

The Fundamental Rights of Internally Displaced Persons: Property Rights over Land and the Right to Housing

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In the process of resettling the territories of Karabakh liberated from Armenian occupation, protecting the property rights of internally displaced persons (IDPs) is one of the most pressing issues. This involves ensuring the property rights of approximately 190,000 families (715,000 individuals), as enshrined in the country's constitution, a fundamental human right universally recognized. The property rights of IDPs concern their rights to immovable property—houses, apartments, and land. This article will highlight the crucial role of the legal framework in protecting citizens' land ownership rights in the Republic of Azerbaijan and review government policies and documents relevant to the rights of IDPs. In a subsequent article, we will analyze, with supporting facts and legal documents, the provision of housing rights to people relocated to Karabakh.

It is no secret that the Azerbaijani government views the restoration of Karabakh not merely as the resettlement of IDPs in their ancestral lands but as the establishment of settlements through the consolidation of villages in the liberated areas. Until 2023, discussions within the government focused on whether to allow IDPs wishing to return to rebuild their homes or construct their houses following master plans¹. However, this issue has since been removed from the government's agenda, and a two-phase (2022–2026 first phase and a three-stage 2026–2040 second phase) restoration plan has been adopted. Government officials justify this approach by arguing that it expedites the return process, addresses the economic inefficiencies of small villages, and optimizes infrastructure costs. Some experts suggest that the primary aim of compact settlement creation (rather than allowing IDPs to restore their homes) is to preserve more agricultural land. According to official statistics, the total area of liberated Karabakh lands is 1,359,977.37 hectares, of which 990,723.36 hectares are designated for agriculture. Notably, the government has allocated only a small portion—50,400.7 hectares (3.6%)—for residential settlements.

The preparation for land reform, which envisioned distributing land shares to the population in Azerbaijan, began in 1995. A legal framework was established, and laws such as "On the Reform of State and Collective Farms," "On Land Reform," and "On the Basics of Agrarian Reform" were

¹ <https://1news.az/az/news/20220623094815231-Prezidentin-xususi-numayendesi-Qarabaga-qayidish-merhelelerle-hisse-hisse-teshkil-olunacaq-MUSAHIBE>

enacted. Additionally, the State Agrarian Reform Commission of the Republic of Azerbaijan prepared nine normative legal acts approved by presidential decree, creating the State Agrarian Reform Commission of Azerbaijan, Nakhchivan Autonomous Republic Agrarian Reform Commission, and regional and local agrarian reform commissions. The land reform implemented from 1997 to 1999 dissolved 2,032 (or 2,041, according to some sources²) collective farms, redistributing their arable lands to citizens. Except for the territories occupied by Armenia, 869,268 families out of 873,618 eligible families, or 3,442,778 individuals, received land shares, achieving 99.5% of the land reform goal³. As a result, of Azerbaijan's 8,641,506 hectares of land, 4,913,639 hectares (56.9%) remained state-owned, 2,032,744 hectares (23.5%) were allocated to municipalities, and 1,695,123 hectares (19.6%) were designated for private ownership⁴.

The first stage of land reform is often described in economic literature and official sources as "the first stage of land reform in the Republic of Azerbaijan" because it did not encompass the entire country. Since land reform in Armenian-occupied areas could not be implemented, it was decided that reform in Karabakh would occur after the end of the occupation. This provision was included in the transitional clauses of the Law on Land Reform: "After the liberation of territories occupied due to military aggression by the Republic of Armenia, land reform and the allocation of land for the private ownership of displaced persons from these lands will be carried out in accordance with the procedures established in this Law."⁵

After the liberation of lands previously occupied by Armenia, land reform issues have not been addressed in documents concerning the restoration, settlement, and economic development of Karabakh, nor in meetings and speeches by the country's president with IDPs. Only in the Action Plan of the "First State Program for the Great Return to the Liberated Territories of the Republic of Azerbaijan" were the Ministry of Agriculture, the State Committee for Refugees and Internally Displaced Persons, and local executive authorities tasked with gathering and monitoring data on land usage by the end of 2025⁶. Based on the monitoring results, they are expected to prepare proposals for land reform in Karabakh. The only known action taken so far is the Ministry of Agriculture's decision to study the land reform experiences of Turkey and Israel, with a special delegation visiting these countries at the beginning of 2023. Unfortunately, this selection is deemed unsuccessful, as these countries did not face similar circumstances to Azerbaijan before their reforms.

² "Xalq qəzeti" newspaper, December 3, 2010, p. 5, "Efficient land use is the priority direction of the state's agrarian policy" article.

³ <https://agroecomomics.az/az/article/38/torpaqlarin-konsolidasiyasinin-kend-yerlerinin-ink/>

⁴ <http://www.anl.az/down/meqale/xalqqazeti/2010/dekabr/145010.htm>. Information from the State Land and Mapping Committee.

⁵ Law of the Republic of Azerbaijan on Land Reform. Article 24. Conducting land reform after the liberation of the occupied lands from military aggression of the Republic of Armenia.

⁶ Action direction 5.1. Organization of efficient use of land and management of land resources.

Through the Agrarian Research Center under its authority, the Ministry of Agriculture has conveyed to the public that the first stage of land reform in Azerbaijan was unsuccessful, noting that dividing state and collective farm lands into small land shares was inefficient in terms of use and management. However, until the last 4-5 years, Azerbaijan's land reform was promoted as the most exemplary model in the CIS. It was emphasized that, unlike other CIS countries, the most fertile lands of former state and collective farms, rather than less arable lands, were allocated to citizens. Additionally, Azerbaijani citizens and legal entities were granted exclusive rights over their owned land, including rights for sale, gifting, leasing, use, inheritance, and mortgaging⁷.

Experience in moderately developed countries indicates that agriculture primarily relies on small and medium-sized farmers. Developed countries have implemented policies to prevent land consolidation in a few hands, as studies by World Bank experts and renowned researchers reveal that such consolidation not only weakens economic development but also increases poverty in rural areas. This urgent issue requires immediate attention. Large farms only contribute positively to the economy when state institutions protect property rights and ensure strict oversight of land use.

It seems that land reform in Karabakh is not currently on the government's agenda. However, another issue remains: privatization of lands (including household plots) legally used by citizens is also a subject of land reform. According to the "Law on Land Reform," lands under individual residences, household plots, and collective and cooperative gardens legally used by citizens are to be transferred to them free of charge. Household plots and garden lands are allocated to citizens based on the area they legally use or lease⁸. As in any region of Azerbaijan, citizens living in areas of Karabakh once under occupation also had household plots, but due to Armenian aggression, they were forced to abandon them. After the restoration of agriculture in the liberated areas, it is projected that over 200,000 hectares of land will be used for cultivation, including approximately 9,000 hectares for household plots⁹.

In 2021, during meetings with IDPs, the country's President promised to allocate each family settling in Karabakh an 18 sot plot (Aghdam) or a 12 sot plot (Fuzuli)¹⁰. Given the latest official statistics, with 190,000 families expected to return to Karabakh, allocating 12 sots per household would require 22,800 hectares, while 18 sots would require 34,200 hectares.

It's worth noting that recent projects for restored villages, such as Horovlu and Shukurbeyli in the Jabrayil district, do not include household plots. This, coupled with the merging of villages near

⁷ https://yeniazerbaycan.com/Siyaset_e8862_az.html

⁸ Law of the Republic of Azerbaijan on land reform. Article 9 and 10.

⁹ Agrarian Research Center of the Ministry of Agriculture. "Directions of restoration of agricultural land and forecasting of production indicators in our territories freed from occupation".

¹⁰ <https://president.az/articles/51777>. Groundbreaking ceremony of Aghdam on May 28, 2021.

<https://president.az/articles/53512/images>. Meeting with Fuzuli community on October 17, 2021.

district centers with cities in the liberated areas, leaves rural residents without household lands. The practical implications of this could be significant, and it's a situation that doesn't promise a favorable outcome.

Another fact to consider is that initial agreements signed with residents of newly built villages in the liberated Karabakh regions contain no provisions for household plots, only clauses stating the obligation to move into and permanently reside in the government-constructed home and to use it as intended.

Moreover, the absence of land reform in the liberated territories could potentially lead to two conflicting issues in the future. First, the distribution of land as municipal property could divide Karabakh's unified land fund into state, municipal, and private ownership. According to Azerbaijani law, such a distribution can only occur through land reform. Lands remaining after excluding state-owned and privately owned lands are transferred to municipalities. Without reform, this division does not occur, casting doubt on the establishment of municipalities in Karabakh.

The second issue pertains to land reform in areas of Karabakh liberated before the 1997 reforms (some villages in the Fuzuli and Aghdam districts). Without reform in the liberated areas, there will be discrepancies within the same district, as some villages will have land shares while others will not, exemplifying clear discrimination and underscoring the urgency of the issue.

A concerning trend relates to the Constitution of the Republic of Azerbaijan. While Article 13 (Property) guarantees the inviolability of property and its protection by the state, Article 29 (Property Rights) limits this right: "For the purpose of social justice and efficient land use, property rights on land may be restricted by law." Given these conditions, based on Article 29, it is conceivable that land reform might not be implemented in Karabakh's liberated territories contrary to the will of IDPs. Instead, reform could be replaced by more restrictive measures, posing a serious threat to the rights of the IDPs and preventing the land from consolidating in a few hands. One of the fundamental rights that must be upheld for internally displaced persons (IDPs) forced from their homes due to Armenian aggression is the right to housing. The right to housing is constitutionally granted to Azerbaijani citizens, and according to this key document, no one may be unlawfully deprived of their residence¹¹. The Constitution also guarantees citizens the right to live in safety. However, the situation differs for citizens who have been forcibly displaced from Karabakh. Following the liberation of Karabakh from Armenian occupation, priority should have been given, under national legislation, to recognizing the housing (residential) rights of individuals

¹¹ Constitution Of The Republic Of Azerbaijan. Article 43. Housing law.

previously residing in those territories (or, if deceased, their heirs). Unfortunately, this has not happened.

It is understandable that, as privatization did not occur when Karabakh was occupied, residents of these territories lack documents confirming private ownership of housing. However, similar to other regions of Azerbaijan (except for newly established neighborhoods), most residents held technical passports issued under the housing legislation of the Azerbaijan SSR, a set of laws and regulations that governed property rights and ownership during the Soviet era. These documents confirmed ownership rights. During the period of independence, privatization of residential areas across the country was based on these documents. Interestingly, even today, housing privatization has yet to be fully realized in cities, towns, and villages across Azerbaijan, with many residents still relying on Soviet-era technical passports as proof of ownership.

Emin Huseynov, the Presidential Special Representative of the liberated territories of the Karabakh economic region (excluding Shusha district), addressed the issue of IDP property rights in a 2022 interview, stating: "...Our displaced compatriots from these areas lack property documentation. But they possess moral rights." Firstly, the absence of property documents does not negate their ownership. Secondly, records of these documents are stored in state archives, providing a potential solution. Finally, even if Armenian occupiers destroyed such archive documents, solutions are still available. After the ceasefire, the correct decision was made not to change Azerbaijan's administrative-territorial structure, leaving the administrative districts in the occupied territories intact. Population registration continued under the previous system. According to the latest data, there are 400 administrative-territorial units (regions where local government authorities are established, including cities, towns, and villages) across 1,041 areas in the liberated territories. Of these, 210 administrative territories fall within the Karabakh economic region, while 180 are part of the Eastern Zangezur economic region¹². Initial estimates indicate that over 900 residential settlements and approximately 131,000 houses were in the territories liberated from Armenian occupation.

Representatives of the administrative-territorial units under executive authorities have records of who owned property (residential houses, apartments, household plots) before the occupation. Notably, the initial resettlement of Karabakh is based on the registry of those who were registered in these areas before the occupation. Notably, newly established families among IDPs are not being settled in Karabakh. One housing unit (individual house) is offered to the residents who had property in these areas before the occupation, disregarding families formed over the past 30 years. Currently, the rights of not only IDPs resettled in Karabakh's liberated territories but also of those

¹² The calculation was carried out on the liberated regions, with the exception of Aghjabadi and Barda districts.

with property rights to land and housing (individual houses) in these areas, whose resettlement has been indefinitely postponed, are being violated. Contrary to official statements, IDP property rights are not moral but purely legal under current conditions. Since becoming IDPs, approximately 300,000 persons (58,223 families) formerly from Karabakh have been provided with housing¹³. However, they lack property rights over the homes allocated by the government. The IDP families have received no compensation (in cash or housing) for their lost property. Additionally, those who declined to live in administrative buildings (dormitories, kindergartens, government offices, etc.) provided by executive authorities and opted for rented accommodations, those marrying individuals residing elsewhere, those previously settled temporarily in other cities or regions but who have lived in properties designated for IDP settlement over the past three years, those who divorced individuals registered in regions not under occupation, and those who purchased residential spaces with their funds, have not been provided temporary housing in state-built facilities. To manage the process of resettling IDPs in government-funded buildings, the Cabinet of Ministers has approved the "Regulation on the Provision of Housing Units of the Temporary Housing Fund for Internally Displaced Persons," stipulating that housing from this fund is temporarily allocated to improve IDPs' living conditions¹⁴. The Housing Code also has a specific clause addressing this issue: "Housing units of the temporary housing fund for internally displaced persons and individuals with refugee status are intended, in accordance with the law, to accommodate individuals considered IDPs and individuals with refugee status."¹⁵

To date, residential spaces have been provided to internally displaced persons (IDPs) for temporary use based on rental agreements approved by Decision No. 80 of the Cabinet of Ministers of the Republic of Azerbaijan dated April 29, 2010, titled "On the Approval of the Form of the Special-Purpose Residential Lease Agreement." According to the decision, these residences are leased to IDPs as tenants, who are not allowed to relocate individuals outside their family (not listed in the agreement), carry out significant repairs, rent out the property, or transfer its use to others, among other restrictions. The lessor (the State Committee for Refugees and IDPs) may terminate the agreement for simple reasons (for instance, if the IDP does not reside in the dwelling for three months, obtains separate housing, etc.)¹⁶. There is no question of ownership rights or disposal rights over these properties.

The same policy applies to IDPs resettled in newly restored (constructed) residential settlements (individual houses, apartments) in the territories liberated from Armenian occupation in Karabakh.

¹³ <http://sfdi.gov.az/mecburi-kockun-tarix>

¹⁴ The procedure for the provision of residential areas of the fund for temporary accommodation of Internally Displaced Persons. Article 1.4.

¹⁵ Housing Code. Article 96. Appointment of residential areas of the fund for temporary placement of IDPs and persons with refugee status

¹⁶ <https://e-qanun.az/framework/19544>

Such IDPs sign a "Temporary Agreement for Relocation to Residential Areas in the Liberated Territories." This agreement represents the state through Natig Nariman oglu Huseynov, Director of the Repatriation Department of the State Committee for Refugees and IDPs. The agreement is based on the lease agreement form approved by the Cabinet of Ministers. It does not grant property rights to IDPs, but rather imposes significant and stringent limitations on their rights. According to the agreement, the IDP commits to keeping the residential space in good condition and refraining from significant repairs without permission from the relevant committee authority. Clause three of the agreement, "Registration of Ownership Rights over the Residential Area," states, "The relocated individual may not donate, sell, lease, assign for use by others, alter, sublet, or mortgage the assigned residential space until its ownership rights are registered by the state." As shown, recognition of property rights for IDPs over housing is postponed indefinitely. The Plenum of the Constitutional Court provided an extensive explanation regarding these definitions in its decision dated October 25, 2010, "On the Interpretation of Article 178.8 of the Civil Code of the Republic of Azerbaijan."¹⁷ Since the concept of "disposing of property" is absent in the agreement signed with IDPs resettled in Karabakh, discussing ownership rights is inappropriate. In the interview above, Presidential Special Representative Emin Huseynov also stated that the state is committed to ensuring both the property rights and the share of land rights of our former IDP compatriots: "Discussions are ongoing on how and when the mechanisms for this will be implemented. When the time comes, specific proposals and initiatives will be discussed and presented to the wider public."

Such discussions should be conducted with IDP communities. This is a legal requirement, as well as a moral one. Decisions should not be made behind closed doors without public disclosure. As an interested party in this process, the opinions of IDPs must be considered. If they are not, then what was the purpose of adopting the law "On Public Participation," the "Regulations on the Election of Public Councils by Civil Society Institutions," and the "Rules for Public Hearings and Public Discussions of Legal Drafts Prepared by Central and Local Executive Authorities and Local Self-Government Bodies"?

And when will that indefinite time come?

Will it ever come at all at this rate?

¹⁷ <https://e-qanun.az/framework/20512>