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GUIDING PRINCIPLE 28: THE UNFULFILLED PROMISE TO END PROTRACTED
DISPLACEMENT IN AZERBAIJAN

by Kaleigh Rose McLaughlin

A Thesis Submitted in Partial Fulfillment
Of the Requirements for the
University Honors Program

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ABSTRACT

Guiding Principle 28: The Unfulfilled Promise to End Protracted Internal Displacement in Azerbaijan

Kaleigh Rose McLaughlin

Director: Eric Jepsen, Ph.D.

In 1998 internal displacement became a major focus of international concern with the adoption of the *Guiding Principles on Internal Displacement* by the United Nations. This seminal document outlined the rights and protections of internally displaced persons (IDPs), as well as developing policy solutions for ending displacement. In the two decades since the adoption of the *Guiding Principles*, there has been an explosion of research into various case studies. This paper re-examines the case of Azerbaijan within a new theoretical framework. This paper uses the work of Walter Kalin, former UN Secretary-General on the Human Rights of Internally Displaced Persons (2004-2010), and Phil Orchard, an eminent scholar of internal displacement, to argue that contrary to the reports of international organizations and other academic scholars, Azerbaijan has failed to make any significant progress in resolving its situation of protracted internal displacement, and has actively implemented policies which undermine a resolution to internal displacement. This paper further offers the case of Georgia as a policy contrast to Azerbaijan. This paper further asks the question of how the international community can better advocate for durable solutions in recalcitrant and reluctant states.

KEYWORDS: Azerbaijan, Guiding Principles, Durable Solutions, Internal Displacement

DEDICATION

This thesis is dedicated to the internally displaced people of Azerbaijan. In the past five years I have spent a considerable amount of time in Azerbaijan, learning the language, culture, and history of the nation. My time in Azerbaijan has been integral part of forming my worldview and cultivated the person I am today. I would like to thank the teachers at the Azerbaijan University of Languages—Sebina, Fidan, Huzurah, and Jala—for imparting to me not just the Azerbaijani languages, but the culture and traditions of the nation. I would like to thank my host families who have welcomed me into their homes and shown great hospitality. I would also like to thank the U.S. Department of State and Department of Defense whose generous scholarships enabled my studies. I would also like to thank my friends—Rachel, Natasha, Sabrina, and Dan—who became my second family in Azerbaijan and encouraged perseverance through hard times. Finally, I would like to thank the internally displaced people of Azerbaijan, to whom this thesis is dedicated; all the IDPs I have met have left an indelible mark, and they have shown me fortitude and resilience in the face of insurmountable hardship. In conclusion, I'd simply like to say thank you to all those who encouraged me and made this thesis possible.

FƏDAKARLIQ

Bu məqalə Azərbaycan vətəndaşlarına ithaf edirəm. Beş il bitdikdən sonra çox defə Azərbaycana səyahət edmişəm və Azərbaycanda yaşadığından sonra mən yeni insanam. Azərbaycan dünyaya gözlərim açmışdı və ona görə də bu məqalə sizə ithaf edirəm. Lakin başqa inslara təşəkkür etməyi istəyirəm. Azərbaycan Dillər Universitetində işləyən müəllimlərə--Sebinə Xanım, Huzurah Xanım, Fidan Xanim, və Jalə Xanim-- təşəkkür edirem. Amerikan Councilsdan, Könül Xanıma təşəkkür edirem. ABŞın Xarici İşlər Nazarlığına təşəkkür edirəm və ABŞın Müdafiə Nazarlığına təşəkkür edirəm. Nəhayət ki, qaçqınlara təşəkkür edirəm. Arzulayıram ki, bir gün Garabağ mübahisəsi bitəyək. Arzulayıram ki, daha yaxşı gələcək olsun. Azərbaycana təşəkkür edirəm.

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Acronyms

ACNKSU	Azerbaijani Community of Nagorno-Karabakh Region of the Republic of Azerbaijan
BTC	Baku-Tbilisi-Ceyhan
CoE	Council of Europe
ECtHR	European Court of Human Rights
GRID	Global Report on Internal Displacement
ICG	International Crisis Group
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Person
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security Cooperation in Europe
PRS	Protracted Refugee Situation
UN	United Nations
UNHCR	United Nation High Commissioner for Human Rights

Introduction

In 1998 internal displacement became a major focus of international concern with the adoption the *Guiding Principles on Internal Displacement* by the United Nations. This seminal document outlined the rights and protections of internally displaced persons (IDPs), as well as setting forth policies for resolving and ending displacement. In the two decades since the adoption of the *Guiding Principles*, many situations of internal displacement across the globe have become protracted, a situation where resolutions to displacement are not forthcoming, nor expected in the foreseeable future. The Global Report on Internal Displacement (GRID) recorded “28 million new internal displacements associated with conflict and disasters across 148 countries and territories” in 2018¹. In its key conclusion, GRID found that “Cyclical and protracted displacement continues to be driven by political instability, chronic poverty and inequality, environmental and climate change. Many [internally displaced persons] IDPs are returning to insecure areas with few socio-economic opportunities. Instead of creating the conditions for lasting solutions, this is recreating conditions of risk and increasing the likelihood of crises erupting again in the future”².

As instances of internal displacement continue to increase, there has been an explosion of research on internal displacement. The academic scholarship has focused variously on case studies, international cooperation, methods of data collection and monitoring, and the policy solutions for ending protracted displacement. This paper adds

¹ Internal Displacement Monitoring Center, *Global Report on Internal Displacement Summary*, (IDMC, 2019) 2.

² *Ibid.*, 2.

to the academic scholarship on protracted internal displacement by re-examining the case of Azerbaijan within a new theoretical framework. This paper uses the work of Phil Orchard and Walter Kälin to argue that not only is Azerbaijan stagnating in implementing policy to end internal displacement, but it is actively undermining such policies, perpetuating internal displacement indefinitely. This paper begins by outlining some of the major historical developments in Azerbaijan which produced the current situation of internal displacement. Following the case background, the paper presents the definition of the terms: internally displaced person, refugees, and protracted displacement. This section also seeks to provide a brief overview of the international laws which form the major protection regimes of IDPs and refugees.

The paper then moves into presenting the work of Phil Orchard and Walter Kälin. Orchard offers three ‘factors of success’ and ‘factors of failure’ which contribute to a nation’s successful implementation of the *Guiding Principles*. The factors of success and failure are examined in the context of Azerbaijan to provide an understanding of systemic processes which contribute to the failure to end internal displacement in the country. The paper will then look at specific policies and policy obstacles as theorized by Walter Kälin to create an in-depth assessment of Azerbaijan’s progress toward resolving internal displacement.

The paper then offers an examination of two major policy trends—policies which have the overall effect of undermining resolution, and policies which deliberately prevent resolution—emerging in Azerbaijan regarding internal displacement. The paper will then present a contrasting case study of internal displacement in the neighboring nation of Georgia, to highlight the differences between the two nations’ approach to internal

displacement. The paper will conclude with policy recommendations to promote a resolution of internal displacement but will also challenge policy advocates and international actors to redesign their approach to recalcitrant states.

Methodology

This paper will present an in-depth case study of Azerbaijan, highlights various facets of the nation's policies as they related to internally displaced persons to argue that the nation is deliberately undermining durable solutions. However, presenting this argument within the context of a single case study could lead to the conclusions of this paper being dismissed as anomalous. In order to avoid such a dismissal this paper will provide a brief comparison of IDP policies in Azerbaijan, to the internal displacement policies in the nation of Georgia.

As a comparative case study, Georgia was selected due to its similarities with Azerbaijan. Both nations lie within the Caucasus geographic region, both had similar historical trajectories in emerging during the collapse of the Soviet Union, and both face 'frozen conflicts' which contribute to the situation of internal displacement in both nations. While both cases have similar qualitative aspect, the approach to internal displacement by the two governments has been remarkably differentiated. Using Georgia as a comparison case study of internal displacement underscores the fundamental argument of this paper: that Azerbaijan is deliberately undermining the prospect of durable solutions, and provides scholars further avenues of research in attempting to understand why these nations produced two very different approaches to internal

displacement. Understanding the divergence in the approaches of these two nations may provide insight into other cases of internal displacement beyond the Caucasus region.

Case Background

The Nagorno-Karabakh War fought between Armenia and Azerbaijan between 1988—1994³ produced over half a million internally displaced persons (IDPs)⁴. As of 2018 the number of internally displaced persons (IDPs) in Azerbaijan accounted for 6.5% of the total population, numbering 644,000 people in total⁵. The forced migrations and displacements began in 1988 when the regional parliament of the Nagorno-Karabakh Autonomous Region of Azerbaijan voted in favor of a formal request to Soviet authorities which would transfer the region to Armenia⁶.

Within a week of the vote, violence broke out and by September of 1988 large scale displacements began. By May 1992 Azerbaijan had lost the Nagorno-Karabakh territory⁷ when the Armenians captured the city of Shusha. “The loss of Shusha was the greatest blow to Azerbaijan [as it] removed [the nation’s] last strategic foothold in Karabakh...”⁸. Eventually, “all the Azerbaijanis [were] expelled from Karabakh. For the Armenians, it seemed to be the culmination of a triumphant campaign—but in fact, the

³ 1994 represents the year in which large scale military operations ceased due to the signing of a cease-fire. However, violations of the cease-fire and small-scale confrontations are regularly recorded, most notable in April 2016, also called the ‘April War’.

⁴ Recognizing that the number of IDPs is highly politicized and contentious this paper estimates that there were approximately 530,000 people internally displaced within Azerbaijan between 1988—1994. This figure is arrived at from author Thomas de Waal (*Black Garden*, 2013, p. 327). De Waal provides a total number of 750,000 displaced; removing from this number his listed estimates of refugees, I arrived at the number of 530,000 internally displaced.

⁵ Internal Displacement Monitoring Centre, “Azerbaijan”, IDMC, <https://www.internal-displacement.org/countries/azerbaijan>

⁶ Thomas de Waal, *Black Garden*, (New York University Press, 2013) 12 & 331.

⁷ See Appendix A

⁸ *Ibid.*, 193.

active phase of the war had only just begun”⁹.

Once Karabakh had been captured the Armenian military forces began to move outside of the contested territory and into Azerbaijani territories. The first to fall was Lachin; captured within a week of Shusha, Lachin was particularly easy to capture due to the fact that Lachin is located on the foothills of the mountains which comprise the Nagorno-Karabakh territory¹⁰. Kelbejar was the second adjacent province captured by the Armenian military in April of 1993. After Kelbejar, Aghdam was captured in July of 1993. In August of 1993, the Armenians captured the provinces of Fizuli, Jebrail, and Kubatly. The final Azerbaijani province captured was that of Zengelan in October of 1993.

With casualties, refugees, and internally displaced persons, and violence increasing the leaders of both Armenia and Azerbaijan met in Bishkek, Kyrgyzstan to negotiate a cease fire; on May 12, 1994 the cease-fire came into effect, ending large scale military operations between the two nations. It is important that a cease-fire does not resolve any outstanding political disputes, but simply halts military operations. “With a cease-fire in place but no political agreement signed, the dispute now entered a strange phase of ‘no war, no peace’. The battles were over, but the fundamental issues of the conflict were still unresolved”¹¹. Additionally, the cease-fire essentially fixed the borders of Armenia and Azerbaijan to their positions in 1994, which placed Armenia in control of both the disputed Nagorno-Karabakh territory, and seven adjacent, uncontested Azerbaijani provinces. Displaced and unable to return as a result of the fixed and closed

⁹ Ibid., 195.

¹⁰ Thomas de Waal, *Black Garden*, 195.

¹¹ Ibid., 251.

borders, those displaced by the conflict have been living in a state of limbo for twenty-six years.

The Nagorno-Karabakh War produced three distinct waves displacement. “First, in 1988-1989, when the conflict was in its early stages, some 200,000 ethnic Azerbaijani refugees arrived from Armenia. When full-scale war erupted in Nagorno-Karabakh in 1992, some [100,000] fled...The last and largest forced displacement occurred in 1993 and 1994, when over 500,000 Azeris living in six other districts around Nagorno-Karabakh were forced to flee in the wake of an Armenian military offensive”¹².

Given the magnitude of displacement, Azerbaijan establish its State Committee for Affairs of Refugees and Internally Displaced Persons in 1993, in order to focus specifically on issues related to displacement. By 1999 Azerbaijan had established two majors law regarding IDP protections: Law of the Republic of Azerbaijan On IDP and Refugee Status, and the Law of the Azerbaijan Republic On Social Protection of Internally Displaced Persons and Persons equated to Them¹³. The Law on IDP and Refugee Status set forth the definition of an IDP, and “regulates the rights and obligations of IDPs, including the right to free accommodation, health services, social assistance, pensions and primary education”, among other provisions¹⁴. The Law on Social Protection “grants IDPs the right to free temporary accommodation, assistance in finding employment, free health care, social assistance and pensions, free primary and secondary University education, free public transport and exemption from the payment of utilities

¹² Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, (Brookings Institution-London School of Economics Project on Internal Displacement, 2011), 5.

¹³ State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan, “Regulation”, <http://idp.gov.az/en/law/cat/1/parent/15>

¹⁴ United Nations High Commissioner for Refugees, *Azerbaijan: Analysis of Gaps in the Protection of Internally Displaced Persons* (UNHCR, 2009), 17.

and taxes”¹⁵.

In 2001, “the government began to more actively address the needs of IDPs, including through a number of presidential decrees...”¹⁶. As of the latest UN Special Rapporteur on the Human Rights of Internally Displaced Persons report, “a total of 95 orders and decrees were signed by the President, 357 resolutions and decrees were approved by the Cabinet of Ministers and 33 laws were adopted by the National Parliament...”¹⁷. A 2004 presidential decree inaugurated one of the nation’s most extensive social programs, the State Program for the Improvement of Living Standards and Generation of Employment for Refugees and IDPs¹⁸. In conjunction with the 2004 State Program for the Improvement of Living Standards, Azerbaijan announced the development of a ‘Great Return’ plan with assistance from UNHCR¹⁹.

A major focus of the presidential decrees has been the closure of temporary IDP housing sites, nine camps were closed between 2003 and 2006, the final three camps were closed in 2007²⁰. The closure in 2007 “completed the relocation of some 100,000 IDPs living in the most deplorable conditions to specially designated settlements”²¹. In 2008, several presidential decrees approved state programs on poverty reduction, employment strategies, and socioeconomic development²². This represents a brief case

¹⁵ Ibid., 17.

¹⁶ Phil Orchard, *Protecting the Internally Displaced: Rhetoric and Reality* (Routledge, 2019), 146.

¹⁷ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani* (United Nations, 2015), 5.

¹⁸ Global Protection Cluster. “Azerbaijan”, <http://www.globalprotectioncluster.org/2018/07/25/azerbaijan/>

¹⁹ International Crisis Group, *Tackling Azerbaijan’s IDP Burden*, (International Crisis Group, 2012) 11.

²⁰ State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan. “Liquidation of Temporary Settlements”, <http://idp.gov.az/en/content/8/parent/21>

²¹ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, (Brookings Institution-London School of Economics Project on Internal Displacement, 2011), 6.

²² United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 5.

history on the causes of internal displacement in Azerbaijan, and major developments regarding IDP protection within the nation.

Internally Displaced Persons (IDPs)

The *Guiding Principles on Internal Displacement* as adopted by the United Nations High Commissioner for Human Rights (UNHCR) defines IDPs as “persons or groups of persons who have been forced to leave their homes or places of habitual residence, in particular as a result 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 and internationally recognized state border”²³. While the definition of IDPs as set out in the *Guiding Principles* has operated as the standard for international and non-governmental organizations, individual state definitions of IDPs vary. Azerbaijan’s State Committee for Affairs of Refugees and Internally Displaced Persons defines IDPs as “persons being forced to leave their place of permanent residence in territory of the Azerbaijan Republic...as a result of external military aggression, capture of certain territories, or presence of such territories under regular bombardment”²⁴. As this paper specifically focuses on conflict induced displacement in Azerbaijan, IDPs and situations of displacement caused by natural or man-made disasters are not included in any further discussion.

²³ United Nations, *Guiding Principles on Internal Displacement*, (United Nations, 1998) 1.

²⁴ State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan. “Privileges.” State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan. <http://idp.gov.az/en/content/7/parent/21>

Internally Displaced Persons, Refugees, and Protection Regimes

While IDPs are populations which remain within their home country during a crisis, refugees are populations which cross international borders and pass into foreign nations. This difference has significant legal implications, whereas IDPs “have not left their own country [sic] they remain under the jurisdiction of their government...the[ir] protection is primarily national protection”²⁵. However, as refugees “cannot turn to their own government for protection they are in need of protection abroad”²⁶. These differences are the foundation for the separate international protection regimes which currently exist. IDPs, as previously mentioned, are protected by the Guiding Principles on Internal Displacement, a non-binding or soft law, document. Refugees, however, are protected under the auspices of the 1951 Refugee Convention of the United Nations, by which nations are legally obligated to comply²⁷. The issue of state sovereignty, which was one of the primary reasons IDPs were excluded from the 1951 Refugee Convention, is also the reason that the Guiding Principles are non-binding, soft law²⁸. As the Nagorno-Karabakh conflict created both refugees and IDPs is it necessary to delineate between these two populations. Moreover, due to the different international protection regimes it is essential to acknowledge and understand the scope and limitations of each.

²⁵ Walter Kälin, “Internal Displacement,” in *The Oxford Handbook of Refugee & Forced Migration Studies*, ed. Elena Fiddan-Qasmiyeh (London: Oxford University Press, 2016), 165.

²⁶ *Ibid.*, 165.

²⁷ Azerbaijan signed the 1951 Refugee Convention on February 12, 1993.

²⁸ Phil Orchard, *The Contested Origins of Internal Displacement*, (International Journal of Refugee Law, 2016) 3.

Literature Review

Due to the centrality of the *Guiding Principles on Internal Displacement* within the literature on protracted displacement, the literature review begins by highlighting the basic tenants set forth by the document. In addition to creating the standard definition of an internally displaced person, the *Guiding Principles* identified thirty principles regarding the protection of IDPs. These principles focus on a range of issues: protection during displacement, protection from displacement, and humanitarian assistance to name a few²⁹. In tangent protections, the *Guiding Principles* also laid out three specific solutions to internal displacement, known as the durable solutions. The durable solutions consist of repatriation, resettlement, and reintegration³⁰. The *Guiding Principles* had a transformative effect in the way the international community recognizes IDPs as a distinct population with specific needs, this is evidenced by “a review of 43 peace agreements signed between 1990 and 2008 [which] found that while only ten of the 18 peace agreements signed before 1998 mentioned internal displacement, all but one of the post-1998 agreements have included a reference to IDPs”³¹. As Francis Deng, the first Special Rapporteur on the Human Rights of Internally Displaced Persons, noted “the Guiding Principles...restate existing norm[s] and seek[s] to clarify grey areas and fill in the gaps...[they] provide valuable practical guidance to governments, other competent authorities, intergovernmental organizations, and NGOs in their work with internally displaced persons”³². Understanding the basic content of the *Guiding Principles* and the

²⁹ United Nations, *Guiding Principles on Internal Displacement*, 3, 5, 13.

³⁰ Ibid, 14.

³¹ Elizabeth Ferris, *Assessing the Impact of the Principles: an unfinished task*, (Forced Migration Review, 2008), 10.

³² United Nations, *Guiding Principles on Internal Displacement*, 1.

attendant durable solutions is essential because is the basis on which policy discussions, debates, and monitoring are based.

One of the major themes of this research regarding internal displacement has been the legal transformation and dissemination of the *Guiding Principles*. In 2006, “the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons oblige[d] signatory states to adopt and implement the Guiding Principles”³³. The 2006, Great Lakes Protocol was the first time the Guiding Principles were incorporated into the international legal framework in a legally binding manner. In 2009, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), further incorporated elements of the *Guiding Principles* in a major international accord³⁴. Furthermore, “at the regional level, the Organization of American States and the Council of Europe have recommended the adoption of the Guiding Principles to their member states”³⁵. In the case of the Council of Europe, the “recommendations do more than just re-state the non-binding Guiding Principles. They underline the binding obligations undertaken by the Council of Europe member states that go beyond the level of commitments reflected in the Guiding Principles”³⁶.

Another focus of internal displacement research has focused on humanitarian coordination in addressing the needs of IDPs. “The Principles have played a significant role in shaping UNHCR’s operational responses for IDPs...in 2003 [UNHCR] sought to improve its response through an inter-agency ‘collaborative approach’, which allocated

³³ Brigitta Jaska & Jeremy Smith, *Africa: from voluntary principles to binding standards*, (Forced Migration Review, 2008), 18.

³⁴ Romola Adeola, *The Kampala Convention and the right not to be arbitrarily displaced*, (Forced Migration Review, 2018), 15.

³⁵ Marion Couldrey & Maurice Herson, *Achievements, challenges and recommendations: summary of outcomes of the GP10 Conference* (Forced Migration Review, 2008), 6.

³⁶ Corien Jonker, *Protecting IDPs in Europe*, (Forced Migration Review, 2008) 15.

responsibilities informally”³⁷. In 2005, this approach changed to in order to “increase predictability, and accountability, particularly in responding to internal displacement. Agencies were assigned leadership responsibilities under the ‘cluster approach’. UNHCR formally assumed leadership responsibilities for three clusters: protection, camp coordination and camp management, and emergency shelter”³⁸.

Academic scholarship has also been focused on reassessing the definition of internally displaced persons, to increasingly emphasize that internal displacement is increasingly occurring as a result of natural disasters, man-made disasters, and development. “The current legal and normative framework needs to be re-examined in the light of new categories of forced migrants as a result of climate change-related disasters or long-term environmental degradation”³⁹. In a special 2018 edition of *Forced Migration Review*, two scholars noted that the definition of an IDP still tends to connote a person fleeing from violence or human rights violations. One article stressed that there are “other causes [of internal displacement] such as climate change, natural disasters, and development...”⁴⁰. Another scholar noted that “Work is still needed on those elements of the Guiding Principles that have been somewhat neglected. For example, millions of people are affected each year by development-related displacement, but their protection often falls short of agreed standards”⁴¹.

Issues of monitoring and data have also been of concern to scholars of internal

³⁷ Khassim Diagne & Hannah Entwisle, *UNHCR and the Guiding Principles*, (Forced Migration Review, 2008) 33.

³⁸ Khassim Diagne & Hannah Entwisle, *UNHCR and the Guiding Principles*, 15.

³⁹ Marion Couldrey & Maurice Herson, *Achievements, challenges and recommendations: summary of outcomes of the GP10 Conference*, 7.

⁴⁰ Nadine Walicki et al, *The GP20 Plan of Action: a rallying call to stakeholders*, (Forced Migration Review, 2018) 6.

⁴¹ Cecilia Jimenez-Damary, *Foreword: The 20th anniversary of the Guiding Principles—building solidarity, forging commitment*, (Forced Migration Review, 2018) 4.

displacement. “Monitoring internal displacement...[informs] humanitarian actors so that they can tailor their efforts, and programmes more efficiently. Lastly, monitoring internal displacement [helps] ensure national governments’ accountability by presenting them, their population and the international community with the results of their actions—or lack thereof”⁴². In the course of monitoring situations of internal displacement globally it has been noted that “with an increasing number of IDPs residing in urban centers, states and protection agencies must seek new and appropriate means of providing them with adequate protection and assistance, as their requirements are different from those of people in camp settings or in rural areas”⁴³. Regarding data on internal displacement there is no current “standard practice for establishing the end of displacement through data...IDPs may [then] remain in the data indefinitely because there are no clear criteria for assessing solutions...”⁴⁴. However, the burden of data lies not just on the academic community but upon national governments as well. “The lack of government leadership or genuine participation in producing data can lead to a disconnect between data and decision making at the national level. This can be particularly damaging in protracted displacement crises where development interventions and planning are critical”⁴⁵.

The durable solutions—repatriation, resettlement, and reintegration—have generated a significant amount of debate since their inception in 1998. However, in general it has been noted that states tend to be “excessively fixed on permanent physical returns of the displaced as ‘the’ solution to exile. This means that local integration and

⁴² Christelle Cazabat, *The importance of monitoring internal displacement*, (Forced Migration Review, 2018) 28.

⁴³ Marion Couldrey & Maurice Herson, *Achievements, challenges and recommendations: summary of outcomes of the GP10 Conference*, 7.

⁴⁴ Natalia Krynsky Baal et al., *Improving IDP data to help implement the Guiding Principles*, (Forced Migration Review, 2018) 21.

⁴⁵ *Ibid.*, 22.

resettlement have been downgraded...”⁴⁶. The fixation on repatriation is a result of the political nature of displacement. “Return sends a strong message that the fear of persecution...is no longer present; repatriation can be a major vote of confidence...”⁴⁷. However, while resettlement, and particularly reintegration has “been described as ‘forgotten solutions’...at the national and international policy level, local integration is not so much forgotten as evaded”⁴⁸. Despite national preferences for repatriation as opposed to resettlement or integration, it must be accepted that “some de facto integration will inevitably occur...Efforts should be focused not on trying to prevent the gradual development of such links, but on ensuring that they are productive for communities as a whole and are not undermined by precarious legal status...”⁴⁹. In general, “planning for durable solutions must start soon after displacement occurs so as to facilitate the transition from humanitarian assistance to development...”⁵⁰.

The intersection between internal displacement and state security is another vein in the academic literature. “It is essential to recognize that protracted refugee [and IDP] situations are closely linked to the phenomenon of fragile states...”⁵¹. Furthermore, “long-term refugee [and IDP] populations are a critical element in ongoing conflict and instability, obstruct peace processes and undermine attempts at economic

⁴⁶ Katy Long, *Permanent Crises? Unlocking the protracted displacement of refugees and internally displaced persons*, (Refugee Studies Centre, 2011) 38.

⁴⁷ Laura Hammond, “‘Voluntary’ Repatriation and Reintegration,” in *The Oxford Handbook of Refugee & Forced Migration Studies*, ed. Elena Fiddan-Qasmiyeh (London: Oxford University Press, 2016), 508.

⁴⁸ Lucy Hovil, “Local Integration,” in *The Oxford Handbook of Refugee & Forced Migration Studies*, ed. Elena Fiddan-Qasmiyeh (London: Oxford University Press, 2016), 488.

⁴⁹ Katy Long, *Permanent Crises? Unlocking the protracted displacement of refugees and internally displaced persons*, 38.

⁵⁰ Marion Couldrey & Maurice Herson, *Achievements, challenges and recommendations: summary of outcomes of the GPI0 Conference*, 7.

⁵¹ James Milner, *Refugees and the Regional Dynamics of Peacebuilding*, (Refugee Survey Quarterly, 2009) 18.

development”⁵². In 2015, an “expert panel review of the UN peace operations state[d] that a lack of inclusion and continued marginalization...of displaced people ‘may threaten the stability of peace in the short and long term’. Neglecting durable solutions for IDPs, for instance, may ‘provoke the rejection of peace agreements by the displaced community, and nurture latent disputes and grievances that constrain peacebuilding”⁵³.

Developing alongside internal displacement have been situations of protracted internal displacement. Protracted internal displacement is not to be confused with protracted refugee situations (PRS), although they share similar qualities. The UNHCR defines PRS as:

[a] situation...in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance...Protracted refugee situations stem from political impasses. They are not inevitable but are rather the result of political action and inaction...⁵⁴.

As a crude measure protracted displacement is identified as “populations of 25,000 persons or more who have been in exile for five or more years in developing countries”⁵⁵.

In contrast to definitions of PRS, definitions of protracted internal displacement typically emphasize the agency and role of the state in creating the obstacles to durable solutions. In 2007, a UNHCR Brookings-Bern Expert Seminar on the Protracted IDP Situations noted that “[they] tend to be highly politicized: in some instances, a government may highlight the presence of IDPs to press for funding or political

⁵² Gil Loescher & James Milner, *Protracted Refugees: Domestic and International Security Implications*, (Routledge, 2013) 2.

⁵³ Walter Kälin & Hannah Entwisle Chapuisat, *Breaking the Impasse: reducing protracted internal displacement as a collective outcome*, (Office for the Coordination of Humanitarian Affairs, 2017) 26.

⁵⁴ United Nations High Commissioner for Refugees, *Protracted Refugee Situations*, (UNHCR, 2004) 1.

⁵⁵ *Ibid.*, 2.

advantage, while in others it may deny their existence to minimize attention domestically or internationally”⁵⁶. At the Guiding Principles’ 10-Year anniversary conference in Oslo scholars found that “protracted displacement usually occurs as a result of unresolved conflicts and lack of political will amongst national governments, as well as insufficient support by international actors”⁵⁷. Oxford’s Refugee Studies Centre released a report in which it was stated that “strong governments may seek to deliberately politicize protracted displacement, preventing formal resolution of a ‘crisis’ in order to protect high political interests”⁵⁸. Perhaps most succinctly, Walter Kälin, former UN Secretary-General on the Human Rights of Internally Displaced Persons (2004-2010), and defined protracted internal displacement as “situations in which *tangible progress towards durable solutions is slow or stalled* for significant periods because IDPs are *prevented from taking, or are unable to take, steps that allow them to progressively reduce the vulnerability, impoverishment, and marginalization* they face as displaced people, in order to regain a self-sufficient and dignified life...”⁵⁹.

Orchard-Kälin Theoretical Framework

In *Forced Migration Review*’s Special Edition celebrating the 20-year anniversary of the *Guiding Principles*, Phil Orchard published the article *Implementing the Guiding Principles at the Domestic Level*. In this article Orchard lists several factors of success

⁵⁶ United Nations High Commissioner for Refugees, *Expert Seminar on Protracted IDP Situations*, (Brookings-Bern Project on Internal Displacement, 2007) 3.

⁵⁷ Marion Couldrey & Maurice Herson, *Achievements, challenges and recommendations: summary of outcomes of the GP10 Conference*, 6.

⁵⁸ Katy Long, *Permanent Crises? Unlocking the protracted displacement of refugees and internally displaced persons*, 6.

⁵⁹ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 251.

which have enabled states to implement effective laws and policies related to IDPs. Orchard's three factors of success are: strong state capacity, accountability to other domestic institutions, and accountability to the domestic population. In addition to factors of success, Orchard also lists three factors which have led to policy failure: weak state capacity, a concern of reputation, and external pressure. This paper will analyze Orchard's factor of success and failure within the context of Azerbaijan in order to highlight the nation's strengths and weaknesses with respect to its ability to implement the *Guiding Principles* and effective IDP policies.

In 2018, Kälin published *Guiding Principle 28: The Unfulfilled Promise to End Protracted Internal Displacement*. This article re-examined instances of protracted internal displacement through Guiding Principle 28 which states:

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 endeavor to facilitate the reintegration of returned or resettled internally displaced persons. 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 reintegration⁶⁰.

Examining protracted displacement through “Guiding Principle 28 and its legal basis, this contribution discusses the notion of durable solutions, conceptualizes the notion of protracted internal displacement and analyses the reasons why protracted internal displacement persists despite years of assistance. It ends with a proposal for addressing internal displacement that utilizes the UN’s New Way of Working”⁶¹.

⁶⁰ United Nations, *Guiding Principles on Internal Displacement*, 14.

⁶¹ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 245.

This paper specifically focuses and adopts three key aspects of Kälin’s article: the understanding of protracted internal displacement through Principle 28, the definition and conceptualization of protracted displacement, and the nine reasons posited for persistent protracted displacement: a weak humanitarian/development/peacebuilding nexus, a lack of security, political obstacles, obstacles to durable solutions related to economic, social, and cultural rights, obstacles related to civil and political rights, aid dependency, low levels of development, a lack of adequate normative and institutional frameworks at domestic and international levels, and finally, fragmented funding⁶².

This paper uses Kälin’s causes of protracted internal displacement to highlight the various ways durable solutions have been purposefully undermined in Azerbaijan. Applying this theoretical framework to Azerbaijan enables a reassessment of the case to emphasize that policy failures may in fact be part of an overarching strategy to undermine durable solutions.

Applying the Kälin-Orchard Framework to Azerbaijan

Factors of Success: Strong State Capacity

The first ‘factor of success’ listed by Orchard is ‘strong state capacity’, defined as a government with “necessary financial, practical, and symbolic resources”⁶³. In his discussion of states with this factor of success, Orchard singles out Azerbaijan as a case in point. “In Azerbaijan, an initially weak response shifted as the government recognized that IDPs were likely to remain displaced in the long term. Starting in 2001, the

⁶² Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 257—261.

⁶³ Phil Orchard, *Implementing the Guiding Principles at the domestic level*, 11.

government worked actively to improve its legislative framework to ensure that IDPs were able to receive assistance and long-term housing, committing up to US\$ 5.5 billion from the State Oil Fund”⁶⁴. Analyzing Azerbaijan’s state capacity on a practical, financial, and symbolic level furthers Orchard’s assessment of the country.

On the practical level, Azerbaijan’s authoritarianism enables the country’s political leaders to make unilateral and sweeping decisions regarding everything from money to policy decisions. One way this can be demonstrated is by looking at where IDP policy originates. While the State Committee for Affairs of Refugees and Internally Displaced Persons is tasked with implementing IDP policy, “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 Azerbaijan”⁶⁵. Presidential decrees have not only spawned the majority of IDP policy, but they have also initiated the majority of the social programs for IDPs. The elite control of IDP policy and funding bolstered by an authoritarian system of rule helps to enable a strong state capacity as it regards the mobilization of practical, and financial resources.

Financially, Azerbaijan’s state capacity is strengthened through its oil revenues. In late 1994, the nation “signed a contract to develop three oil fields with a consortium of companies...the deal was estimated to be worth eight billion dollars and was dubbed the ‘contract of the century’”⁶⁶. By the mid 2000’s Azerbaijan had installed the Baku-Tbilisi-Ceyhan pipeline, “it was the second longest pipeline in the world...BTC put Azerbaijan

⁶⁴ Phil Orchard, *Implementing the Guiding Principles at the domestic level*, 12.

⁶⁵ United Nations High Commissioner for Refugees, *Azerbaijan: Analysis of the Gaps in the Protection of Internally Displaced Persons*, 17.

⁶⁶ Thomas de Waal, *Black Garden*, 263.

on the world map...beloved by Western oil companies and politicians...it also gave Azerbaijan staggering new wealth. Azerbaijan was the world's fastest growing economy in the years 2005—2008 and in 2008 its GDP had risen to \$35 billion, having been just \$1.3 billion in 1991"⁶⁷. In addition to boosting the economy, the oil revenues enable Azerbaijan to avoid dependency on humanitarian aid, while also providing stable of funding revenues for the various social benefits awarded to IDPs.

On a symbolic level, Azerbaijan's oil wealth has enabled the nation to engage in an arms race with Armenia. "Azerbaijani military spending had topped \$3 billion and exceeded the entire Armenian state budget—an explicit goal the Azerbaijani leadership had set itself"⁶⁸. "In almost every speech, the president presented the image of a strong and growing Azerbaijan set against a weak and declining Armenia"⁶⁹. The largely symbolic threat of force against Armenia provides IDPs with hope that one day Azerbaijan will take back Nagorno-Karabakh and the surrounding seven provinces.

Factors of Success: Accountability to Domestic Institutions

Orchard defines his second factor of success as "accountability to other domestic intuitions, most notably the courts"⁷⁰. Azerbaijan significantly lacks in accountability to other domestic institutions, especially with regards to the courts. In the most recent Freedom House report Azerbaijan was given a 0 out of 4 score when looking at the independence of the judiciary; "The judiciary is corrupt and subservient to the executive. Judges are appointed by the parliament on the proposal of the president. The courts' lack

⁶⁷ Thomas de Waal, *Black Garden*, 291—292.

⁶⁸ Thomas de Waal, *Black Garden*, 293.

⁶⁹ *Ibid.*, 293.

⁷⁰ Phil Orchard, *Implementing the Guiding Principles at the domestic level*, 12.

of political independence is especially evident in the many trumped-up or otherwise flawed cases brought against opposition figures, activists, and critical journalists⁷¹. On the issues of due process in civil and criminal matters, Azerbaijan also received a 0 out of 4, a downward shift from previous years when the country was awarded 1 of 4. Freedom House notes that the score change was due to an “ongoing persecution and disbarment of human rights lawyers [which] has deprived dissidents and activists of access to counsel”⁷². In 2017, Parliamentary Assembly of the Council of Europe (CoE), of which Azerbaijan is a member, expressed concern regarding the state of the nation’s judiciary, “and urged reforms to ensure the independence of the judiciary”⁷³. As a member of the CoE, Azerbaijani citizens are able to have cases heard by the European Court of Human Rights (ECtHR). In 2017, the ECtHR found that political activist, Ilgar Mammadov, had been imprisoned unlawfully, after the ruling “the Council of Europe’s Committee of Ministers [sic] triggered unprecedented proceedings against Azerbaijan for failing to implement the court’s judgment in Mammadov’s case”⁷⁴. Azerbaijan’s judiciary is neither free, nor independent, and as such there is a significant lack of accountability within the nation.

Factors of Success: Accountability to the Domestic Population

Orchard also finds that “accountability to the domestic population can also drive the implementation process” toward success⁷⁵. However, public accountability in

⁷¹ Freedom House. “Azerbaijan”, Freedom House, <https://freedomhouse.org/country/azerbaijan/freedom-world/2020>

⁷² Ibid., <https://freedomhouse.org/country/azerbaijan/freedom-world/2020>

⁷³ Radio Free Europe, “PACE criticizes Azerbaijan on Human Right, Justice System”, Radio Free Europe, <https://www.rferl.org/a/parliamentary-assembly-council-of-europe-azerbaijan-rights-criticism/28787124.html>

⁷⁴ <https://www.hrw.org/world-report/2019/country-chapters/azerbaijan>.

⁷⁵ Phil Orchard, *Implementing the Guiding Principles at the domestic level*, 12.

Azerbaijan is very weak, with particular regard to voting and public expression. During Azerbaijan's 2018 presidential election the Office for Democratic Institutions and Human Rights (ODIHR) branch of the Organization for Security and Cooperation in Europe (OSCE) reported “numerous serious violations, including indications of ballot box stuffing, multiple voting, and series of seemingly identical signatures”⁷⁶. It was further noted that the election:

took place within a restrictive political environment and under a legal framework that curtails fundamental rights and freedoms, which are pre-requisites for genuine democratic elections. Against this background and in the absence of pluralism, including in the media, this election lacked genuine competition. Other candidates refrained from directly challenging or criticizing the incumbent, and distinction was not made between his campaign and official activities⁷⁷.

Unfair elections follow a pattern which emerged in 1993, where the result of President Heydar Aliiev's election was “preordained and [where] he was awarded an improbable 98.8 percent of the vote”⁷⁸.

The freedom of expression is another measure of public accountability which is curtailed in Azerbaijan. Freedom House gave Azerbaijan a 1 of 4 score regarding the freedom of individuals to express their personal political views without fear of retribution or surveillance. Freedom House found that “law enforcement bodies monitor private telephone and online communications—particularly of activists, political figures, and foreign nationals—without judicial oversight. The escalation of government persecution of critics and their families has undermined the assumption of privacy among ordinary

⁷⁶ Office for Democratic Institutions for Human Rights, *ODIHR Election Observation Mission Final Report* (OSCE, 2018), 3.

⁷⁷ Office for Democratic Institutions and Human Rights, *ODIHR Election Observation Mission Final Report*, 1.

⁷⁸ Thomas de Waal, *Black Garden*, 237.

residents and eroded the openness of private discussion”⁷⁹. Other aspects of free expression, including a free media are also curtailed in Azerbaijan. Freedom House gave Azerbaijan a 0 of 4 score, noting “Constitutional guarantees for press freedom are routinely and systematically violated, as the government works to maintain a tight grip on the information landscape. Defamation remains a criminal offense. Journalists—and their relatives—face harassment, violence, and intimidation by authorities”⁸⁰.

Factors of Failure: Weak State Capacity

In addition to his three factors of success, Orchard also distilled three factors contributing to failure in implementing the *Guiding Principles* and a cohesive IDP policy framework, the first of which is a weak state capacity. Orchard defined weak state capacity as a situation where “the government lacks the necessary financial, practical and symbolic resources, and may also occur due to domestic opposition from within and outside the government”⁸¹. While Azerbaijan’s state capacity is quite robust, it has a particular weakness as it concerns internal domestic opposition. Nagorno-Karabakh and IDPs are very sensitive and potentially explosive issues within Azerbaijan, this is the one area in which grassroots opposition to government policy has enacted major change. In the beginning of 1992, the Azerbaijani town of Khojaly was captured by Armenia. Khojaly wasn’t a significant strategic loss, but a significant loss of human life as hundreds of Azerbaijani civilians were indiscriminately killed as they fled from the town. “The Khojaly killings triggered a crisis in Baku. Azerbaijanis denounced their government for not protecting the town...When the Azerbaijani parliament met on March

⁷⁹ Freedom House. “Azerbaijan”, Freedom House, <https://freedomhouse.org/country/azerbaijan/freedom-world/2020>.

⁸⁰ Ibid., <https://freedomhouse.org/country/azerbaijan/freedom-world/2020>

⁸¹ Phil Orchard, *Implementing the Guiding Principles at the domestic level*, 11.

3, opposition deputies demanded that a film [of Kohjaly] be shown in the chamber. ‘The first frames of the film stated rolling—and the ten minutes changed the history of the country’⁸². In the wake of the images from Khojaly the ruling party collapsed. In 2006, a peace process on the status of Nagorno-Karabakh and its IDPs stalled as a result of “almost no public demand for peace...The two leaders [of Azerbaijan and Armenia] used the conflict for domestic purposes, but it also used them, remaining an issue over which it was politically risky to declare compromise”⁸³. Governments rise and fall with the developments in Karabakh, the potential consequences of public political fallout have been tempering force on the ability and willingness of Azerbaijani leaders to implement effective IDP policy.

Factors of Failure: Reputational Concerns

Orchard’s factors of failure can also occur “where governments driven primarily by reputational concerns decide to make a strategic rhetorical commitment to the Guiding Principles but have no plan to follow through on implementation”⁸⁴. The Azerbaijani government has not made any explicit public reference to the *Guiding Principles*. However, in 2006 the Council of Europe, adopted the recommendation that “governments of member states be guided, when formulating their internal legislation and practice, and when faced with internal displacement, by the following principles: The United Nations guiding principles and other relevant international instruments of human rights or humanitarian law apply to all internally displaced persons...”⁸⁵. As a member of

⁸² Thomas de Waal, *Black Garden*, 185.

⁸³ Thomas de Waal, *Black Garden*, 288.

⁸⁴ Phil Orchard, *Implementing the Guiding Principles at the domestic level*, 11.

⁸⁵ Committee of Ministers, *Recommendation Rec(2006)6 of the Committee of Ministers to member states on internally displaced persons*, (Council of Europe, 2006) 2.

the CoE, the body's adoption of the Guiding Principles reflects commitments and obligations upon the Azerbaijani state. However, as noted by UN Special Rapporteur Chaloka Beyani, "the body of legislation put in place by the government to address internal displacement has essentially remained the same since the previous visits of the Special Rapporteur's predecessors" in 2008 and 1998⁸⁶.

Factor of Failure: External Engagement

As for the third factor of failure, Orchard states that "external institutional engagement may persuade governments to create policies or laws where they otherwise may not have taken action; without further pressure, however, there will be little follow-through implementation"⁸⁷. Of considerable concern to international actors such as the United Nations, has been the state of IDP housing and living conditions. The Azerbaijani state is quick to highlight the number and quality of new IDP settlements, press releases from the State Committee for Affairs of Refugees and Internally Displaced Persons include headlines such as "IDPs from Lachin were relocated in two out of three settlements for 645 families newly built and commissioned..."⁸⁸, "Six buildings containing 250 apartments were commissioned for IDPs in Ujar, and a building containing 80 apartments in Goychay..."⁸⁹, and "New residential complex was

⁸⁶ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 5.

⁸⁷ Phil Orchard, *Implementing the Guiding Principles at the domestic level*, 11.

⁸⁸ State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan, "IDPs from Lachin were started to be relocated in two out of three new settlements in Takhtakorpu", State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan, 1/16/2020, <http://idp.gov.az/en/news/963>.

⁸⁹ State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan, "New residential buildings were commissioned for IDPs in Ujar and Goychay", State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan, 12/29/2019, <http://idp.gov.az/en/news/959>

commissioned for 563 internally displaced families in Kurdamir”⁹⁰. However, while public conversations focus on the number and stated quality of these IDP settlements, there has been little follow through in addressing underlying problems such as the location of such settlements “in isolated areas, a long distance from essential services, employment opportunities and administrative authorities...[which] creates a sense of physical insecurity and isolation for IDPs from the local population, but also affects the ability of IDPs to become self-reliant”⁹¹. The issue of IDP housing has been a cause of concern since the first United Nations visits in 1998. However, since 1998 there have only been a handful of high-level visits to the nation, as a result implementation of recommendations has been slow and by a large extent superficial.

In the case of Azerbaijan, I argue that the nation has none of Orchard’s factors of success, and to some extent all the factors of failure. I would further argue that in Azerbaijan a ‘strong state capacity’ should not be classified as a factor of success, but rather a factor of failure. Due to the country’s governance system, control of IDP policy is placed almost exclusively with the executive and a small body of elites, who are particularly vulnerable to changes in this policy. This leaves an already politicized issue in the hands of those who have a vested political interest in maintaining their positions, and as a result the status quo, as significant changes would be a considerable gamble to those in power. The presence of these factors of failure have contributed to protracted displacement in Azerbaijan but have also enabled the nation’s leadership to actively

⁹⁰ State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan, “New residential complex was commissioned for 563 internally displaced families in Kurdamir”, State Committee for Refugees and Internally Displaced Persons of the Republic Azerbaijan, 12/ 28/2019, <http://idp.gov.az/en/news/958>.

⁹¹ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons*, Chaloka Beyani, 8.

undermine efforts towards durable solutions. This paper will now move towards a discussion of Kälin's causes to protracted displacement to highlight examples of policies which have purposefully hindered durable solutions.

Weak humanitarian/development/peacebuilding nexus

In his 2018 article, Walter Kälin describes contributing causes of protracted internal displacement. The first cause discussed is a 'weak humanitarian/development/peacebuilding nexus' described as a situation wherein the ministry tasked with handling IDPs "is a separate ministry with no links to the line ministries in charge of developmental issues, or, alternatively, displacement issues are delegated to a refugee commission or similar unit that has neither the capacity, nor the experience authority to invest effectively in durable solutions"⁹². Although previously mentioned, it is worth noting that in Azerbaijan, the State Committee for Affairs of Refugees and Internally Displaced Persons is the agency tasked with handling IDP related issues. However, while the State Committee can make recommendations on IDP policy, decisions regarding policy are made by the President, National Parliament [Mili Mejlis], or Cabinet of Ministers, a 35-member body which includes the head of the State Committee. "According to the Government, a total of 95 orders and decrees were signed by the President, 357 resolutions and decrees were approved by the Cabinet of Ministers and 33 laws were adopted by the National Parliament" regarding the status of IDPs⁹³.

This administrative structure puts the impetus of policy decision making outside the State Committee, however, depending on the political standing of the head of the

⁹² Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 257.

⁹³ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons*, Chaloka Beyani, 5.

State Committee this structure doesn't necessarily sideline the ministry. In fact, the former head of the State Committee, Ali S. Hasanov (1998—2018), was a strong ally of the presidents of Azerbaijan, being of the same administrative region and describing himself as an "Aliyevist"⁹⁴. However, in 2018 Hasanov was replaced by Rovshan Rzayev, a Baku native whose experience with IDPs extended as far as being an elected member of the Board of Director of the Azerbaijani Community of Nagorno-Karabakh Region of the Republic of Azerbaijan (ACNKSU), a body devoted to educating "the public on the historical roots of the [Nagorno-Karabakh] conflict and the large-scale measures taken by the President to resolve them...[and restoring] the territorial integrity of Azerbaijan and help the displaced population return to their native lands"⁹⁵. Moreover, it should be noted that although Rzayev was elected, the ACNKSU's "22-member executive board was 'elected' in 2009 by a 'congress' of 350 IDPs, most of whom were chosen by the government or government-controlled executive committees"⁹⁶. It is currently difficult to determine the effectiveness of Rzayev in recommending and advocating for effective IDP policies. However, given that one of the stated aims of the ACNKSU is to educate the public on the President's initiatives it seems unlikely that the current head of the State Committee will have the capacity or authority to invest in durable solutions.

⁹⁴ Durna Safarova, "Azerbaijan's notorious ideologue suffers precipitous fall", Eurasianet, 1/17/2020, <https://eurasianet.org/azerbajans-notorious-ideologue-suffers-precipitous-fall>.

⁹⁵ Azerbaijani Community of the Nagorno-Karabakh Region of Azerbaijan, "Aims and Activities", Azerbaijani Community of the Nagorno-Karabakh Region of Azerbaijan, <http://www.karabakh.az/page/3/meqsed-ve-fealiyyet>

⁹⁶ International Crisis Group, *Tackling Azerbaijan's IDP Burden*, (International Crisis Group, 2012), 7.

Lack of Security

Another cause of protracted internal displacement is a lack of security, defined as landmines, unexploded ordinances, and “the continued presence of military or other armed actors...”⁹⁷. The 1994 ceasefire signed by Armenia and Azerbaijan, neither ended the Nagorno-Karabakh conflict, nor removed troops from their positions, it simply ended active military operations between the two nations. The border between the two military positions is known as the Line of Contact⁹⁸, where “around thirty thousand soldiers [face] each other on either side...the ceasefire [is] frequently broken, with the only international presence being six monitors of the [Organization for Security Cooperation in Europe] mandated to make two inspection visits a month”⁹⁹. Ceasefire violations reached a high in April 2016, creating the ‘April War’ wherein several dozen people died, and more than 300 casualties were reported¹⁰⁰. The presence of the unresolved conflict is a real physical threat to Azerbaijani citizens living near the border, and to the IDPs who live near the border.

However, the lack of security extends beyond the presence of armed actors, and to the threats and arms race the Azerbaijani state has initiated against Armenia. As previously mentioned, it was an explicit goal of the nation’s political leadership to have the military budget exceed the Armenian state budget, but Azerbaijan has also engaged in purchasing “at least \$4bn worth of arms from Russia”¹⁰¹. In response to the ‘April War’, Azerbaijani President Ilham Aliyev made the following veiled threat to Armenia “I am

⁹⁷ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 257.

⁹⁸ See Appendix A

⁹⁹ Thomas de Waal, *Black Garden*, 294.

¹⁰⁰ Council on Foreign Relations, “Nagorno-Karabakh Conflict”, Council on Foreign Relations, 11/9/2020, <https://www.cfr.org/interactive/global-conflict-tracker/conflict/nagorno-karabakh-conflict>.

¹⁰¹ BBC, “Nagorno-Karabakh violence: Worst clashes in decades kill dozens”, BBC, 4/3/2016, <https://www.bbc.com/news/world-europe-35949991>

sure that none of the enemy's provocations will remain unanswered. The enemy will continue to receive an adequate response. The Azerbaijani army is capable of doing that. The sons of Azerbaijan are defending the homeland, fighting for their country and becoming martyrs”¹⁰². The arms race and veiled threats constitute a very real security risk which has a mitigating effect on the possibility of durable solutions by keeping the appearance that displacement is a temporary situation, ready to change as the Azerbaijani military forces prepare to retake Karabakh. The ever-present potential for return is one of the primary reasons durable solutions have not been reached.

Obstacles related to economic, social, and cultural rights

Kälin notes that obstacles to durable solutions are often related to economic, social, and cultural rights, defined as a “lack of access to livelihoods, adequate housing, education, health services, or psychosocial support...IDPs may face discrimination in accessing labour markets as displaced people or they may lack the necessary skills, contacts, or expertise to gain employment, hindering their ability to find livelihoods and leading to high levels of unemployment that can take years to overcome”¹⁰³. For the purpose of brevity, this section will focus primarily on the economic and livelihood obstacles within Azerbaijan.

As a group IDPs face higher rate of economic vulnerability. In Azerbaijan, “the evidence is that twenty years after their displacement, IDPs have yet to overcome the specific impacts of displacement and marginalization...”¹⁰⁴. In 2018, it was reported that the unemployment rate of IDPs was 15%, whereas the unemployment rate of the non-IDP

¹⁰² <https://en.president.az/articles/19323>

¹⁰³ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 259.

¹⁰⁴ World Bank, *Building Assets and Promoting Self Reliance: The Livelihoods of Internally Displaced Persons* (World Bank, 2011), 28.

population was approximately 5%¹⁰⁵. Furthermore, it was found that 54% of all IDP household members were economically inactive, as compared to 36% of non-IDPs¹⁰⁶. A World Bank survey suggested that “68 percent of respondent families had various forms of [household] debt”¹⁰⁷. Due to their particular vulnerabilities, the Azerbaijani government has created an extensive package of state benefits and exemptions from “service fees such as electricity, natural gas and drinking water...IDPs are also exempted from a number of taxes and fees including fees for the issuance of their identity cards; or for submitting court applications or for their State license plates and driver’s license. They also benefit from reduced taxation including for income taxes”¹⁰⁸. These state benefits account for the “main source of income for more than 70 per cent of IDPs”¹⁰⁹. However, “monthly allowances and other assistance for IDPs, including new housing are dependent on their continued presence at their government registered address...IDPs felt that their freedom of movement was restricted, in particular because access to assistance and free housing tied them to their registered address and thus hindered them from moving to search for employment elsewhere”¹¹⁰.

The linking of state benefits to an IDP’s official residence is not only a restriction on movement, but a practical matter of logistical issues as well because many IDP settlements are “located in isolated areas, a long distance from essential services,

¹⁰⁵ International Organization of Migration, “Human Compendium”, International Organization for Migration, 2018, <https://humanitariancompendium.iom.int/appeals/azerbaijan-2018>.

¹⁰⁶ International Organization of Migration, “Human Compendium”, International Organization for Migration, 2018, <https://humanitariancompendium.iom.int/appeals/azerbaijan-2018>.

¹⁰⁷ World Bank, *Building Assets and Promoting Self Reliance*, 31.

¹⁰⁸ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons*, Chaloka Beyani, 10.

¹⁰⁹ Internal Displacement Monitoring Centre, *Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration*, (IDMC, 2014), 6.

¹¹⁰ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons*, Chaloka Beyani, 12.

employment opportunities and administrative authorities...”¹¹¹. Despite the logistical issues, the World Bank found that IDPs had a number of strategies to deal with this situation.

When seeking casual day labor, they may travel into a city for a day or few days at a time and look for temporary accommodation while they do so but return to their place of residence after each spell of work. This strategy does, however, raise the transaction costs of casual labor as it entails paying transportation costs and rent. Other IDPs appeared to maintain two residences, one informal in a city as foothold for economic opportunities and one formal in the place of their registration¹¹².

When the World Bank conducted an interview with an IDP from the western city of Göygöl, about these strategies, the young man said, “I went to Baku to earn money. But almost 60—70 percent of what I earned there was spent on accommodation and food and the rest of the money was so miserable, not enough to keep the family, so it was not at all profitable for me to work there”¹¹³. For IDPs wishing to generate an income by starting a small business, there are “difficulties in securing loans due to their lack of property assets”¹¹⁴. As their displacement is considered temporary by the state, IDPs living in federally provided housing or land do not actually own those assets.

As Kälin notes access to a sustainable livelihood also includes expertise, skills, and contacts. With regards to expertise and skills IDPs can face a barrier in that “one third of IDPs were farmers before displacement and most other IDPs were employed in professions linked to agricultural production, many on collective farms. As a result, there has been and continues to be a serious disjuncture between IDP skills and their

¹¹¹ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons*, Chaloka Beyani, 8.

¹¹² World Bank, *Building Assets and Promoting Self Reliance*, 35.

¹¹³ *Ibid.*, 36.

¹¹⁴ *Ibid.*, 39.

environment...the older generation of IDPs does not have...the experience to maximize income opportunities in urban environments”¹¹⁵. This gap is compounded in the fact that “land allocated to IDPs tends to be relatively infertile, which has further limited their ability to generate an income”¹¹⁶.

Access to employment can be further complicated by a lack of available social capital. As a young man working in Baku explains, “If you don’t have education and professional skills, it is difficult to get a job. But if you don’t have someone powerful behind you, it is even more difficult”¹¹⁷. In Azerbaijan social capital is critical to securing a job, and “yet it is in the field of social capital that IDPs felt that they were particularly disadvantaged and vulnerable”¹¹⁸. This vulnerability felt by IDPs is due to the fact that the “inter-community networks IDPs had with non-IDPs were often more tenuous because they had been settled in places where the families of others, not their own, held influence and power. Without those connections, IDPs often felt that their access to jobs and work was almost hopelessly constrained”¹¹⁹.

Within his category of ‘obstacles to durable solutions related to economic, social, and cultural rights’, Kälin also considers IDPs access to health services. As reported by the UN Special Rapporteur for IDPs in 2015, Azerbaijan has “326 health facilities in the districts occupied by IDPs, served by 700 physicians and 2,300 nurses...[but] difficulties remain for IDPs in accessing health services owing to the limited availability of services...demand for unofficial payment, and the often poor quality of the services

¹¹⁵ World Bank, *Building Assets and Promoting Self Reliance*, 34.

¹¹⁶ Internal Displacement Monitoring Centre, *Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration*, 6.

¹¹⁷ World Bank, *Building Assets and Promoting Self Reliance*, 39.

¹¹⁸ *Ibid.*, 38.

¹¹⁹ *Ibid.*, 38—39.

offered”¹²⁰. Furthermore, “when visiting certain settlements, even new ones, the Special Rapporteur indeed noticed the lack of a systematic approach with regard to IDP access to health care. Very often, mobile clinics cover specific areas and inside settlements, only a small facility is available, sometimes without any practitioner present on a regular basis”¹²¹.

Aid Dependency

Aid dependency, “an overall stagnation in displaced people’s progress toward self-sufficiency”, occurs when “IDPs are forced to remain in camp or camp-like settings without freedom of movement or are otherwise deprived of access to livelihoods”¹²². Moreover, Kälin notes that “humanitarian action is not designed to enable long-term sustainable development outcomes. Rather, short-term humanitarian grants are used as an ‘expensive and ineffective safety net of first resort’ and therefore contribute to aid dependency when they substitute for measures to reduce vulnerability over multi-year planning cycles”¹²³.

Several major international organizations have remarked upon a ‘dependency syndrome’ among Azerbaijani IDPs. The World Bank found that “A narrative of the importance of self-help...is strikingly low among IDPs in Azerbaijan. After more than two decades in displacement...subsidized by the Government, as a population they have become orientated towards and expectant of policy as determining their overall survival

¹²⁰ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons*, Chaloka Beyani, 11.

¹²¹ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons*, Chaloka Beyani, 11.

¹²² Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 260.

¹²³ *Ibid.*, 260.

and conditions, rather than what they might do for themselves”¹²⁴. Chaloka Beyani, the UN Special Rapporteur for IDPs, noted that “the dependency syndrome engendered among IDPs persists, which the Special Rapporteur’s predecessor had noticed during his previous visit [in 2008]. That seems to be due to a combination of factors such as regarding the situation of IDPs as being temporary, the high social protection which does not encourage them to become self-reliant and livelihood activities which are too low income to ensure self-sustainability”¹²⁵. Some of the Azerbaijani IDPs interviewed by the World Bank stated, “We need more support from the Government: We need housing and job to live adequately”, and “We need to live, not just survive till we get back to our homes. It would be good if the government built houses for us here, provide us with jobs, and increase pensions for old people”¹²⁶.

Fragility and Low Levels of Development

Durable solutions can also be impacted in “contexts facing overall fragility and low levels of development”¹²⁷. According to Kälin, low levels of development include the absence of infrastructure, an insufficient access to basic services, and a weak governmental presence. However, Kälin also notes that low levels of development are typically caused by the perception that displacement is temporary. “Despite evidence that displacement is likely to last for an extended period of time, political leaders often perceive, or choose to present, displacement as a temporary situation. Thus, authorities omit IDPs from local economic and social development programmes...”¹²⁸. Presenting

¹²⁴ World Bank, *Building Assets and Promoting Self Reliance*, 54.

¹²⁵ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 9.

¹²⁶ World Bank, *Building Assets and Promoting Self Reliance*, 54.

¹²⁷ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 260.

¹²⁸ *Ibid.*, 260.

displacement not only impacts governmental development programs, but also impacts IDPs ability or willingness to invest in accommodations, careers, and relationships which may be temporary.

Azerbaijan has consistently referred to displacement as a temporary situation, most poignantly through its 2005 ‘Great Return’ plan. Under this plan “UN bodies and the [International Committee of the Red Cross] would help ensure initial rehabilitation and social needs in collaboration with the government, while the World Bank would fund part of the reconstruction process. Although local NGOs are aware of this, they have not been involved in its drafting. IDPs and returnees generally say they are unaware of any government strategy to return them safely”¹²⁹. However, despite the fact that international organizations from the UN to the World Bank are supposedly involved with the ‘Great Return’ plan, UN Special Rapporteur Chaloka Beyani was “under the impression that the plan is yet to be made public and shared with relevant stakeholders including United Nations agencies in the country”, despite the fact that “State officials extensively referred to the Great Return Programme announced...as of 2005”¹³⁰.

While IDPs may be unaware of the Great Return plan, the sense that their displacement is a temporary situation has had a lasting impact. An IDP interviewed by Brookings said “If the government would build us a house, if we knew that it was ours, we would build ourselves a life. We would take out loans and buy solid building materials for a house. But we do not know if they are going to resettle us tomorrow and we do not want to lose what we would build. Because of uncertainty we have been living

¹²⁹ International Crisis Group, *Tackling Azerbaijan’s IDP Burden*, (International Crisis Group, 2012), 11.

¹³⁰ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 11.

here for 18 years and only have been patching up the crumbling walls of mud brick houses from time to time”¹³¹. Another IDP noted that “we do not have certainty in our lives. They, the government, keep telling us that we will be relocated. People live with the hope that they will either return or will be relocated to better housing conditions. And as we wait, life passes by”¹³².

Political Obstacles

According to Kälin, political obstacles to ending protracted internal displacement “extend beyond failures to resolve longstanding armed conflict that undermine returns, particularly where a State has lost control over part of its territory. For instance, the politicization of internal displacement situations can be an obstacle to supporting local integration as a viable option for IDPs to find a durable solution, because ‘political decision makers calculate that continued pressure to return will uphold their territorial claims’”¹³³. Kälin further notes that within such contexts, “government policies often limit IDPs access to housing and basic services, thus keeping IDPs in situations of protracted displacement even though local integration would be a more realistic and adequate policy response”¹³⁴.

The *Guiding Principles* outlines three durable solutions—return, resettlement, and integration—but in the case of Azerbaijan, the government “has been reluctant to promote local integration as a long-term solution for IDPs. The government’s concern is that IDP integration into local communities may render their return to their original

¹³¹ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 40.

¹³² *Ibid.*, 40.

¹³³ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 258.

¹³⁴ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 258.

homes in and around Nagorno-Karabakh as less likely in the future, thereby weakening Azerbaijan's claim to sovereignty over these territories"¹³⁵. The refusal of the Azerbaijani government to recognize local integration as a practical durable solution, is most clearly reflected in the country's IDP housing and education policies.

IDP housing in Azerbaijan tends to be separated from the non-IDP population in terms of facilities, services, and distance. This is the result of the government's desire "to maintain social cohesion" within IDP communities such that return will be easier¹³⁶.

During an interview with an official from the State Committee for Affairs of Refugees and Internally Displaced Persons, members of the Brookings Institution were told: "We are striving hard to preserve the structure that existed prior to occupation to make the return easy. Otherwise, [once return is possible] we would have to build up everything from scratch"¹³⁷. The policies which separate IDPs from the non-IDP population serves to not only hinder local integration, but also "reinforces the sense that [the IDPs'] residence is temporary, with return being the only solution available to them"¹³⁸. UN Special Rapporteur Beyani noted that "the discourse remains that IDPs are only temporarily 'hosted' in those settlements until they are able to return to their place of origin"¹³⁹.

The policies and discourses of temporary displacement have had very real effects

¹³⁵ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 9.

¹³⁶ Internal Displacement Monitoring Centre, *Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration*, 5.

¹³⁷ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 22.

¹³⁸ Internal Displacement Monitoring Centre, *Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration*, 5.

¹³⁹ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 16.

on the local integration of IDPs. “Local urban residents [sic] consider that despite the long history of displacement, IDPs have remained ‘alien’, not fully integrated into the host community”¹⁴⁰. The World Bank found that IDPs’ “bridging social capital with non-IDPs would seem to be weaker...[because] many IDPs tended to live in designated IDP settlements and apart from the non-displaced, decreasing the number of opportunities to contact and connect with the non-displaced”¹⁴¹. Perhaps the social isolation of IDPs was best summed up by an IDP woman from Khojaly, “We do not feel like full-fledged members of the society. We are ‘non-tenured’ members of the society. As the say, ‘Away from the eyes, away from the heart’”¹⁴².

The failure to fully integrate IDPs and non-IDPs has exacerbated tensions between the two communities. “While on a national level there was a strong ideology of support for IDPs, it was tempered by a widespread perception that in some regards IDPs were responsible for the loss of their lands because they had not put up greater resistance to protect them”¹⁴³. As one IDP in the western city of Ganja reports: “I had a dispute with one local and he told me: I give thanks to the Armenians for what they have done to you, you deserve even more than that”¹⁴⁴. Another IDP in Baku told the World Bank, “I feel very depressed about being an IDP. Sometimes when I am on the bus, I hear people talking about ‘gachgyn’ [Azerbaijani word for IDP; qaçqın] with disdain and irritation, I often face things like this. Even if people don’t say it to you openly, they talk about IDPs

¹⁴⁰ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 30.

¹⁴¹ World Bank, *Building Assets and Promoting Self Reliance*, 57.

¹⁴² Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 30.

¹⁴³ World Bank, *Building Assets and Promoting Self Reliance*, 47.

¹⁴⁴ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 30.

in this way behind you”¹⁴⁵.

However, beyond the negative perceptions resulting from the events in Karabakh, there are negative perceptions of IDPs due to the official discourse on IDPs which depicts an image of them as “pitiful and miserable and in need of [sic] special assistance...any mismatch between the public image of IDPs and their everyday reality causes discontent and a somewhat envious reaction by some local residents who resent the benefits received by IDPs...”¹⁴⁶. As an IDP living in Barda explains, “Personally, I was always very proud of originally being from Agdam [one of the occupied territories]. Now I often feel ashamed and try even to say that I am not from Agdam because people will call me ‘gachgyn’. This word is so bitter and humiliating to hear”¹⁴⁷. Interviews of IDPs conducted by the Brookings Institution, further emphasize the tensions regarding the difference between discourse and reality, “They think that if you are an IDP you should be wearing rubbish. When you dress nicely and have something new on, they wonder: ‘How come you have [a] new dress, where did you get money for that?’”¹⁴⁸. Another IDP said, “Many people visit us and say: ‘How come you are an IDP and have an air conditioner?’ They don’t think that it is impossible to deal with 40 degree [104 degrees Fahrenheit] in a house without proper windows”¹⁴⁹.

The effects of Azerbaijan’s refusal to recognize local integration as a durable solution are also apparent in the nation’s education policy. The majority of IDP children

¹⁴⁵ World Bank, *Building Assets and Promoting Self Reliance*, 47.

¹⁴⁶ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 31.

¹⁴⁷ World Bank, *Building Assets and Promoting Self Reliance*, 47.

¹⁴⁸ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 31.

¹⁴⁹ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 31.

are educated separately from non-IDP children, attending ‘IDP schools’. In 2008, Walter Kälin, the then UN Special Rapporteur for IDPs, “learned that the Government was trying to preserve the social fabric of communities, which would eventually facilitate reintegration upon return. This led to some schools in Baku accommodating regional schools from Fizuli, Kelbejar, or Lachin [occupied territories] so that in effect two schools were housed in one building and classes were held in shifts or in separate classrooms”¹⁵⁰. In a follow up visit to Azerbaijan in 2014, UN Special Rapporteur Beyani, found that “around 60 per cent of IDP children are educated separately” from non-IDP children¹⁵¹.

It should be noted that the separated education of IDP children is generally preferred by IDP parents. “Parents claim to prefer their children be taught by IDP teachers who maintain the memories of displacement through lessons, song and dance, activities and visual aids meant to preserve ‘a sense of history about who we are and what we suffered’”¹⁵². It should be further noted that “there are no restrictions on IDP attendance in local schools”¹⁵³. However, the choice of IDP parents “may be limited due to distance or lack of funds”¹⁵⁴. It should also be noted that the lack of integration between IDPs and non-IDPs even affects IDP children, “...my child goes to the local school and he is called ‘gachgyn’ there. It traumatizes a child’s psychological state and

¹⁵⁰ United Nations, *Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin*, (United Nations, 2008) 16.

¹⁵¹ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 11.

¹⁵² International Crisis Group, *Tackling Azerbaijan’s IDP Burden*, 6.

¹⁵³ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 24.

¹⁵⁴ Internal Displacement Monitoring Centre, *Azerbaijan: After some 20 years, IDPs still face barriers to self-reliance*, (IDCM, 2010), 7.

makes his feel second rate”¹⁵⁵.

The separation of IDP and non-IDP children has created quality disparities. “Many IDP schools were established in sub-standard building where a major issue is heating during the winter. In cold months teachers and students do not take off their coats or hat and classrooms require the use of multiple heaters to stay warm”¹⁵⁶. Additionally, “low teacher salaries and continued use of outdated teaching methods [sic] negatively affect the quality of education. Students in some schools revealed that they sometimes feel unsafe because some teachers used corporal punishment and threatened them...”¹⁵⁷. While the Azerbaijani government is attempting to address some of these concerns, the “segregation reinforces IDP stigmatization and their isolation from the broader community and encourages a nostalgia for the past, hampering their integration and adding to their precarious social position”¹⁵⁸.

Obstacles related to civil and political rights

Another of Kälin’s reasons for protracted displacement is those obstacles related to civil and political rights, which encompasses a variety of situations, one of which is “when IDPs are unable to register as residents in areas where they found refuge, thus limiting their access to rights, including the right to vote in local elections”¹⁵⁹. In Azerbaijan, “Administrative structures from in and around Nagorno-Karabakh were retained and moved to areas of high concentrations of IDPs...[this has enabled the

¹⁵⁵ World Bank, *Building Assets and Promoting Self Reliance*, 47.

¹⁵⁶ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 31.

¹⁵⁷ Internal Displacement Monitoring Centre, *Azerbaijan: After some 20 years, IDPs still face barriers to self-reliance*, (IDCM, 2010), 7.

¹⁵⁸ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 11.

¹⁵⁹ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 260.

government to] maintain constituencies in IDP areas of origin, in readiness for the time when the return of IDPs will become possible”¹⁶⁰. While “IDPs have full rights to participate in parliamentary and presidential elections”¹⁶¹, they “are not allowed to vote in municipal council elections where they presently (temporarily) reside...”¹⁶². Furthermore, IDPs cannot “stand as candidates in municipal elections in their areas of displacement. However, IDPs can run as candidates and vote in municipal elections, but only in their areas of origin”¹⁶³. Alongside, their in-exile local governments, IDPs also have some political representation through the Azerbaijani Community of Nagorno-Karabakh Region of the Republic of Azerbaijan¹⁶⁴. However, as the membership of this body was primarily decided by the Azerbaijani government, its credibility and ability to effectively advocate for IDPs is suspect. The Internal Displacement Monitoring Centre (IDCM) has found that Azerbaijan’s policies on political participation have made IDPs “unable to campaign on local issues they deem important. Their inability to take part in local politics limits their access to local government resources and narrows their options for addressing their displacement-related needs”¹⁶⁵. The World Bank found that “allowing IDPs voting rights in their place of residence could improve the accountability of local officials to IDP issues”¹⁶⁶.

Beneath the auspices of obstacles related to civil and political rights, Kälin found

¹⁶⁰ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 13.

¹⁶¹ *Ibid.*, 13.

¹⁶² International Crisis Group, *Tackling Azerbaijan’s IDP Burden*, 7.

¹⁶³ United Nations, *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 13.

¹⁶⁴ International Crisis Group, *Tackling Azerbaijan’s IDP Burden*, 7.

¹⁶⁵ Internal Displacement Monitoring Centre, *Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration*, 8.

¹⁶⁶ World Bank, *Building Assets and Promoting Self Reliance*, 55.

that “discrimination linked to a conflict can hinder sustainable return...”¹⁶⁷. While the issue of return seems relatively remote at the current time, there are serious concerns regarding IDP return which are beginning to develop, with particular regard to youth. As of 2010, it was reported that “86 percent of IDPs in Azerbaijan live in urban areas, mainly in Baku and Sumgait [two major cities]”¹⁶⁸. Return to largely underdeveloped and rural areas such as Nagorno-Karabakh and the occupied territories may not appeal to the younger generation of IDPs, or the children of IDPs who have grown up in the major urban cities; “some younger IDPs [sic] say they would prefer to stay in their current places of residence even if return were a viable option”¹⁶⁹. In an interview with International Crisis Group (ICG), “some younger IDPs [admitted] that though they wish to see their old lands, they may not want to return permanently. Some young people are divided over ‘wanting to get a job and have a normal life’ or ‘returning to our homeland’”¹⁷⁰. While the possibility of return may not be immediately present (if ever), the current orientation of government policies does not appear to be oriented toward ‘sustainable return’. Moreover, it is unclear if the Azerbaijani state is prepared to handle situations of IDPs who do not wish to return.

Normative Domestic and International Frameworks

Kälin also lists a lack of adequate normative and institutional frameworks at the domestic and international levels as a contributing factor to protracted internal displacement. The domestic level institutions have been discussed elsewhere, but there

¹⁶⁷ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 259.

¹⁶⁸ Yulia Gureyeva-Aliyeva et al., *Can you be an IDP for Twenty Years: A Comparative Field Study on the Protection Needs and Attitudes Towards Displacement and IDPs and Host Communities in Azerbaijan*, 6.

¹⁶⁹ Internal Displacement Monitoring Centre, *Azerbaijan: After some 20 years, IDPs still face barriers to self-reliance*, 1.

¹⁷⁰ International Crisis Group, *Tackling Azerbaijan’s IDP Burden*, 11.

are important international level institutional frameworks to discuss in connection with IDPs. In Azerbaijan, it is difficult to separate the issues of Nagorno-Karabakh and IDPs, as the state has worked hard to make one dependent on the other. As such it has become imperative to “reach a peaceful settlement to the [Nagorno-Karabakh] conflict in order to resolve the protracted situation of displacement, which has lasted more than 20 years in Azerbaijan”¹⁷¹. Peace negotiations regarding the situation in Karabakh are under the auspices of the Organization for Security Cooperation in Europe (OSCE). The OSCE has delegated the negotiations to a smaller body known as the Minsk Group, which includes the presidents of both Azerbaijan and Armenia, and three co-chair nations: France, Russia, and the United States. However, despite twenty years of negotiations and diplomacy, the talks are at a stalemate. “The problem is not in the quality of [sic] diplomats or the sophistication of the drafts of various documents they compose. The problem is in the structure of the negotiation process. The presidents of Armenia and Azerbaijan have shaped a highly private and confidential format which excuses them of any political accountability before their publics”¹⁷². This format encourages neither president to break the tenuous status quo which has been achieved during the past twenty-years of ‘no war, no peace’. In 2006, the co-chairs of the Minsk Group released this statement:

As co-chairs, we have reached the limits of our creativity in the identification, formulation and finalization of these principles. We do not believe additional alternatives advanced by the mediators through additional meetings with the sides will produce a different result...The parties would be well-served at this point by allowing their publics to engage in a robust discussion of the many viewpoints on these issues...We see no point right now in continuing the intensive shuttle

¹⁷¹ United Nations, “Peace in Azerbaijan urgently needed to resolve protracted displacement– UN expert”, United Nations. 5/27/2014, <https://news.un.org/en/story/2014/05/469372-peace-azerbaijan-urgently-needed-resolve-protracted-displacement-un-expert>.

¹⁷² Thomas de Waal, *Black Garden*, 319.

diplomacy we have engaged in over the past several months. We also see no further point in initiating further presidential meetings until the sides demonstrate enough political will to overcome their remaining differences... We will be ready to reengage if indeed the parties decide to pursue the talks with the political will that has thus far been lacking¹⁷³.

Since 2006, there has been movement in negotiations, but deadlock and stalemate seem to continuously stymie all diplomatic efforts. At the international level, the normative and institutional frameworks attempting to achieve peace have failed to do so, and as a result the IDPs, refugees, and other impacted populations on both sides continue to live in limbo.

Fragmented Funding

Kälin's final contributing factor of protracted internal displacement is 'fragmented funding', a situation which occurs when "short-term fragmented strategies to address protracted displacement prevail over longer-term, holistic programming, [which can create the risk of] exclusion, poverty, degradation, possible radicalization, and new conflict..."¹⁷⁴. Azerbaijan's significant oil revenues enable the country to avoid funding shortages of social programs, and indeed have contributed to the creation of an extensive social welfare package for IDPs. However, there does not appear to be a holistic, long-term development program for IDPs, instead strategies overwhelmingly focus on meeting immediate needs such as housing, access to water, education, and health services.

However, far more research is needed to before definitive conclusion can be made as to whether or not fragmented funding is present in Azerbaijan, or to what extent it may be impacting government programming.

¹⁷³ Philip Remler, *Chained to the Caucasus: Peacemaking in Karabakh, 1987–2012*, (International Peace Institute, 2016), 95—96.

¹⁷⁴ Walter Kälin, *Guiding Principle 28: The Unfulfilled Promise to End Protracted Displacement*, 261.

Preventing Durable Solutions

The Orchard-Kälin emphasizes the agency and responsibility of individual states in resolving situations of protracted internal displacement within their borders.

Application of the framework to both, specific policies and the overall legislative structure within Azerbaijan, and revealed two broad policy categories: policies which have an overall effect of undermining durable solutions and those policies which are intended to undermine and prevent durable solutions.

The policies classified as having an overall effect of undermining durable solutions are a weak humanitarian/development/peacebuilding nexus, aid dependency, and fragmented funding. Azerbaijan's weak humanitarian/development/peacebuilding nexus, evidenced through its multiple legislative and policy structures has an undermining effect on implementing durable solutions by creating multiple avenues through which IDP policy can be developed and implemented. The numerous legislative structures diminish the importance of the primary agency tasked with handling IDP issues, the State Committee for Affairs of Refugees and Internally Displaced Persons, impedes the ministry's ability to effectively advocate for cohesive and comprehensive policies. Moreover, the recent appointment of Rovshan Rzayev further diminishes the authority and abilities of the State Committee as Rzayev lacks meaningful experience in IDP affairs. Rzayev's close alignment with the President also diminishes the independence of the State Committee, creating the sense that the State Committee is an extension of the executive office.

Aid dependency and fragmented funding have the overall effect of undermining durable solutions by decreasing the ability of IDPs to move freely within the country and

hindering their ability to integrate into their host communities. Additionally, the aid dependency has had the effect of creating specific victimized social roles for the IDP population which has served to emphasize the distance and difference between IDPs and the non-IDP population. These policies have the overall effect of preventing durable solutions by creating an environment in which return becomes the only resolution to protracted internal displacement.

Application of the Orchard-Kälin framework also revealed policies which are purposefully designed and intended to undermine durable solutions. This category includes the lack of security, obstacles related to economic, social, and cultural rights, low development and fragility, political obstacles, obstacles related to political and civil rights, and normative domestic and international frameworks. These policies differ from the effecting policies in that they are actively working to hinder, undermine, and prevent IDPs from reaching durable solutions which are conflict with the state's desire for return.

The lack of security, specifically the threats of violence against the Armenian state, the publicized arms race, and ceasefire violations give demonstrable action to the notion that return is imminent, and displacement temporary. Economic, social, and cultural obstacles have restricted IDP movement by tying state benefits to isolated IDP settlements, which has also prevented local integration. In the case of low development and fragility the constant assurances from Azerbaijani state officials, including the President, have contributed to a national narrative that return is not only imminent, but inevitable. This temporary displacement narrative has undermined local integration, and economic development of the IDP population. Political obstacles have seen the state create separate housing and educational institutions for the IDP population which has

created a social and physical distance between IDPs and non-IDP, preventing local integration. Obstacles regarding political and civil rights have limited IDP voices, as their enfranchisement is limited to constituencies-in-exile, further hindering local integration. In the case of normative domestic and institutional frameworks within Azerbaijan, it becomes clear that the absence of transparency regarding the Nagorno-Karabakh conflict has granted Azerbaijani state officials a monopoly on information which can be, and is manipulated to fit the purposes of the state, which is to actively undermine and prevent all other durable solutions other than return.

A Tale of Two Cases: Georgia and Azerbaijan

This paper will now provide a comparative case of protracted displacement in Georgia, another nation in the Caucasus, and Azerbaijan's neighbor to the northwest. Since the early 1990's Georgia has been faced conflict in two secessionist provinces, Abkhazia and South Ossetia¹⁷⁵, which have produced thousands of IDPs. As of 2018, the IDMC estimated that there were 293,000 IDPs in Georgia, most originating from the secessionist provinces¹⁷⁶. In 1996, Georgia passed its first law related to IDPs, by 2000 the law had undergone several amendments to bring it in accordance with the Guiding Principles, as recommended by Francis Deng, the first UN Special Rapporteur for IDPs¹⁷⁷. Specifically, "the government adapted its national law on internal displacement [by] removing several legal provisions that hindered IDPs from fully accessing their

¹⁷⁵ See Appendix B

¹⁷⁶ Internal Displacement Monitoring Center, *Georgia Figure Analysis – Displacement Related to Conflict and Violence*, (IDMC, 2018) 1.

¹⁷⁷ Iulia Kharashvili et al., *Experience of the Guiding Principles in Georgia*, (Forced Migration Review, 2008) 16.

rights as Georgian citizen”¹⁷⁸. In 2003, a ruling from the Constitutional Court of Georgia established the rights of IDPs to purchase property without losing their IDP status and entitlement to return...”¹⁷⁹. “In December 2005 Walter Kälin – Francis Deng’s successor – visited Georgia. Recommendations made in his mission report spurred the Georgian government to develop a holistic IDP State Strategy through the coordinated efforts of state agencies, international organizations and civil society”¹⁸⁰. The State Strategy was “designed to provide a range of rights for IDPs including housing, employment, legal status, health, and education, and noted that integration was not a bar for future return to their original residence”¹⁸¹. The IDP State Strategy was significant because for the first time Georgian state authorities recognized the existence of solutions open to IDPs other than return¹⁸².

In August of 2008, Russia invaded Georgia, annexing Abkhazia and occupying South Ossetia. The August War, as it came to be known, fundamentally changed the policy landscape regarding Georgian IDPs. The “accompanying new wave of forced displacement [sic] provided the political momentum and attracted the necessary funding to advance IDPs’ local integration”¹⁸³. In the wake of the August War, “the government and its main donors predominantly focused on providing IDPs with durable housing solutions”¹⁸⁴. By 2014, the Georgian government had adopted a “livelihood strategy, which promotes specific measures

¹⁷⁸ Carolin Funke & Tamar Bolkvadze, *Work in progress: The Guiding Principles in Georgia*, (Forced Migration Review, 2018) 13.

¹⁷⁹ Iulia Kharashvili et al., *Experience of the Guiding Principles in Georgia*, 16.

¹⁸⁰ Carolin Funke & Tamar Bolkvadze, *Work in progress: The Guiding Principles in Georgia*, 13.

¹⁸¹ Phil Orchard, *Protecting the Internally Displaced: Rhetoric and Reality*, 149.

¹⁸² Carolin Funke & Tamar Bolkvadze, *Work in progress: The Guiding Principles in Georgia*, 13.

¹⁸³ Carolin Funke & Tamar Bolkvadze, *Work in progress: The Guiding Principles in Georgia*, 13.

¹⁸⁴ *Ibid.*, 13.

to foster IDPs self-reliance”¹⁸⁵. While Georgia has made significant strides on IDP policy, problems persist regarding “isolation and exclusion from larger social networks; lack of livelihood opportunities and access to land near their settlements; poor health; and lack of or inadequate information about their rights and support opportunities”¹⁸⁶. However, despite these pitfalls, “the government of Georgia has made clear legal commitments to its IDP population, even if short of the standards of the Guiding Principles”¹⁸⁷.

While Azerbaijan and Georgia face similar issues related to protracted internal displacement, and large IDP populations, the responses of the two governments could not be more different. While Azerbaijan has failed to implement the policy, recommendations provided by UN Special Rapporteurs Francis Deng, Walter Kälin, and Chaloka Beyani; Georgia has made significant changes to its IDP policy regime based on such recommendations. Lacking in strong domestic institutions other than the executive, Azerbaijan has been unable to codify aspects of the Guiding Principles, and IDP policy in a manner similar to Georgia. While Azerbaijan has made largely superficial commitments to supporting the trifecta of durable solutions, Georgia has developed a national strategy in partnership with major international organization in order to achieve such a goal. While Azerbaijan maintains that local integration will impede its territorial claims to sovereignty in Nagorno-Karabakh, Georgia has not precluded local integration from the prospect of return for IDPs from the occupied territories. The different approaches to IDP policy

¹⁸⁵ Ibid., 13.

¹⁸⁶ Ibid., 13.

¹⁸⁷ Phil Orchard, *Protecting the Internally Displaced: Rhetoric and Reality*, 151.

and durable solutions by the Georgian and Azerbaijani governments can be summed up in the following ways: while Georgia’s “efforts to provide IDPs with durable solutions remain frustrated by a lack of resources”, Azerbaijan’s efforts to provide IDPs with durable solutions remain frustrated by a lack of political will and desire¹⁸⁸.

Conclusion

As a case of internal displacement, and particularly that of protracted internal displacement, Azerbaijan is a well-known case. However, while well-known the Azerbaijan has been characterized variously as a state progressing in the implementation of durable solutions, and as a state in which implementation has stagnated¹⁸⁹. This paper has argued that Azerbaijan is not only a state in which durable solutions have stagnated, but represents an emerging type of state, that in which durable solutions are deliberately impeded and undermined. In Azerbaijan, superficial change has been regarded as progress, and the even more concerning hinderances to durable solutions have gone relatively unnoticed.

This paper has sought to argue in definitive terms that Azerbaijan is undermining all durable solutions, except return for political purposes. This paper centered the issue of protracted internal displacement, and internal displacement more generally, as an individual responsibility of the states in which it occurs. Drawing on the Guiding Principles, this paper drew on Principle 28 which states that “Competent authorities have

¹⁸⁸ Phil Orchard, *Protecting the Internally Displaced: Rhetoric and Reality*, 151.

¹⁸⁹ See Phil Orchard, *Protecting the Internally Displaced: Rhetoric and Reality*, 147. & Office for the Coordination of Humanitarian Affairs, *Breaking the Impasse*, (OCHA, 2017) 46.

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 endeavor to facilitate the reintegration of returned or resettled internally displaced persons...¹⁹⁰. Establishing this state-centric understanding, the paper then applied Phil Orchard's factors of success and failure to Azerbaijan. Arguing contrary to Orchard this paper found that Azerbaijan's one factor of success, strong state capacity, actually represented the nation's biggest impediment to implementing the Guiding Principles and durable solutions.

This paper then used the work of Walter Kälin to analyze a range of policies pertaining to the rights and protections of IDPs within Azerbaijan. This analysis yielded the finding that policies in Azerbaijan can generally be separated into two categories: policies which have the overall effect of undermining durable solutions, and policies which are specifically designed to impede durable solutions. This finding was emphasized and augmented through a comparative case study of protracted internal displacement in Georgia. The case study comparison of Georgia and Azerbaijan revealed the stark differences in the approaches of the two governments toward internal displacement. Georgia's clear progression in implementing the Guiding Principles and durable solutions, further illustrated Azerbaijan's stagnation and regression with regards to durable solutions.

This paper has presented Azerbaijan as a classic case of protracted internal displacement resulting from a lack of political will and desire to implement change.

¹⁹⁰ United Nations, *Guiding Principles on Internal Displacement*, 14.

However, this paper does have some limitations. There are relatively few sources used in this paper from within the Azerbaijani state or from individual IDPs living in Azerbaijan. This is mostly a result of the closed political climate within Azerbaijan, and the politicization of internal displacement which hinders accurate reporting and suppresses free speech on this issue. Additionally, the vast majority of sources used in this paper are from the mid-2010's. This is due to the fact that major international organizations such as the United Nations and World Bank, the primary fact-finding bodies on internal displacement, only conduct occasional visits to Azerbaijan. The last time the UN Special Rapporteur for IDPs visited Azerbaijan was in 2014, and the last time a major livelihood assessment was conducted by the World Bank was also in 2014.

Re-examining the case of Azerbaijan through the Orchard- Kälin framework enables a greater understanding of cases in which the implementation of the Guiding Principles and durable solutions is being actively undermined. As more and more cases of internal displacement transition to a state of being protracted, scholars, practitioners, government officials, and international organization will have to grapple with finding new methods of advocacy and engagement with reluctant states. This paper can offer no solutions to these challenges but does seek to define and present a case of protracted internal displacement in Azerbaijan.

This paper will follow in the footsteps of the UN Special Rapporteurs, and other international organizations in making the following recommendations regarding IDP policy in Azerbaijan: IDPs should have the ability to purchase government-issued housing to foster financial independence and generational wealth; educational facilities should be fully integrated, and separate IDP schools should be phased out over a period

of years; IDPs should have the option to be registered either in their host community, or in their previous residence; and finally, Azerbaijani authorities should promote local integration, noting that integration does not impinge on an IDPs right to return. As noted by numerous other scholars, and international organizations, such changes would go a long way towards affecting positive change in the lives of Azerbaijani IDPs. However, until the authorities make a concerted effort to implement these changes, the lives of the IDPs impacted by such recalcitrance will likely remain unchanged.

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Appendix A



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¹⁹¹ Map can be found in: Thomas de Waal, *Black Garden*, xix.

Appendix B



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¹⁹² Map from: National Public Radio, “Along A Shifting Border, Georgia And Russia Maintain An Uneasy Peace”, National Public Radio. 3/13/2017.
<https://www.npr.org/sections/parallels/2017/03/13/519471110/along-a-shifting-border-georgia-and-russia-maintain-an-uneasy-peace>