



NORVEÇ QAÇQINLAR ŞURASI
NORWEGIAN REFUGEE COUNCIL

WHILE WAITING FOR RETURN

**Achievements and further challenges in the national
response to IDP needs in Azerbaijan**

NRC AZERBAIJAN

February 2008

Introduction

After 13 years of presence in Azerbaijan working with IDPs and refugees, NRC has concluded its operations in the country. During this period, NRC has implemented 15 major programmes for the most vulnerable IDPs and refugees in both urban and rural parts of Azerbaijan, and has reached out to more than 100,000 beneficiaries. Our work in Azerbaijan has been marked by excellent cooperation with the Azerbaijani Government and other national and international institutions and organizations.

Having launched the first program in Azerbaijan in 1995, NRC's operational involvement mostly focused on psycho-social support, improving shelter and housing conditions, education, protection of civil rights, and employment opportunities for the displaced population. In the context of the overall economic growth in the country in recent years, the nature of NRC's assistance in the country has marked a gradual shift from emergency and relief-based to development oriented.

The last few years of NRC's presence in Azerbaijan have seen a significant increase in the Governmental response and willingness to allocate funds to address the needs of the displaced. These needs are being addressed both through targeted State Programmes as well as within general strategies and programmes aiming at poverty reduction, income generation and improvement of housing for the most vulnerable part of the population.

NRC has endeavoured to document and evaluate its programmes in Azerbaijan in order to identify successes and failures, to measure the impact of its activities as well as to identify the gaps that still remain to be addressed. The fact that NRC is departing does not mean that there are no longer humanitarian needs in the country. We believe, however, that the most of these needs are more effectively addressed through general economic development rather than humanitarian assistance. Nevertheless, we feel that many of the lessons learned and the remaining gaps that we have documented represent useful experience and input to the continued work with the IDP population in Azerbaijan.

In the following we will take the opportunity to highlight our institutional experience and outline some key recommendations to the Azerbaijani Government and other national and international actors that will continue to address IDP related issues. Concentrating on the areas of NRC's main focus, we will point to achievements as well as continued areas of concern.

International IDP Protection Framework

IDPs are entitled to enjoy the protection of domestic legislation on equal terms with other citizens of a country. In addition, national governments' responsibilities towards IDPs as citizens of their countries are defined in a variety of legally binding international law instruments and articulated in the UN Guiding Principles on Internal Displacement. The Guiding Principles seek to strengthen the legal protection of IDPs on issues that are not explicitly expressed in international law but still constitute the national governments' obligations towards the internally displaced.

Several additional guiding documents have been developed, most importantly the Brookings Institution and University of Bern 2005 publication of the "Framework for National

Responsibility¹” that should serve as a support for governments in protecting the rights of IDPs. Another similarly important document is the so-called “Pinheiro Principles”, adopted by the UN Commission for Human Rights, which concentrate on property rights, restitution and repossession.² Both documents elaborate on the international legal instruments and the IDP Guiding Principles to further outline the steps to be taken by national governments in protecting the rights of IDPs.

The following analysis is rooted in the above-mentioned international documents and based primarily on the UN Guiding Principles and the Framework for National Responsibility. It tries to measure selected issues through the prism of these documents and on the basis of NRC’s work in Azerbaijan. Even if certainly not an exhaustive presentation of all issues of importance, it outlines the main areas where additional efforts are needed, at the same time acknowledging the sincere efforts of the Government of Azerbaijan to respond to the plight of the displaced population.

National response

Relevant national legislation and the development of a comprehensive national plan addressing internal displacement rank among the key governmental responsibilities. Legislative measures and response plans need to cover all phases of displacement ranging from actions preventing displacement, through protection and assistance once displacement has taken place, to durable solutions, these being return or resettlement and reintegration.

Legislation

Developing a national legal framework reflecting the rights of IDPs constitutes a main part of national responsibility as protection is inherently a legal concept. This involves defining who is an IDP, setting forth their rights and establishing the obligations of governments towards them. Practice as to how such legal frameworks are developed varies from country to country. Irrespective of the approach chosen, national legislation should be in line with international standards set forth in the UN Guiding Principles on Internal Displacement.

Azerbaijan is a signatory to the main international agreements defining fundamental human rights and freedoms. Within the hierarchy of Azerbaijani legislative acts, international law supersedes national legislation in cases of conflict between international and national law. The only exception is the Constitution and acts adopted by referendum. The legislation of Azerbaijan includes a number of IDP-related legal acts and regulations, in the form of laws adopted by Parliament, Presidential Decrees or Governmental Resolutions. The key documents in this respect are the Law of the Republic of Azerbaijan on the Status of Refugees and Forcibly Displaced Persons (1999), the Law on Social Protection of Internally Displaced Persons and Persons Equated to them (1999), outlining the entitlements of the displaced population, as well as Presidential Decrees on the State Program for Improvement of Living Conditions and Enhancement of Employment Opportunities of IDPs (2004 and 2007 respectively). The Azerbaijani legislation regulates the legal status of IDPs in a fairly

¹ The Brookings Institution-University of Bern, Project on Internal Displacement (April 2005): Addressing Internal Displacement: A Framework for National Responsibility, http://www.brookings.edu/fp/projects/idp/20050401_nframework.pdf

² The Pinheiro Principles, United Nations Principles on Housing and Property Restitution for Refugees and IDPs, <http://cohre.org/store/attachments/Pinheiro%20Principles.pdf>

proper manner. Most importantly, it does not contain any discriminatory provisions concerning IDPs.

Notwithstanding the overall extensive legal framework, NRC's legal aid program (ICLA) in Azerbaijan has demonstrated that IDPs can have significant legal protection needs in frozen conflict situations both in terms of their right to reintegrate into society and in terms of regaining their rights during displacement. Whereas IDPs enjoy a variety of privileges not accessible to non-IDP population, such as food and cash subsidies, tax exemptions, payment of housing utilities and similar, unlike other citizens of Azerbaijan, their property rights e.g. in terms of privatization of their accommodation are limited. What also often poses problems to IDPs are the different interpretations of normative acts and regulations by different local authorities, resulting in variations in local implementation practices. Also, no normative acts include clauses granting the right of IDPs to voluntarily resettle in any part of the country, or provisions stating that displacement should last no longer than required by the circumstances. Standard legislation would also include a legal provision protecting IDPs from forcible return and resettlement to any place where their lives, security and freedom could be endangered.

Recommendations:

- Standardize procedures for implementation of (IDP-related) legislation through local governmental representatives training with special focus on rural areas;
- Expand the IDP-specific legal framework to include all phases of displacement.

National assistance strategies

Complementarily to the enactment of national legislation, governments are expected to develop national plans addressing internal displacement. Such plans should also cover all phases of displacement including actions preventing displacement, protection and assistance during displacement, and facilitation of durable solutions.

As a country in transition, Azerbaijan has gone a long way in the strategic planning of responses to the displacement and key governmental policies and strategies for the improvement of living conditions and economic opportunities of IDPs are generally in place. Within the overall poverty reduction strategic plans³, the national IDP assistance plan has been rooted in a number of presidential decrees, IDP-related legislation and two state programs addressing the needs of IDPs. Particularly important has been the 2004 “State Program on Improvement of Living Standards and Generation of Employment for Refugees and IDPs” and its 2007 amendments. The Program established a broader framework for the improvement of living conditions of IDPs, focusing on relocation of IDPs residing in tent camps and other sub-standard shelters to rural areas. By early 2008, the State Program will have provided 15,713 households or more than 90,000 IDPs with housing in 47 new settlements.⁴

While thousands of IDPs residing in rural areas enjoy improved housing, IDPs in urban settings, the majority of whom live in sub-standard collective shelters, are still to benefit

³ State Program on Poverty Reduction and Economic Development – SPPRED (2003-2005) and State Program on Poverty Reduction and Sustainable Development – SPPRS (2006-2015), see <http://www.un-az.org/undp/poverty.php> for more details

⁴ State Committee for Refugees and IDPs, http://www.refugees-idps-committee.gov.az/en/material_04_001b.html

from governmental initiatives that would improve their living conditions. NRC has implemented an extensive shelter assistance program including rehabilitation and construction of rural settlements, rehabilitation of accommodation for urban IDPs, as well as the so-called “Urban resettlement project.” The project aimed at construction of a new settlement in the outskirts of Baku for a group of families originating from one village in the occupied Lachin district residing in public buildings. This outlines a possible future urban resettlement model insofar as it has also taken into account employment opportunities for the relocated IDP population who will be able to retain their current jobs. The Government has contributed financially to this NRC project and implemented a similar one benefiting IDPs residing in the former “Qizil Qum” sanatorium. These individual examples can hopefully serve as a basis for a more comprehensive strategy targeting urban IDPs in public buildings. The Government has already announced its plans to gradually shift the focus to the urban IDPs, which has so far been marked by an increasing engagement in public building rehabilitation.

Most of the assistance initiatives concentrate on coping with immediate effects of displacement, such as shelter and basic material welfare, whereas a comprehensive framework regulating all phases of displacement is missing. The resettlement program’s emphasis on provision of adequate housing should, for example, to a much greater extent move beyond construction of housing units and equally importantly integrate the socio-economic context and livelihood conditions. As already acknowledged in the amendments to the State IDP program, it is essential to mainstream IDPs in poverty reduction initiatives with greater emphasis on self-reliance measures. The Poverty Reduction Programs state improvement of living conditions of refugees and IDPs as one of their six strategic aims rather than including the IDP issues as a crosscutting theme in all of them thus defining the intervention needs on the basis of vulnerability rather than their IDP status. A full-fledged livelihood (poverty-reduction) strategy for newly resettled IDPs is as important as the new housing they can benefit from. In the current situation however, the income generating opportunities of rural IDPs are very limited while their dependency on direct governmental assistance is growing and their economic migration rate remains high.

Recommendations:

- Develop a comprehensive strategy for improvement of living conditions of IDPs residing in sub-standard shelters in urban areas;
- Develop a comprehensive livelihood strategy promoting self-reliance of IDPs alongside with that of other vulnerable segments of the Azerbaijani population;
- Review running assistance programs with a view to gradually substituting direct assistance with more sustainable solutions for IDPs.

IDP registration and data collection

Credible, updated information on the number and socio-economic conditions of IDPs forms the basis for targeted assistance addressing their needs and protecting their rights. Detailed information not only in terms of figures, but also on actual living conditions, household economy and various vulnerability indicators of IDPs is essential for proper intervention planning and should be accessible to a variety of stakeholders involved in assistance programs.

In the case of Azerbaijan, official statistics have frequently remained superficial and unchanged for several years and aid agencies have had to rely on collection of project-

specific ad-hoc data, in some instances have not even been allowed to carry out more extensive household surveys. The 2003-2005 SPPRED had expressed the determination to continue in annual collection and analysis of in-depth data⁵ which however did not materialize. The shift in IDP-related strategies from basic post-emergency assistance to development oriented support entails increased targeting of the most vulnerable segments of the population in general, rather than necessarily IDPs in particular, making the need for detailed information even more acute.

Availability of up-to-date information is linked to flexible registration procedures, however complicated in the context of hundreds of thousands displaced all over the country. The relatively rigid system of IDP registration, the so-called “propiska” regime that requires the IDPs to register and live in approved areas,⁶ as well as lack of economic opportunities that maintain the internal economic migration at a high level, lead to a distorted picture when the official registration data do not correspond with the actual places of IDP residence. The system of registration according to the place of origin does not at all prevent the undesired urbanization, but only deforms the IDP registration data, whereas registration of IDPs according to the actual residence of their choice would enable the Government and non-governmental agencies to track the IDP movements, locations and needs more easily. Also, one recurrent discriminatory measure has been identified in terms of registration of children from mixed (IDP and non-IDP) marriages, where the status of the child depends on which of the parents is an IDP.

Recommendations:

- Compile and make available detailed information on various aspects of the socio-economic situation of IDPs and most vulnerable non-IDP population and facilitate such activities whenever undertaken by non-governmental agencies;
- Adjust procedures for IDP registration to reflect actual places of accommodation and to promote free choice of residence throughout the country.

IDP participation in decision-making

Consultations with displaced persons are essential to the effectiveness of efforts to provide them with protection and assistance. These consultations should take place during all stages of any program design, starting with needs assessment through implementation to final monitoring. Special attention should be paid to the participation of different gender and age groups, working-age women in particular, as they are frequently the main care providers and are likely to be more aware of what is needed in order to ensure their families’ welfare. The internally displaced also need to be seen in light of their capacity and potential as they possess a variety of skills and knowledge and have developed their own coping mechanisms and capacities that, if channelled properly, can contribute to identifying proper solutions for themselves as well as to the overall socio-economic prosperity of the country.

Having established the legal framework and launched several direct assistance initiatives, the Azerbaijani authorities have focused on large-scale housing programs. These have significantly contributed to improvement of the living conditions for thousands of IDPs.

⁵ SPPRED, p. 161, <http://www.un-az.org/undp/Poverty/prspen.pdf>

⁶ Cf. U.S. Department of State: Azerbaijan Country Report on Human Rights Practices, 2006, <http://www.state.gov/g/drl/rls/hrrpt/2006/78801.htm>

Improved housing has in the next instance provided many IDPs with the potential to ameliorate other aspects of their lives.

While the poverty reduction strategy planning process has utilized a variety of consultative and participatory tools, it is not clear to what degree such an approach was applied in the IDP strategic planning and program implementation. It is also not apparent to what extent the relocation to newly constructed settlements has been a result of a conscious choice of the displaced families and what information was available to them beforehand on parameters like location, infrastructure, income opportunities, and similar. Many resettled IDPs have shared with NRC their appreciation of their new housing as well as a degree of frustration of being considered objects of rather than equal partners in the implemented activities. They have not been able to retain influence over their own lives and decisions that directly affect them by stating their own views about what they themselves envision as qualitative improvements in their living conditions.

Recommendation:

- Create mechanisms for systematic involvement and participation of different groups of IDPs in all stages of national programs and policies affecting them.

Protection needs related to durable solutions

National responsibility for internal displacement also involves ensuring that IDPs have access to durable solutions. Governments have the responsibility to establish conditions allowing IDPs to return voluntarily, in safety and dignity, to their places of habitual residence, or, if they so choose, to voluntarily resettle and reintegrate in another part of the country. The key principle is that displacement should not last longer than required by the circumstances which calls for a set of measures promoting the different durable solutions, be it return, resettlement or local integration.

The main cause preventing IDPs in Azerbaijan from exercising their right to return voluntarily is the lack of a peaceful and lasting solution to the conflict over Nagorno-Karabakh. While return remains the preferred solution for the majority of displaced and the overriding aim of the Government, efforts have to be made to strengthen the capacities of the displaced for self-reliance and to address their needs for decent and dignified lives on equal terms with other citizens.⁷ Continued focus on return as the only feasible durable solution, may postpone or even prevent implementation of initiatives that could be potentially durable. It also promotes dependency on external assistance and upholds passivity among the beneficiary population.

The Government has made substantial progress in resettling and to a limited extent returning IDPs from some of the most precarious shelters. Notwithstanding these impressive efforts, most IDPs are still far from the realization of a solution that can be considered durable, the main issue being the insufficient conditions for re-integration mainly in terms of access to basic services and conditions for livelihood. The fact that significant efforts have been made to retain the original governance structures from the occupied territories, such as administration and schools, is positive insofar as it maintains the traditional communities

⁷ Cf.: Report of the Representative of the Secretary General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1998/50, Addendum: Profiles in displacement: Azerbaijan, paragraphs 110-111

and ties. On the other hand it does contribute to creation of separate environments, most clearly demonstrated in the case of new IDP settlements, segregated and often distant from places inhabited by the local population. Several newly constructed settlements are also placed only a few kilometres from the ceasefire line and do not provide for sufficient safety.

The fact that almost fourteen years after the cease fire, over a half a million IDPs are still dependant on direct assistance from the Government⁸ requires implementation of additional measures to ensure the sustainability of governmental efforts and to provide a better basis for temporary or even permanent reintegration of IDPs. Promoting IDPs' right to live a decent and dignified life by enhancing their self-reliance and providing them with the same opportunities as the average citizens will not undermine the governmental priority of return but rather strengthen the IDPs' skills and motivation to return once this becomes possible. The separation of the IDP agenda from other socio-economic issues and physical separation of living quarters however, does effectively prevent IDPs from becoming full-fledged members of the Azerbaijani society. This could be ameliorated for instance through programs equally targeting vulnerable IDPs and local communities, enhanced integration of IDP-children into the Azerbaijani school system and allocation of land plots for new IDP settlements within existing local communities.

Recommendations:

- Increase efforts to mainstream IDP-related issues into national poverty reduction programs targeting vulnerable populations in general;
- Develop conditions ensuring IDPs' rights to reintegrate and to access basic rights and services on equal terms with the general population;
- Improve and increase income-generating and microfinance activities for rural IDPs, especially those living in new settlements;
- Change practices that may be perceived as segregating, such as in the selection of sites for new settlements or in education;
- Expand the IDP-specific legal framework to include different phases of displacement such as return or resettlement and reintegration.

Conclusion

The Government of Azerbaijan has made considerable achievements in terms of developing a legal framework, national plans and policies regulating the rights of IDPs, and in improving the living conditions of IDPs residing in the most precarious shelters. The Government has also demonstrated commitment and determination to deal with the consequences of displacement, which is also reflected in the very good cooperation and the open dialogue that NRC has enjoyed with the Government.

Exiting Azerbaijan, NRC is confident that responsible authorities will continue addressing the economic, social, cultural, political and civil rights of IDPs. NRC encourages the Government to seek assistance and guidance from international organizations in areas pointed out as needing additional attention. These concern primarily:

⁸ The number of IDPs receiving monthly allowances (bread money) as of end-2006 was 528,238 persons, according to official information received by NRC from the State Committee for Refugees and IDPs in March 2007.

- Reducing the dependency of IDPs on external assistance through more emphasis on enhancing of economic opportunities for IDPs and extensive inclusion of IDPs into the national social and economic development plans;
- Ensuring that wishes and requests from IDPs are heard when programs on their behalf are developed and implemented, especially programs that foresee their relocation;
- Removing practical and institutional barriers and practices that may be perceived as discriminatory with a view to further enhance the IDP rights to become full fledged members of the Azerbaijani society.

Appropriate measures in these main directions would allow IDPs to enjoy a decent and dignified life while in displacement and at the same time empower them with the resources needed once return becomes possible and they can start rebuilding their homes.

NRC is leaving Azerbaijan but has repeatedly confirmed its readiness to re-enter the country and assist the Government, if needed and whenever conditions allow for large-scale organized return of those who so wish. In response to the Government's call for enhanced capacity of state and non-state actors in tackling IDP-related issues in terms of promotion of humanitarian principles and improved assistance, NRC has offered to facilitate the provision of technical assistance on IDP issues. We have also repeatedly reiterated our commitment to ensure that the issue of internal displacement in Azerbaijan stays high on the international agenda.

NRC would like to use this opportunity to express its most sincere thanks and appreciation to the Government of Azerbaijan, local authority representatives as well as the international and national community for extensive support and good cooperation.