

Internal Displacement in the Northern Triangle of Central America

Public Policy Guidelines



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Public policy guidelines

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CHAPTER 1
INTRODUCTION

INTRODUCTION

A. *Objectives and scope*

1. The Inter-American Commission on Human Rights (hereinafter the "Inter-American Commission," "Commission," or "IACHR") has as its primary functions the promotion and protection of human rights in the Americas. It exercises those functions through various mechanisms, including technical cooperation and advice to member states on matters relating to human rights, in accordance with Articles 106 of the Charter of the OAS¹ and 41 of the American Convention on Human Rights (hereinafter the "American Convention" or "Convention").²
2. In keeping with its mandate to provide advice to States, the Commission has decided to prepare this document primarily to propose public policy guidelines to address the human rights problems associated with internal displacement.
3. This document is an initiative of the Inter-American Commission to offer practical public policy recommendations with a human-rights focus on internal displacement, a situation that the Commission has been addressing through its various mechanisms for promotion and protection of human rights.

¹ Charter of the OAS, Article 106. There shall be an Inter-American Commission on Human Rights, whose principal function shall be to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters. An inter-American convention on human rights shall determine the structure, competence, and procedure of this Commission, as well as those of other organs responsible for these matters.

² American Convention on Human Rights, Article 41. The main function of the Commission shall be to promote respect for and defense of human rights. In the exercise of its mandate, it shall have the following functions and powers: [...] b. to make recommendations to the governments of the member states, when it considers such action advisable, for the adoption of progressive measures in favor of human rights within the framework of their domestic law and constitutional provisions as well as appropriate measures to further the observance of those rights; c. to prepare such studies or reports as it considers advisable in the performance of its duties; [...] e. to respond, through the General Secretariat of the Organization of American States, to inquiries made by the member states on matters related to human rights and, within the limits of its possibilities, to provide those states with the advisory services they request.

4. The IACHR acknowledges that internal displacement is a complex, multicausal phenomenon. In its human rights monitoring activities in recent years it has identified, from information that it has received via its various mechanisms, a large number of internally displaced people in El Salvador, Guatemala, and Honduras, a region known as the “Northern Triangle” of Central America. In good measure, that has come about as a result of situations of widespread violence as well as the presence of megaprojects and large-scale economic activities (open-pit mining, hydroelectric plants, tourism, etc.) that lead to forced evictions and violations of the rights of various populations, including indigenous peoples and peasant communities.³
5. In particular, the IACHR has become aware of a gradual increase in internal human mobility caused by the high levels of violence that those countries are experiencing, in large part, thanks to deterioration in socioeconomic and security conditions. According to statistics from the Internal Displacement Monitoring Center (IDMC) of the Norwegian Refugee Council, there are approximately 700,000 displaced people in Central America's Northern Triangle.⁴ The Commission has noted that displaced persons suffer a continuous lack of protection from internal displacement and even flee in search of international protection.
6. In that regard, the IACHR, through the office of its Rapporteur on the Rights of Migrants, adopted a report on “Human Mobility” in 2015 that sets out the legal standards of the inter-American human rights system (hereinafter

³ See, inter alia, IACHR, Thematic hearing on “Internal Displacement and Human Rights in the Americas” requested by Secretaría General de la Red de Instituciones Nacionales de Derechos Humanos del Continente Americano (Red - INDH), Defensoría del Pueblo de la República de Ecuador (DPE), Comisión Nacional de Derechos Humanos de México (CNDH), Defensoría de los Habitantes de la República de Costa Rica, Procuraduría para la Defensa de los Derechos Humanos de la República de El Salvador, Comisionado Nacional de los Derechos Humanos de la República de Honduras (CONADEH), Instituto Nacional de Derechos Humanos de Chile, Bufete Jurídico de Derechos Humanos (BDH), Convergencia por los Derechos Humanos, March 1, 2018, 167th session, Bogota, Colombia. Precautionary measures: Resolution No. 11/2018, Douglas Arquímides Meléndez Ruíz and Family regarding El Salvador, adopted on February 24, 2018; PM 872/17, Evicted and Displaced Families from the Maya Q’eqchi Community of Nueva Semuy Chacchilla regarding Guatemala; Resolution 3/18, PM 860/17, indigenous families from the Chaab’il Ch’och’ Community regarding Guatemala; Resolution No. 9/2018, Ericka Yamileth Varela Pavón and Family regarding Honduras; Resolution 43/17 PM 678/17, Journalists of Revista Factum regarding El Salvador; Resolution 40/17 PM 448/17, Mrs. Z and Family regarding Honduras; Resolution 36/17 PM 412/17, Evicted and Displaced Residents of the Community of Laguna Larga regarding Guatemala. Press releases Nos. 038/18, 23/18, 11/18, 211/17, 210/17, 174/17, and 170/17. Country reports: “Situation of Human Rights in Guatemala,” OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017; “Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion,” OEA/Ser.L/V/II. Doc. 43/15, December 31, 2015; “Situation of Human Rights in Honduras,” OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015.

⁴ Internal Displacement Monitoring Center (IDMC). Global Report on Internal Displacement, 2017. See <http://www.internal-displacement.org/global-report/grid2017/>

“inter-American system”) pertaining to the scope and content of human rights in the context of mobility.⁵ Those definitions were developed by the organs of the inter-American system in accordance with the obligations contained in inter-American instruments, particularly the American Convention, the American Declaration of the Rights and Duties of Man (hereinafter the “American Declaration”), and other relevant inter-American and international instruments.⁶

7. In that report, the Commission identified and defined the rights of internally displaced persons as well as some of the international obligations of states for ensuring them. Likewise, consistent with the Guiding Principles on Internal Displacement (hereinafter the “guiding principles”), the IACHR considered that “internally displaced persons” are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁷ That report also established that a person becomes displaced by the mere fact of having been forced to abandon their usual place of residence, regardless of any official registration by governmental agencies.⁸
8. Those three characteristics define the status of internally displaced persons: first, the mobility or displacement is not voluntary; secondly, that displacement is the result of armed conflict, situations of generalized violence, human rights violations, and/or natural or manmade disasters; and third, the person remains within the jurisdiction of their country of origin or

⁵ IACHR, Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System. OEA/Ser.L/V/II. Doc. 46/15, December 31, 2015.

⁶ In relation to the inter-American human rights system, see: Inter-American Convention to Prevent and Punish Torture; Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador); Inter-American Convention on Forced Disappearance of Persons; Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities; Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance; Inter-American Convention against All Forms of Discrimination and Intolerance. As regards the universal human rights system, see International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; Convention relating to the Status of Refugees; Protocol relating to the Status of Refugees; Cartagena Declaration on Refugees; Guiding Principles on Internal Displacement.

⁷ United Nations, Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Annex, Guiding Principles on Internal Displacement, Introduction: Scope and Purpose, E/CN.4/1998/53/Add.2, 11 February 1998.

⁸ I/A Court H.R., Ituango Massacres v. Colombia, Judgment of July 1, 2006, par. 2014.

of habitual residence, which very often is responsible for the violation of rights or for the failure to adopt measures for their protection. These factors in combination make internally displaced persons extremely vulnerable, since they are under the protection of their country of origin which, in many cases, caused them to flee or was unable to prevent them from fleeing.

9. In that connection, the Commission notes that the approach that this document adopts is based on the interpretation made by the Inter-American Court of Human Rights (hereinafter the “Inter-American Court” or “I/A Court H.R.”), which found: “In view of the complexity of the phenomenon of internal displacement and of the broad range of human rights affected or endangered by it, and bearing in mind said circumstances of special weakness, vulnerability, and defenselessness in which the displaced population generally finds itself, as subjects of human rights, their situation can be understood as an individual *de facto* situation of lack of protection with regard to the rest of those who are in similar situations”.⁹
10. Therefore, bearing in mind the twentieth anniversary of the adoption of the United Nations Guiding Principles, the IACHR, with support from the Pan American Development Foundation (PADF) in the framework of its Democracy and Human Rights project, has decided to prepare a document that offers public policy recommendations for dealing with the phenomenon of internal displacement, with particular emphasis on the countries of the Northern Triangle of Central America, i.e., Guatemala, Honduras, and El Salvador.
11. The purpose is to provide a practical tool for government officials in charge of compliance with human rights obligations as well as for representatives of civil society organizations that work in promotion and protection of the rights of internally displaced people and that demand that the State adopt measures and policies to respond to this troubling situation.
12. Through this guidelines document, the IACHR seeks to translate some of the inter-American standards on human mobility into useful guidance for those who design, implement, assess, or demand public policies on protection of the rights of internally displaced persons.
13. At the same time, and looking beyond the subregion on which the document is focused, the Commission’s recommendations aspire to be sufficiently broad and flexible to serve as a model for other social, cultural, political, and environmental contexts.

⁹ I/A Court H.R., Mapiripán Massacre v. Colombia, Judgment of September 15, 2005, Series C No. 134, par. 177; Ituango Massacres v. Colombia, Judgment of July 1, 2006. Series C, No. 148, par. 210.

14. Finally, the IACHR wishes to express its will and disposition to provide technical cooperation to States, regional agencies, social organizations, and other institutions for the purposes of institution building and formulation, implementation, and assessment of public policies on strengthening and observance of the human rights of internally displaced persons, based on the inter-American standards that govern such matters.

B. Methodology

15. This document contains a diagnostic assessment of the causes and effects of internal displacement in the countries of the Northern Triangle of Central America. It also addresses the main inter-American standards for protecting the rights of such persons and proposes practical guidelines for formulating public policies.
16. The Inter-American Commission adopted a mainly qualitative methodology for that purpose. This model is based on a review of reports, publications, and other documents put out by relevant public-sector institutions, social organizations, international agencies and study centers. That was complemented with structured questionnaires sent to key actors and decision-makers at government institutions and civil society organizations.¹⁰ In addition, there were meetings with States, civil society organizations, and academic institutions; a regional consultation in Guatemala City; and on-site and working visits to two of the region's countries.¹¹
17. Furthermore, the document draws on reports, research, and instruments prepared by international agencies such as the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration, UNICEF, and Doctors without Borders, among others.¹² Those sources of information were complemented with an analysis of studies and

¹⁰ In December 2017, the IACHR sent questionnaires to civil society organizations that work in the area of internal displacement in the region's countries, as well as to the States.

¹¹ IACHR, On-site visit to Guatemala, July 31 to August 4, 2017. Working visit to El Salvador, November 20 to 22, 2017.

¹² UNHCR, Handbook on Housing and Property Restitution for Refugees and Displaced Persons (2007); IDPs in protracted displacement: Is local integration a solution? Report from the Second Expert Seminar on Protracted Internal Displacement, 19-20 January 2011, Geneva; Norwegian Refugee Council, Global Report on Internal Displacement, 2017; University of Bern, Addressing Internal Displacement A framework for national responsibility (2005).

initiatives carried out by civil society organizations and academic institutions both in the region and beyond.¹³

18. In the context of the inter-American system, also analyzed were reports prepared by the Commission based on its system of individual petitions and cases, precautionary measures, thematic reports, and the country reports written on the basis of the above-mentioned visits.¹⁴ The case law of the Inter-American Court on the subject of displacement was also reviewed.¹⁵
19. As for the universal human rights system, the systematization and review covered international norms, reports of independent experts, and General Comments of treaty bodies, among other relevant instruments for the compendium of international standards in this area.¹⁶
20. A core part of the information gathering was the inclusion of questionnaires to key actors. To that end, the IACHR developed survey questionnaires: one

¹³ Civil Society Roundtable against Forced Displacement due to Violence and Organized Crime in El Salvador, Reports “Desplazamiento interno por violencia y crimen organizado en El Salvador,” 2015, 2016 y 2017. Informe sobre Derechos Humanos, Instituto de Derechos Humanos de la Universidad Centroamericana de El Salvador (IDHUCA), 2016. Informes preliminar de Registros de la Procuraduría de Derechos Humanos de El Salvador, April 2016-May 2017. Doctors without Borders, Forced to Flee Central America's Northern Triangle: A Neglected Humanitarian Crisis, 2017. Interagency Commission on Protection of Persons Displaced by Violence in Honduras, Caracterización del desplazamiento interno en Honduras, 2015.

¹⁴ IACHR, Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System, OEA/Ser.L/V/II. Doc. 46/15, December 31, 2015; Report on Poverty and Human Rights in the Americas, OEA/Ser.L/V/II.164 Doc. 147, September 7, 2017; Report on Citizen Security and Human Rights, OEA/Ser.L/V/II., Doc. 57, December 31, 2009; Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/Ser.L/V/II.rev.2 Doc. 36, November 12, 2015; Human Rights Situation of Refugee and Migrant Families and Unaccompanied Children in the United States of America, OAS/Ser.L/V/II.155 Doc. 16, July 24, 2015; Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico, OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013; Practical Guide to Reduce Pretrial Detention, OEA/Ser.L/V/II.163 Doc. 107; Towards the Effective Fulfillment of Children's Rights: National Protection Systems, OEA/Ser.L/V/II.166 Doc. 206/17, November 30, 2017. Country reports: “Situation of Human Rights in Guatemala,” OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017; “Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion,” OEA/Ser.L/V/II. Doc. 43/15, December 31, 2015; “Situation of Human Rights in Honduras,” OEA/Ser.L/V/II. Doc. 42/15, December 31, 2015.

¹⁵ [I/A COURT H.R.](#)

¹⁶ OHCHR, Economic and Social Council, Housing and property restitution in the context of the return of refugees and internally displaced persons, Final report of the Special Rapporteur, Paulo Sérgio Pinheiro, Principles on housing and property restitution for refugees and displaced persons (2005); Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin; Framework on Durable Solutions for Internally Displaced Persons (2010); Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration.

model was designed for the States covered by this report, the other for civil society organizations and study centers.

21. The questionnaire for the States aimed to collect information on state recognition of the situation of forced displacement, the existence of quantitative and qualitative information on the phenomenon, and the capacities and challenges of institutional and legal frameworks and of current policies.
22. The questionnaire targeting civil society organizations and study centers sought to explore and gather qualitative and quantitative information on the causes and impacts of displacement, obstacles and challenges for States in providing assistance and protecting the rights of the internally displaced, identification of historically discriminated-against groups, and access to justice and other reparation measures for internally displaced persons.
23. The questionnaires were prepared following the identification of key government and civil society actors in the area of forced displacement in the countries reviewed.
24. In addition, the qualitative analysis included on-site and virtual meetings with representatives of civil society organizations and study centers in the region's countries. The purpose of those meetings was to attempt to delve deeper into the information gathered in the questionnaires.¹⁷
25. Finally, a key component of the methodology was the regional consultation with civil society organizations, study centers, and government officials in Guatemala City on February 22, 2018.
26. The purpose of the regional consultation organized by the Commission was to identify the main causes and impacts of internal displacement in each of the three countries; survey the obstacles and challenges faced by the States in different spheres of operation (institutional, regulatory, public administration, etc.) for protecting the human rights of internally displaced persons; identify best practices in terms of institutional, regulatory, and public policy systems for protecting the rights of internally displaced persons; and discuss the capacities and opportunities that exist in the States of the region for advancing a working agenda on promotion and protection of the human rights of the internally displaced population.
27. The consultation was divided into three periods: The first was devoted to an exchange of opinions with civil society, international agencies, and study

¹⁷ Working meetings held in San Salvador, El Salvador, on November 15 and 16, 2017; and meetings held in Guatemala City, Guatemala, on February 22, 2018.

centers; the second, to a debate and discussion exclusively with the States; and the third, to a joint dialogue among the States, civil society, international agencies, and study centers.

28. Once all the data was gathered, it was systematically examined to produce this practical instrument designed to be of use for state and social actors that work in this area.

CHAPTER 2
INTERNAL DISPLACEMENT IN
THE COUNTRIES OF THE
NORTHERN TRIANGLE

INTERNAL DISPLACEMENT IN THE COUNTRIES OF THE NORTHERN TRIANGLE

A. *Principal Causes*

29. The IACHR has been monitoring through various mechanisms the increasing internal displacement in the countries of the so-called “Northern Triangle” of Central America: El Salvador, Guatemala, and Honduras. The information available suggests that the situation has mainly been caused by the violence of organizations such as gangs (known as *maras*) and drug cartels, but also in some cases by the activities of state agents. The IACHR, for its part, has also observed how a growing practice has evolved of forcible evictions that result in the internal displacement of indigenous and peasant communities.¹⁸
30. Those situations need to be addressed holistically and analyzed a way that avoids reductionism or generalization. This report is intended as an initial approach by the IACHR to this immensely complex phenomenon and as a way of presenting the information that it has collected through its different mechanisms for promotion and protection of human rights.
31. The IACHR has been informed that situations of generalized violence have become one of the main drivers of internal displacement of individuals, families, and entire communities in the Northern Triangle region.¹⁹

¹⁸ Supra, note 3.

¹⁹ See IACHR, Country reports: Situation of Human Rights in Guatemala, par. 210. OEA/Ser.L/V/II. Doc. 208/17, 31 December 2017; Conclusions and observations on the IACHR’s working visit to El Salvador from November 22 22, 2017, available at http://www.oas.org/en/iachr/media_center/PReleases/2018/011A.asp; Hearing on “Internal Displacement and Human Rights in the Americas,” March 1, 2018, 167th session, Bogotá, Colombia (supra, note 3). See also the report of the El Salvador Roundtable on Internal Displacement (Mesa de Desplazamiento Interno de El Salvador), which says: “Family groups have expressed distrust and fear of going to State security officials because the fact persists that members of the National Civil Police and armed forces of El Salvador are perpetrators of acts of violence against individuals or family groups, and justify their actions on the basis of the new security measures being implemented by the state in the fight against gangs and organized crime.” For its part, the IACHR has granted a precautionary measure in which it requested El Salvador to take steps to protect the life and well-being of a Salvadoran family reportedly forcibly displaced due to violence on the part of the Pandilla 18 gang after complaints were filed following the alleged murder of family members. In spite of that, the family says that it has not been provided effective protection measures by the State. Likewise, the UN Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, said at the end of a visit to El Salvador in August 2017 that “the phenomenon of internal

32. The IACHR has also found that internally displaced persons in those countries are exposed to highly hazardous situations and sometimes become victims of abuse, physical and sexual violence, trafficking in persons, or exploitation and hazardous travel.²⁰
33. The Commission has been made aware of situations of gender violence against women based on relationships of power and patriarchal structures that foster domestic violence, femicide, and hate crimes.²¹ Compounding the context of violence and structural discrimination that women and girls face are the risks associated with the control of criminal groups, whose influence extends into the public sphere, schools, businesses, and prisons.
34. The IACHR was informed of the differentiated impacts of crime on women and children, reflected in the pressure, threats, and abuse endured by many women and adolescents in the country with a view to their forced recruitment by criminal organizations and to force them to participate in illicit activities.²²

displacement caused by generalized and gang-related violence is a significant and largely unrecognized crisis in El Salvador, affecting thousands of individuals, families, and whole communities.” By the same token, the response provided in March 2018 by Instituto de Investigación y Proyección sobre Dinámicas Globales y Territoriales de Universidad Rafael Landívar to the questionnaire sent by the IACHR in December 2017 says: “Instituto de Investigación y Proyección sobre Dinámicas Globales y Territoriales carried out a diagnostic assessment spanning the second half of 2016 and the beginning of 2017 to determine if there is internal displacement in Guatemala. The findings showed that there is internal displacement and that it has three main causes: 1. Violence committed by organized crime and bands of criminals: activities relating to drug trafficking and illicit activities; extortion and intimidation ... The proliferation of violence and gangs also reflects the country’s exclusion and inequality. In 2012, the United Nations Office on Drugs and Crime estimated that there were some 12,000 gang members in Guatemala and that they had family and community networks that supported them and depended on the income that they generated.”

²⁰ Response in January 2018 of the organization Cristosal (El Salvador) to the questionnaire sent by the IACHR in December 2017: “It is important to recognize the role that gangs and other organized criminal structures play in the dynamics of the violence in El Salvador. However, one should not lose sight of the fact that there are also other factors—such as poverty, inequality, corruption, unemployment, drug trafficking, urban sprawl, the decline social capital, the education system, prison overcrowding, alcohol, firearms, etc.—that are interconnected and contribute to the rise in social violence, and those conditions put the victims at greater risk. Organized crime—drug trafficking arms trafficking; money laundering; trafficking in persons, which entails sexual and labor exploitation, and organ trafficking—is a type of criminality that seriously perverts the dynamics of society and creates a climate of insecurity that is hard to combat and change once those dynamics have permeated communities and state institutions.”

²¹ Response of Centro de Investigación y Promoción de Derechos Humanos de Honduras (CIPRODEH) in January 2018 to the questionnaire sent by the IACHR in December 2017.

²² Report of the Roundtable on Internal Displacement (El Salvador). For its part, in 2014, the Interagency Commission on Protection of Persons Displaced by Violence (CIPPDV) of Honduras led the process for the First Classification Study on Internal Displacement (I Estudio de Caracterización de Desplazamiento Interno) with technical support from the Joint IDP Profiling Service (JIPS) as well as assistance from the Office in Honduras of the United Nations High Commissioner for Refugees (UNHCR). The study, published in 2015, included a sample population that cover 20 of the country’s municipalities and produced the following data: 41,000

35. Likewise, practices have been identified of discrimination and violence against LGBTI people, resulting in their forced displacement and that of their relatives.²³ Some organizations in the region's countries have said that States have not taken steps to remove cultural barriers that prevent those groups from enjoying fundamental rights, creating a situation of extreme vulnerability and risk for violence and discrimination that forces them to move from their usual place of residence.²⁴
36. Recently, in March 2018, the Government of El Salvador published its first classification study on internal mobility caused by violence, which found that as of end-2016, in 1.1% of families at least one of their members was forced to change their usual place of residence in the period between 2006 and 2016 in order to evade violence.²⁵
37. Data provided by IDMC indicate that more than 200,000 people were estimated to have been displaced in El Salvador in 2016.²⁶ That year the Civil Society Roundtable against Forced Displacement due to Violence and Organized Crime documented hundreds of victims of forced displacement in that country, the majority of them in response to threats, homicides, attempted homicide, and/or bodily harm.²⁷
38. However, as the UN Special Rapporteur on the human rights of internally displaced persons said at the end of her visit to El Salvador in August 2017,

internally displaced households comprising 174,000 persons; 49% of internally displaced people were male (approximately 89,000 people) and 51% were female (around 93,000).

²³ Response of Instituto de Investigación y Proyección sobre Dinámicas Globales y Territoriales of Universidad Rafael Landívar of March 2018 (footnote 15). "Information from the Human Rights Ombudsman and OHCHR refer to systematic discrimination against LGBTI people, criminalization of their defenders, and commonplace violence against such individuals ... Transexuals who have survived brutal beatings in public spaces at the hands of unknown assailants have been forced to flee because of the danger that they feel of being identified by their attackers. LGBTI people tend to seek out other areas where they can go unnoticed and be anonymous, either singly or in couples, particularly in larger cities."

²⁴ *Supra* note 19.

²⁵ Caracterización de la Movilidad Interna a causa de la violencia en El Salvador. Final Inform, March 2018. Study carried out with support from the Office of the United Nations High Commissioner For Refugees (UNHCR), the Joint IDP Profiling Service (JIPS), the Statistics and Census Bureau (DIGESTYC), and the Latin American Faculty of Social Sciences (FLACSO); with funding provided by the European Commission Humanitarian Aid and Civil Protection department (ECHO). The report observes that the multi-causality of internal mobility in the country becomes apparent when one analyzes the reasons for such movement. Although the great majority reported a single reason, in 6% of cases two or more reasons were given. The most commonly cited reasons were economic (looking for work, better living standards, etc.) and family-related (marriage, divorce, family reunification), accounting for 57 percent and 40 percent, respectively, of all families with at least one member who had moved internally. Thought less frequent (5 percent) than economic or family-related factors, violence was the third most common reason reported by families with at least one member who had moved internally, exceeding the incidence of other factors such as education, health, or natural disasters. (p. 17).

²⁶ *Supra*, note 4.

²⁷ *Supra*, note 23.

statistical data and further independent research are vital to reveal the full extent of the problem of internal displacement in the country.²⁸

39. According to the first classification study on internal displacement in Honduras (*Caracterización del Desplazamiento Interno en Honduras*) from 2015, led by the Interagency Commission on Protection of Persons Displaced by Violence, in 2014, 174,000 internally displaced people were identified in the country, in 20 urban municipalities. The main causes of internal displacement identified by that report were persecution and insecurity in the community (67.9 percent), threats (20 percent), murders (17 percent), bodily harm (12 percent), extortion (10 percent), and finally, sexual violence, appropriation of homes, abduction, or forced recruitment, which combined accounted for 13 percent of internal displacement.²⁹
40. As regards Guatemala, figures published by the IDMC indicate that as of 2016 there were an estimated 257,000 internally displaced people.³⁰ Civil society organizations that work in the area of human rights have said that in a large proportion of cases, internal displacement is caused by security problems associated with the presence of organized crime and drug trafficking, gangs, disputes over territory, extortion and/or refusal to pay, sexual violence, murders, and forced recruitment of children and youths, among other factors.³¹
41. In May 2018, the first diagnostic assessment 2010-2016 on internal displacement in Guatemala was published, coordinated by the Institute for Research and Forecasting of Territorial and Global Dynamics, Office of the Vice Chancellor for Research and Forecasting, Rafael Landívar University of Guatemala, which contains the general context for the displacements and the individual and collective reasons for forced internal displacement, including violence by organized crime, gangs, and criminals, large-scale business activities, and natural and climatic events.³²
42. The Commission has also been made aware of—and intervened in—situations of internal displacement linked to other causes, such as so-called

²⁸ See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21984&LangID=E> at

²⁹ Response of the State of Honduras to the IACHR questionnaire sent in December 2017, Note SSDHJ-0010-2018 of January 10, 2018.

³⁰ *Supra*, note 4.

³¹ Response of Mesa de Migraciones de Guatemala to the IACHR questionnaire sent in December 2017, February 20, 2018.

³² Institute for Research and Forecasting on Territorial and Global Dynamics, Office of the Vice Chancellor for Research and Forecasting, Rafael Landívar University of Guatemala, *Diagnóstico de desplazamiento interno en Guatemala (2010-2016)*.

evictions of indigenous and peasant communities associated with large-scale business activities (including sugarcane and oil palm farming, ranching, metallic and nonmetallic open-pit mining, hydroelectric plants, and agroindustry).³³

43. The Commission notes that forced displacement of indigenous and farming communities from their territories has differentiated impact that jeopardizes, *inter alia*, their rights to life, dignity, security, and integrity. In that regard, the IACHR has indicated that “Infrastructure or development mega-projects, such as roads, canals, dams, ports or the like, as well as concessions for the exploration or exploitation of natural resources in ancestral territories, may affect indigenous populations with particularly serious consequences, given that they imperil their territories and the ecosystems within, for which reason they represent a mortal danger to their survival as peoples, especially in cases where the ecological fragility of their territories coincides with demographic weakness.”³⁴
44. During its on-site visit in 2017 and during its hearing “Allegations of human rights violations in the context of evictions in Guatemala, the IACHR received information on the existence of at least 125 eviction orders in Petén Department. In that regard, in recent months, the IACHR has granted precautionary measures to evicted and displaced persons of the Laguna Larga community (MC 412/17), in September 2017,³⁵ to indigenous families of the Chaab’íl Ch’och’ community (MC 860/17),³⁶ Nueva Semuy Chacchilla Maya Q’eqchi community (MC 872-17),³⁷ and the La Cumbre

³³ See IACHR, Situation of Human Rights in Guatemala, “Another type of displacement is linked to the expansion of business activities, such as the cultivation of oil palm trees, sugarcane and the expansion of cattle grazing pastures, which has reduced food crop-growing areas. As a result, many families and communities, mostly indigenous ones, have been displaced, and damage is also done to nature in the process. This situation places these displaced persons at risk of malnutrition and disease. Additionally, companies often resort to violence, material and physical harm in order to force the sale of plots of land. Similarly, mining companies and hydroelectric dam projects claim to carry out development projects, but this does not translate into formal jobs nor do they protect natural resources. These projects have divided communities and caused internal displacement in different parts of Guatemala, mostly in rural areas.” par. 212. OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017. See also the response of Instituto de Investigación y Proyección sobre Dinámicas Globales y Territoriales of Universidad Rafael Landívar la Universidad, March 2018 (note 15).

³⁴ IACHR, Indigenous and Tribal Peoples’ Rights over Their Ancestral Lands and Natural Resources. Norms and Jurisprudence of the Inter-American Human Rights System. OEA/Ser.L/V/II, Doc. 56/09, December 30, 2009. para. 205.

³⁵ IACHR, Medida Cautelar No. 412-17, Pobladores desalojados y desplazados de la Comunidad Laguna Larga respecto de Guatemala, September 8, 2017.

³⁶ IACHR, Precautionary Measure No. 860-17, Familias indígenas de la Comunidad Chaab’íl Ch’och’ respecto de Guatemala, January 25, 2018.

³⁷ IACHR, Precautionary Measure No. 872-17, Familias desalojadas y desplazadas de la Comunidad Maya Q’eqchi “Nueva Semuy Chacchilla,” Guatemala, February 10, 2018.

Sa'kuxhá Maya Q'ueqchi community (MC 44/18), in January, February, and June 2018,³⁸ respectively.

45. In that regard, the UN Special Rapporteur on the rights of indigenous peoples emphasized that often evictions are carried out without respecting, considering, or properly investigating the possible ownership rights of indigenous peoples over the lands from which they are evicted. The Rapporteur noted that “some of those communities are in a situation of servitude (mozo colonato). In addition, resettlement plans for the communities are not prepared before they are evicted, which causes humanitarian emergencies and additional violations of their human rights. According to the information received, several recently evicted communities were also displaced years ago during the internal armed conflict, and are forced to experience the same pain as in the past, which is still alive in their collective memory.”³⁹ For her part, the UN Special Rapporteur on adequate housing indicated that “The alleged facts seem to indicate a prima facie violation of any person’s right to a standard of living that is adequate for them and their family, including the right to adequate housing. The legal security of tenure is an essential element of the right to housing. All people must enjoy a certain degree of security of tenure that grants them legal protection from eviction.”⁴⁰
46. The information received suggests that prior notification tends not to be given for such evictions, which are carried out in a summary and violent manner by personnel of the National Civil Police, army, and the National Council on Protected Areas, usually involving the burning and destruction of homes, food, and animals, without any provision made for return or resettlement measures and without any real possibility of due process or access to justice.⁴¹ These situations, which have been described as forced evictions, have also had consequences in terms of criminalization and persecution of human rights defenders, land rights activists, community

³⁸ IACHR, Precautionary Measure No. MC 44/18, “La Cumbre Sa'kuxhá” Maya Q'ueqchi community, February 10, 2018.

³⁹ End of mission statement by the United Nations Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, on her visit to Guatemala, Visit from May 1 to 10, 2018.

⁴⁰ IACHR, the UN Special Rapporteur on adequate housing and UN Special Rapporteur on the human rights of internally displaced persons indicated their concern over the situation of forced evictions and internal displacement in Guatemala, July 20, 2018.

⁴¹ See IACHR, Situation of Human Rights in Guatemala, “On its visit, the IACHR received a plethora of information on forced evictions and the risk faced by a high number of peasant farmer and indigenous communities of being evicted by the Guatemalan State as a result of the execution of court orders.” par. 215; (supra, note 3) and IACHR, Resolution 36/17, PM 412-17, Settlers evicted and displaced from the Laguna Larga Community, Guatemala. See also the response of Instituto de Investigación y Proyección sobre Dinámicas Globales y Territoriales. Response of Universidad Rafael Landívar, March 2018 (note 24).

leaders, and journalists, who suffer reprisals and rights violations for their involvement in protecting victims, forcing them to move elsewhere, either in the country or away from it.⁴²

47. The information received on the three countries in the region paints a picture of state obstruction in providing responses to the complaints and demands for protection made by the victims of violence and evictions, who are forcibly displaced.⁴³ The Commission has also been informed about reprisals for complaints made [in respect of which the IACHR has granted precautionary measures],⁴⁴ creating a high degree of public distrust for State institutions and barring the possibility of access to justice and seeking the necessary protection.⁴⁵
48. The IACHR would also like to emphasize that, in spite of the fact that violence is the main factor in internal displacement in the region and that, as was mentioned in the case of Guatemala, the economic activities of transnational companies and megaprojects are increasing forced evictions, there are many drivers of forced internal displacement in the so-called Northern Triangle of Central America.
49. In that regard, the Inter-American Commission underscores that it is important not to lose sight of the structural causes that surround this phenomenon, including worsening and increasingly acute social inequality in terms of access to the rights to health, education, housing, livelihoods, the land (in which the worst affected are those who live in rural and peri-urban areas), the predominance of the patriarchal system, the difficulty that states

⁴² Supra, note 24.

⁴³ Report of the Roundtable on Internal Displacement (El Salvador) (footnote 23). "It is necessary to work to eliminate the causes of displacement and the violence that occurs in many areas, affecting a range of actors and disrupting the lives of many communities. So far, the measures contained in the "Safe El Salvador" (El Salvador Seguro) Plan have been insufficient to deal with the huge challenge that violence poses." (Free translation)

⁴⁴ IACHR, Precautionary measure, Resolution No. 11/2018, Douglas Arquímides Meléndez Ruíz and family regarding El Salvador, adopted on February 24, 2018. "According to the beneficiary, in his capacity as Attorney General he has opened investigations against former senior government officials, businessmen, the security forces, and various criminal groups. As a result of the above, he has reportedly been the subject of threats and harassment, which he attributes to the groups and individuals whose interests are in opposition to those investigations. The beneficiary also said that a relative of his was recently murdered by suspected "gang members," which the applicant regards as a possible reprisal for his efforts. Although the beneficiary has a protection arrangement, the threats continue and it is necessary to strengthen that arrangement in a permanent and comprehensive way, as well as to extend it to his family unit." (Free translation)

⁴⁵ Supra note 19.

have ensuring the right to personal safety, and the high levels of corruption and impunity.⁴⁶

50. Another of the issues that has been highlighted by civil society organizations and brought to the attention of the Inter-American Commission is the weakening of government institutions, characterized by a lack of capacity and financial resources that impedes the adoption of institution-building measures, such as, for example, training for public officials; adapting state structures to a human rights-based approach; establishing information systems that would enable adequate policy formulation, implementation, monitoring, and assessment; and allocating sufficient budgetary and human resources to respond to the population's needs.⁴⁷
51. In that regard and to conclude, in spite of the fact that the main driver of displacement in Central America's Northern Triangle identified by the actors consulted is direct violence from so-called gangs, organized crime conglomerates, and to a lesser extent, state agents, there are multiple reasons behind forced internal displacement, including structural, cultural, and environmental factors, that need to be addressed in an effective, holistic way by the States.
52. Lastly, the IACHR wishes to stress that in spite of the fact that the three countries share similar characteristics and institutional capacities, their political, economic, social, environmental, and geographic differences imbue the phenomenon with unique characteristics in each of their cases.

B. Impact on Rights Protection

53. The Commission considers that the impact of internal displacement is directly reflected in the impairment of a large number of human rights, notably the right to an adequate standard of living, freedom of movement, freedom of residence, the right to housing, the right to health, the right to education, the right to employment, and the right to family life.
54. The Commission has been made aware of certain factors that increase the risk of violation of the human rights of internally displaced persons in the countries of the Northern Triangle of Central America, including the following:⁴⁸

⁴⁶ Supra, notes 3 and 19.

⁴⁷ Supra note 19.

⁴⁸ Responses of Cristosal El Salvador, IDHUCA, Cristosal Honduras, CIPRODEH, Servicio Social Pasionista de El Salvador to the IACHR questionnaire sent in December 2017.

- The repression and harassment of certain groups because of a specific context has established a pattern of human rights violations that have forced several of them to flee their places of residence. The groups most frequently at risk for situations of this type are indigenous peoples, peasants, young people, women, children, rights defenders, persons and communities of African Descents, LGBTI people, former police officers, small businessmen, local bus operators, journalists and broadcasters, some justice operators, political groups in opposition to the government, women who belong to feminist groups, and LGBTI people.⁴⁹
- Lack of visibility of the issue and absence of dissemination of, and access to, information on the rights of internally displaced persons and on the obligation of the State to protect them.
- Loss of homes and/or access to adequate basic living standards that the majority of displaced people suffer, either because of an insufficiency of financial resources, or because the temporary homes they are provided are unequipped to offer the standards that they previously enjoyed.⁵⁰ Additionally, in cases of evictions, displacement usually stems from loss of housing.
- The joblessness of adults and household heads means that the basic resources needed to live with dignity cannot be obtained. As a result, the majority may suffer exclusion, exploitation, abuse, and conditions of poverty or extreme poverty.
- The large number of displaced children and adolescents who interrupt their education when they are forced into internal displacement. In some cases, it is difficult to access violence-free education centers during and after displacement, hindering their integration into the new social fabric and fostering isolation.⁵¹ This is evident in the fact that schools in some localities are no longer considered safe spaces for children, teachers are threatened, gangs operate within and around some school facilities where they recruit children, expose them to gang-related criminal activities, and identify girls as sexual targets for gang members.⁵²

⁴⁹ Supra, note 24.

⁵⁰ Response of the Human Rights Institute of Universidad Centroamericana José Simeón Cañas (IDHUCA) of El Salvador to the IACHR questionnaire sent in December 2017, January 16, 2018.

⁵¹ *Ibid.*

⁵² Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to El Salvador, 23 April 2018, para. 22.

- Separation from social structures, such as the family and the community, leaves children, adolescents, female household heads, persons with disabilities, and older persons particularly vulnerable.
 - The poverty and extreme poverty that is the plight of most internally displaced families.
 - Problems regarding lack of certainty with regard to land and titles, especially land belonging to communities and farmers, leading to forced evictions when those lands are claimed by other parties or declared protected areas. Appropriation of the belongings and cultural identity of many of the member groups of indigenous and Garifuna communities whose ties and right to land and territory is violated by forced displacement.
 - The discrimination and harassment suffered by internally displaced persons when seeking to access regular health services, sexual and reproductive services, and psychosocial care.
 - Erosion of the public's trust in the security forces as a result of their not being regarded as agents of protection, but in many cases as the perpetrators and causes of forced displacement.
 - Erosion of the public's trust in government institutions owing to the lack of responses or reprisals suffered, leading violence to go unreported, obstructing access to justice, and limiting the State's adoption of protection measures. In cases that are reported, there are allegations of prosecutions and judicial proceedings advancing slowly and even of negligence, which perpetuates impunity for the offenses.⁵³
55. The Commission notes that internal displacement inevitably has a negative impact on access to human rights for individuals, families, and communities, which needs to be analyzed in its three dimensions: the rights violations that cause displacement, the rights violations that accompany displacement itself, and the rights violations arising from the failure of the State to provide protection and lasting solutions.
56. These three aspects, which correspond to the obligations of States to prevent displacement, and to provide assistance during displacement, as well as protection and lasting solutions, must be taken into consideration in analyzing the international obligation of States and the demand for the adoption of solutions to this highly complex phenomenon.

⁵³ Supra, note 34.

C. *The Path to Strengthening Recognition*

57. The magnitude and complexity of the dynamics of the internal displacement with which the Northern Triangle of Central America is grappling needs effective institutional responses. However, the Commission notes that the mechanisms for providing protection and assistance to displaced persons are inadequate and/or nonexistent because in some cases the problem is not accorded the official recognition and visibility.⁵⁴
58. As a result, the phenomenon and its humanitarian impact are in certain cases disregarded⁵⁵ or minimized when it comes to designing public policies and legal frameworks that recognize and ensure the rights of internally displaced people.⁵⁶
59. At the same time, the low level reporting and limited registration of cases makes it difficult to monitor and classify displaced persons.⁵⁷ In that regard, it is worth reiterating that the Commission has received information about some of the reasons why people do not report, chief among which are fear of

⁵⁴ “The Guatemalan State does not recognize internal displacement; therefore, there are no policies, plans, or programs in place for assistance or prevention. However, there are programs, regulations, and laws that, if implemented and coordinated, could prevent displacement. Response of Universidad Rafael Landívar in Guatemala to the IACHR questionnaire sent in December 2017, March 2018.

⁵⁵ El Salvador classification study: “Only 31 percent of families with a member internally displaced by violence sought assistance or support; a large majority requested assistance from a close relative or friend. Of those that did seek some form of support, the main kind of help that they received was economic (48 percent), followed by housing assistance (39 percent) and food assistance (35 percent). Those are usually the priority emergency needs that most violence-displaced families face” (p. 37). For her part, the UN Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, said at the end of a visit to El Salvador in August 2017 that “the phenomenon of internal displacement caused by generalized and gang-related violence is a significant and largely unrecognized crisis in El Salvador, affecting thousands of individuals, families, and whole communities.”

⁵⁶ Report of the Roundtable on Internal Displacement (El Salvador) (footnote 15): “at present, there is no official record of how many internally displaced people there are in the country as result violence, mainly because, since the existence of the phenomenon is denied, actual cases of people who seek assistance from public entities are not registered.

⁵⁷ Classification study on mobility caused by violence in El Salvador. “Violence that causes displacement is not often reported, as is borne out by the fact that only 29 percent of families said that they had reported it to State authorities or institutions. The main reasons given by people for not reporting it are intimidation and fear (87 percent). The in-depth interviews confirmed that people do not file complaints out of fear of that the gangs will retaliate against them or anyone who helps them and that the information they provide will be leaked to their assailants, as well as because of lack of confidence in institutions” (p. 36). Response from the organization Cristosal in El Salvador (footnote 16). “The lack of public information records is a constant in security agencies as well as in health care, education, and other institutions. One positive exception is that of the PDDH, which makes an effort to identify and record the status of internally displaced persons who request their services.”

reprisals, lack of confidence in State institutions because of their high levels of impunity, and the belief that the State will not take appropriate steps.⁵⁸

60. In spite of this situation, the region has seen progress toward properly recognizing and tackling this phenomenon that deserves to be highlighted.
61. In that connection, the State of Honduras has officially recognized internal displacement as a problem, and in 2017 it completed a draft law on prevention, assistance, and protection for internally displaced persons, which was developed as a legal framework that incorporates international instruments and standards on human rights and international humanitarian law. The draft law is due to be presented to the National Congress in the course of 2018. By the same token, the State of Honduras has informed the IACHR, that the Interagency Commission on Protection of Persons Displaced by Violence in Honduras has moved forward with the development of local response plans for forced displacement to be implemented in the Municipalities of San Pedro Sula and Progreso in 2018. The plans envisage activities that vary by municipality; however, notable points include the design of protection routes, the construction of municipal policies on internal displacement, and the creation of an office in the Municipality of Progreso.⁵⁹
62. For its part, during its working visit of November 20 to 22, 2017, the Commission urged the State of El Salvador to recognize the phenomenon of internal displacement, prepare an assessment, and collect data on the different manifestations of this problem. The IACHR also urged the State to develop and implement public policies and to enact a specific law aimed at preventing internal displacement, and to guarantee protection, humanitarian assistance, and lasting solutions for the internally displaced, in accordance with the international human rights obligations contracted by the Salvadoran State and the Guiding Principles on Internal Displacement. These measures should ensure participation by those who have been forced into internal displacement, as well as by the Office of the Human Rights Ombudsman and civil society organizations. The Commission also urged the State to designate an institutional focal point to address this problem and

⁵⁸ Civil Society Roundtable against Forced Displacement due to Violence and Organized Crime in El Salvador identified the following reasons why people fail to report: 54.2 percent for fear of reprisals; 28.8 percent due to lack of confidence in state institutions because of their high levels of impunity; 6.8 percent consider that the State will not take the appropriate steps; 5.1 percent due to lack of evidence; and 5.1 percent for other reasons. Similarly, the civil society organization Cristosal Honduras said in its response to the IACHR questionnaire that qualitative data are limited because the country does not have adequate tools official record keeping on displaced persons.

⁵⁹ *Supra*, note 24.

implement the public policy that is developed to respond to the problem, a public policy that should have adequate budget resources for its effective implementation.⁶⁰

63. The State of El Salvador has said that in the second half of 2017, the Victim Assistance Department of the Ministry of Justice and Public Security, which heads the National Roundtable on Assistance for Victims, launched a series of projects on formulation of basis documents for the following initiatives: (i) a preliminary draft special law for assistance, protection, and comprehensive reparation for victims of crime; (ii) a national policy on comprehensive assistance for victims of violence; and (iii) an interagency coordination roadmap for assistance and comprehensive protection for victims of internal mobility caused by violence.
64. The state of El Salvador informed the Commission that those documents are currently under development and that their purpose is to seek to ensure assistance and protection for victims of violence-related internal mobility through interagency coordination and linkage.⁶¹ Likewise, as was mentioned, that State recently published its first classification study on internal mobility caused by violence, which examines the causes and effects of displacement and describes the strategies and responses being offered by the State.⁶²
65. In addition, the Constitutional Chamber of the Supreme Court of Justice of El Salvador issued its first pronouncement on internal displacement in its judgments of October 6 and 13, 2017, in which, based on standards of the inter-American human rights system, it ordered the adoption of protection measures for two families that had been victims of internal displacement as a consequence of threats, extortion, assault, harassment, and rape by the Mara 18 gang.⁶³
66. Subsequently, by judgment of July 13, 2018, the Supreme Court declared that the phenomenon of forced displacement was present in El Salvador, stemming from the context of violence and insecurity seriously impacting vulnerable groups in different geographic areas of the country controlled by

⁶⁰ IACHR, Conclusions and Observations on the IACHR's Working Visit to El Salvador, January 29, 2018.

⁶¹ *Supra*, note 32.

⁶² El Salvador classification study. The report includes the description of Theme 4 on "Victim Assistance and Protection" of the El Salvador Seguro Plan "the aim of which is to have in place a legal framework and institutional services to ensure comprehensive assistance and protection for victims in order to safeguard their rights and reduce the impact of the harm caused by criminal violence and criminality. That would be achieved by developing a model, a policy, and a legal framework to combine the available institutional services for ensuring comprehensive assistance and protection for individuals, families, and communities that have victims of violence" (p. 43).

⁶³ IACHR, Press release 170/17, IACHR and UN Special Rapporteur on Internally Displaced Persons Welcome Decisions in El Salvador, October 27, 2017.

gangs, and from the systematic impact on fundamental rights, such as life, physical integrity, liberty, and property, among others, this being an unconstitutional state of affairs. The Supreme Court ordered: (i) recognition of victims of violence and forced displacement as such, and as subjects of rights, and definition of such status in law; (ii) design and implementation of public policies and protocols for the prevention of forced displacement, to which end measures should be promoted and adopted—in the framework of the corresponding authorities—to regain territorial control of the areas controlled by gangs and to prevent future displacement and perpetuation of the systematic human rights impacts; (iii) that protection measures be made available to those already in de facto displacement, and that they also be assured the possibility of returning to their residences; and (iv) conclusion of national and international cooperation agreements to ensure the protection of victims and witnesses.⁶⁴

67. For its parts, the State of Guatemala said in its response to the questionnaire sent by the Inter-American Commission that "the Plan Partnership for Prosperity in the Northern Triangle of Central America (*Plan Alianza para la Prosperidad en el Triángulo Norte de Centroamérica*) takes into account various rights and guarantees for displaced persons, including economic development, family reunification, work opportunities, avoiding migration, enhancing citizen security, and access to justice. In addition, it should be highlighted that despite not having a government office to deal specifically with the issue of internal displacement, the State's various agencies safeguard the protection and restoration of the human rights of its citizens."⁶⁵
68. Official studies have also been carried out in the region to classify the internally displaced population that includes quantitative and qualitative data that provide an approximation of the problem in a number of countries. One such is the Classification Study on Internal Displacement in Honduras, which recorded a total of 41,000 internally displaced households comprising 174,000 persons, in 20 urban municipalities, 49% of whom were male and 51 percent female between 25 and 27 years old. The IACHR has received information that the Secretariat for Human Rights, in coordination with the National Institute of Statistics and the Interinstitutional Commission for the protection of persons displaced through violence, with technical support from the Office of the UN High Commissioner for Refugees and the Joint IDP Profiling Service, are now updating the profiling study.⁶⁶

⁶⁴ Constitutional Chamber of the Supreme Court of Justice, *Amparo 411-2017*, San Salvador, July 13, 2018.

⁶⁵ Ibid.

⁶⁶ *Supra*, note 29.

69. The State of Guatemala provided the IACHR with information from the Office of the Attorney General and from evicted and displaced residents of the Community of Laguna Larga in Petén, who comprise “a total of 345 displaced persons: 246 men (57 percent) and 192 women (44%). Of that population, 89 family groups were registered with three or more members and 24 people were single; some of them live alone and others live with their parents. 32 percent of the population between the ages of 7 and 65 years old do not know how to read and write.”⁶⁷ The IACHR has been informed that study centers, with the support of international agencies, are carrying out studies to classify and increase statistics on internally displaced persons in Guatemala.⁶⁸
70. The state of El Salvador found in its report on classification of internal mobility caused by violence, which surveyed 41,650 families (comprising 157,684 people), that internal mobility is a phenomenon that affects Salvadoran society, given that 22 percent of the families consulted had at least one member who had changed their place of residence in the country in the period from 2006 to 2016. Some 46 percent of the displaced population is male and 54 percent is female. The majority of those families are young, with an average age of 29.5 years old, and mostly comprise adolescents (12 to 17 years old) and young adults (18 to 29 years old) because they are the most vulnerable to acts of violence. It is also worth noting that 3 percent suffer from some form of permanent disability.⁶⁹
71. Civil society organizations in El Salvador, for their part, are generating information from cases and complaints that are either made to them directly or referred to them by state institutions. In the first six months of 2017, the Civil Society Roundtable against Forced Displacement due to Violence and Organized Crime kept a record of a total of 86 cases dealt with by member organizations, in which 331 people received assistance; 162 of them were direct victims of criminal acts and 169 said that they were indirect victims of such acts; 209 people in those cases were forced to move, while 121 were unable to do so or were forced to stay in their homes in their places of origin for different reasons.⁷⁰
72. The Commission wishes to reiterate that the existing data, from both official sources and that produced by civil society organizations, think-tanks, and international organizations, do not reflect the reality of the internal displacement situation in the region. There are two main reasons for this: on the one hand, much of the displaced population does not approach a state

⁶⁷ *Supra*, note 32.

⁶⁸ Information provided by Universidad Rafael Landívar of Guatemala in the context of the regional consultation on internal displacement organized by the IACHR in Guatemala City, Guatemala, on February 22, 2018.

⁶⁹ *Supra*, note 24, p. 17.

⁷⁰ *Supra*, note 23.

institution or human rights organization to request protection. Often, neither are they recognized as victims of internal displacement; hence their cases cannot be recorded; and on the other, not all cases presented to institutions are recorded as internal displacement owing to lack of official recognition of that situation or to the lack of clarity regarding the definition and magnitude of internal displacement.⁷¹

73. Having said that, despite the lack of certainty with regards to statistics on internal displacement in the region, the Commission reaffirms that it is a problem that affects a large number of people and urgently requires attention, visibility, and full recognition on the part of States.⁷²
74. The Commission underscores the importance of the above-referenced efforts of the States in the region but reiterates its call for those states that have not yet done so to publicly acknowledge the existence of the problem of internal displacement and to assume their responsibility as states to address it as a matter of priority.⁷³
75. In that regard, it highlights the importance of the obligation of States to prepare diagnostic assessments and gather the necessary data with which to adequately formulate public policies on protection of the rights of internally displaced persons. In that regard, the Special Rapporteur on the human rights of internally displaced persons has indicated her view regarding the need for additional data collection and analysis to build a comprehensive picture of the internal displacement situation, identify trends, patterns, and risk profiles and understand the location, needs, protection concerns, and intentions of internally displaced persons.⁷⁴
76. Likewise, the Inter-American Commission urges States to develop and implement specific laws and public policies designed to prevent internal displacement and to guarantee protection, humanitarian assistance, and

⁷¹ Supra, note 35.

⁷² See Hearing on “Internal Displacement and Human Rights in the Americas,” March 1, 2018, 167th session, Bogotá, Colombia (supra, note 3). Furthermore, as was mentioned above (footnote 4), statistics provided by the IDMC suggest a phenomenon on an enormous scale that is becoming difficult to ignore. According to that organization, as of 2016 there were approximately 257,000 displaced persons in Guatemala, 190,000 in Honduras, and 220,000 in El Salvador.

⁷³ Report of the Roundtable on Internal Displacement of El Salvador (footnote 23): “The Salvadoran State does not officially recognize the problem of internal displacement due to generalized violence, nor does it have programs or institutions to provide efficient and effective protection needed by victims, the majority of whom are family units.”

⁷⁴ Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to El Salvador, 23 April 2018, para 74.b; Report of the Special Rapporteur on the human rights of internally displaced persons on his visit to Honduras, 5 April 2016, para. 84.

lasting solutions for internally displaced persons, in accordance with their obligations under the inter-American instruments on human rights, especially as established in the Guiding Principles on Internal Displacement and in the Principles on Housing and Property Restitution for Refugees and Displaced Persons.

77. Such measures should ensure the participation of those who have been forcibly internally displaced, human rights ombudspersons, civil society organizations, and study centers. Equally, the Commission insists on the need for States to designate an institutional focal point to address this problem, which should have sufficient budgetary resources to effectively implement the measures designed.⁷⁵
78. Internal displacement is a problem of enormous dimensions with disproportionately high negative effects on certain populations that needs not only to be treated as a priority on the public agenda but demands that states and other stakeholders rethink intervention strategies so that they can deliver an adequate comprehensive response to a phenomenon with such complex characteristics.
79. The IACHR hopes that States will recognize the problem and adopt structural measures of an administrative, judicial, and legislative nature for the promotion and protection of the human rights of internally displaced persons. To that end, it reiterates its will to provide technical cooperation to states in strengthening their institutions and public policies from a human-rights perspective.
80. With that in mind, and as a first step, the following chapters present the core inter-American standards on the subject, which are then translated into public policy recommendations for promotion and protection of the human rights of internally displaced persons in the region.

⁷⁵ Ibid.

CHAPTER 3
INTER-AMERICAN HUMAN
RIGHTS STANDARDS

INTER-AMERICAN HUMAN RIGHTS STANDARDS

A. *General Considerations*

81. The Inter-American Commission considers that the protection of the rights of persons in the context of migration may be classified into two main categories: on the one hand, international human rights law, and on the other specific regimes to protect refugees, stateless persons, victims of human trafficking, internally displaced persons, and others.⁷⁶
82. In that regard, in 2015, the Commission provided greater definition in relation to the inter-American standards on human mobility. To that end, it developed a harmonious interpretation of the range of instruments and case law of the inter-American and universal systems with respect to the scope and content of the human rights of migrants, asylum-seekers and refugees, stateless persons, human trafficking victims, and internally displaced persons.⁷⁷
83. In this new document, the IACHR seeks to make a number of clarifications in relation to the international obligations of member states relating to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.
84. Accordingly, this document analyzes the most relevant inter-American instruments, in particular, the American Declaration, the American Convention, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (hereinafter “Convention of Belem do Pará”), and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (hereinafter “Protocol of San Salvador”), all in the light of the United Nations

⁷⁶ IACHR, Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System, par. 82.

⁷⁷ Ibid.

guiding principles and other relevant treaties on the subject in the universal human rights system.⁷⁸

85. In this regard, both the Inter-American Commission and the Inter-American Court of Human Rights have held that the Guiding Principles on Internal Displacement are of particular relevance in determining the scope and content of Article 22(1) of the American Convention in the context of internal displacement.⁷⁹ In that regard, the Inter-American Court has established that based on an evolutionary interpretation of Article 22(1) of the American Convention it is to be concluded that that right may be violated not only by the existence of formal or legal restrictions on the movement of people, but also by de facto conditions that prevent people from moving about freely.⁸⁰
86. In that connection, the IACHR has stated that internally displaced persons are entitled to enjoy in free equality the same rights and freedoms under the American Convention and other domestic and international law norms, as the rest of the country's citizenry.⁸¹ However, in practice, they are seldom able to do so, because the displacement in itself is antithetical to the effective enjoyment of human rights. One of the principal characteristics of forced displacement is that its victims have been forced to flee their homes or habitual places of residence, which means they are forced to abandon their life plans; in most cases, they lose land, housing and other property they own. Various rights are affected in the process of being uprooted and displaced.⁸²

- **Vulnerability of Internally Displaced Persons**

87. The Commission has said that internally displaced persons are especially vulnerable when they escape into their countries' hinterland in search of safety and protection from armed conflict, widespread violence, human rights violations or natural or human-made disasters. Ultimately, they end up under the protection of their country of origin or habitual residence, even in cases where it was the very State that forced their flight or was unable to

⁷⁸ See International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention relating to the Status of Refugees, Protocol relating to the Status of Refugees, Cartagena Declaration on Refugees.

⁷⁹ IACHR, Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia, par. 536.

⁸⁰ I/A Court H.R., Case of Yarce et al. v. Colombia, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 22, 2016, par. 214.

⁸¹ IACHR, Third Report on the Situation of Human Rights in Colombia (1999), Chapter VI, Internal Displacement, par. 1, Section C; and IACHR, Violence and Discrimination against Women in the Armed Conflict in Colombia, par. 85.

⁸² IACHR, Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System, par. 234.

prevent it. Such situations can render internally displaced persons all the more vulnerable and invisible when it comes to the exercise of their human rights.⁸³

88. The IACHR has stated that women, children, and older persons are in a heightened state of vulnerability, which requires that States adopt special measures.
89. In the case of children, the Commission has established that the unprotected situation of displaced persons requires that States grant them preferential treatment and take positive steps to counter the effects of their condition of weakness, vulnerability, and defenselessness.⁸⁴ The Commission has recognized that women, for their part, are especially impacted because of their gender, given that they are disproportionately affected by an exacerbation of different patterns of gender-based discrimination and violence.⁸⁵
90. With respect to indigenous peoples and other tribal communities or peoples, such as Afro-descendants, for example, the vulnerability is increased by their special relationship to the land from which they have been displaced; in such cases, protection of the right to property and to the use and enjoyment of their land is necessary to ensure their survival.⁸⁶ In addition, the Inter-American Court has recognized the special significance that the coexistence of the family has in the context of indigenous families, which may include the distinct generations that make up the family unit and even the community of which they form a part.⁸⁷
91. In that sense, the IACHR found in its resolution granting precautionary measures to the indigenous families of the Chaab'íl Ch'och' Community regarding Guatemala that the dispersal of the families from the place where they used to live could affect the group's social cohesion and have an impact on its cultural identity, leading to the breakup of the social fabric, the weakening and fragmentation of the community, and in the worst of cases

⁸³ Ibid. par. 59.

⁸⁴ IACHR, Report No. 86/13, Cases 12.595, 12.596, and 12.621, Merits, Ana Teresa Yarce ate al. (Comuna 13), Colombia, November 4, 2013, par. 310.

⁸⁵ IACHR, Ibid. par. 370.

⁸⁶ IACHR, Report No. 64/11, Case 12.573, Report on Merits, Marino López et al. (Operation Genesis), Colombia, March 31, 2011, par. 342.

⁸⁷ I/A Court H.R., Case of the Río Negro Massacres v. Guatemala, Preliminary Objection, Merits, Reparations and Costs, Judgment of September 4, 2012, par. 159.

entail the complete loss or serious deterioration of their ethnic and cultural identity.⁸⁸

- **Displacement As a Continuous and Multiple Violation of Human Rights**

92. The inter-American system has also determined that internal displacement is a continuous and multiple violations of human rights. In that connection, the Inter-American Court has stated that the situation of displacement continues until the persons are able to return safely to their places of origin in a voluntary and dignified way or are voluntarily resettled in another part of the country.⁸⁹
93. As the Court has highlighted, internal displacement entails multiple violations of human rights, particularly the right to an adequate standard of living, the right to move freely within the territory of the State, the right to choose one's place of residence, the right to humane treatment, the right to private and family life, the right to property, the right to work, the right to health, the right to identity, and the right to participate in government. Similarly, in the opinion of the Court, the internal displacement crisis leads, in turn, to a security crisis, since the groups of internally displaced persons become a new resource or a new source of recruitment for the paramilitary, drug-trafficking and guerrilla groups.⁹⁰
94. In turn, certain specific rights may be enumerated in the case of children, such as the right not to be separated from the family, the right to special protection and care, and the right to education. In the case of indigenous and Afro-descendent communities, the right to their ancestral lands and traditional territories and the right to their culture.
95. Likewise, the Inter-American Court has held that forced displacement violates the rights to humane treatment in different ways. The right to humane treatment is infringed both by the circumstances that lead to the forced displacement (threats, harassment, assaults) and by the conditions in which the displaced persons live (for example, lack of access to basic services).⁹¹

⁸⁸ IACHR, Precautionary Measure No. 860-17, Indigenous Families of the Chaab'il Ch'och' Community regarding Guatemala, January 25, 2018.

⁸⁹ I/A Court H.R., Case of Yarce et al. v. Colombia, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 22, 2016, par. 241.

⁹⁰ I/A Court H.R., Case of the Ituango Massacres v. Colombia, Judgment of July 1, 2006, par. 212.

⁹¹ I/A Court H.R., Case of the Pueblo Bello Massacres v. Colombia, Judgment of January 31, 2006, par. 162.

- Harmful Effects of Displacement

96. Apart from violating the right to freedom of circulation and residence, displacement also affects the right of the victims and their relatives to a life of dignity.⁹² In that regard, internal displacement has a series of harmful effects, including loss of land and housing, marginalization, serious psychological repercussions, unemployment, impoverishment, deteriorating living conditions, increased disease and mortality, loss of access to property, food insecurity, and social disintegration.⁹³
97. According to the criteria established by the Guiding Principles, the State has four main obligations where internally displaced people are concerned: (i) the obligation to prevent displacement; (ii) the obligation to provide protection and assistance to displaced persons during displacement; (iii) the obligation to provide and facilitate humanitarian assistance; and (iv) the obligation to facilitate the return, resettlement and reintegration of internally displaced persons in safety.⁹⁴
98. 20 years after their adoption, the Guiding Principles should be interpreted taking into account current social, political, economic, cultural, and environmental contexts that have an impact on the internal displacement of persons and demand a rethink of the role and obligations of the State in effectively protecting rights. With that in mind, what follows is a concise interpretation of each of those four obligations in the light of the inter-American and international instruments mentioned in this section.

1. The Obligation to Prevent Displacement

99. The Commission has underscored that, as guarantors of human rights, States have a legal obligation vis-à-vis persons subject to their jurisdiction to prevent violations of their human rights from becoming the inevitable. When the State fails in that obligation and that failing leads to human rights violations that might otherwise have been prevented, it has neglected its responsibility as guarantor.⁹⁵
100. The Commission has also pointed out that forced displacement of persons is in itself a serious human rights violation, since it renders illusory the full enjoyment and exercise of certain rights that are unable to be realized in the context of a situation of forced mobility. In that regard, in their case law, the

⁹² I/A Court H.R., *Case of the Ituango Massacres v. Colombia*, Judgment of July 1, 2006, par. 234.

⁹³ I/A Court H.R., *Case of the Pueblo Bello Massacres v. Colombia*, Judgment of January 31, 2006, par. 212.

⁹⁴ IACHR, *Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia*, par. 537.

⁹⁵ IACHR, *Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico*, par. 376.

organs of the inter-American human rights system have interpreted the right to movement and residence recognized in Article 22(1) of the American Convention as also encompassing the obligation of States not to carry out actions that bring about the internal displacement of persons against their will or to assist third parties in the perpetration of acts that cause such a situation.⁹⁶

101. The Commission reiterates that to effectively fulfill the duty to prevent situations that jeopardize the effective exercise of human rights and bring about forced displacement, the measures that States must adopt and put into practice must be of two kinds: (i) general measures and (ii) specific measures.⁹⁷
102. General measures of prevention include all those of a legal, political, administrative and cultural nature that serve to safeguard human rights, such as a suitable legal framework of protection, adjustment and strengthening of institutional systems, the measures necessary to ensure effective implementation of legal frameworks, prevention policies, practices that allow effective action in response to complaints, and awareness campaigns, among many others.
103. In cases in which it is obvious that certain persons are facing some real and immediate risk of becoming victims of violence or discrimination that would result in their displacement, the State has an obligation to take specific measures with respect to those persons, to prevent that violence or discrimination from materializing.⁹⁸ At this stage, it is essential for States to explore fully every possible option for preventing displacement.
104. Equally, one of the prevention obligations of the State in this area is to minimize the factors that cause displacement and its adverse effects. That means that in those cases where there is no alternative other than

⁹⁶ See, I/A Court H.R., *Case of the Massacre of Santo Domingo v. Colombia*, Preliminary Objections, Merits and Reparations, Judgment of November 30, 2012, Series C No. 259, par. 255; *Case of Vélez Restrepo and Family v. Colombia*, Preliminary Objection, Merits, Reparations and Costs, Judgment of September 3, 2012, Series C No. 248, par. 220; *Case of Valle Jaramillo et al. v. Colombia*, Merits, Reparations and Costs, Judgment of November 27, 2008, Series C No. 192, par. 138; *Case of the Ituango Massacres v. Colombia*, Judgment of July 1, 2006, Series C No. 148, par. 206; and *Case of the Mapiripán Massacre v. Colombia*, Judgment of September 15, 2005, Series C No. 134, par. 168. I/A Court H.R., *Case of the Río Negro Massacres v. Guatemala*, Preliminary Objection, Merits, Reparations, and Costs, Judgment of September 4, 2012, Series C No. 248, par. 172; *Case of the Mapiripán Massacre v. Colombia*, Merits, Reparations and Costs, Judgment of September 15, 2005, Series C No. 134, par. 188; and *Case of Chitay Nech et al v. Guatemala*, Preliminary Objections, Merits, Reparations and Costs, Judgment of May 25, 2010, Series C No. 212, par. 139.

⁹⁷ IACHR, *Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico*, par. 377.

⁹⁸ IACHR, *Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System*. par. 161.

displacement, the State must adopt the necessary measures to guarantee safety, dignity, food, health, and hygiene, and that family members are not separated. In addition, the State must make provision for the adoption of all appropriate measures, to the maximum of its available resources to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available and provided.⁹⁹

105. In the case of megaprojects or evictions, it must be ensured that all the persons concerned are allowed access to relevant information, full consultation, and participation throughout the entire process, and to propose alternatives that authorities should consider, as is established in the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement.¹⁰⁰ Prior to any eviction, authorities must demonstrate that the eviction is unavoidable and consistent with the purpose of protecting the general welfare.
106. Once the eviction has been decided, it should be announced in writing in the local language to all individuals concerned, sufficiently in advance, so that they may take an inventory of any of their property that might be damaged. According to the Basic Principles and Guidelines on Development-based Evictions and Displacement, the eviction notice should contain a detailed justification for the decision, including on: (a) absence of reasonable alternatives; (b) the full details of the proposed alternative; and (c) where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions. All final decisions should be subject to administrative and judicial review and access to justice should be guaranteed.¹⁰¹
107. Furthermore, it is essential that legal remedies are provided to all those who are evicted. In that connection, the United Nations Committee on Economic, Social and Cultural Rights (hereinafter “CESCR”) has determined that such protection is equally applicable and appropriate in other similar situations, such as mortgage foreclosure proceedings, which can seriously affect the

⁹⁹ UNHCR, Basic Principles and Guidelines on Development-based Evictions and Displacement, Annex I of the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HCR/4/18, para. 43.

¹⁰⁰ UNHCR, Basic Principles and Guidelines on Development-based Evictions and Displacement, Annex I of the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HCR/4/18.

¹⁰¹ UNHCR, Basic Principles and Guidelines on Development-based Evictions and Displacement, Annex I of the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HCR/4/18, para. 41 and 42.

right to housing.¹⁰² The CESCR established that the serving of notice of the most important acts and orders in an administrative or judicial procedure should be conducted properly and effectively so that the persons affected have the opportunity to participate in the proceedings in defense of their rights.¹⁰³

108. The States are also under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands, under the terms foreseen in Principle 9 of the Guiding Principles.
109. Finally, in the context of the prevention measures that the State has a duty to adopt, the Commission highlights the duty to investigate, prosecute, and punish. In the opinion of the Commission, the investigation and punishment of acts that cause internal displacement are part of the State's obligations for preventing violations of human rights.
110. Like the Inter-American Court, the IACHR considers that that duty remains even in cases where the acts are committed by private persons and concern situations of public knowledge of which the State cannot claim to be unaware.¹⁰⁴ In addition, the Inter-American Court has indicated that the right to freedom of movement and residence may be affected when a person is the victim of threats or harassment and the State does not provide the guarantees necessary to allow him/her to move freely and reside in the territory, even when the actors concerned are not state actors; the same is true when there is a failure to investigate violent acts effectively, which may prompt or perpetuate displacement.¹⁰⁵ That finding is particularly important since the current context in the countries of the so-called Northern Triangle is indicative of the situation affecting the rights of displaced persons, of which the State is aware and in which it has the obligation to intervene.
111. The Committee holds that the obligation to act with due diligence in the context of the processes of investigation, punishment, and reparation for victims of forced internal displacement should function as a guarantee mechanism for preventing situations that give rise to displacement.

¹⁰² Committee on Economic, Social and Cultural Rights, Communication No. 2/2014, Lack of effective access to the courts to protect the right to adequate housing, para. 12.1.

¹⁰³ Committee on Economic, Social and Cultural Rights, Communication No. 2/2014, Lack of effective access to the courts to protect the right to adequate housing, para. 12.2.

¹⁰⁴ IACHR, Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System. par. 165.

¹⁰⁵ I/A Court H.R., Case of Members of the Village of Chichupac and Neighboring Communities of the Municipality of Rabinal v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment of November 30, 2016, par. 174.

2. The Obligation to Provide Protection and Assistance during Displacement

112. The Inter-American Court has found held that “[u]nder the terms of the American Convention, the differentiated situation of displaced persons places States under the obligation to give them preferential treatment and to take positive steps to reverse the effects of said condition of weakness, vulnerability, and defenselessness, including those vis-à-vis actions and practices of private third parties.”¹⁰⁶
113. In that regard, the Inter-American Commission considers that a harmonious interpretation of the obligations under the American Convention in the light of the United Nations Guiding Principles and other universal and inter-American human rights instruments places the responsibility on the State of origin or of habitual residence to adopt the measures necessary for the protection of the rights of internally displaced persons.¹⁰⁷
114. The Commission notes that a failure by the State to adopt positive measures of protection for the rights of internally displaced persons may amount, in particular, to a violation of the principle of equality and nondiscrimination. Such a situation occurs when internally displaced persons are unable to access rights because of measures that, while having the appearance of being neutral, by failing to address their particular situation of vulnerability, have an adverse impact that places them in an unequal situation in relation to other persons under the State's jurisdiction.
115. In that regard, the Commission urges States to increase the visibility of the situation of internally displaced persons so that they can adopt positive measures to enable them to exercise and enjoy their rights on an equal footing with others.
116. At the same time, the Commission wishes to reiterate that internal displacement entails the violation of a large number of human rights whose realization the State has an obligation to ensure. Without going into the details of each of the rights that the State has a duty to protect, the Commission would like to highlight some of the obligations that are particularly important in the context of forced internal displacement.

¹⁰⁶ I/A Court H.R., Case of the "Mapiripán Massacre" v. Colombia, Judgment of September 15, 2005, par. 179.

¹⁰⁷ I/A Court H.R., Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection, Advisory Opinion OC-21/14 of August 19, 2014. Series A No. 21. par. 280. Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration.

117. Specifically, the State has the obligation to guarantee and protect the right to an adequate standard of living. The realization of that right in the context of internal displacement is closely linked to the adoption of humanitarian assistance measures, as is described in the following subsection. In that connection, the IACHR granted precautionary measures to protect the lives and well-being of those evicted and displaced from the Community of Laguna Larga in September 2017, and requested that the State of Guatemala:

a. Take the necessary steps to protect the beneficiaries' rights to life and personal integrity, by adopting measures designed to improve, among other aspects, sanitation and health conditions, especially for children, women, and older persons. In particular, through measures to ensure, *inter alia*:

i. Access for the displaced population to food that is both nutritionally and culturally adequate, as well as to drinking water, at levels considered acceptable by international organizations such as the World Health Organization (WHO). Especially, adopt immediate measures to protect the life and integrity of the children suffering from malnutrition and to prevent future cases;

ii. Safe, habitable, and healthy accommodations, as well as clothing that offer protection from the heat, the rain, the wind, and other health threats;

iii. Safe access by the beneficiaries to the area where they used to live, so that they can collect their possessions, household items, and crops needed for the population's subsistence;

iv. Continuity of education and basic assistance and care services for children;

v. Adequate medical care, in keeping with applicable international standards, to treat diseases, ailments, and illnesses suffered by the beneficiary population. This should include specialized medical treatment for those with chronic diseases, as well as specialized care related to women's health and maternal health, along with care for children and older persons, in conditions that are affordable and accessible.

b. Adopt any measures that may be necessary to protect the displaced population's rights to life and personal integrity in the face of possible acts of violence by third parties or agents of the State. At the same time, ensure the protection of household items, property,

and crops left behind when the members of the community were displaced.

c. Adopt the necessary measures to continue relevant consultations and dialogue with the people who were evicted and displaced, to reach a lasting solution to their situation.

d. Come to an agreement with the beneficiaries and their representatives on the measures to be adopted; and e. Report on actions taken to investigate the allegations that led to the adoption of this precautionary measure, so as to avoid a recurrence.

118. The IACHR also granted precautionary measures for the indigenous families of the Chaab'íl Ch'óch' community That in January 2018, and for the Maya Q'eqchi Community of Nueva Semuy Chacchilla in February 2018.
119. States also have an obligation to adopt measures to ensure the right to family life. Specifically, when displacement involves children, states should ensure respect for the principle and right of the child to have their best interests taken into consideration in any measure that is adopted.¹⁰⁸
120. With respect to protection of the right to property, the inter-American system has established that people who lose their homes also lose the place where their private life takes place so long as they are unable to return to their habitual place of residence. Therefore, the State violates the right to private life and a home upon engaging in arbitrary interference.¹⁰⁹
121. In addition, in a case in 2011, the commission found that displaced persons had, after their return to their homes of origin, the right to have restored to them property of which they were deprived during displacement and to be compensated appropriately for any such property that could not be restored to them. The violation of the right to property is committed not only by the obstruction of internally displaced persons' access to the property, but also by the prevention of its use and enjoyment, leading to its neglect and deterioration, as well as the implications that the denial of access, use, and enjoyment of the property has on the possibilities of working in certain cases, particularly where natural resources are concerned.¹¹⁰

¹⁰⁸ *Ibid.*

¹⁰⁹ I/A Court H.R., Case of the Ituango Massacres v. Colombia, Judgment of July 1, 2006, par. 197.

¹¹⁰ IACHR, Report No. 64/11, Case 12.573, *Case of Marino López et al. (Operation Genesis) (Colombia)*, Report on Merits, par. 348. In pronouncing, the IACHR clarified: "During the period of displacement until their return to their lands, the displaced persons did not enjoy access to, and use of, personal and community property, lands

122. In that regard, the Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons establish that all refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal.¹¹¹ The inter-American system has also found that the violation of the right to property is aggravated when homes are destroyed, since they are the social frame of reference of persons who, in some cases, have lived in the same village all their lives. In such cases, the Inter-American Court has considered that the destruction of homes causes the inhabitants to lose their most basic living conditions.¹¹²
123. The close relationship that indigenous peoples and other tribal communities or peoples, such as Afro-descendants, have to their lands and to the natural resources of ancestral territories has also been recognized. In such cases, protection of the right to property and to the use and enjoyment of their land is necessary to ensure their survival.¹¹³
124. Finally, the Commission would like to stress the obligation of states to ensure and protect the economic, social, cultural, and environmental rights of internally displaced persons, bearing in mind their situation of particular vulnerability and taking into account the disproportionate impact that displacement has on certain groups, such as women, children and adolescents, indigenous and tribal peoples, peasants communities, and LGBTI people.

and natural resources found there. For its part, their right to property was also affected due to the neglect and deterioration of their lands and both their moveable and immoveable, community and individual property. Similarly, the forced displacement also disadvantaged them in the possibility for work, which, in turn, caused them loss of earnings. The displaced persons found their right to property affected whenever during the time of the displacement they could not access the right to the use and enjoyment of the natural resources on their traditional lands— such as wood—among other resources traditionally used by members of the Cacarica communities.”

¹¹¹ Principle 2. The right to housing and property restitution, Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons, United Nations Sub-Commission on the Promotion and Protection of Human Rights, August 2005.

¹¹² I/A Court H.R., Case of the Ituango Massacres v. Colombia, Judgment of July 1, 2006, par. 182.

¹¹³ I/A Court H.R., Case of the Afro-descendant communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment of November 20, 2013, par. 346.

3. The Obligation to Provide Humanitarian Assistance

125. The Inter-American Commission notes that States have an obligation to adopt the necessary measures to guarantee access to an adequate standard of living for internally displaced persons and, therefore, to provide, if necessary, essential humanitarian assistance in that context.
126. The duty to provide humanitarian assistance in the context of internal displacement is intimately bound up with the obligation to ensure minimum essential levels of the economic, social, and cultural rights of individuals and communities.¹¹⁴ In particular, that duty is associated with the protection of the rights to food, housing, water, health, clothing, and ultimately the realization of the right to an adequate standard of living.
127. In that connection, the Inter-American Court has found that the failure of the state to provide sufficient basic assistance during displacement may engage its responsibility for violation of the right to humane treatment if the physical and psychological conditions that victims of forced to endure are not compatible with minimum enforceable standards in such instances.¹¹⁵ In particular, the Court found that in the case of Operation Genesis, the overcrowded conditions, the food, the supply and management of water, and the failure to adopt measures in the area of healthcare were evidence of the State's failure in its duty to provide protection after the displacement.¹¹⁶
128. In that regard, in the particular situation of internally displaced persons, states have the obligation to adopt, in accordance with the humanitarian principles of impartiality and nondiscrimination, measures to guarantee timely, adequate, and necessary humanitarian assistance for internally displaced persons, including food, water, sanitation, housing, medical assistance, education, and other necessary social services, such as psychosocial support.
129. The Commission recognizes the importance of international cooperation in ensuring adequate humanitarian assistance programs consistent with the specific contexts of countries and the particular circumstances of the internally displaced population. On that point, the Guiding Principles

¹¹⁴ IACHR, *Poverty and Human Rights*, par. 34.

¹¹⁵ I/A Court H.R., Case of Yarce et al. v. Colombia, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 22, 2016, par. 226.

¹¹⁶ I/A Court H.R., Case of the Afro-descendant communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia, Judgment of November 20, 2013, par. 323.

recognize the right of international humanitarian organizations and other appropriate actors to offer their services in support of displaced persons

130. Likewise, the Commission highlights the importance of ensuring the effectiveness of humanitarian assistance, so that it is accessible, affordable, acceptable, and adaptable. To that end, the participation of internally displaced persons in the definition, implementation, and evaluation of those programs is absolutely essential.¹¹⁷

4. The Obligation to Ensure Measures to Facilitate Return or Local Resettlement and Reintegration

131. Considering how seriously internal displacement impairs human rights, one of the main obligations of the State is to take steps to ensure lasting solutions for such persons and, therefore, allow them to be economically and socially sustainable.
132. In that connection, in the universal sphere, the Guiding Principles envisage “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.”¹¹⁸
133. Along those same lines, the IACHR shares the recommendation of the CESCR that displaced persons have the right freely to return to their homes of origin under conditions of safety, and that States parties are obliged to ensure that the return of such refugees and displaced persons is voluntary.¹¹⁹
134. In ensuring return, consideration should also be given to the special relationship of indigenous peoples and Afro-descendent communities to their lands. Thus, in the case of the Moiwana community, the Inter-American Court found that the right of the community members to humane treatment had been violated as a result of the suffering caused to them by their obstruction, despite their persistent efforts, from obtaining justice for the attack on their village, particularly in light of the emphasis that the N’djula placed on apportioning appropriate punishment for the violations

¹¹⁷ UNHCR, Handbook for the Protection of Internally Displaced Persons, Global Protection Class the Working Group, March 2010, p. 403.

¹¹⁸ United Nations. Guiding Principles. Principle 28.

¹¹⁹ IACHR, Report No. 64/11, Case 12.573, Report on Merits, Marino López et al. (Operation Genesis), Colombia, March 31, 2011, par. 351.

committed. In that connection, in order to be able to return permanently, it was essential for the community to obtain justice in order, thus, to appease the angry spirits of their relatives and purify their traditional lands, as well as to put aside their fears of harassment against their community.¹²⁰

135. That obligation gives rise to a number of elements that states should take into consideration when designing their policies. In that respect, the obligation to ensure lasting solutions for internally displaced persons must be fulfilled without discrimination and in a safe, dignified, informed, and voluntary way.
136. Therefore, it is essential to guarantee the participation of the displaced persons, in order to take their needs and opinions with regard to the measures to be adopted into account. States have the obligation not only to ensure the participation of internally displaced persons, but also to guarantee them a free and informed decision on the possible solutions to be offered them.
137. Likewise, states should guarantee lasting conditions of safety and dignity, which entails, among other things, adopting measures designed to protect economic, social, cultural, and environmental rights, as well as to prevent and eradicate discrimination and stigmatization of internally displaced persons who have returned or settled in a new community.
138. Lastly, the Commission emphasizes that the duty of states to provide reparation to victims of internal displacement is a part of providing lasting solutions. Thus, financial compensation, restitution of property, psychosocial assistance and health care measures, housing programs, and guarantees of safety and a life of dignity for individuals who return, among other reparations that the state should implement, make up the range of comprehensive solutions that should be ensured in each case.

¹²⁰ I/A Court H.R., Case of the Moiwana Community v. Suriname, Preliminary Objections, Merits, Reparations, and Costs, Judgment of June 15, 2005.

CHAPTER 4
PUBLIC POLICY GUIDELINES

PUBLIC POLICY GUIDELINES

A. *Prior Considerations*

139. Pursuant to the mandate envisaged in Article 41 of the American Convention and Article 106 of the OAS Charter to advise States on human rights matters, the Inter-American Commission has decided to draft this document, the chief purpose of which is to offer guidelines for formulating public policies regarding forced internal displacement.
140. In relation to the forced displacement issues in the countries of the so-called Northern Triangle of Central America analyzed in this report and in light of inter-American standards on the matter, following are recommendations designed to guide States as they formulate public policies shaped by a human rights approach and to provide tools to enable civil society and internally displaced persons to call for, work with, influence, and oversee actions taken by the State.
141. The IACHR would like to underscore the gradual nature of some of the measures that States need to adopt to comply with their international obligations, considering current capacities and resources. Accordingly, the path toward comprehensive compliance with the recommendations put forward here presupposes prioritizing and designing gradual strategies that enable States to act in accordance with their real capacities and with an eye to their most pressing needs. To that end, the IACHR urges States to develop, with its support whenever needed, strategic plans geared to advancing the protection of the human rights of the internally displaced population in a manner that is both coherent and realistic.
142. On that understanding, the Commission proposes the following guidelines and guidance tailored to the different branches of government and their distinct competencies and functions. Methodologically, they are arranged to address the principal international obligations that, in the Commission's understanding, States have agreed to honor in order to guarantee the rights of internally displaced persons (hereinafter "IDPs").

PROPOSED GUIDELINE 1:

Public Institutional Framework

The Executive and Legislative Branches

Adapt and/or create an institutional framework in accordance with international human rights standards that is able to come up with effective solutions for the protection of the human rights of IDPs.

Legislative Branch

- **Pass** a law formally establishing the institutional mechanisms needed to oversee the formulation, implementation, monitoring, and evaluation of public policies dealing with IDPs.
- **Ensure** that said set of mechanisms is shaped by principles requiring a human rights approach to public institutions. To that end, the IACHR suggests:
 - Designing comprehensive institutional arrangements that abide by the principles of indivisibility, universality, and the interdependence of human rights;
 - Crafting effective inter-agency coordination mechanisms, both horizontally (among and between the various sectors involved) and vertically (between the different levels of government);
 - Mainstreaming the human rights perspective at all levels of State coordination.
- **Defining** in regulations the functions and responsibilities of the institutions involved in protecting the rights of IDPs.
- Clearly **establishing** the distinct functions and responsibilities of the different (national and local) levels of government.
- **Ensuring** social participation in the design of regulations, which means involving not just the civil society organizations working to promote and protect the rights of IDPs, but IDPs as well.
- **Guaranteeing** progressiveness in budget allocations to ensure the sustainability of the institutional arrangements.

Executive Branch

- **Identify** an agency/focal point responsible for implementing public policy for protecting the rights of IDPs.
- **Implement** inter-agency coordination mechanisms both horizontally and vertically to guarantee comprehensive protection of the rights of IDPs.
- **Design** and implement protocols clearly distinguishing the responsibilities and functions of the different levels of (national and local) government.
- **Secure and progressively execute** the budget so as to ensure that institutional arrangements are sustainable.
- **Train** the staff of the agencies pertaining to the institutional framework for addressing internal displacement issues, in order to guarantee knowledge of and sensitivity toward the rights of IDPs and awareness of the State's obligations to safeguard and protect them. Particular attention will need to be paid to:
 - Training all personnel in the promotion and protection of human rights and their role as government officials (operadores públicos);
 - Special training exclusively for security forces personnel in the promotion and protection of human rights;
 - Training with regard to mainstreaming a gender perspective, diversity, and differentiated approaches in all measures adopted by the staff of these agencies;
 - Training and sensitization to the rights of IDPs and the obligation of the State and its employees to guarantee and protect them.

Judiciary

- **Train** justice operators in the promotion and protection of the rights of IDPs. Particular attention will need to be paid to:
 - Training all personnel in the promotion and protection of human rights and their role as justice operators;
 - Training with regard to mainstreaming a gender perspective, diversity, and differentiated approaches in all decisions taken in connection with judicial proceedings;
 - Training and sensitization to the rights of IDPs and, in particular, their right of access to justice.

PROPOSED GUIDELINE 2:

Data Gathering and the Production, Analysis, and Dissemination of Information

Executive, Legislative, and Judicial branches

Adopt measures for the production, systematization, analysis, and dissemination of information relating to IDPs, along with procedures guaranteeing transparency and accountability.

Legislative Branch

- **Pass** such laws as are needed to boost the legitimacy and sustainability of the information system.
- **Pass** such laws as are needed to guarantee IDPs' right to access information.

Judiciary

- **Design** and implement procedures to ensure that, whenever it is deemed advisable, information on cases and IDPs is labeled and treated as confidential when it is remitted to the information system on internal displacement
- **Design** and implement procedures to ensure that information received and processed by the judiciary is labeled confidential when it is remitted to the government bodies responsible for formulating, implementing, monitoring, and evaluating public policies.
- **Encourage** information production mechanisms that provide data on judicial guardianship and protection procedures (procesos de tutela y amparo judicial), while keeping the names and data of the IDPs involved in those procedures confidential.

Executive Branch

- **Develop** a confidential system for registering cases, IDPs, and information relating to protection measures adopted by the State. That system should take the following into consideration:
 - Inclusion of IDPs in the information system does not grant them special legal status. Internal displacement is a de facto situation and the rights of IDPs and the State obligations that derive from them are not subject to the IDPs' inclusion in an information system;
 - The objective pursued by the system should be to have information available on the number, characteristics, and location of IDPs so that the State can adopt appropriate measures to protect their rights;
 - The system must guarantee the principles of nondiscrimination and equality for IDPs and must clearly and flexibly determine the requirements for their registration in accordance with the principles of international human rights law;
 - The information system must strive to ensure that humanitarian assistance and other kinds of measures meet the needs of IDPs;
 - The system must, moreover, help guarantee access to other rights, such as the provision of identity documents for IDPs and other social rights;
 - The system must be so designed as to provide for the possibility of appeals by IDPs whose application for registration has been turned down;
 - The geographical scope of the system must be such that it makes it possible for all IDPs to register throughout the country;
 - That will entail local government participation throughout the process of designing and managing the information system.
- **Designate** the agency responsible for managing and updating the information system.
- **Allocate** the budget appropriation needed to ensure that the system is sustainable.
- **Stipulate** that being an IDP and the protection measures that entails are a de facto situation that neither depends on nor is subject to inclusion in the Information System.
- **Design** the mechanism for feeding inputs into the Information System and for ensuring the inclusion of as many sources of information as possible, making sure that civil society organizations participate in the process of compiling and remitting information.
- **Ensure** that the data are broken down, at least by race, ethnic origin, age, sexual orientation, gender identity and expression, geographical location, disability status, and being part of an indigenous community.

- **Guarantee** complete security for IDPs entered into the information system.
- **Guarantee** the absolute confidentiality of the data in the information system.
- **Ensure** that the information is updated and that the system is sustainable.
- **Provide** training for the personnel in charge of registration and the inputting of data that takes into consideration:
 - Training in the promotion and protection of the rights of IDPs;
 - The nature and sequels of internal displacement and their impact on access to rights;
 - Proper evaluation for registering IDPs in accordance with the regulations in force;
 - The need to avoid re-victimization of registered IDPs;
 - Training in the gender and diversity perspective and special attention to the needs of groups that historically have been victims of discrimination;
 - Training to enable personnel to provide IDPs with the information they need regarding their rights and the State's obligations.
- **Design** and implement procedures for compiling and analyzing information on measures adopted to protect the rights of IDPs.
- **Identify** sources of information stemming from government agencies, civil society organizations, international organizations, academia, human rights procurator offices, other administrative and judicial claims and complaints mechanisms, and so on.
- When **formulating, implementing, monitoring, and evaluating** public policies, systematize and analyze the information generated and build it into the system.
- **Design** and implement mechanisms for disseminating information regarding measures adopted by the State, their impact and concrete results, while promoting a culture of transparency in public sector management and guaranteeing the safety and dignity of the beneficiaries of those measures.
- **Publish** information on the internal forced displacement situation and on steps taken by the State to protect the rights of IDPs, using formats that are easily accessed, user-friendly, and easy to understand for interested actors.

PROPOSED GUIDELINE 3:

Prevention measures

Executive, Legislative, and Judicial branches

Recognize forced internal displacement as a human rights problem that needs to be addressed by all branches of government and take steps designed to eliminate or mitigate its causes.

Executive Branch

- **Conduct** qualitative and quantitative diagnostic assessments on the internal displacement of people situation in the country. Those diagnostic assessments should yield the following, as well as other, results:
 - Insight into the causes and circumstances triggering the forced internal displacement of persons;
 - The identification, characteristics, and number of victims of forced internal displacement, broken down into groups that have historically borne the brunt of discrimination, including: women, children and adolescents, LGBTI persons, older persons, persons with disabilities, indigenous peoples, peasant communities, persons of African descent, and migrants;
 - The identification and characteristics of the geographical areas impacted by the factors giving rise to internal displacement;
 - Identification of the actors directly and/or indirectly involved in the causes of internal displacements;
 - An overview of regulations applicable to the internal displacement situation;
 - An overview of State measures being implemented to address the situation of internally displaced persons;
 - Identification of the institutions responsible for adopting measures to address the needs of internal displaced persons;
 - Identification of civil society institutions working either directly or indirectly in this field;
 - Identification of international organizations working either directly or indirectly in this field.

Executive and Legislative Branches

- **Adopt** specific measures to prevent the causes of forced internal displacement of persons, especially:
 - Development of a comprehensive strategy for protecting economic, social, cultural, and environmental rights aimed at narrowing inequality gaps in the population;¹²¹
 - Development of a comprehensive citizen security strategy based on inter-American human rights standards that includes, inter alia, measures to combat organized crime, the crimes committed by gangs (maras y pandillas), and criminal groups' control over parts of the country;
 - Development of Plans of Action to address corporate social responsibility and human rights issues that establish oversight mechanisms and regulation of the economic activities that impact indigenous and peasant communities;
 - Drafting of protocols, based on inter-American standards, to regulate the right to prior consultation of indigenous peoples affected by megaprojects or economic activities.

- **Adopt** a comprehensive public policy with a human rights perspective, formally enshrined in law, to prevent forced displacement and protect the rights of internally displaced persons. That policy needs to embody:
 - The core principles of the human rights approach: equality and nondiscrimination, social participation, claim and access to justice mechanisms, the production of and access to information, priority protection for groups historically subjected to discrimination, and a gender, diversity, and intercultural perspective;
 - Inter-American and universal standards for the protection of the human rights of internally displaced persons;
 - The establishment and/or designation of a competent public institutional framework;
 - A social participation mechanism for policy design, implementation, and evaluation;
 - The design and incorporation of early warning systems for monitoring and drawing attention to situations involving risks and/or violence that could trigger the displacement of persons, and identification of the procedure for adopting prevention measures. All competent entities and civil society should participate in that system, which should be led by oversight bodies;
 - The design and implementation of contingency plans to ensure response to mass internal displacements;
 - Monitoring and evaluation;
 - Inclusion of a budget allocation;
 - Measures relating to the dissemination of information and access to it.

- **Promote** inter-agency dialogue and debate to ensure effective implementation and evaluation of the policies formulated for preventing forced displacement and protecting the rights of internally displaced persons.

¹²¹ Here it is worth referring to the recommendations put forward by this Commission in the report on Poverty and Human Rights in relation to public policies designed to eradicate poverty and extreme poverty, based on principles that underscore the need for comprehensive and cross-cutting policies with a human rights perspective. IACHR. Report on Poverty and Human Rights. P. 196.

- **Involve** civil society in the whole process of formulating, implementing, monitoring, and evaluating policies in order to ensure that their execution is comprehensive, participatory, and inclusive.
- **Involve** internally displaced persons, under conditions that guarantee their safety, in the whole process of formulating, implementing, monitoring, and evaluating policies in order to ensure that their execution is comprehensive, participatory, and inclusive.
- **Ensure** that local governments participate from the very start of the process of designing and formulating public policies to prevent forced internal displacement and protect the rights of IDPs.
- **Define** internal displacement as a specific crime in accordance with international norms and standards in this area.

Judiciary

- **Promote** public hearings on internal displacement that afford insight into the issues and allow civil society organizations and other relevant actors to air their views.
- **Strengthen** the judicial mechanisms guaranteeing access to justice in cases relating to internal displacement situations.
- **Make** further progress with legal interpretations based on inter-American human rights standards that make it possible to determine rights violations and the State's responsibility for the causes of internal displacement.
- **Encourage** judicial investigation based on due diligence principles into factors that may be a cause of internal displacement.
- **Develop** more robust judicial mechanisms for identifying responsibilities relating to violation of the rights of internally displaced persons.
- Based on the due diligence principle, **promote** the punishing of those responsible for the aforementioned rights violations.

PROPOSED GUIDELINE 4:

Recognition and Protection of Rights

Executive, Legislative, and Judicial branches

Adopt measures to permit recognition and effective protection of the fundamental rights of internally displaced persons.



(La Ventosa, Istmo, Oaxaca)
Carlos Hernández

Judiciary

- **Strengthen** judicial mechanisms to guarantee the principle of equal access to justice for internally displaced persons.
- **Incorporate** the standards and recommendations of the inter-American and universal systems for protecting human rights in the decisions handed down by the courts.
- **Support** the creation of information and registration systems based on cases received dealing with IDPs.
- **Promote**, through measures that each country deems suitable, broader awareness of the structural inequalities to which IDPs are exposed.
- **Train** staff working in the judiciary in international human rights and international humanitarian law.

Legislative Branch

→ **Pass** a law officially recognizing the rights of internally displaced persons, drawn up with social participation, and taking the following aspects into account:

- The rights recognized in international and inter-American human rights instruments, and in particular the Guiding Principles on Internal Displacement;
- The interpretation developed in the inter-American human rights system of the rights of internally displaced persons;
- Recognition and protection of the right not to be displaced;
- Recognition and protection of economic, social, cultural, and environmental rights;
- Recognition and protection of the right to humanitarian assistance;
- Recognition and protection of the right to family life;
- Recognition and protection of the right to return and/or resettlement under safe and dignified conditions;
- Inclusion in the law of a gender, diversity, and intercultural perspective;
- Protection of abandoned property;
- Policies for protection, restitution, and guarantees of non-repetition.

→ **Repeal** any provision that, even if it is ostensibly neutral, may impair access to rights for internally displaced persons.

→ In general provisions, **make sure** to include a differentiated approach tailored to the circumstances of internally displaced persons.

→ **Adopt** a provision that characterizes as a crime forced displacement induced either arbitrarily, violently, and/or through human rights violations.

Bearing in mind the difficulties internally displaced persons face in acceding to their rights, the Commission suggests repealing all provisions that, although they are not intended to curtail that populations' rights, fail to consider the particular disadvantages they face with respect to access to rights, and thereby have a negative impact. One example of a good practice would be to repeal provisions requiring the presentation of a certain type of document as a prerequisite for obtaining grants/subsidies or other kinds of services, because often IDPs have no access to documents left behind in the homes they had to leave.

That entails building differentiated approaches into laws or regulations of a more general nature, that is to say, the inclusion of provisions making allowance for the particular situation of IDPs so as to place them on the same footing as the rest of the population with respect to access to rights. One example of a good practice would be the inclusion of a clause sparing internally displaced persons from having to comply with the administrative requirement to submit residence certificates for school enrollment.

Executive Branch

- **Adopt** such measures as are needed to guarantee effective protection of the rights of internally displaced persons. Measures that could be adopted include:
- Measures designed to guarantee family life. That entails not just guaranteeing that family members will not be separated but also ensuring that a family can be reunited. It also means guaranteeing the right of children and adolescents to have their best interest prevail in any measure adopted;
 - The elimination of administrative hurdles and priority health care for internally displaced persons, especially children and adolescents, pregnant women, older persons, and persons with disabilities;
 - The elimination of administrative hurdles and priority school enrollment for children and adolescents in an internal displacement situation;
 - The establishment of mechanisms to facilitate documentation procedures for internally displaced persons;
 - The adoption of measures to guarantee security for the property of internally displaced persons and prevent its occupation, destruction, and/or illegal appropriation;
 - Efforts to find international cooperation assistance to satisfy internally displaced persons' right to adequate housing;
 - The establishment of quick and straightforward administrative and judicial procedures to enable internally displaced persons to reclaim their possessions, property, and/or land and to find an effective way to guarantee their right to property;
 - Priority for internally displaced persons in employment and vocational training programs;
 - The development of measures designed to give internally displaced persons access to micro loans, incentives, materials, supplements, and resources for employment initiatives in urban and rural areas;
 - The identification of obstacles to IDPs' access to political rights and the crafting of solutions by the agencies responsible for electoral matters.
 - The provision of social security benefits designed and implemented to take into account the particular circumstances of internally displaced persons.

This entails, for instance, getting rid of administrative obstacles to obtaining such benefits, such as the requirement to submit a residency certificate or other type of document to which IDPs may not have access due to the circumstances of their displacement;

- **Establish and/or identify and design** an institution responsible for implementing rights protection measures.
- **Design and implement** geographically extensive outreach mechanisms for disseminating information regarding the rights of IDPs.
- **Guarantee** the allocation and execution of the financial resources needed to ensure that the rights protection measures are actually implemented and are available to as many internally displaced persons as possible throughout the country.
- **Ensure** that local governments participate from the very start of the process of designing and formulating measures designed to protect the rights of IDPs.

PROPOSED GUIDELINE 5

Inclusion of a Gender and Diversity Perspective

PRIOR CONSIDERATIONS

THE GENDER PERSPECTIVE NEEDS TO TAKE THE FOLLOWING INTO CONSIDERATION¹²²:

- The historical discrimination and gender stereotypes that have affected women, girls, and adolescents in the exercise of their rights.
- The different impact that forced internal displacement has on women, girls and adolescents.
- The added risk of violence in all its (physical, psychological, sexual, financial, obstetrical, spiritual, and other) manifestations for girls, adolescents, and women in the countries of the region.
- The fact that in some cases the cause of displacement is violence against women, girls and/or adolescents.
- The fact that most acts of violence against women, girls, and adolescents go unpunished.

THE DIVERSITY PERSPECTIVE NEEDS TO TAKE THE FOLLOWING INTO CONSIDERATION:

- The historical discrimination and stereotypes that have affected LGBTI persons in the exercise of their rights.
- The different impact that forced internal displacement has LGBTI persons.
- The added risk of violence in all its (physical, psychological, sexual, financial, obstetrical, spiritual, and other) manifestations for LGBTI persons in the countries of the region.
- The fact that in some cases the cause of displacement is violence against LGBTI persons.
- The fact that most acts of violence against LGBTI persons go unpunished.
- The specific risks to persons who have diverse or non-normative sexual orientations and gender identities and expressions, or whose bodies vary from the standard female or male body types.

Executive, Legislative, and Judicial branches

Ensure that every measure adopted to protect the rights of IDPs has a built-in gender and diversity perspective in accordance with inter-American human rights standards.

122 ACHR. Practical Guide to Reduce Pretrial Detention P. 45.

Legislative Branch

- **Ensure** that laws passed relating to the protection of the rights of IDPs incorporate a gender and diversity perspective given the different impact on these groups of the causes and circumstances of internal displacement.
- **Ensure** that the laws passed do not include provisions based on stereotypes regarding the functions and roles of women that perpetuate de facto discrimination against them and generate obstacles for the full exercise of their rights.¹²³
- **Ensure** that the laws passed provide special protection guaranteeing that the rights of women and LGBTI persons are respected in practice.

Judiciary

- **Promote** mainstreaming of a gender and diversity perspective in the treatment of women and LGBTI persons throughout judicial proceedings, getting rid of any discrimination or violence against them on the part of justice system operators.
- **Encourage** investigation, based on the due diligence principle, of complaints of gender-based or sexual orientation-based violence and promote mechanisms for preventing internal displacement.
- **Strengthen** mechanisms for punishing the perpetrators of violence against women and LGBTI persons.
- **Adopt** such measures as are needed to guarantee the safety of women, LGBTI persons, and members of their families during and after judicial proceedings.
- **Provide** training to justice system operators on the promotion and protection of the rights of women and LGBTI persons and on building those perspectives into all measures adopted in the Judiciary.

Executive Branch

- **Guarantee** that the gender and diversity perspective is a prime consideration in the design, implementation, monitoring, and evaluation of any measures adopted.
- **Ensure** that the series of situations involving discrimination and violence against women, girls, adolescents, and LGBTI persons that often result in forced internal displacement are given special consideration in any prevention and rights protection measures adopted.
- **Establish** special, priority measures to protect the rights of these groups in internal displacement situations.
- **Accord** priority to providing appropriate security for women and LGBTI persons whose displacement was triggered by violence based on their gender or sexual orientation.
- **Ensure** the incorporation of a gender and diversity perspective in the way women and LGBTI persons are treated, and get rid of any discrimination and violence by government officials.
- **Adopt** measures designed to reduce the negative impact of internal displacement on women and LGBTI persons. To that end, the Commission suggests organizing psychological and social support and sexual and reproductive health programs targeting these population groups as a priority.
- **Provide** training to government officials on the promotion and protection of the rights of women and LGBTI persons and on building those perspectives into all measures adopted, with a special emphasis on training for members of the security forces.

PROPOSED GUIDELINE 6:

Protection of Groups that have traditionally been Victims of Discrimination

PRIOR CONSIDERATIONS

A DIFFERENTIATED APPROACH INVOLVES CONSIDERING¹²⁴:

- Specific vulnerabilities.
- Factors that increase the risk of exposure to acts of violence and discrimination that may induce internal displacement: financial standing, race, ethnic origin, age, disability, country of birth, and so on.
- Frequent intersectionality of the factors mentioned, which may heighten the situation of risk to which internally displaced persons are exposed



Migrantes (Ayutla migración desplazados de Guadalupe)
Adrián Acevedo

Executive, Legislative, and Judicial branches

Adopt differentiated approaches for effective protection of the rights of IDPs pertaining to traditionally ostracized groups.

Ensure the inclusion of an intersectional and intercultural perspective that takes into consideration the possible aggravation and frequency of human rights violations due to factors such as race, ethnicity, age, country of birth, and/or economic position¹²⁵.

¹²⁴ IACHR. Practical Guide to Reduce Pretrial Detention P. 50.

¹²⁵ Ibid.

Legislative Branch

- **Ensure** that laws passed relating to the protection of the rights of IDPs incorporate differentiated approaches given the different impact on these groups of the causes and circumstances of internal displacement.
- **Ensure** that the laws passed provide special protection guaranteeing that the rights of historically ostracized groups are respected in practice.
- In all laws, **include** the principle and right of the best interest of the child as a paramount consideration in any State measure.
- **Recognize** the special relationship of indigenous persons to their land and the fact that forcing them to leave their community may place them in an especially vulnerable situation that could even trigger a blatant risk of their cultural or physical extinction.
- **Recognize** and regulate the right to prior consultation of indigenous peoples in accordance with international human rights instruments and the standards set by the Inter-American Human Rights System in this area.
- **Recognize** and regulate indigenous peoples' right to prior consultation in accordance with the international human rights instruments and the standards established by the inter-American human rights system in this area.

Judiciary

- **Promote** mainstreaming of a differentiated approach in the treatment of IDPs pertaining to historically discriminated-against groups throughout judicial proceedings, getting rid of any discrimination or violence against them on the part of justice system operators.
- **Ensure** that the principle and right to the best interest of the child is a paramount consideration in any judicial ruling that might affect the lives of children and adolescents in an internal displacement situation.
- **Investigate** with due diligence complaints of violence perpetuating or reflecting the discrimination to which these groups have historically been subjected with a view to putting an end to impunity and fostering mechanism for preventing internal displacement.
- **Provide** training to justice system operators on promoting and protecting the right of groups that have traditionally suffered discrimination and on incorporating a differentiated approach in all measures adopted by the Judiciary.
- **Guarantee** priority for and prompt resolution of cases involving IDPs pertaining to traditionally discriminated-against groups.

Executive Branch

- **Guarantee** that protecting historically ostracized groups will be a prime consideration in the design, implementation, monitoring, and evaluation of any measures adopted.
- **Ensure** that the principle and right of the best interest of the child is a paramount consideration in any State measure.
- **Ensure** that the series of situations involving discrimination and violence against these groups are given special consideration in any prevention and rights protection measures adopted.
- **Ensure** the incorporation of a differentiated perspective in the way persons pertaining to these groups are treated, and get rid of any discrimination and violence by government officials.
- **Adopt** specific protection measures that take into account the particular characteristics of indigenous peoples, as well as their customary law, values, practices, and customs to prevent and reverse the effects of internal displacement.
- **Adopt** specific measures in accordance with the standards of the IACHR to guarantee the exercise of the right to prior consultation of indigenous peoples through processes that ensure broad participation, access to information, and are of a public or state nature.
- **Adopt** specific measures in line with the standards of the inter-American human rights system to ensure the exercise of indigenous peoples' right to prior consultation through processes, whether public or State, that ensure broad participation and access to information.
- **Provide** training to government officials on promoting and protecting the right of groups that have traditionally suffered discrimination and on incorporating a differentiated approach in all measures adopted.
- **Accord** financial priority to providing care for, and protecting the rights of IDPs pertaining to historically ostracized groups.
- **Adopt** measures designed to reduce the negative impact of internal displacement on persons pertaining to these groups. To that end, the Commission suggests organizing psychological and social support and mental and gerontological health programs targeting these groups.

PROPOSED GUIDELINE 7

Humanitarian Assistance

Executive, Legislative, and Judicial branches

Adopt, in accordance with the humanitarian principles of impartiality and nondiscrimination, measures to guarantee timely, appropriate, and much needed humanitarian assistance to IDPs, including food, water, sanitation, housing, medical care, education, and other necessary social services, such as psychological and social support.

Executive Branch

- **Identify** sources of and request international cooperation, cooperation assistance from civil society organizations and other relevant actors to guarantee humanitarian assistance for IDPs.
- **Guarantee** the security and bodily integrity of the personnel responsible for delivering humanitarian assistance to IDPs.
- **Design** mechanisms for evaluating the effectiveness and impact of humanitarian assistance delivered to IDPs.
- **Ensure** that humanitarian assistance takes into consideration the age, culture, gender, and diversity of IDPs and that it is adjusted before, during, and after displacement.
- **Ensure** availability in sufficient quantity and quality, accessibility for all IDPs, acceptance by those receiving the assistance, and adaptability to changing needs at the different stages of internal displacement.
- **Ensure** that local governments participate throughout the process involved in providing humanitarian assistance to IDPs.



Executive and Judicial Branches

- **Generate** appropriate administrative and judicial mechanisms for assessing the admissibility of claims by IDPs due to obtain humanitarian assistance.
- Where admissible, **accept** claims for humanitarian assistance by IDPs and call upon the State to adopt the corresponding measures.
- **Guarantee** the safety and bodily integrity of the IDPs requesting protection and assistance, safeguarding their right not to be persecuted, tried, or punished.

PROPOSED GUIDELINE 8:

Return, Resettlement, and Local Re-integration

Executive, Legislative, and Judicial branches

Adopt measures to guarantee sustainable solutions for IDPs without discrimination that are voluntary (based on their informed consent), safe, and dignified. Such measures include return, integration into local society, and/or resettlement.

Legislative Branch

- **Adopt** a legal framework that recognized and guarantees the right of IDPs to return, to local integration or voluntary resettlement under conditions that ensure their safety and respect their dignity.

Executive Branch

- **Design** and implement programs designed to provide sustainable solutions for IDPs that should include the following (as well as other) elements:
 - Participation by the IDPs so as to take their needs and opinions into account;
 - Participation by civil society organizations working to promote and protect the rights of IDPs and by national human rights institutions, human rights procurators, or ombudspersons;
 - Development of clear decentralization policies that allow for participation by local governments so as to ensure complementarity, consistency, and subsidiarity. Coordinate program implementation and evaluation efforts;
 - Execute programs with regional and international cooperation, when it is needed;
 - Guarantee the free and informed consent of the IDPs to decisions regarding any possible solutions they may be offered;
 - Ensure sustainable conditions for safety and dignity;
 - Engage in awareness-raising activities with the host community so as to avoid discrimination, stigmatization, or violation of IDPs' rights;
 - Provide legal counseling for IDPs regarding any solutions they are offered;

- Guarantee access to economic integration programs, access to jobs, income generation, and vocational training;
- Promote micro-credit programs to guarantee economic stability;
- Promote housing subsidies;
- Guarantee access to land and land titling;
- Guarantee access to psychological and social support programs;
- Establish mechanisms for disseminating information regarding the programs so that IDPs get to hear about them.

→ **Guarantee** mechanisms to enable IDPs, should they so wish, to obtain international protection abroad.

→ **Design** mechanisms for monitoring and evaluating measures adopted. Such mechanisms need to consider:

- The preparation of periodic monitoring reports containing quantitative and qualitative information indicating whether obstacles to access to rights by IDPs have diminished or not;
- The preparation of periodic monitoring reports containing quantitative and qualitative information indicating whether any inequality gaps detected when the problem was defined have diminished or not;
- The conducting of IDP satisfaction surveys or other evaluation tools for ascertaining IDPs' perceptions;
- Use of the information derived from claim and complaint mechanisms as a basis for evaluating the extent to which the policy is working;
- Consultations or other participatory mechanisms with relevant social actors to monitor and evaluate the policy;
- An evaluation process with social participation capable of assessing the effectiveness of the policy for the realization of rights and for reducing inequality gaps;
- The dissemination of information regarding the evaluation of the policy in a readily available, user-friendly, and easy-to-understand format for the actors involved.

→ **Ensure** that local governments participate from the very start of the process of designing and formulating public policies and/or programs for the return, resettlement, and local reintegration of IDPs.

Judiciary

→ **Among** the reparation measures that may be established in connection with judicial proceedings and pursuant to inter-American human rights standards, rule on the obligation of States to offer sustainable solutions for IDPs.

PROPOSED GUIDELINE 9:

Access to Justice and Reparation Measures

Executive, Legislative, and Judicial branches

Adopt measures to guarantee effective access to justice and other reparation measures for IDPs, without discrimination and under conditions that safeguard their dignity and safety.

Legislative Branch

- **Adopt** laws establishing appropriate judicial and administrative remedies for the protection of IDPs' rights and their access to reparation.
- **Establish** an effective legal framework for providing fair and equitable compensation and other forms of reparation, where applicable, for IDPs, for the violation of their rights and damages incurred as a result of displacement.
- **Guarantee** the autonomy and independence of national human rights institutions/human rights procurators and consolidate them as key players for receiving complaints and seeking solutions and effective reparation for IDPs.

Executive Branch

- **Ensure** that adequate judicial and administrative remedies exist and are complied with for the protection of IDPs' rights, along with access to reparation measures and fair and effective means of compensation.
- **Ensure** the existence of, and access to, cost-free, fast, simple, safe, administrative channels for filing claims, that IDPs know about, so that they can use them to demand protection of their rights under displacement circumstances.

- **Guarantee** compliance with the administrative and judicial measures calling for steps to be taken to make reparation to IDPs.
- **Espouse** a policy of comprehensive reparation for the victims of forced internal displacement that includes, inter alia, the following:
 - A variety of measures, such as, restitution, compensation, rehabilitation, satisfaction, and non-repetition guarantees;
 - The participation by and consultation with IDPs in the crafting of the policy;
 - Incorporation of a human rights perspective in the whole public policy cycle: design, implementation, monitoring, and evaluation;
 - Participation by the IDPs throughout the reparation measure processes;
 - Identification of the State institution responsible for implementing the reparation measures and adopting institution-building measures;
 - The corresponding budget appropriation to guarantee effective implementation of the reparation measures.
- **Guarantee** the autonomy and independence of national human rights institutions, human rights procurators, or Ombudspersons and consolidate them as key players for receiving complaints and seeking solutions and effective reparation for IDPs.



El jale (Tapanatepec, Istmo, Oaxaca) / Carlos Hernández



Asomados (Nitepec, Istmo, Oaxaca) / Carlos Hernández

Judiciary

- **Guaranteeing** the admissibility of the complaints filed by IDPs for the protection of their rights.
- **Investigate** with due diligence the complaints filed regarding the violence and human rights violations that may have triggered internal displacement.
- **Hand down** judgments based on international human rights law and in accordance with the obligations entered into by States to respect the human rights of IDPs. Incorporate international standards and the standards of the inter-American human rights system into the analysis and settlement of cases.
- In judicial decisions, **take into consideration** the particular circumstances of IDPs and the need to prioritize the protection and assistance measures adopted by the State.
- **Incorporate** the gender, diversity, and differentiated approaches in all judicial rulings so as to provide effective protection of the rights of IDPs pertaining to groups that have historically been victims of discrimination.
- **Expedite** the punishment of those responsible for violating the rights of IDPs and for committing the crimes that caused the internal displacement.
- **Adopt** such measures as are needed to guarantee the safety of IDPs and members of their families during and after judicial proceedings.
- **Provide** training for justice system operators on promoting and protecting the rights of IDPs and on the obligations entered into by States by virtue of international human rights treaties.
- **Guarantee** reparation measures that include fair and equitable compensation for the damage done by internal displacement.
- **Instruct** the Executive to take such measures as are needed to guarantee reparation for damages and to protect the rights of IDPs.

PROPOSED GUIDELINE 10:

Social Participation

Executive, Legislative, and Judicial branches

Guarantee the broadest and most effective participation possible by civil society organizations and social and community actors working on internal displacement issues, internally displaced persons, and national human rights institutions in the process of formulating, implementing, monitoring, and evaluating policies and/or programs to protect the rights of IDPs.



Migrantes (Ayuda migración desplazados de Guadalupe)
Adrián Acevedo

Legislative Branch

- **Recognize** the right to social participation and the State's obligation to provide appropriate mechanisms to that end and guarantee that right in the corresponding legal frameworks.
- **Safeguard** the autonomy and independence of national human rights institutions, human rights procurators, or Ombudspersons so that they can perform their functions and exercise their competencies for promoting and protecting the rights of IDPs.

Executive Branch

- **Design**, together with civil society organization, mechanisms for effective social participation in the whole process of formulating, implementing, monitoring, and evaluating policies and/or programs for IDPs.
- **Establish** procedures for evaluating the participation mechanisms in order to verify their effectiveness in the eyes of the protagonists and correct and/or adjust them as necessary depending on the findings.
- **Guarantee**, through credible means, that the views of IDPs and of the civil society organizations participating in those processes are taken into account. This can be reflected in the modifications or contributions made to the design, implementation, monitoring, and evaluation of the policies.
- **Allocate** financing for the implementation of the social participation mechanisms.
- **Ensure** that the mechanisms incorporate the gender, diversity and differentiated approaches so as to ensure effective participation of traditionally ostracized groups.
- **Promote** dialogue and debate between the State and civil society to draw attention to internal displacement issues and engage in a joint quest for solutions.
- **Guarantee** the safety and dignity of the IDPs who decide to participate in these processes.
- **Promote** a safe environment in which human rights defenders are empowered to freely exercise their right to defend human rights, by guaranteeing, within the jurisdiction of the State, all the rights needed for them to go about their work .¹²⁶

Judiciary

- **Ensure** the participation of IDPs in judicial proceedings under safe and dignified conditions.
- **Instruct** the Executive, in the reparation measures established in connection with judicial proceedings, to accept the right to participation of IDPs so that they can assert their views and interests in the implementation of solutions.

¹²⁶ IACHR. Report "Toward a Comprehensive Policy for the Protection of Human Rights Defenders." P. 188

PROPOSED GUIDELINE 11:

Sustainability and Budget

Executive, Legislative, and Judicial branches

Guarantee the budget appropriations and execution needed to sustain the institutional framework and public policies for protecting the rights of IDPs.

Legislative Branch

- **Pass** a law formally allocating the budgetary appropriations needed for the policies and institutions responsible for protecting the rights of IDPs.
- **Ensure** that budget finance laws include an allocation for policies to protect the rights of IDPs.

Executive Branch

- **Guarantee** the budgetary appropriations and execution needed for the policies and institutions responsible for protecting the rights of IDPs.
- **Ensure** that budgetary appropriations and execution encompass all stages of public policy formulation, namely from diagnostic assessments of the situation through to design, execution, monitoring, and evaluation.
- **Develop** a strategy for finding funds to support the State's endeavors and ensure that the measures it adopts are sustainable.
- **Identify** external sources of financing and strive to reach the agreements needed to receive international cooperation funds.

Judiciary

- Via judicial reparation measures, guarantee budgetary execution measures to protect the rights of IDPs.
- In connection with judicial proceedings, urge the Executive to apply the resources assigned for the adoption of sustainable solutions.

PROPOSED GUIDELINE 12:

Regional and International Cooperation

Executive, Legislative, and Judicial branches

Strive to reach regional and international cooperation agreements for the promotion and protection of the rights of IDPs.

- **Devise** a regional and international cooperation strategy in support of national efforts geared to finding regional solutions.
- **Identify** cooperation agencies that promote and protect human rights with a view to requesting the technical assistance needed to that end.
- **Identify** public institutions in other countries in the region with a view to coordinating joint responses to a problem that requires solutions coordinated among countries of origin, transit, and destination.
- **Identify** best practices in countries in other regions with a view to fostering the sharing of experiences and evaluating technical cooperation options.
- **Promote** meetings of the countries in the region in order to share diagnostic assessments, best practices, information about hurdles to be overcome, and the different experiences acquired with regard to solutions for forced internal displacement.

CHAPTER 5
CONCLUSIONS

CONCLUSIONS

143. Pursuant to the mandate envisaged in Article 41 of the American Convention and Article 106 of the OAS Charter to advise States on human rights matters, the Inter-American Commission has decided to draft this document, the chief purpose of which is to offer guidelines for formulating public policies regarding forced internal displacement.
144. Over the past few years, the IACHR has monitored through various mechanisms the increased volume of internal displacements in the countries of the so-called Central American Triangle (El Salvador, Guatemala, and Honduras), mainly as a result of the violence associated with gangs and drug-trafficking cartels, but also, in some cases as a result of actions taken by State agents, all of which violated the human rights of today's displaced persons.
145. The IACHR has also observed how a growing practice has evolved of forcible evictions that result in the internal displacement of indigenous and peasant communities and devastating impacts on their rights.
146. Nevertheless, despite this human rights problem, States still have a long way to go, ranging from official recognition of forced internal displacement though to the adoption of effective measures to prevent the root causes and respond to the need to protect rights during and after displacement.
147. Accordingly, to collaborate with the efforts being made by States, human rights institutions, and civil society organizations to draw attention to the problem and enhance protection of the rights of internally displaced persons, the Commission prepared this document putting forward recommendations that might serve as guidelines for action to be taken by States.
148. The IACHR is convinced that the inter-American system can play an important role in attacking the structural root causes that trigger, exacerbate, and foster the violation of fundamental rights and inequalities, such as those reflected in the forced internal displacement of persons.
149. For that reason, the IACHR makes this document available to States, civil society organizations, and other stakeholders. It presents a set of guidelines that seek to translate the major inter-American standards regarding State

obligations into recommendations for formulating public policies to protect the human rights of internally displaced persons.

150. Finally, the IACHR reiterates its will and readiness to provide technical cooperation to States, regional agencies, civil society organizations, and other institutions for the purposes of institution building and the formulation, implementation, and evaluation of public policies on strengthening and observing the human rights of internally displaced persons, based on the inter-American standards that govern such matters.