

**ROUND TABLE ON
“COMPLIANCE OF LEGISLATION OF THE REPUBLIC OF AZERBAIJAN WITH
THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT”
BAKU, FEBRUARY 21, 2002**

Report

On February 21, 2002 in Baku, Azerbaijan a round table entitled "Compliance of Legislation of the Republic of Azerbaijan with the Guiding Principles on Internal Displacement" was convened by the Office of Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation (OSCE), the Brookings Institution–City University of New York (CUNY) Project on Internal Displacement, the Georgian Young Lawyers' Association (GYLA) and the Center of Legal and Economic Education (CLEE) based in Baku, Azerbaijan.

The round table was organized within the framework of a joint project involving the three countries of the South Caucasus: Georgia, Armenia and Azerbaijan. The project was initiated and sponsored by the Brookings-CUNY Project, OSCE's ODIHR, and GYLA, the latter acting as project coordinator. Two legal experts from each of the South Caucasus countries were recruited to produce research papers on the compatibility of their respective national laws with the Guiding Principles on Internal Displacement. Following the preparation of the research papers, round tables were organized in each of the South Caucasus countries to serve as a forum for presenting the findings of the research and to discuss internal displacement problems in each country and the region. Prior to the Baku meeting, round tables were held in Yerevan and Tbilisi.

The round table agenda covered introductory remarks by the organizers, presentations by the national experts and discussion of the report and other issues (see attached agenda). A broad range of participants attended the meeting, in particular representatives from Government agencies, non-governmental organizations, international and regional organizations and research institutions (see attached list of participants). The meeting was co-chaired by Dr. Walter Kälin of the University of Bern, who had chaired the South Caucasus legal process, and Mr. Vladimir Shkolnikov of OSCE/ODIHR.

His Excellency Peter Burkhard, Ambassador of the OSCE Mission to Azerbaijan, opened the meeting. He welcomed the participants and noted that the topic of discussion, namely internal displacement, constituted a very important but also rather painful issue for Azerbaijan. He pointed to the fact that the round table was being attended not only by representatives of governmental agencies, but by a number of non-governmental representatives as well, reflecting positive trends in the development and strengthening of civil society in the country. Also present were international experts who had played an important role in the elaboration of the Guiding Principles and continue to promote their dissemination and application worldwide. The Ambassador wished the participants of the seminar a productive meeting.

On behalf of the Government of Azerbaijan, Mr. Sutan Mamedov welcomed the participants, in particular the experts from Georgia and Armenia, and expressed his gratitude to the organizers of the round table. He noted that the authorities of Azerbaijan attribute special attention to the protection of internally displaced persons and refugees

and in this connection co-operate closely with the OSCE Mission and other international organizations active in the country. Mr. Mamedov stressed that special attention is being paid to protecting the interests of IDP children and women. He further noted that the law of Azerbaijan is based on the experience of the leading states of Europe.

Mr. Hadi Rajabov, Head of the Commission on Social Policy of the Parliament of Azerbaijan, focused his comments on the legislation of Azerbaijan, in particular the Law on the Status of Refugees and Internally Displaced Persons, which was drafted in accordance with international standards. Mr. Rajabov welcomed the selection of the topic of the round table. He noted that support by international organizations to improve the social and living conditions of IDPs and refugees is of critical importance, especially as the country hosts such a large number of displaced persons. Noting that internal displacement has existed in Azerbaijan for over ten years, Mr. Rajabov stressed that the Government is keen for the repatriation process to get underway and is hopeful of support from the OSCE in this regard. The Government currently is drafting legislation on return and repatriation and invites international organizations to provide support and assistance in the elaboration of this law. In closing, Mr. Rajabov once again expressed his gratitude to the international organizations that render assistance to IDPs and refugees in the Republic of Azerbaijan.

Mr. Vladimir Shkolnikov welcomed the participants of the round table on behalf of OSCE/ODIHR (see attached speech). He attributed special importance to the Guiding Principles on Internal Displacement and said that the OSCE has acknowledged the importance of this document since the initial stages of its drafting. He noted that monitoring the situation of IDPs is an integral part of the mandates of many OSCE field missions and that the situation of IDPs has been raised in the context of the review of current issues by the OSCE Permanent Council. Turning to the specific topic of the round table, he explained that the initiative for the project to assess the compliance of national legislation with the Guiding Principles in Azerbaijan, Armenia and Georgia had emerged from the regional seminar on internal displacement in the South Caucasus held in Tbilisi in May 2000, organized by OSCE/ODIHR, together with the Brookings Institution Project on Internal Displacement and the Norwegian Refugee Council. He noted that Azerbaijan has taken steps to adopt an approach to IDP assistance based on the recognition that IDPs have the same rights as all Azerbaijani citizens and that self-sufficiency of the internally displaced will contribute to the development of the country as a whole. He expressed the hope that discussions at the round table would lead to further progress towards realization of the full range of IDP rights in Azerbaijan.

Ms. Erin Mooney, Deputy Director of the Brookings–CUNY Project on Internal Displacement, extended words of welcome on behalf of both the Brookings-CUNY Project as well as the Representative of the Secretary-General on Internally Displaced Persons (see attached statement). She discussed the activities of the mandate of the Representative, in particular the development and promotion of the Guiding Principles on Internal Displacement, the promotion of enhanced institutional arrangements for internally displaced persons, country visits, and research. She then explained the framework in which the round table was organized, noting that in addition to proving valuable to the three countries of the South Caucasus, it was expected that this process would serve as a model for countries affected by internal displacement in other parts of the world as well.

Focusing on Azerbaijan, Ms. Mooney recalled the main findings and recommendations of the Representative's mission to the country in May 1998, in which she had participated. Overall, the Representative had found an urgent need to improve living conditions and support sustainable solutions for Azerbaijan's internally displaced. This was particularly critical in the area of shelter, where after more than five years, many IDPs remained in what was intended to be temporary accommodation – tents, overcrowded public buildings and even railway cars. In addition, it was important to support self-reliance amongst the displaced by ensuring their access to cultivable land, skills-training programmes, income-generating activities and micro-credit. Where return in safety and dignity was possible, reintegration and reconstruction support would be required, while the alternative solution of resettlement in other parts of the country should be pursued for those displaced persons for whom return was not yet a realistic option. Of particular relevance to the round table, special attention was drawn to the Representative's recommendation for legislative reform to ensure an environment facilitating the engagement of civil society in assisting the internally displaced. Ms. Mooney expressed the hope that the meeting would build upon the findings of the Representative's visit and further enhance responses ensuring the protection of the rights of Azerbaijan's internally displaced population.

Prof. Walter Kälin, one of the principal drafters of the Guiding Principles, provided a brief background to the Principles and a summary of their legal content and current status (see attached statement). He explained that the Principles are based on the following concepts: (1) although internally displaced persons have left their homes, they continue to enjoy the full range of human rights as well as guarantees under humanitarian law; (2) internally displaced persons have special needs by virtue of their displacement; and (3) it is necessary to tailor existing law to the specific needs of internally displaced persons in order to facilitate its application in situations of internal displacement. Prof. Kälin then explained the relevance of the Guiding Principles both for States, in particular as a source of reference and inspiration for domestic legislation on internally displaced persons, as well as for non-governmental organizations, for whom the Principles provide a tool to support their advocacy efforts on behalf of the internally displaced. Finally, Prof. Kälin expressed the wish for as engaged and productive a discussion at the round table in Baku as had taken place in Armenia and Georgia.

Mr. Imran Valiyev welcomed participants on behalf of the Center of Legal and Economic Education (CLEE) and explained the role of his organization with this project and with internally displaced persons in general. He noted that CLEE was among approximately twenty local NGOs working directly with IDPs which had recently formed an NGO Forum to coordinate their efforts and collectively address problematic issues in close cooperation with state authorities. Given the critical role played by local NGOs in addressing the needs of the internally displaced, he stressed the importance of increasing their awareness of the Guiding Principles on Internal Displacement. He noted that the efforts to disseminate the Guiding Principles in Azerbaijan, begun back in 1998 during the visit of the Representative of the UN Secretary General, were ongoing. In introducing the report before the round table, Mr. Valiyev stated that in undertaking this research on the legislation of the Republic of Azerbaijan, CLEE had set out not only to portray the present situation, but also to formulate recommendations for further developing the law of the country. He expressed his wish for the round table to result in concrete commitments and plans to amend the legislation of Azerbaijan pertaining to internally displaced persons.

Mr. Elkhan Asadov, the Azeri legal expert who together with Mr. Valiyev had undertaken the research, then presented the study prepared for the round table. He began by reviewing the Guiding Principles which are based on international human rights and international humanitarian law. Stressing the important place of international conventions in the legislation of Azerbaijan, he asserted that the compliance of national legislation with international law and principles is quite clear. He indicated that the report was based on research conducted until October 2001 and thus did not reflect recent legislative developments, which nonetheless would be highlighted in the course of the presentation. Mr. Asadov then proceeded to highlight the main findings and recommendations of the research, concentrating on those areas where the research pointed to a need for legislative reform:

- In reviewing the scope and purposes of the Guiding Principles, the Azeri experts found that the definition provided by the Guiding Principles is not adequately reflected in the law of Azerbaijan, in particular the reasons for displacement, such as generalized violence and violation of human rights.
- At the same time, national law is too broad. A single piece of legislation, the Law on the Status of Refugees and IDPs, regulates the situation of both refugees and IDPs, without clearly setting out the distinct legal situation of the two groups. Accordingly, the Azeri legal experts recommended that in place of this law, the Government of Azerbaijan elaborate and enact two discrete laws separately addressing the legal situation of refugees and IDPs.
- Noting that the issue of according IDP status is not fully regulated by law, the Azeri experts recommended the elaboration and adoption of a legal act on the procedures for granting IDP status.
- Because the law does not expressly prohibit discrimination against IDPs in the enjoyment of their rights and freedoms on account of their factual situation of being IDPs, the Azeri experts recommended that such a provision be incorporated into national legislation regulating the status of IDPs.
- Regarding protection against arbitrary displacement, the Azeri legal experts pointed to the need to adopt a legislative act governing issues related to such protection in emergency situations and to create a State body directly responsible for these issues.
- With respect to protection and assistance during displacement, the experts deemed it necessary to incorporate into national legislation -- in particular the Law on the Protection of the Civilian Population and the Protection of the Rights of Prisoners of War -- provisions to secure the following guarantees: protection from genocide; from violent disappearances, including abduction or secret custody posing a danger to life or causing death; from direct or indiscriminate assaults or other acts of violence; from the use of starvation as a method of combat; and from the use of anti-personnel land mines.
- Legislative provisions are needed for the protection and assistance of populations displaced as a result of natural disasters as well as specifying the activities of the State body responsible for ensuring these guarantees.

- The law presently in force in Azerbaijan does not guarantee the right of IDPs to seek asylum in another country or the right of IDPs to be protected from forcible return and resettlement to any place where their lives, security, freedom or health could be endangered. The study recommended the introduction of these norms into national legislation.
- Certain legislative shortcomings also existed with regard to social and economic benefits for IDPs. For example, while the Law on Internally Displaced Persons exempts IDPs from profit tax, the Tax Code does not provide for this exception.
- Furthermore, the research findings pointed to the need to introduce into national legislation special measures to ensure protection and assistance for vulnerable groups among IDPs, including pregnant women, mothers with small children, women heads of household and the elderly.
- With regard to humanitarian assistance, it is necessary for national legislation to provide for the legal guarantees specified in the Guiding Principles, in particular the provisions that prohibit the use of humanitarian assistance for political and military purposes as well as protect the security of personnel of international humanitarian organizations delivering humanitarian assistance.
- Finally, focusing on return, reintegration and compensation, it is necessary to elaborate in the very near future legislative acts to regulate the process of return and the requirement that it be based upon the principle of voluntariness.

The representative of the Parliament of Azerbaijan, Mr. Rajabov, expressed his gratitude to the experts for having conducted this research and expressed the wish for future co-operation leading to the elimination of shortcomings that might exist in the law. While noting that the Government may not concur with all of the findings and recommendations of the report, he agreed that several points in the report should be addressed. For example, Mr. Rajabov said that the Government is planning to regulate the status of IDPs and refugee by separate laws. Moreover, noting that action on behalf of IDPs should be directed towards their return as soon as possible as this would serve as a solution for the existing situation, he indicated that the authorities plan to draft a law on repatriation. Mr. Rajabov also agreed with the recommendation for legislative reform with regard to populations displaced by natural disasters. In addition, he suggested that the facts of the genocide of the Azeri population should be included in the research paper.

Immediately following, Mr. Gurban Sadikhov, Head of the Committee for Humanitarian Assistance, Refugees and IDPs of the Cabinet of Ministers, welcomed the participants and noted that the situation of IDPs and refugees has been recognized as a priority national concern by the President of the country, Mr. Heydar Aliyev. Mr. Sadikov noted that the declaration of independence of the Republic of Azerbaijan had been followed by the “Nagorno Karabakh” conflict, which had resulted in more than one million refugees and IDPs in the country. He explained that IDPs in particular face extremely serious social and economic problems, and focused on the fact that many still live in terrible conditions – camps, train wagons and other inadequate shelter – and also face serious health problems. International humanitarian assistance to IDPs and refugees in Azerbaijan has decreased annually, so that at present only 140,000 IDPs are receiving

food assistance. He recommended that the experts' report give greater emphasis to the poor living conditions of IDPs.

Mr. Sadikhov also noted that the authorities of Azerbaijan have adopted several legislative acts in order to regulate IDP issues. He drew special attention to a Presidential decree according to which a State program for IDPs, directed to provide them with social assistance in their current place of residence, had been elaborated in the autumn of 2001. Mr. Sadikhov then spoke about national legislation in force regulating the status of IDPs and refugees, noting that the aspects pertaining to refugees had been drafted in accordance with the 1951 Geneva Convention on the Status of Refugees. Separate laws on social protection had been adopted for IDPs and refugees. He elaborated in detail on the guarantees provided in existing national legislation with regard to IDPs and refugees and focused in particular on the protection of IDP children and women. Mr. Sadikhov agreed to the recommendation by the experts that national legislation should provide for the inadmissibility of discrimination between IDPs and other citizens of the country.

The second Azeri expert, Mr. Imran Valiyev, provided updated information on recent legislative developments. He focused in particular on a decision of the authorities of 1 January 2002 which deprived IDPs of many of the social and economic benefits provided for by law. Mr. Valiyev asked the representative of the State Committee of Refugees and IDPs, Mr. Telman Mamedov, to explain these recent amendments to the legislation, their rationale and their implications for IDPs.

Mr. Mamedov began by extending greetings to the participants and stating that though the IDP problem remains in the realm of internal affairs of the state, it nevertheless justifiably also attracts the attention of international organizations. In this connection, he stated that the evaluation of national legislation and practice in Azerbaijan on the basis of the Guiding Principles is an extremely important and useful undertaking, although he noted that the Principles themselves do not have the status of law but are recommendatory in nature. Mr. Mamedov focused on the fact that although Azerbaijan has some experience in the return of IDPs to limited areas, there is no legislation regulating the return process and noted that this legal lacuna poses difficulties for the effectiveness of the return process. He emphasized that the Government of Azerbaijan is convinced that this issue must be resolved prior to the signature of any peace treaty. In addition, Mr. Mamedov noted that the Guiding Principles recognize the right of IDPs to receive compensation for lost property, but do not address the issue of assignment of responsibility for the loss of such property and for restitution or compensation. He further noted that although a cease-fire has been in place for several years, the Republic of Azerbaijan is in a factual state of war with the Republic of Armenia, that the border regions remain unsafe and, consequently, there is still the risk that the number of IDPs may increase.

As to the recent legislative amendments regarding social benefits, Mr. Mamedov stressed that these changes concern not only IDPs but other citizens of the country as well who enjoy certain social benefits. For IDPs, the amendments end the exemptions from payment for a number of benefits, including medical services and gas, and replace these with a system of pecuniary compensation to the service-providing agencies rather than directly to the IDPs. Mr. Mamedov pointed out that in accordance with national legislation, the Government had provided some 47,000 hectares of land as well as micro-credit to IDPs. In 1999, the Government had developed a new strategy shifting the focus from strictly humanitarian assistance towards development activities, including

employment and micro-credit schemes for IDPs. However, he stressed that the Government lacks sufficient funds to make such assistance available to all IDPs, and requires support from international organizations in that regard.

Mr. Alovset Aliyev, a representative of the organization Assistance for Migrants and a consultant to the International Organization for Migration, asked Mr. Mamedov to explain the need for the continued existence of the Law on Social Protection of IDPs, if the majority of the benefits provided in the law are no longer in force. Mr. Mamedov replied that this law still regulates many other pertinent issues such as the right of domicile, job placement etc.

Mr. Asadov noted that despite the existence of certain benefits for IDPs at the legislative level, their implementation in practice is problematic. For example, he noted that guarantees for job placement and free medical services do not exist in practice. In addition, Mr. Asadov noted that most IDPs lack information about the recent amendments, although they are of direct and critical relevance to them.

The representative of the Union of IDP Communities, Mr. Tahir Muradov, commented on the part of the report describing the background to the situation of internal displacement and suggested taking a longer historical perspective in describing the demographic situation in the areas from which people were displaced. He also noted that because ethnic groups other than Azeris also were displaced, it would be preferable to speak of the internally displaced as citizens of Azerbaijan rather than strictly as members of a particular ethnic group. Mr. Muradov also focused on the issue of compensation for lost property and asked the authorities to regulate this issue by law and to place the obligation to pay compensation upon those persons who are responsible for the loss of such property.

Returning to the issue of benefits provided for in existing legislation, Mr. Aliyev voiced deep concern and frustration that despite the adoption of the law on IDPs back in 1992, not one of its provisions had been implemented until 1999. He noted that pressure from the international community had resulted in the adoption of a new law in 1999. However, as evident from the discussion at the round table, this law requires several amendments. He emphasized that in the absence of effective implementation, the adoption of the law had little practical meaning. Mr. Aliyev underscored the importance of providing government officials with training in law-making, with a view to ensuring the formulation of sound and effective legislation. He took issue with the fact that the granting of social benefits to IDPs is to be decided by the executive and not by legislative authorities. He also raised concerns about the increased risk of bribery and corruption since, according to the new amendments, IDPs would no longer receive benefits directly but through implementing agencies and officials. Mr. Aliyev expressed his support for the findings and recommendations of the research undertaken by the legal experts. In addition, he pointed out that when an IDP marries a foreigner, neither the spouse of the IDP nor their children obtain IDP status. Considering this a violation of the principle of family unity, he noted the necessity of introducing relevant amendments to the legislation. Finally, Mr. Aliyev stressed the importance of reinforcing and supporting the work of local NGOs and of inviting their active involvement in the resolution as soon as possible of the problematic issues discussed at the round table.

Mr. Telman Mamedov, noting that he did not entirely share the opinion of Mr. Aliyev, acknowledged that the law of 1992 has not been fully implemented but stressed that in the absence of the legislative basis it provides, many thousands of IDPs would be left without basic assistance. Also, he explained that the fact that IDP status is granted to a person based on the factual circumstances of his/her being displaced is the reason that the spouses of IDPs who have not been internally displaced do not receive this special status.

The Chair of the round table then invited the Georgian and Armenian legal experts to share relevant experiences in reviewing the national legislation in their own countries. Mr. Giorgi Chkheidze, one of the Georgian legal experts and representative of the Georgian Young Lawyers' Association, noted that legislation pertaining to internally displaced persons is not perfect in any of the three South Caucasus countries. Consequently, it is necessary to identify concrete ways to resolve existing problems through the cooperation of State bodies, NGOs and international organizations. In Georgia, recent discussions establishing that return must be based on free choice while also recognizing that IDPs have the right to integrate in their current place of residence have led to an increased focus, including in national legislation, on protecting the rights of IDPs where they currently reside. Pointing out that implementation of legislation remains a serious problem, Mr. Chkheidze stressed the importance of the work of organizations engaged in monitoring compliance with the law. Mr. Konstantin Korkelia, the second Georgian expert, briefly highlighted findings and recommendations from their research that were pertinent also in Azerbaijan, including definitional issues, cases of discrimination against IDPs and issues related to subsistence rights.

Mr. Valiyev suggested that it would be valuable if the Georgian colleagues could share with CLEE and other NGOs in Azerbaijan their experience of working on the draft law on restitution of property. As several speakers at the round table had noted, this was an issue that would need to be addressed in Azerbaijan as well.

Mr. Umud Mirzoev, Eurasia Press Foundation, asked the Georgian experts whether Georgia has legislation on ecological migration. Mr. Chkheidze replied that at the round table in Tbilisi representatives of the Georgian Government had agreed to the elaboration of a legislative act on this issue in the near future.

Mr. Tatshat Stepanyan, the Armenian legal expert, briefly informed participants of the state of legislation in Armenia. He noted that in Armenia the main problem is the lack of a law on internally displaced persons. However, certain agreement on this issue had been reached with the Government during the round table in Yerevan. As to the situation in Azerbaijan, Mr. Stepanyan stressed that while opinions on the conflict had been expressed during the round table, he would refrain from comment on political issues. Finally, he noted that the analysis of Guiding Principles 28 and 29 in the report for the Baku round table references only return but not resettlement, and stressed that national legislation should emphasize that return must be voluntary.

Ms. Mooney, of the Brookings Institution–CUNY Project on Internal Displacement, stated that at the round table held earlier that week in Tbilisi, the Government had agreed, further to the recommendation of the Georgian legal experts, to elaborate standards of “adequate” housing and land, as provided for by law. Recalling the statements made at the Baku round table by representatives of the Government, stressing the very poor living conditions of the IDP population, she suggested that a similar initiative could also prove

valuable in Azerbaijan. Elaborating standards for “adequate” living conditions could enable the Government, international organizations and NGOs to better understand and more effectively address the current needs of IDPs in Azerbaijan.

Mr. Mamedov then posed a question to the international experts: In the case of refugees from Armenia who had also been internally displaced within Azerbaijan as a result of the conflict, which status -- that of refugee or IDP – prevails? Prof. Kälin replied that from the perspective of international law, what is decisive is the nationality of the person concerned; quite simply, a foreigner in a country cannot become an IDP, whereas a citizen can never become a refugee in the country of his or her citizenship.

The Azeri expert, Mr. Valiyev, noted that the issue remains problematic. While recent legislative reform had enabled a number of refugees from Armenia who simultaneously possessed the status of IDP to acquire the citizenship of Azerbaijan, a decision of the President specified that they maintain refugee status and, accordingly, the right to return to Armenia. Prof. Kälin stated that this scenario should not happen according to international law. He explained that according to the Refugee Convention, if a refugee gains the citizenship of a host country, he or she necessarily loses his or her refugee status, in which case he or she could, as a citizen, then become an IDP if displaced in that country. However, if a person retains refugee status, he or she cannot also be considered an IDP if further displaced within the country of asylum, although if as a result of displacement within the country of asylum a refugee faces additional needs, he or she should enjoy special benefits on account of these needs. Prof. Kälin stressed that the introduction in Azerbaijan of separate laws on IDPs and refugees would greatly assist in clarifying these matters.

At the end of the round table, Prof. Kälin offered a summary of the main points of the discussion as well as closing remarks. He began by noting that the round table could be considered a success in that it had served as a forum for exchanging views on the various issues raised in the report. Moreover, the meeting had provided an opportunity to learn more about the current situation of IDPs, in particular their difficult living conditions, and the Government’s concerns about the need for greater international assistance.

Prof. Kälin noted that over the course of the meeting, three main issues had emerged:

- 1) The question of whether existing legislation in Azerbaijan is adequate to address the actual needs of IDPs or whether it requires amendments in certain areas;
- 2) The recent amendments to the law, which abolished certain exemptions and social benefits for IDPs.
- 3) The issue of return and property compensation for persons displaced as a result of armed conflict.

Regarding the first issue on the adequacy of existing national legislation, Prof. Kälin recalled the main recommendations raised in the discussions:

- The definition of “IDP” in the legislation of Azerbaijan requires elaboration in order to cover not only persons displaced as a result of armed conflict but also those displaced as a result of generalized violence, human rights violations, and natural disasters.

- The legal situation of IDPs and refugees should be regulated separately, through separate laws.
- It is necessary to adopt a legislative act on the protection of the civilian population during states of emergency and to create a corresponding state body.
- Provisions for family reunification as well as for special protection to vulnerable groups such as women heads of household, children and the elderly, should be introduced into national legislation.
- It is necessary to clarify the legal status of children born to IDPs.

Prof. Kälin noted that consensus had not been reached on all of these issues, particularly on the IDP definition and the need for a separate law for refugees and IDPs. However, there was clear agreement among participants as to the importance of ensuring better implementation of existing legislation, as it was acknowledged that IDPs frequently face serious difficulties in exercising their rights, especially as regards housing, medical service and education.

As for the second major issue, the recent amendments to the law that abolish certain exemptions for IDPs, Prof. Kälin noted that a representative of the Government had explained the amendments in detail, but that there had not been a discussion as to their rationale. Moreover, he recalled that concern had been expressed that these changes would in practice amount to decreased assistance to IDPs. There remained a need for greater clarity on these issues.

As for the third major issue, namely, return and compensation, Prof. Kälin noted that there was consensus among participants of the round table of the need to draft a law on return, which would regulate issues such as the restitution of property.

Prof. Kälin then offered a number of additional reflections on the meeting. To begin with, he suggested that the round table had demonstrated that the Guiding Principles can serve as a useful stimulus and basis for discussion on issues related to the treatment of IDPs. Referring back to a comment made in the course of the discussions, he clarified that while the Guiding Principles are not binding, they are more than merely recommendatory in nature as they reflect hard law, including many international treaties and agreements to which Azerbaijan is a party.

Noting that the discussion at the round table clearly had been valuable for the variety of assembled actors engaged with internally displaced persons, he expressed the hope that discussions on the recommended amendments to existing legislation would continue.

As to the amendments already made, Prof. Kälin stressed the need to inform IDPs as well as NGOs working with them of changes to the system of exemptions and benefits for IDPs. It is essential that IDPs and civil society in general are informed about their rights and guarantees; doing so, would in turn facilitate the effective implementation of the law.

Regarding the plans for a law on return, Prof. Kälin pointed out that the Guiding Principles can provide useful guidance, in particular on three points. First, in the drafting of this law, it is necessary to bear in mind Guiding Principle 15 providing protection for

IDPs against forcible return to places where their life could be endangered. This principle, the lawyers' report revealed, already is implicit in the Constitution of Azerbaijan. Second, the law should, in accordance with the Guiding Principles, provide for freedom of choice, namely the right of IDPs to return or to resettle in another part of the country. Third, regarding compensation, the Guiding Principles acknowledge that when it is impossible to return to IDPs property lost as a result of displacement, the authorities have the duty and responsibility to facilitate the receipt of appropriate compensation. He further added that the Guiding Principles do not directly address the question of who is responsible for paying compensation and pointed out that this issue is particularly complex when displacement occurs as a result of international armed conflict. In such cases, international law does not provide the possibility to IDPs to apply directly to a foreign country to request compensation. Rather, the State in which the IDP is a citizen is entitled and obliged to request appropriate compensation from the State which is responsible for the loss of property if the latter has violated international law. Prof. Kälin stressed that the regulation of this issue is an extremely important component to address in the negotiations of any peace treaty to an international armed conflict.

In closing, Mr. Shkolnikov expressed his gratitude to Prof. Kälin for his informative concluding remarks and thanked all participants of the round table for their active participation. He further noted that the discussions that had occurred at the round table were a testament to the great strides that Azerbaijan has made in recognizing the importance of human rights law and, more generally, the rule of law.

Special appreciation was expressed to the Azeri experts, GYLA and the OSCE Mission to Azerbaijan for their assistance in organizing the meeting. Mr. Shkolnikov noted that while this marked the official conclusion of the project under the auspices of which round tables were held in all three states of South Caucasus, the closing of the meeting should be regarded as only the beginning of efforts towards implementation of the recommendations for enhancing the legal protection of IDPs. In this connection, he noted that the organizers of the project are planning to publish the reports from all three countries in English as well as in the local languages and to disseminate these widely.