finnish houses and mud houses), in housing built by the government or international organisations, with relatives or in accommodation they occupied, own or built themselves. A 2011 study found that the majority of IDPs live in urban areas in housing that was more crowded and with lower rates of access to electricity and sewerage than the local population. The housing conditions of IDPs vary significantly.

16. While some collective centres have been renovated over the years, the remainder are either in urgent need of refurbishment or beyond repair. The buildings were never intended for long-term housing and are run-down and overcrowded as families usually have one to two closed rooms. Electricity supplies are limited and sanitation facilities, potable water supply and waste disposal are inadequate. Roofs leak, wiring is dangerous and vermin is present. Displaced children have grown up, married and established families of their own in these circumstances, often living in little privacy with the parents of the husband as is the cultural norm. In such crowded conditions, children often lack places to play or study.

17. In an effort to improve IDPs' poor living conditions, the government has resettled some 107,000 IDPs to new housing. While a significant achievement, not all IDPs have

been satisfied with conditions in the new settlements. IDPs have reported problems with construction and infrastructure, such as sinking foundations, poor plumbing and leaking roofs. The government has not repaired these defects. Local health care provision is poor and the settlements are most often in remote locations with few opportunities to earn an income. Public transport links to the nearest towns are often unavailable. This isolation causes problems for IDPs with limited budgets and hinders their access to jobs, services and information. Although the government says IDPs are involved in decision-making about the new housing, some IDPs stated that they were not consulted on relocations or given one or two days notice.

13. The housing of IDPs living in accommodation that they secured on their own is also inadequate. Small communities remain in mud and reed huts in rural areas, where health and other problems associated with poor living conditions are commonplace. Some 115,000 other IDPs currently occupy flats or homes owned by others without paying rent that they seized upon displacement. A presidential decree of 2004 ordered that IDPs should not be evicted from any premises they occupy, regardless of ownership of the property that they had settled in between 1992 and 1998. As a result, the domestic courts who heard property owners' complaints against IDPs confirmed the owners' property titles, but ruled that the eviction of IDPs must be postponed until the occupied territories are liberated or until the government can resettle them in a new location.

14. Some homeowners took their cases to the European Court of Human Rights, which found that the owner of an apartment occupied by a displaced family had been denied her right to peaceful enjoyment of her property and established that the government should restore the property rights of the legal owners and provide IDPs with an alternative residence. Since this and similar rulings were handed down the government has either settled these disputes in a friendly manner with the legal owners, or has not yet enforced the judgment. IDPs have been evicted in only a small number of cases and in most instances the judgments have not been enforced. These cases have set up a precedent and underlined the lack of security of tenure for IDPs living in urban flats.

15. In its Concluding Observations (E/C.12) dated 14 December 2004 on the review of the 2nd Periodic State report submitted by the Government of Azerbaijan, the Committee on Economic, Social and Cultural Rights concluded:

54. The Committee recommends that the State party take corrective measures to ensure that Armenians and other ethnic minorities whose properties are illegally occupied by refugees and internally displaced persons are provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee and its General Comment No. 7. The Committee also recommends that the State party take the necessary measures to guarantee the right to adequate housing to all persons residing under its jurisdiction and to address the problem of the lack of adequate social housing units in the most expedient manner possible, particularly in Baku. In this connection, the Committee wishes to draw the attention of the State party to its General Comment No. 4 on the right to adequate housing. The Committee further requests the State party to provide, in its third periodic report, detailed information on the number and nature of forced evictions and on the extent of homelessness in the State party.

16. In its 3rd Periodic State report (E/C.12/AZE/3) submitted on 16 May 2011, the Government of Azerbaijan wrote:

773. The bulk of the Armenian population of Azerbaijan sold or exchanged their houses or apartments under Azerbaijan Soviet Socialist Republic legislation. In many cases, Armenian residents of Azerbaijan migrated to Armenia illegally and forcibly occupied houses and apartments of Azerbaijanis residing in Armenian territory.

774. In view of the specific character of this issue and its direct link with the Armenia-Azerbaijan military conflict, questions of adequate compensation or alternative housing may be examined as part of resolving the effects of occupation, once the occupied territories are liberated and the internally displaced persons return to their houses in the occupied regions of Azerbaijan, including Nagorno-Karabakh.

The government did not provide any information on the housing conditions of IDPs in its 3rd Periodic State report. IDMC therefore recommends that the Committee pose the following questions to the Government of Azerbaijan during consideration of its 3rd Periodic State report:

- **Please outline the Government plans for long-term housing support for the remaining IDPs living in inadequate housing conditions.**
- **Please provide information on the housing situation of IDPs living in private accommodation.**
- **Please explain the consultation procedure with IDPs on their relocation to new housing.**
- **Please outline efforts to find alternative housing solutions for IDPs occupying the lawfully-owned properties of local residents**

Article 12 The right to physical and mental health

17. Comprehensive and current information on the health of IDPs is unavailable. The latest study published in 2009 found that IDPs' mental health continued to suffer as a result of their displacement. Aggravating factors included trauma suffered during the conflict, crowded and run-down living spaces, lack of education, inadequate income, poor physical health and sexual and gender-based violence. Internally displaced women were twice as likely as men to have a mental health disorder, and children were also affected via the traumatic experiences of their parents and their poor living conditions.

18. The government has made efforts to improve IDPs' access to health care. Article 10 of the May 1999 law *On social protection of forcibly displaced persons and persons equated to them* states that people with FDP status are entitled to medical services and some medications free of charge, while according to Article 6 of the 1999 law *On status of refugees and forcibly displaced (persons displaced within the country) persons*, certain categories of IDPs, such as the elderly, children, low-income individuals and families who have lost their main wage-earner are entitled to free medical treatment and medication. IDPs are also free to use any medical centre or hospital in the country. In

addition to these legal entitlements, there have been important new reforms to the health sector, new medical facilities have been constructed in some IDP settlements, incentives have been put in place to attract qualified medical staff to rural areas, and a national mental health policy was adopted in 2008.

19. Despite these measures, some IDPs struggle to access health services due to lack of finances. Lack of finances is a key obstacle to accessing health services for the poor in Azerbaijan, where out-of-pocket expenditures constitute 73 per cent of total spending on health care. While IDPs are legally exempt from paying fees for treatment and most medicines, they are nevertheless often made to pay for them in practice. This discrepancy between the law and practice unduly burdens IDPs, although it should be noted that all citizens, whether displaced or not, are subject to informal fees in seeking health care.

20. Distance is also a factor affecting IDPs' access to medical services. Medical centres are not always located within the reach of IDPs living in rural areas, and with inadequate public transport infrastructure where they live, these IDPs have to pay for taxis to the nearest medical clinic or hospital, sometimes up to 20 kilometres away. In cases where medical centres are within reach, they do not always have the appropriate specialist or supplies. IDPs with complicated disorders must therefore travel further to access treatment. Since IDPs cannot always afford to visit the appropriate medical facility or buy all the medicines prescribed by their doctors, conditions and illnesses often go untreated.

22. In its Concluding Observations (E/C.12/1/Add.104) dated 14 December 2004 on the review of the 2nd Periodic State report submitted by the Government of Azerbaijan, the Committee on Economic, Social and Cultural Rights concluded:

52. The Committee strongly recommends that the State party continue to take effective measures, including through the allocation of increased resources, to ensure the protection of the fundamental economic, social and cultural rights of refugees and internally displaced persons, in particular with regard to adequate housing, food and water, health services and sanitation.

23. The 3rd Periodic State report (E/C.12/AZE/3) submitted by the Government of Azerbaijan on 16 May 2011 does not contain information on the health of IDPs or measures to ensure their access to health services. IDMC therefore suggests the Committee pose the following questions to the Government of Azerbaijan during consideration of their 3rd Periodic State report:

- **Please provide information on the physical and mental health status of IDPs and how their health compares to the non-displaced population.**
- **Please share the accomplishments of the National Mental Health Strategy and related Strategic Action Plan.**
- **Please outline the measures put in place to monitor and address complaints related to the demand for informal medical fees.**
- **Please explain government plans to ensure access of IDPs to health-care services does not place excessive demands on their household budget.**

Article 13,14 The right to education

24. According to article 11 of the 1999 law *On social protection of forcibly displaced persons and persons equated to them*, internally displaced students in secondary school benefit from free textbooks and school supplies, and those who pass entrance exams for state universities study free of charge. However, internally displaced parents report they do not always receive textbooks and school supplies free of charge. Furthermore, internally displaced students who pass university entrance exams are not always able to afford the living costs, and report informal payments are often required to get into reputable institutions despite their passing scores. Poverty has caused some students to drop out of school or prevented them from higher education, as has early marriage in the case of girls.

25. Internally displaced children may attend separate or mixed schools, and roughly 60 per cent attend separate schools. Smaller communities of IDPs living in rural areas usually go to mixed schools, because the number of children in these communities does not allow for the establishment of a separate school. But in larger communities most IDPs send their children to separate schools. The government established such schools immediately following displacement to preserve the social fabric of displaced communities, reasoning that this would facilitate their reintegration upon return. It maintains there are no limitations or exceptions for internally displaced children to study with non-displaced children and vice versa. IDPs do not view the separate education of their children as discriminatory and some prefer that internally displaced teachers teach their children. There is little information on how the quality of their education compares with that of non-displaced students.

26. The quality of education that internally displaced children receive can be poor. Many schools are in need of repairs, furniture, heating, supplies, playgrounds and additional qualified staff. Some children are still educated in dormitory rooms in the collective centres they live in. Low teacher salaries and continued use of outdated teaching methods also negatively affect the quality of education. Students in some schools revealed that they sometimes felt unsafe because some teachers used corporal punishment and threatened them, though the extent of the problem was unclear. The government has initiated a number of reforms to improve the quality of education, but further investments are needed.

27. The 3rd Periodic State report (E/C/12/AZE/3) submitted by the Government of Azerbaijan on 16 May 2011 does not contain information on the education of internally displaced children. IDMC therefore suggests the Committee pose the following questions to the Government of Azerbaijan during consideration of their 3rd Periodic State report:

- **Please provide information on school enrolment and attendance of internally displaced children, measures to promote their attendance, their quality of education, dropout rates and statistics on secondary and tertiary education completion.**
- **Please outline any gaps in the level and quality of education provided to IDPs and measures taken to address them.**
- **Please outline measures taken to ensure internally displaced children can integrate in local schools and their result.**
- **Please outline plans to ensure future settlements built for IDPs are located close to established local populations and do not result in de facto school segregation.**