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The Brookings-SAIS Project on
Internal Displacement

**Representative of the Secretary-General on
Internally Displaced Persons**

REGIONAL SEMINAR ON INTERNAL DISPLACEMENT IN THE AMERICAS

**MEXICO CITY, MEXICO
FEBRUARY 18-20, 2004**

Co-sponsored by:

The Government of Mexico Ministry of Foreign Affairs

**The Office of the Representative of the United Nations
Secretary-General on Internally Displaced Persons**

**The Brookings Institution-Johns Hopkins SAIS
Project on Internal Displacement**

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THE BROOKINGS INSTITUTION – SAIS PROJECT ON INTERNAL
DISPLACEMENT

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Introduction

A regional seminar on internal displacement in the Americas was convened from 18 to 20 February 2004 in Mexico City, Mexico, hosted by the Government of Mexico and co-sponsored by the Office of the Representative of the United Nations Secretary General on Internally Displaced Persons (IDPs) and the Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement. It was the first regional seminar of its kind to focus on internal displacement in the Americas.

The purpose of the seminar was to examine current trends in internal displacement in the region and the national, regional, and international response. More than sixty persons participated, including representatives of the Governments of Colombia, Guatemala, Mexico, and Peru; parliamentarians; representatives of national human rights institutions (NHRIs); local and international non-governmental organizations (NGOs); the United Nations (UN); the World Bank; regional bodies; leaders of internally displaced communities; and experts from research institutions.

The seminar produced *A Framework for Action* which outlines sixteen points for improved national response to internal displacement in the region, as well as steps that could be taken at the regional and international levels to support the effective fulfillment of national responsibility. The *Agenda*, *List of Participants*, and *Background Paper* are provided in Appendices A, B, and C.

Opening Session

Welcoming Remarks:

Thierry Lemareshquier, UN Resident Coordinator in Mexico

Francis M. Deng, Representative of the United Nations Secretary-General on Internally Displaced Persons

Luis Ernesto Derbez Bautista, Secretary of Foreign Affairs of Mexico

Thierry Lemareshquier commended the Government of Mexico, the UN, and the Brookings-SAIS Project for convening the seminar and noted that it presented a unique opportunity for all those assembled to work together towards finding solutions to internal displacement in the region. He drew attention to the *Guiding Principles on Internal Displacement*,¹ which articulated the rights and specific protection, assistance, and reintegration needs of internally displaced persons. The UN gave an important place to human rights issues in the Millennium Declaration, which specifically referenced IDPs and the implementation of their rights.² One of the objectives of the UN was to build strong institutions in each country for the protection of human rights, including to address the problem of internal displacement.

¹ UN Doc. E/CN.4/1998/53/Add.2, Hereafter the *Guiding Principles* or *Principles*. The *Principles* were developed by the Representative of the UN Secretary-General on Internally Displaced Persons and a team of legal experts and presented to the United Nations in 1998.

² On 8 September 2000, more than 150 heads of state adopted the "United Nations Millennium Declaration," which states in Chapter VI, Article 26: "We resolve therefore...to strengthen international cooperation, including burden sharing in, and the coordination of humanitarian assistance to, countries hosting refugees and to help all refugees and displaced persons to return voluntarily to their homes, in safety and dignity and to be smoothly reintegrated into their societies."

Recalling the official visit of the Representative of the UN Secretary-General on IDPs (RSG) to Mexico in 2002, Mr. Lemaresquier underscored the UN country team's willingness to assist the Government of Mexico in carrying out the recommendations made in his report. An analysis of the human rights situation in Mexico produced by the Office of the UN High Commissioner for Human Rights (OHCHR) in 2003 recognized IDPs as a vulnerable group and included a series of recommendations to address their plight.³ The UN was currently working with the Government of Mexico to translate these recommendations into practical action.

Francis M. Deng, Representative of the UN Secretary-General on Internally Displaced Persons, began by noting that his mission to Mexico had been a constructive one, of which this seminar was a direct outcome. He expressed appreciation to the Government of Mexico for hosting the meeting and welcomed its interest in developing regional strategies. Dr. Deng emphasized that the problem of internal displacement was first and foremost the responsibility of the government concerned. However, because situations of internal displacement often spilled over borders and could be destabilizing to neighboring countries, the next level of responsibility was regional.

The seminar, he explained, was part of a series of country and regional seminars supported by his mandate and the Brookings-SAIS Project on Internal Displacement which aimed to increase awareness of internal displacement, develop strategies based on the *Guiding Principles*, and foster dialogue among governments, civil society, regional organizations, and international agencies. As with other seminars, this meeting would use the *Guiding Principles* as a framework for addressing the problems of internal displacement. In this connection, Dr. Deng acknowledged with appreciation the presence of Professor Robert Goldman, formerly Chair of the Inter-American Commission on Human Rights and its former Special Rapporteur on IDPs, as one of the leading members of the legal team that had developed the *Guiding Principles*. He also recognized the presence of a number of IDPs and IDP leaders, pointing out their resilience and determination to have their voices heard.

Luis Ernesto Derbez Bautista, the Secretary of Foreign Affairs of Mexico, extended a welcome to all the participants on behalf of the Government of Mexico. He explained that the seminar was a direct result of the RSG's official visit to Mexico, during which the

"Today the problem of internal displacement is no longer limited to situations of armed conflict. It is also caused by racism, intolerance and discrimination, and has very serious economic, political, cultural, and humanitarian consequences for the displaced. The vulnerability of internally displaced persons and the frequent human rights violations experienced by them impose a clear obligation on all of us – and in particular on governments – to give priority to assisting them."

Secretary of Foreign Affairs, Mexico

idea for organizing such a regional meeting had first been discussed. While addressing the problem of internal displacement at the national level, the seminar also sought to understand the problem in its regional context and benefit from an exchange of ideas among actors in the region engaged with this issue. In this regard, Mr. Derbez Bautista noted with appreciation the presence

³ *Diagnóstico Sobre La Situación de Los Derechos Humanos En México*, Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en México.

of representatives from the Governments of Colombia, Guatemala, and Peru, representatives of national human rights institutions, academics, as well as members of civil society from throughout the region.

In the Americas, he noted, that while the problem of internal displacement was often the result of armed conflict, it also had its roots in racial and religious discrimination and intolerance and, further, was commonly a consequence of economic and other hardships. He pointed out that the vulnerability of IDPs especially as regards protection, necessitated greater governmental responsibility to address their needs. Mr. Derbez Bautista emphasized that the *Guiding Principles* were one of the main elements that should be used to address the protection, assistance, and development needs of IDPs, and indicated that the Government of Mexico was committed to make use of the *Principles* in responding to internal displacement. Overall, he stressed the importance of building upon the RSG's recommendations and working in partnership with his mandate.

Global Overview of Internal Displacement

Moderator:

Merida Morales O'Donnell, Regional Representative, UN High Commissioner for Refugees (UNHCR)

Presenter:

Francis M. Deng, Representative of the United Nations Secretary-General on Internally Displaced Persons

Dr. Deng presented a global overview of the problem of internal displacement. As a crisis of worldwide proportions, it affected an estimated 25 million people in more than 50 countries, of whom 3.3 million were in Latin America. While the number of internally displaced in the Americas region was small compared to the rest of the world, this by no means diminished the significance of their plight. Displaced persons in the Americas were regularly exposed to gross human rights violations, generally lacked physical security, and were unable to meet their own subsistence needs. Women and children as well as indigenous peoples, minorities, and the rural poor were disproportionately affected and were particularly vulnerable during displacement. Since IDPs do not cross internationally recognized borders, they tended to fall through the cracks of international protection and assistance regimes.

The mandate of the RSG sought to assist IDPs through a combination of awareness-raising, advocacy, dialogue with governments, and policy-oriented research. As part of this endeavor, the *Guiding Principles* were developed to provide a normative framework for addressing internal displacement in all its phases – protection from arbitrary displacement, protection and assistance during displacement, and protection during return or resettlement and reintegration. Countries across the Latin American region were using the *Guiding Principles* as a basis for policy and law.

In Colombia, the Government had made particular efforts to strengthen its legal framework with regard to internal displacement. However, there continued to be significant gaps in the implementation of government programs and policies. The UN High Commissioner for Refugees (UNHCR) recently underlined the lack of national and international visibility of the Colombian displacement issue, the third largest IDP situation in the world. Early warning mechanisms, furthermore, had failed to be followed by adequate measures to protect the displaced and other

civilians, whose physical security was under threat. Living conditions also tended to be poor, with a serious lack of income opportunities and education. Currently, the emphasis in Colombia was on promoting the return of displaced persons to their places of origin. However, care should be taken to ensure that this process was voluntary and occurred in conditions of safety and dignity. Alternative solutions needed to be created for those who chose not to return. The RSG noted with concern that a disproportionate number of IDPs in Colombia were from Afro-Colombian and indigenous communities, who were already marginalized and faced additional obstacles during displacement. In addition, more efforts needed to be made to protect IDP leaders and those working on their behalf. Strong partnerships would be required among national authorities, international organizations, NGOs, and leaders of the displaced.

With regard to Mexico, Dr. Deng noted that those displaced by the Chiapas conflict continued to face widespread malnutrition, lack of access to drinking water and education, as well as insufficient economic opportunities. Many also feared for their safety. He commended the Government for being open about this issue and engaging constructively in developing an effective response. Of particular note, the Government was undertaking to develop new legislation on the issue of internal displacement and to put in place mechanisms for fostering inter-agency coordination. At the same time he drew attention to the fact that displaced persons in the so-called “autonomous communities” remained outside the reach of the Government and faced a critical shortfall in assistance especially now that the International Committee of the Red Cross (ICRC) had ended its activities in these areas.

In Peru, the dissipation of the armed conflict and the establishment of a democratically-elected government opened up the possibility of return for many displaced persons. Insufficient reintegration assistance, however, was hampering the return process. Moreover, a number of displaced persons chose not to return, but to resettle in urban areas, where they were not eligible for reintegration assistance but remained in need. Similar problems persisted in Guatemala.

At the regional level, Dr. Deng welcomed the fact that the *Guiding Principles* had become an important vehicle for response to internal displacement. The Inter-American Commission on Human Rights of the Organization of American States (OAS) had been particularly active in this regard. In 1996, it designated a Special Rapporteur for IDPs – a first for a regional organization. The Rapporteur had actively used the *Guiding Principles* in monitoring and reporting efforts. In addition, the Commission had endorsed the *Guiding Principles* as an authoritative guide to international law relevant to internal displacement and used the *Principles* as a benchmark to evaluate IDP conditions in specific countries.

“We can work collectively to bridge the gap that currently exists between the standards set forth in the Principles and the realities faced by the internally displaced in the region.”

The Representative of the UN Secretary-General on IDPs

In the discussion, participants welcomed the RSG’s emphasis on the importance of the *Guiding Principles* and other relevant norms and standards with regard to the legal protection of IDPs, and pointed out that the *Guiding Principles* were a fundamental tool in the search for solutions to internal displacement.

NGOs from Colombia drew attention to Law 387 of 1997, which reflected the *Guiding Principles*, but was nonetheless problematic as it had been developed without the consultation of affected communities and was not accompanied by the necessary political will to ensure its implementation. Another key concern was the killing, persecution, and stigmatization of IDP leaders as well as the lack of security for those engaged in humanitarian and human rights work. To give greater focus to these problems, NGOs from Colombia requested that the RSG undertake a follow-up mission to the country to analyze the current displacement situation firsthand. With regard to Peru and Guatemala, some participants noted the similarities between the displacement situations in the two countries. In both cases, property restitution and reparation for IDPs were issues that needed to be addressed. In this connection, the Inter-American Court of Human Rights was suggested as a possible mechanism at the regional level. It was also pointed out that IDPs in these two countries did not always have access to basic protection.

In the view of many participants, there was a lack of political will and economic resources to address internal displacement in the region. Dr. Deng underscored that since displacement was an internal issue, it implied national responsibility and accountability requiring a state to devote its resources to its citizens during situations of internal displacement. When a state was unable to fulfill its obligations to its citizens, it was expected to ask for the assistance of the international community. On the whole, he urged participants to utilize the seminar to develop improved strategies to address internal displacement in the region.

Internal Displacement in the Americas

Moderator:

Guillermo Bettochi, Senior IDP Advisor, OCHA IDP Unit

Presenters:

Greta Zeender, Senior Information Officer and Trainer, Global IDP Project, NRC

Jorge Rojas, President, Consultancy for Human Rights and Displacement (CODHES), Colombia

Reynaldo German Martinez Velasco, Colegio de la Frontera Sur, Mexico

Rosa Lia Chauca, National Coordinator, Mesa sobre Desplazamiento y Afectados por Violencia Politica (MENADES), Peru

Out of a total of approximately 3.3 million IDPs in the region, presenters noted with concern that some 3 million were displaced in Colombia, and that of this number, 175,000 were newly displaced in 2003.⁴ Although Colombia had the largest number of IDPs in the region, the difficulties faced by IDPs in the other countries in the region also were of concern.

Too often, it was pointed out, the plight of IDPs in the Americas had been overlooked or given insufficient attention. One reason was that many of the IDPs were difficult to distinguish from other homeless and landless populations. Indeed, it was suggested that because IDPs had come to urban areas as a direct result of conflict but also in search of better economic opportunities, it

"Hundreds of thousands of displaced people in Latin America have escaped attention, as they blend with other urban poor or are viewed as economic migrants."

Global IDP Project, Norwegian Refugee Council

⁴ Figures stated are unofficial estimates.

was increasingly difficult to distinguish them from economic migrants. However, the specific needs of IDPs set them apart from the urban poor, in particular land compensation or restitution, the desire to return home, and psychological trauma from their displacement. In Guatemala and Peru, where conflicts had either dissipated or effectively ended, many longer-term IDPs continued to lack durable solutions and lived in extreme poverty. Moreover, many of these IDPs were victims of deep-rooted discrimination and marginalization, exacerbating their plight. These “invisible IDPs” often faced difficulties in accessing government assistance, employment, health care, and education because they lacked official registration and identity documents.

Several factors contributed to the difficulty of assessing the numbers and location of IDPs in the Americas. First, few surveys and analyses were conducted during the height of the conflicts to determine the full magnitude and character of the displacement. Furthermore, the displaced, out of fear of attack or stigmatization, frequently chose not to register with authorities. In prolonged situations of displacement, the occurrence of multiple displacements, return movements, and demographic changes in the displaced population had complicated the gathering of accurate information.

Guatemala. The case of Guatemala illustrated some of the challenges that arose in protracted situations of displacement. The Government of Guatemala as well as UN agencies claimed that there were no longer any IDPs in the country. Indeed, the Government asserted that persons who were displaced were now in the same situation as the rest of the population, who were facing extreme poverty. However, Guatemalan NGOs, researchers, and some UN officials found that there might still be as many as 250,000 internally displaced in the country. These IDPs, who mainly lived in cities, still lacked a durable solution, as they had not managed to regain their lands and return, nor had they been able to successfully reintegrate elsewhere.

Colombia. Presenters at the meeting pointed out that although there had been a decrease in the overall number of internally displaced this past year, the information could be misleading. In particular, it masked a new phenomenon -- restricted movement. In some places people could *not* flee because of the practice of “confinement” employed by armed groups, in particular paramilitary forces. At the same time, the Government’s “democratic security” policy was reported to fuel further displacement as well as stigmatization of the displaced who were often suspected of being sympathizers of armed groups. Once uprooted, security problems discouraged many IDPs from registering with authorities, making it difficult to estimate their true number in the country. Moreover, Colombians compelled to flee because their crops and communities were being fumigated were not officially recognized as internally displaced. A lack of attention by the media due to the fatigue deriving from the protracted nature of the conflict further added to the lack of national visibility of the problem. Participants noted that the institutional capacity in Colombia was not sufficient to take care of the displaced and that the basic protection and assistance standards were further deteriorating. Moreover, participants stressed the need to revise the Government’s policy of return, so as to guarantee that returns were voluntary and that adequate security and protection were provided throughout the process of return. The suggestion was made that an international conference on the humanitarian situation in Colombia should be convened.

Mexico. In Mexico, the fact that there still existed little information about displacement in the State of Chiapas was attributed to a lack of interest and attention to the issue. Researchers and NGOs from the region explained that a history of expulsions and a record of religious intolerance between Catholics and Protestants in Chiapas had led to the current state of displacement. However, displacement in Chiapas only began to be documented relatively recently and, therefore, it had been difficult to accurately assess the number of the displaced. The numbers available were mere estimates and varied according to sources. There was also a need for disaggregated data in order to better understand and address the needs of specific groups of IDPs, in particular women and children. It was suggested that gaps in knowledge hindered the identification of appropriate solutions. A dialogue recently had been initiated between the Government and civil society with the purpose of filling in these gaps and working out how best to respond to internal displacement. In addition, it was recommended that the Government of Mexico consider developing a public policy on IDPs based on the *Guiding Principles*. The policy should be developed with the aim of effectively resolving the displacement situation by addressing the causes of displacement, including marginalization and discrimination, and assessing the needs of the displaced.

Peru. With regard to Peru, nine years after the RSG's visit in 1995, representatives from the country noted that the situation of IDPs had changed very little. IDP needs continued to be unmet and many lived in conditions of extreme poverty and social marginalization. Although state programs were developed for providing reconstruction assistance and documentation to returnee populations, only eight percent of IDPs reportedly received this assistance. In fact, most IDPs returned on their own, without any assistance, or with limited support from NGOs. Moreover, return had not been durable as IDPs frequently returned to their previous areas of refuge during times of insecurity or for economic reasons. In addition, IDPs still experienced difficulties in obtaining official documentation, which was critical for accessing public services and their rights. Therefore, although the conflict had ended, in many areas IDPs continued to have particular needs related to their displacement and still required durable solutions to their plight.

In the discussion, it was stressed that IDPs in Peru deserved recognition as victims of human rights violations who, in keeping with the findings and recommendations of the Truth and Reconciliation Commission, should be given compensation, including for lost property. Participants also felt that there was a need to address the root causes of the political and social exclusion faced by IDPs. Several drew attention to the need for resources to be funneled to local governments to enable them to address displacement. It was noted that there were areas in Peru where low-intensity conflicts and coca eradication were provoking new displacement requiring solutions. Finally, it was noted that civil society, together with members of Congress, were promoting the development of a law on internal displacement. Building on the RSG's encouragement of this initiative, it was suggested that he also send a letter to the President of Peru supporting the promulgation of such a law.*

* The RSG subsequently wrote President Toledo, and on May 19, 2004 President Toledo promulgated a law on internal displacement. (For text of the law, contact the Brookings-SAIS Project on Internal Displacement.)

At the same time, law alone was not the solution. In the case of Colombia, civil society representatives pointed out that although a national legal framework had been set up to protect IDPs, this was done without sufficient input by IDPs or an adequate knowledge of their situation. Moreover, lack of implementation of legislation was a problem that plagued the provision of adequate assistance and protection to the displaced in the region.

Participants urged that the particular needs of IDPs be taken into account in the design of government programs. In Guatemala, Mexico, and Peru, Governments and international organizations had opted for a holistic approach focusing on general poverty reduction without treating the displaced as persons with particular needs and vulnerabilities. These needs, therefore, often went unaddressed.

Displacement, participants emphasized, implied not only geographic movement but also the crossing of cultural, racial, and language lines, which introduced additional risks and vulnerabilities. At the same time, displacement should be seen as a dynamic process in which displaced persons acquired new ideas and knowledge throughout the different stages of their displacement. Greater efforts should be undertaken not only to address the plight of IDPs but also to give them a role and a voice in this process.

The Guiding Principles on Internal Displacement: Their Application in the Americas

Moderator:

Robert Goldman, Professor of Law, Washington College of Law of American University, and former Chair, Inter-American Commission on Human Rights, OAS

Presenters:

Roberta Cohen, Senior Fellow at The Brookings Institution and Co-Director, The Brookings-SAIS Project on Internal Displacement

Catherine Bouley, Colombian Commission of Jurists

Juan Gonzalez Esponda, Comisionado para la Reconciliacion de las Comunidades en Conflicto, Gobierno de Chiapas

Presenters discussed the application in the Americas of the *Guiding Principles on Internal Displacement*, the first international standards for IDPs. The *Principles* brought together the relevant provisions of international humanitarian and human rights law and analogous refugee law applicable to the needs of IDPs, and set forth the rights of the displaced and the responsibilities of governments, non-state actors, and the international community toward these populations. They were comprehensive in scope, covering all phases of displacement and taking into account the full range of rights that IDPs should enjoy. They defined protection broadly covering both subsistence rights, or the rights to food, medicine, and shelter, as well as the right to personal security and civil and political freedoms. It was noted that although the *Guiding Principles* were not legally binding, they had gained significant international standing and authority, and enjoyed wide acceptance because of their consistency with international humanitarian and human rights law. The Inter-American Commission on Human Rights called them an “authoritative guide” for the work of governments, international organizations, regional bodies, and non-governmental groups with IDPs. Unanimously adopted UN resolutions also referred to the *Guiding Principles* as “a standard” and “an important tool.” UN resolutions

further noted that an increasing number of states, UN agencies, and regional and non-governmental bodies were making use of the *Principles*, and called for their wide dissemination and application.

The *Guiding Principles* were proving to be an effective tool in six main ways:

- As a monitoring tool -- to measure conditions on the ground for IDPs.
- As a guide for governments in the development of national laws and policies on internal displacement. Indeed, several governments around the world now use the *Principles* as a framework for policy and have incorporated them directly into their laws. The initiative undertaken by a number of governments to train their military in the *Principles* was highlighted as particularly important since the military often had contact with IDP populations on the ground.
- As a tool for advocacy and dialogue with national authorities. IDP leaders found the *Guiding Principles* to be a valuable instrument for voicing their concerns to government representatives for better conditions.
- As an effective empowerment tool. Knowledge of the *Guiding Principles* enabled displaced persons to know their rights and thereby better address their own plight.
- As an authoritative guide for interpreting the law as it relates to IDPs. UN treaty bodies, which monitor government compliance with international human rights agreements, have begun to cite the *Guiding Principles* as a relevant source of law in making decisions on particular cases. At the regional level, the Inter-American Commission on Human Rights considered the *Guiding Principles* a guide on how the law should be interpreted. In Colombia, the constitutional court had based two decisions regarding forced displacement on the *Guiding Principles*.
- As a tool for holding non-state actors accountable. Because they are largely drawn from international humanitarian law they can be applied to non-state actors.

“The Commission welcomes and fully supports these Guiding Principles. As the most comprehensive restatement of norms applicable to the internally displaced, the Guiding Principles will provide authoritative guidance to the Commission on how the law should be interpreted and applied during all phases of displacement.”

Inter-American Commission on Human Rights, 1998

In sum, the *Guiding Principles* could be used “in many creative and valuable ways to improve how IDPs are perceived and treated.” To facilitate their use, a *Handbook for Applying the Guiding Principles*⁵ had been published. Government officials, lawyers, and parliamentarians

⁵ *Handbook for Applying the Guiding Principles on Internal Displacement*, Brookings Project on Internal Displacement and the Office for the Coordination of Humanitarian Affairs (OCHA), 2000.

were also finding the *Annotations*⁶ to the *Principles* useful, as this publication listed the laws and other instruments upon which each Principle was based. In addition, local groups in a number of countries had developed educational materials based on the *Guiding Principles*, which they adapted to local conditions.

In the discussion, participants agreed that the *Guiding Principles* provided useful guidance on which to base responses to internal displacement. Particular emphasis was placed on the importance of incorporating the *Guiding Principles* into national policy and law. In this connection, the Government of Colombia was commended for its use of the *Guiding Principles* in national legislation, with special mention made of the 1999 Plan of Action and the 2002 Constitutional Court decision which ruled that forced displacement was contrary to national law. However, participants reiterated that legislation and policy alone were insufficient, and that there was an urgent need to bridge the gap between the existence of laws and policies and their effective implementation. The international community, it was suggested, could play a critical role in encouraging the compliance of governments with the *Principles*, and in this connection, the RSG was again urged to undertake a follow-up visit to Colombia.

In the case of Mexico, Government representatives indicated that the visit of Dr. Deng had stimulated them to become more active in addressing internal displacement and to develop policies based on the *Guiding Principles*. The Government of the State of Chiapas, for instance, had used the *Guiding Principles* to guide the process of reintegration of IDPs into their places of origin. Moreover, the Government of Mexico was also undertaking efforts at the national level to develop legislation and policy which incorporated the *Guiding Principles*.

With regard to dissemination, participants noted that despite a number of outreach efforts, there remained a lack of knowledge of the *Guiding Principles*, especially among government officials, the military, and police. There was an urgent need for training in the *Guiding Principles* for national and municipal authorities, and military and police who were expected to protect IDPs but often did not have sufficient awareness of IDP rights. In Colombia, training of the military in IDP rights could help raise awareness of the distinction between combatants and non-combatants and aid in countering the view that displaced communities were rebel sympathizers and thereby legitimate targets. Promotion of the *Principles* among parliamentarians was also needed to encourage greater attention to IDP rights in law. In addition, mass public awareness campaigns about the *Guiding Principles* were recommended to sensitize the general public to the plight of IDPs and help counteract the stigma that IDPs suffered in Latin America. Moreover, greater outreach efforts were required with the IDP populations themselves to make them more aware of their rights and to encourage their own mobilization campaigns. In this connection, the Brookings-SAIS Project on Internal Displacement announced that it planned to organize meetings of IDP leaders around the world to allow for an exchange of ideas and promote networks of communication.

⁶ *Guiding Principles on Internal Displacement: Annotations*, by Walter Kälin, American Society of International Law (ASIL), and the Brookings Project on Internal Displacement, *Studies in Transnational Legal Policy*, No. 32, June 2000.

Protection and Assistance of the Displaced: The Particular Concerns of Ethnic Groups

Moderator:

Jorge Rojas, President, Consultancy for Human Rights and Displacement (CODHES), Colombia

Presenters:

Xochitl Galvez, Directora General de la Comisión Nacional para el Desarrollo de los Pueblos Indígenas, Mexico

Rodolfo Stavenhagen, United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People

Marino Cordoba Berrio, Founder and Director of International Affairs, Association for Internally Displaced Afro-Colombians (AFRODES), Colombia

Indigenous and ethnic groups, it was emphasized, were disproportionately affected by displacement in the Americas. Their social marginalization, moreover, added to the risks and vulnerabilities they faced during displacement as well as during return or resettlement.

The UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People reported that in his country visits, he had found displacement caused by natural catastrophes, political and religious conflict, large development projects, as well as economic and environmental changes. There were, in addition, cases where displacement was planned by governments. He proposed that the different types of displacement be categorized so

that responses would be properly targeted, since the needs of the displaced differed according to the nature of their experience and

“The indigenous population has been disproportionately affected by forced displacement in the region.”

***UN Special Rapporteur on the Situation of Human Rights
and Fundamental Freedoms of Indigenous People***

whether displacement was transitory or permanent. Moreover, he noted that one dynamic that occurred in the Americas, which was outside the scope of the *Guiding Principles*, yet a matter of concern, was displacement due to economic reasons. He suggested that there were circumstances where the suffering of this population was as serious as that of persons displaced due to the reasons described in the *Guiding Principles*. Displacement due to economic reasons was not always “voluntary,” he noted. If persons could not survive in their areas of origin, then the decision to migrate could be viewed as involuntary. In any event, both groups suffered from invisibility and required attention.

In Mexico, the causes of displacement of the indigenous population included religious conflict, natural disasters, and development projects but in addition, many indigenous persons were forced to migrate to other parts of the country for economic reasons. While those displaced by development projects were guaranteed assistance by law, in practice, many did not receive compensation. The National Commission for the Development of Indigenous Peoples reported that it considered the situation of indigenous IDPs of serious concern and had designated \$20 million this year to help address their plight. These funds could be used to acquire land and obtain foodstuffs so that indigenous IDPs could attain a sense of normalcy as well as address other concerns.

Participants underscored that in order to address the situation of indigenous IDPs in a coherent manner, the Government of Mexico should develop a legal framework for IDPs that would include attention to the needs of indigenous persons and also a national policy that would promote solutions to their difficult plight.

A number of participants expressed concern over broadening the category of IDPs to include economic migrants. It was pointed out that this debate had taken place when the IDP definition in the *Guiding Principles* was first developed but that the decision reached was not to include economic migrants and migrant workers in the definition. Robert Goldman, who had been a member of the legal team that had drafted the *Principles*, explained that the *Principles* did not create a new category of persons with special entitlements, but rather sought to address the plight of a particular group of persons who had distinct protection and assistance needs resulting from forced displacement. To enlarge the mandate would risk losing the consensus around the issue of internal displacement as well as the focus on this core group, which already numbered some 25 million persons and had urgent protection needs.

The decision to exclude economic migrants from the definition did not mean there was no need for special attention to their situation, but simply that different issues were involved. For example, economic migration in the Americas was overwhelmingly an international rather than an internal phenomenon. Indeed, as a reflection of such differences, the Inter-American Commission on Human Rights had created distinct mechanisms, appointing not only a Special Rapporteur for IDPs but also a Special Rapporteur for Migrant Workers and their Families. In support of these arguments, a representative of civil society pointed out that in Colombia there had been efforts by some to categorize IDPs as "economic migrants" in order to minimize the risks they faced due to violence. However, there was a distinction between these categories that should be maintained. Another participant noted that because displaced and economic migrant populations tended to be mixed together on the ground, relationships that existed between IDPs and other groups of persons should be taken into account.

There was general agreement that special efforts should be made to address the concerns of indigenous persons, whether they were IDPs or economic migrants. Many participants suggested that, generally, no real effort had been made in Latin America to integrate indigenous persons into society, and suggested that addressing internal displacement presented an opportunity to do so. It was also considered important that displaced indigenous IDPs have access to land even if they did not wish to return to their places of origin. Their return or resettlement should take place voluntarily and with assistance in order to ensure that they do not become displaced again. Particular emphasis was placed on the need to undertake efforts to prevent displacement of indigenous groups from occurring in the first place.

The plight of Afro-Colombians, who were among the poorest sector of society, was considered to require special attention. According to CODHES, a Colombian research organization, Afro-Colombians comprised one-third of the total number of Colombians displaced in 2002. They were disproportionately affected by the conflict, which largely took place in the rural areas – jungles, riverbanks, valley, and coastal communities – where Afro-Colombians resided and where there were strong national and international economic interests. It was pointed out that in 1996, shortly after recognition of land titles began to be given to Afro-Colombian communities,

they were subjected to a bombing campaign which led to the displacement of more than 20,000 persons and many deaths. Since then, further displacements and attacks had taken place, in some cases with advance warning, as was the case in the notorious Bojayá massacre of 2 May 2002, in which 119 Afro-Colombians died after seeking refuge in a church. Attacks suffered by these communities left many Afro-Colombians as orphans and single mothers. In addition, Afro-Colombian adolescents increasingly were being subjected to forced recruitment by armed actors. Moreover, there were cases of Afro-Colombians who had tried to flee to neighboring countries in search of refuge but were forced back to Colombia.

The Office of the UN High Commissioner for Human Rights, UNHCR, the RSG, and others had called attention to the particularly serious displacement situation faced by Afro-Colombians. Participants

“Early warning alerts for impending massacres are not listened to by the authorities...the recommendations made by international mechanisms such as the RSG on IDPs and the Guiding Principles...are not implemented or respected by the Government...this leads us to ask the question: who is responsible for protecting and respecting human rights in Colombia?”

Afro-Colombian IDP Leader

recommended that the UN make every effort to investigate the systematic human rights violations suffered by this ethnic group. They also called upon the international community to urge the Government of Colombia to better protect the rights of ethnic groups and to accelerate the collective land titling process for Afro-Colombians in particular, which would help prevent further displacement of these communities. It was considered important that the Colombian Government implement the national development plan for Afro-Colombians as well as Law 387 of 1997 and the *Guiding Principles*. Moreover, it was pointed out that there was a need for international organizations to expand their programs and presence in the country among minority, indigenous, and other vulnerable communities in order to protect them and also help prevent displacement.

Empowering IDP Women

Moderator:

Patricia Luna Paredes, Director, Program for Internally Displaced Persons, Social Solidarity Network, Government of Colombia

Presenters:

Rosa Lia Chauca, National Coordinator, Mesa sobre Desplazamiento y Afectados por Violencia Política (MENADES), Peru

Paloma Bonfil, National Commission for Development of Indigenous Communities, Mexico

Pilar Rueda, Gender Specialist, Colombia

Participants underscored the importance of understanding the particular impact of internal displacement on women who with their children represented the majority of IDPs. To this end, a number of studies had been undertaken in the Americas to analyze how conflict and displacement affected the role of women, their societal status, and their economic and psychological well-being. The overall finding was that displacement typically had caused a fundamental change in the role of women within their family structures and more largely within society. As a result of conflict, most IDP women in the Americas were widows or single heads of household. Consequently, they had to assume functions additional to those traditionally

perceived as women's responsibilities, such as household maintenance, cooking and childcare, and become the primary provider for their families. This new responsibility also introduced changes: whereas before their displacement, most of these women had worked in the agricultural sector, the majority were now engaged in small trades and domestic help services. Notwithstanding the hardships these changes entailed, the expansion of roles for IDP women also had certain positive implications, in terms of enhancing their self-esteem, putting women on the road to overcoming long-standing discrimination and inequalities, and presenting an opportunity for a transformation in gender relations. In Mexico, for instance, the experience of displacement had caused indigenous women to question pre-existing power structures within their communities and, through this process, the women were able to learn about their rights.

At the same time, conflict and displacement brought particular risks for women. Conflict aggravated pre-existing discrimination and created a greater degree of vulnerability among women. Systematic and widespread

“National policies in the Americas must incorporate the needs of displaced women, and in doing so will fill existing social deficits and decrease discrimination.”

Gender Specialist, Colombia

violence against women, including rape and other sexual crimes or acts of terror, often became a weapon of war. Women were also often forcibly recruited to work for armed actors. Even within their own families, rates of domestic violence and abuse typically increased during displacement and the mental health of women consequently suffered severe strain. It was pointed out that women sometimes suffered these heightened rates of violence specifically as a result of their participation in political processes and when advocating for their rights. Furthermore, it was pointed out that because of social and religious mores, there was a strong reluctance in Latin American societies, including within the human rights movement, to talk openly about and address the problem of sexual violence. As a first step, participants underscored the importance of recognizing these abuses against women. Addressing the climate of impunity by bringing perpetrators to justice should then be undertaken, and would be important for the victims psychologically.

Indigenous women faced additional challenges. While IDP women generally suffered an absence of economic security tied to a lack of access to income-generating opportunities, this problem was exacerbated in indigenous communities due to their social and economic marginalization and status. For example, the problem of restoring expropriated lands and property to indigenous communities was compounded by the fact that within these communities rights were assigned to men, whose death or disappearance as a result of conflict and displacement created a legal vacuum in the community. As such, there was an urgent need to re-evaluate gender roles and ensure for indigenous displaced women equal access to land and property rights and other resources.

It was pointed out that policies for IDPs in Latin America had not sufficiently taken IDP women's needs into account. As a result, women were not protected from the discrimination and stigmatization they suffered during displacement. Participants stressed the need to consider the different impact displacement had on specific groups of IDPs, especially women. It was underscored that:

“the impact of displacement is different based on age, gender and the specific personality of the individual. Displacement is a general catastrophe, but it requires differentiated approaches.”

In response, participants called for more disaggregated data on displaced populations, by factors including age and gender, and for differentiated responses tailored to the needs of specific groups. Comprehensive programs were also needed incorporating economic, social, and health needs, including an emphasis on reproductive health rights.

It was emphasized that IDP women should be actively engaged in finding solutions to their own problems. It was important that women have a say in the decision-making processes of programs intended to assist them and their families. To this end, the creation of forums and workshops at which IDP women could voice their own needs was strongly recommended. Moreover, participants drew attention to the need for women’s training in human rights protection mechanisms, in particular those relating to women’s rights.

Other Vulnerable Groups

Moderator:

Nils Kastberg, Regional Director, UNICEF (Panama)

Presenters:

Jorge Rojas, President, Consultancy for Human Rights and Displacement (CODHES), Colombia

Diana Avila, Executive Director, Project Counselling Service, Peru

Older IDPs as well as displaced children and adolescents also needed to be given higher profiles in national IDP legislation and policies, as well as in protection and assistance programs. The *Guiding Principles* underscored the importance of taking special measures to assist these groups.

The gender specific concerns of older IDPs needed attention. For example, it was noted that in Peru, older women experienced the greatest difficulty when trying to adapt to life in urban areas. “Racial and cultural discrimination are factors that have made the situation more difficult,” one participant pointed out. One reason for this was that while indigenous persons generally stopped wearing traditional clothing when they fled to the cities, older IDP women continued to wear their cultural dress and speak their traditional language. This posed challenges for their integration and heightened the risk of discrimination. At the same time, displacement burdened older IDP women with additional responsibilities, particularly in childcare and household maintenance.

It was noted that little statistical information existed in the Americas on the numbers, situation, and particular needs of older IDPs throughout the various stages of displacement. They tended to be overlooked in needs assessments and the design of assistance programs. As a result, their needs were often not adequately addressed, for instance, with regard to food appropriate to their condition.⁷ National and international actors should do far more to ensure the participation of older IDPs in consultations with displaced populations. The concerns of older IDPs should also

⁷ Guidelines on the particular needs of older persons in humanitarian emergencies have been prepared by Help Age International.

be taken into account in the development of national laws and policies, which should spell out specific criteria for ensuring that their needs are met.

Participants underscored the importance of focusing on the needs of IDP children, including adolescents, for whom the experience of displacement was particularly devastating. Displacement typically entailed the disintegration of the family unit, which was the most basic form of protection, disrupted children's education, affected their health and social development and, for many, destroyed their hopes for the future. Heightened food insecurity experienced during displacement risked malnutrition which could affect children's natural growth. Psycho-social problems were common, and particular concerns were expressed about the higher rate of suicide among IDP children in the region. Moreover, adolescents were especially at risk in the area of protection: adolescent IDP girls were often the victims of targeted sexual violence, and adolescent males were under tremendous pressure of recruitment into the ranks of armed groups. Indigenous and Afro-Colombian adolescents and children additionally suffered racial discrimination and marginalization.

Disaggregated data was needed to assess the differentiated needs of IDP children and adolescents, and to develop appropriate responses to their situations. Participants also underlined the need to address the problem of the military recruitment of children and to bring to justice perpetrators of this and other crimes and abuses against IDP children. They emphasized the importance of ensuring IDP children's access to schooling. In addition to providing education, it was pointed out that schools were a potential vehicle for psycho-social support and even a source of protection.

Durable Solutions: Return, Resettlement and Reintegration

Moderator:

Juan Gonzalez Esponda, Comisionado para la Paz y Reconciliacion de los Pueblos Indigenas, Gobierno de Chiapas

Presenters:

Fernando Masaya, Coordinator for Peace and Multiculturalism, UNDP, Guatemala

Isabel Corral, Representative, Programa Nacional de Apoyo a La Repoblacion (PAR), Government of Peru

Mario Torres Torres, IDP Leader from Chiapas, Mexico

Elana Correa, Senior Social Scientist, The World Bank

Participants placed strong emphasis on the importance of supporting IDPs' safe and voluntary return or resettlement and reintegration. It was a serious concern for many that in Colombia return was being encouraged in the midst of armed conflict, while alternative solutions, such as resettlement, were not sufficiently pursued. A representative of the Government of Colombia considered returns in the country to be in accordance with the constitution and said that Government accompaniment of that return was a form of assistance which the authorities could not abandon. Others, however, stressed that in order to be a viable option, returns should take place on a voluntary basis and with dignity and security assured for returnees. It was noted that in Colombia the UN did not promote return or repatriation in zones where conflict persisted and where armed groups maintained an active presence. The UN would accompany and facilitate only return that was deemed voluntary. It was suggested that conditions of return should be closely monitored to ensure their voluntary nature and to that end, an international presence in areas of return was proposed. In the absence of the necessary conditions for safe and voluntary

return, international advocacy, including a willingness to halt support for the return process would be critical. Particular care also would be needed to address the dangers returnees might face from paramilitaries and those who committed past injustices. As one IDP leader in Mexico pointed out, “security needs to be provided for those who decide to go back.”

Addressing the root causes of displacement in a comprehensive manner was considered a further element in achieving safe and sustainable reintegration. Old conflicts would need to be settled in a way that brought justice. Unresolved human rights violations could otherwise obstruct reintegration. IDPs in Mexico and Peru, for example, continued to seek justice for human rights violations, and it was of serious concern to participants that they continued to live among those who had committed the violations. More broadly, participants emphasized the importance of establishing peaceful conditions and peaceful relations among communities. This would require political resolve and the commitment of the different actors.

In addition, the state would need adequate economic resources and technical expertise to support the peace building process. International support would be crucial in this regard. At the national level, authorities were urged to work in partnership with civil society, the media, and the public sector. The establishment of democratic channels was also urged to allow for the inclusion of the displaced in the political process and for the displaced to exercise the full range of their citizenship rights.

Recovery of losses suffered during displacement was a further element of durable solutions as was reconstruction assistance to repair the physical damage caused by conflict and displacement. Particular emphasis was given to

“Protecting the property of IDPs or populations at risk of displacement can be a means to mitigate impoverishment of these communities.”

World Bank Representative

property restitution or compensation. In this connection, attention was drawn to Guiding Principle 21, which calls for the protection of property belonging to displaced persons, as well as Guiding Principle 29 emphasizing IDPs’ right to recover their properties or receive compensation should recovery not be possible. Despite the fact that some states had duly included such provisions in peace agreements and other plans, these provisions had often failed to be implemented. In Peru, resettlement and reintegration projects excluded IDPs who remained in urban centers. In Guatemala, the needs of IDPs, who were no longer congregated in groups, had not been incorporated into official resettlement efforts.

In the Americas, it was pointed out, records of land and property ownership often did not exist. In Colombia, an advanced normative framework for restitution and compensation was in place, but little data was available to enable its implementation. Participants therefore called for the setting up of mechanisms to record losses during displacement in order to enable a just restitution process. The fact that few of the displaced in Latin America possessed title to land posed additional challenges. Moreover, indigenous and Afro-Colombian communities had collective land rights which were difficult to record. And yet providing land to indigenous and ethnic minorities was critical to their integration into the life of the nation and ending the longstanding injustices against them. It was pointed out that displaced persons also lost intangible assets such as their community bonds. Rebuilding the social fabric therefore needed to

figure prominently in any reintegration strategy. Participants emphasized the importance of linking humanitarian assistance to longer term development and capacity-building programs. The experience of *The Development Program for Displaced Persons, Refugees and Returnees in Central America* (PRODERE), carried out between 1989 and 1995, was instructive in this regard. It had included development projects and human rights concerns as key components. Both were essential to creating the conditions conducive to lasting solutions.

Several participants noted that there was a lack of clarity as to when internal displacement could be said to end, and stressed the importance of developing criteria for this issue. The cases of Peru and Guatemala, where there remained significant numbers of IDPs who lacked effective solutions, underscored the need to do so. Participants suggested that among the factors to consider could be: when IDPs have regained a situation similar to the one prior to displacement; when the rights of the displaced have been fully reinstated; and when the displaced cease to identify themselves as displaced.

The Office of the RSG reported that it had been asked by the UN to develop criteria on this issue, and in doing so would make sure that the experience of the Americas was taken into account.

Response by National and Local Governments

Moderator:

Victor Montejo, Secretario de la Paz, Oficina de la Presidencia, Guatemala

Presenters:

Patricia Luna Paredes, Director, Program for Internally Displaced Persons, Social Solidarity Network, Government of Colombia

Representative Emilio Zebadúa González, Coordinador del Área de Política Interna y Reforma del Estado del Grupo Parlamentario del Partido de la Revolución Democrática en la Cámara de Diputados, Mexico

Ezequiel Zuniga Galeana, Coordinador de Enlace con Organizaciones Sociales, Guerrero, Mexico

Congressman Walter Alejos Calderon, Peru

National responsibility was said to encompass preventive measures against arbitrary displacement; the provision of assistance and protection to IDPs during displacement; and the finding of durable solutions, specifically voluntary return or resettlement, in safety and dignity, and reintegration.

An important indicator of national responsibility was the adoption of laws and policies to address the protection and assistance needs of IDPs. Some governments in the region, in particular Colombia, had adopted such legislation, whereas others were in the process of doing so. Participants stressed the importance of laws and policies being consistent with the *Guiding Principles*. In the case of Colombia, participants welcomed the fact that the Government had developed normative frameworks and policies on the issue, but reiterated that lack of implementation was the main problem. Some participants noted that other government decrees ran counter to the laws and policies on IDPs and therefore inhibited their implementation. In particular, participants pointed to the decrees for implementing Law 387 of 1997, asserting that they restricted the law in a manner incompatible with the *Guiding Principles*.

In the case of Mexico, it was currently considering adopting legislation on internal displacement. While a law was proposed in 1998, efforts to pass it had not succeeded. Many participants maintained that the development of a federal law on protection and assistance of the internally displaced would still be useful. They placed emphasis on the need to develop a comprehensive legal framework to assess the numbers of the displaced and develop programs on their behalf. Some participants recalled the recommendations of the RSG which included the development of a national legal framework. Participants, including a Representative of the Chamber of Deputies engaged in the current efforts to develop a law, expressed the hope that the seminar would serve to generate support for such a proposal.

“The Mexican state should have a public policy on IDPs that would seek to resolve displacement and assess the needs of the displaced.”

IDP Leader, Mexico

In Peru, legislators in the Congress had recently proposed a law on internal displacement. In addition, there were other proposed laws that aimed to protect and assist the displaced. Examples included a law recognizing the particular needs of persons affected by violence as well as a national reparations plan. Participants underlined the importance of a firm commitment on the part of the Government to implement these laws once they were adopted. To promote political resolve, dialogue among the different social classes in Peru would be needed. Politicians and parliamentarians could also play an important role by promoting understanding of the law and fostering the political and social will to implement it. One Congressman from Peru warned that “it is not sufficient to pass a law, we also need political and social agreements and a dialogue with civil society.”

Participants stressed that national policies and legislation should seek to prevent displacement. In this regard, it was pointed out that early warning systems, established to alert governmental entities to potential displacement, were paramount in averting displacement. The value of early warning systems of course depended upon quick and effective action being taken by the national authorities. Too often slow response and inadequate follow-up by authorities hindered the success of these preventive mechanisms.

Participants also emphasized the need for greater support for reintegration assistance. Most IDPs in Latin America have had to return without such assistance and many, especially those who remained in urban centers and were overlooked by resettlement support schemes, still desperately needed this help. In this regard, it was recommended that governments try to reach displaced persons who have insufficient access to basic services. It was also recommended that governments undertake efforts to augment the level of awareness of local governors and mayors about the vulnerabilities and needs of the displaced and thereby promote a stronger commitment on the part of local authorities to assisting IDPs to reintegrate. As a further aspect of solutions, it was emphasized that there was a particular need to ensure that indigenous, minority, and other marginalized IDP populations have opportunities for political engagement.

Participants underscored that national and local authorities had the responsibility to ensure that return or resettlement occurred in conditions of safety. They again called upon the UN to urge the Government of Colombia not to allow returns to take place to unsafe areas. In the absence of such conditions, participants emphasized that the UN should not support the return process.

Indeed, UN involvement in returns should act as a barometer of whether necessary conditions of safety, dignity, and voluntary return were in place.

Durable solutions were also said to entail addressing the fundamental social, economic, and political injustices that were at the root of conflict and displacement. The fact that few of the displaced in Latin America possessed titles to land posed particular challenges, which required creative and just solutions by governments.

Promoting national reconciliation would also be vital to lasting solutions. Noteworthy examples were mechanisms such as the Truth and Reconciliation Commission in Peru and a similar process underway in Guatemala. However, there was a need for these and similar processes to give greater attention to internal displacement. In Peru, although the Truth and Reconciliation Commission had highlighted the violence that took place during the conflict, it did not recognize victims of the violence as a specific category of persons warranting compensation. In this connection, some participants recommended that IDPs be recognized as a distinct group of victims of injustice.

Governments also had a responsibility to bring justice to those who had committed crimes against displaced persons in order to end the climate of impunity so heavily affecting the displaced and their advocates. There was urgent and widespread need to do so in Colombia, while in Peru and Guatemala there remained a need to bring past abuses to justice. Special attention was called for to address crimes of sexual violence and abuses against women and children, which remained taboo subjects in Latin American society.

Participants also stressed that laws and policies could only be implemented effectively if adequate economic resources were made available, particularly at the municipal level. In this connection, governments drew attention to the budgetary constraints which prevented them from adequately addressing the needs of the displaced. The existence of ongoing armed conflict had put a further strain on resources. Inadequate coverage of needs due to budgetary constraints was often inaccurately interpreted as evidence of a lack of political will. Participants underlined the need for the timely disbursement of funding for programs for assisting, protecting, and finding solutions for IDPs, especially in outlying areas and municipalities where there were often significant gaps. It was pointed out that when governments took meaningful steps to carry out their responsibility to IDP populations, such efforts could be instrumental in attracting international funds.

Role of National Human Rights Institutions

Moderator:

Congressman Walter Alejos Calderon, Peru

Presenters:

Maria Camila Moreno Munera, Coordinadora, Atencion al Desplazado Forzado, Defensoria del Pueblo, Colombia

Eliana Revollar Añaños, Directora, Programa de Proteccion a Poblaciones Afectados por Violencia, Defensoria del Pueblo, Peru

National human rights institutions (NHRIs) -- established by governments but quasi-independent -- could make a valuable contribution to national efforts for promoting and protecting the rights of IDPs. Indeed, NHRIs in the Americas had become increasingly active with regard to the internally displaced. For example, presenters described the efforts of NHRIs in Colombia and Peru as having been particularly important for displaced communities. Overall, four critical functions were identified for NHRIs:

1. Awareness-raising and human rights education, especially among national and local authorities, the police, and the military.
2. Advising government officials and legislators on draft legislation pertaining to internal displacement.
3. Monitoring governmental compliance with national legislation and international treaty obligations relating to the displaced.
4. Investigating individual IDP complaints.

It was reported that NHRIs in the Americas found the *Guiding Principles* to be a useful tool for understanding internal displacement from a human rights perspective; creating indicators of the needs of IDPs; and helping shape the authorities' response. In particular the *Principles* had proved valuable to NHRIs in monitoring returns and had served as a follow-up tool for reinforcing public policy.

Participants recommended that NHRIs in the Americas further expand their activities. In particular, they could play a greater role in promoting the effectiveness of early warning systems by advocating for timely and effective responses by governments and then monitoring these responses. NHRIs were also encouraged to increase their presence and extend greater support in high-risk areas of displacement.

Participants called on the international community to support NHRIs financially, politically, and by providing technical assistance when necessary to increase their capacity and help assure their independence.

Enhanced Regional Response

Moderator:

Alfredo Witschi-Cestari, Humanitarian Coordinator and Resident Coordinator, United Nations Development Programme, Colombia

Presenter:

Robert Goldman, former Chair, Inter-American Commission on Human Rights and former Special Rapporteur on Internally Displaced Persons, OAS

Participants acknowledged the important roles that regional and international actors had to play in reinforcing national responsibility and accountability. Their engagement was especially important in cases where political will was inadequate at the national level. Among the steps they could take were advocacy, monitoring national policies, and taking concrete measures to promote the rights of IDPs.

At the regional level, the OAS Inter-American Commission on Human Rights had been playing an active role in monitoring the extent to which states were fulfilling their obligations to their internally displaced populations. The Commission was one of two bodies in the Inter-American system established for the promotion and protection of human rights. It engaged in advocacy and even became directly involved in protection efforts. In Colombia, for example, it had urged the authorities to protect vulnerable individuals and communities, such as Afro-Colombians, and had taken concrete steps to fill protection gaps. These steps included official visits and dialogues with authorities on behalf of displaced communities and raising protection concerns about individuals and communities at risk of harm. In addition, the Commission published thorough analyses of displacement, such as on Colombia and Guatemala, based on on-site visits, and made recommendations to more effectively address these situations. Its appointment of a Special Rapporteur on Internally Displaced Persons in 1996 ensured that displacement situations in the region were regularly monitored and that the *Guiding Principles* were used as a yardstick for measuring conditions on the ground. At the same time, while these activities had yielded some positive results, the current culture of impunity in the region remained a major impediment to the Commission's work. To strengthen its capacity, the Commission had sought assistance from governments in the region in the form of political support and additional material resources.

The Inter-American Court of Human Rights, the highest judicial organ of the Inter-American system, also played a role in protecting IDPs.⁸ It had demonstrated an awareness and willingness to address issues of internal displacement and to specifically protect IDPs.

Some participants suggested that regional networks for the exchange of information, experiences, and best practices on internal displacement should be fostered to better facilitate the work of the Special Rapporteur on Internally Displaced Persons and the Inter-American Court of Human Rights. In particular, the formation of a regional network of NGOs engaged with the issue of internal displacement was proposed. It was also suggested that the creation of IDP

⁸ Article 63(2) of the American Convention on Human Rights provides that in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court is authorized to adopt "provisional measures" that require a state to take certain action or refrain from specific acts.

associations, including women's organizations, to represent the interests of displaced populations, should be encouraged and supported.

Further, participants suggested the following steps that the inter-american system could take:

- *The Court*: NGOs and others should be more proactive in utilizing the Court's mechanisms to enhance protection for IDPs, for example, on property issues.
- *Special Rapporteur on IDPs*: This position, which is currently vacant in the Commission, should be promptly filled.
- *Monitoring Implementation of Laws and Policies*: Greater efforts should be made to promote the implementation of national laws and policies on internal displacement.
- *Dialogue and Information Exchange*: The Commission should facilitate closer dialogue on issues of internal displacement among governments, IDP organizations, and NGOs.
- *A Regional Conference*: Convening a regional conference on displacement in the Americas, encompassing both refugees and IDPs, to mark the 20th anniversary of the Cartagena Conference, should be explored.
- *Government Support*: Governments should support and encourage the Commission to monitor states' legal obligations regarding internal displacement through continued political support and additional material resources.

The Role of the International Community

Moderator:

Alfredo Witschi-Cestari, Humanitarian Coordinator and Resident Coordinator, United Nations Development Programme, Colombia

Presenters:

Guillermo Bettochi, Senior IDP Advisor, OCHA IDP Unit

Francisco Galindo, Representative, UNHCR, Colombia

Ariane Tombet Caushaj, Deputy Director, International Committee of the Red Cross, Mexico

At the international level, participants noted that despite valuable efforts carried out by international actors to date, there remained scope for far greater international engagement in reinforcing national responsibility. At the same time, the absence of security in many areas was a serious impediment. One feature of the conflicts in the Americas, which made international assistance difficult, was armed actors' disregard of the civilian character of the displaced population. This blurring of distinctions between combatants and non-combatants had worsened due to the development of counter-terrorism programs and increased state presence in areas from which the state had traditionally been absent. As a result, access to IDP populations had often been obstructed by a serious lack of security. In Colombia, the UN had launched a campaign to promote respect for the civilian character of the displaced population and had begun to form partnerships with civil society organizations in promoting their protection. It also had attempted to increase the visibility of IDP concerns by fostering coordination and exchange among

different sectors of society including civil society, media, churches, and universities. The independence, impartiality, and neutrality of the ICRC enabled it to play an important role in enhancing respect for international humanitarian law among the armed actors in Colombia. In addition, the ICRC, UN agencies, and international NGOs were active in the provision of humanitarian assistance, income-generating programs for the displaced, and promoting the prevention of displacement.

Participants called for greater UN engagement in the return process. UN participation in return operations was considered a good barometer of whether returns met the necessary conditions of being safe and voluntary. In the absence of those conditions, international advocacy against such returns was considered critical.

In addition, participants made the following recommendations for the involvement of the international community:

- The UN should translate into local languages and widely disseminate the *Guiding Principles, Handbook, and Annotations* as well as the UN Inter-Agency IDP Protection Policy Paper,⁹ and encourage their use by all relevant actors.
- Building on the Protection Policy Paper, UN country teams should develop adequate protection strategies for all phases of displacement.
- International protection mechanisms for IDP women should be strengthened.
- UN country teams should monitor, report, and follow up on the recommendations made by the RSG and other UN officials to improve the conditions of IDPs.
- The UN should provide governments with technical expertise, in particular how to mobilize resources and prepare grant proposals, and administer funds when needed.
- The UN should strengthen its collaboration with civil society in the design of its programs to provide protection and assistance for IDPs.
- The UN should promote the integration of IDP issues into national human rights plans. The inclusion of internal displacement in the analysis of the human rights situation in Mexico, produced by OHCHR in cooperation with civil society organizations and the Government of Mexico in 2003, could serve as a useful example for similar initiatives elsewhere in the region.
- Development agencies should encourage the participation of displaced persons in the projects that they finance or support and treat IDPs as a special target group.

⁹ Inter-Agency Standing Committee, Policy Paper Series, no.2, United Nations: New York, 2000.

The Role of Civil Society, Local Non-Governmental Organizations and IDP Associations

Moderator:

Merardo Herrera, Advicora (IDP Association), Colombia

Presenters:

Juan Manuel Bustillo, Coordinator, Program to Support IDP Organizations, MENCOLDES, Colombia

Ana Isabel Suasnabar Huaroc, Coordinadora, Desplazados y Comunidades en Construccion (CONDECOREP), Peru

Demetrio Elegio Us Alvarez, Secretary, National Council for the Displaced in Guatemala (CONDEG)

Marcos Arana, Red de Defensoria del Derecho a la Salud, Mexico

Participants acknowledged that civil society, local NGOs, and IDP associations were especially active and well-organized in the Americas and played a particularly important role in promoting and protecting the rights of IDPs. Indeed, a wide range of civil society organizations in the region were engaged with the issue of internal displacement. Some focused on particular groups, such as indigenous people, Afro-Colombian populations, or women. Others had formed with a specific aim, such as securing land tenure. Sometimes organizations working on behalf of the displaced were tied to particular phases of displacement. In Guatemala, after the peace agreement, IDP communities focused on obtaining documentation to facilitate their reintegration into society. Overall, the organizations working for the displaced in Guatemala focused on IDPs' economic integration in urban areas and a reduction in discrimination.

It was noted that civil society organizations in the Americas had made significant achievements in three areas:

1. Presenting recommendations to local and national authorities and participating in government committees.
2. Increasing the attention of research and human rights organizations to IDPs.
3. Providing information to UN human rights/humanitarian mechanisms such as the RSG.

However, in advocating for the displaced, members of civil society and IDP leaders often put themselves and their families at risk. Many had been harassed, assaulted, killed, or forced to seek asylum, thereby obstructing their work. In Colombia, it was pointed out that the "democratic security" policy of the Uribe Administration was serving to exacerbate these risks through the creation of a network of informants and the introduction of peasant soldiers, further blurring the distinction between civilians and combatants and making civilian leaders more vulnerable.

IDPs, participants advocated, should have a voice in the planning and implementation of policies and programs relating to their situation. National and international responses would be enhanced if the views of IDPs were reflected in the decisions taken.

"Permanent dialogue and coordination between the state and organizations working on behalf of IDPs will help promote political will to address internal displacement."
IDP Leader, Peru

To promote such exchanges, it was recommended that formal consultation mechanisms, such as *mesas de trabajo* or "working tables," be established between the government and civil society.

The UN could play a valuable “bridging” role in facilitating this dialogue and supporting the integration of IDP concerns into the policies and programs of governments.

Safe Access to the Displaced and Protection of Those Working on Their Behalf

Moderator:

Anders Kompass, Director, Office of the High Commissioner for Human Rights (OHCHR), Mexico

Presenters:

Helen Mack, Myrna Mack Foundation and sister of anthropologist Myrna Mack, Guatemala

Catherine Bouley, Colombian Commission of Jurists

Patricia Luna Paredes, Director, Program for Internally Displaced Persons, Social Solidarity Network, Government of Colombia

Presenters and participants expressed serious concern about the insecurity hampering those working on behalf of IDPs. In addition to endangering those individuals, it was also detrimental to the security and welfare of IDPs. Humanitarian workers and members of civil society helping the internally displaced had to work in increasingly dangerous environments. Academics and researchers investigating these conflicts and the displacement they engendered had also come under attack.

Participants pointed out that these dangers would continue to exist until steps were taken by national and international actors to mitigate the conflicts themselves. Some participants noted that governments often lacked the political will to resolve the conflicts or provide safe working conditions for humanitarian workers and human rights advocates. This was especially the case when their work focused on actions undertaken by the state or its agents. A key case raised in this respect was the murder

of the anthropologist Myrna Mack, who was murdered by government agents in Guatemala in 1990 after having written about rural indigenous communities who had been displaced. Her sister initiated legal proceedings which resulted in the conviction of one of the assassins and the indictment of some of those bearing political responsibility for this murder. Several participants expressed the hope that this and similar cases, along with international proceedings against Guatemala for failing to fulfill its responsibility to protect human rights,¹⁰ would contribute not only to the safety of humanitarian workers and human rights advocates, but also to the improvement of human rights conditions in the country.

“There are no adequate security conditions for social humanitarian work. We need to help bring about a safer environment and to strengthen protection mechanisms.”

Helen Mack

Sister of murdered anthropologist Myrna Mack, Guatemala

of the anthropologist Myrna Mack, who was murdered by government agents in Guatemala in 1990 after having written about rural indigenous communities who had been displaced. Her sister initiated legal proceedings which resulted in the conviction of one of the assassins and the indictment of some of those bearing political responsibility for this murder. Several participants expressed the hope that this and similar cases, along with international proceedings against Guatemala for failing to fulfill its responsibility to protect human rights,¹⁰ would contribute not only to the safety of humanitarian workers and human rights advocates, but also to the improvement of human rights conditions in the country.

In Colombia, it was reported that IDPs who organized themselves into associations to advocate for their rights had come under serious threat from political and military actors. The authorities’ response to the threats against them and to the early warning system as a whole was widely regarded as inadequate. The Government’s publicly stated view of human rights defenders as

¹⁰ On 1 August 2001, the Inter-American Court of Human Rights agreed to hear a case against the Government of Guatemala for its failure to ensure timely application of justice for the Mack family.

“terrorists,” had in fact led to heightened threats from paramilitary forces, which operated with near impunity.

Participants emphasized the need for the authorities to take all possible measures to ensure the safety of local and international humanitarian and human rights workers. In addition, increased efforts were needed to ensure the arrest and prosecution of those responsible for attacks against persons assisting or advocating on behalf of IDPs.

It was recommended that the international community closely monitor the situation of local human rights defenders and that international personnel should establish a presence among persons at risk provided they themselves had adequate security guarantees. Participants noted in particular the important contribution of Peace Brigades International (PBI) in accompanying IDP leaders and other members of civil society under threat, even though PBI staff themselves faced grave risks. Special protection mechanisms should be established for leaders of displaced groups to allow them to represent the needs and interests of the displaced.

Finally it was suggested that the international community provide more financial support to international agencies and NGOs to enable them to strengthen security arrangements for their staff. The creation of safe places for both monitors and IDPs was suggested. The establishment of commissions of inquiry was also considered a valuable means of encouraging responsibility.

Concluding Session

Moderator:

Roberta Cohen, Senior Fellow at The Brookings Institution and Co-Director, The Brookings-SAIS Project on Internal Displacement

Presenter:

Erin Mooney, Deputy Director, The Brookings-SAIS Project on Internal Displacement

Because responsibility for addressing situations of internal displacement lies first and foremost with the national authorities of the country concerned, participants expressed support for a Framework for Action, that identifies the key elements of national responsibility for internally displaced persons.

The Under-Secretary for Global Affairs of the Government of Mexico, **Patricia Olamendi-Torres**, in her closing remarks to the seminar, called the Framework a sound guideline for action and welcomed it as a means for reviewing progress in national responses to internal displacement in the Americas.

“The problem of internal displacement is within borders, but we can have shared solutions in the region which can prevent future displacement.”

Under-Secretary for Global Affairs, Mexico

A Framework for Action on Internal Displacement in the Americas

This framework places primary focus on the role of governments and outlines the steps they can take towards ensuring an effective national response to internal displacement. At the same time, it recognizes that regional and international actors have a role to play in reinforcing national responsibility and assisting states in discharging their responsibility.

The issue of responsibility is closely tied to that of accountability. This framework should therefore serve as a guide not only for governments, but also for local actors, including national human rights institutions, civil society and IDPs themselves, as well as regional and international actors monitoring and seeking to promote improved national responses to internal displacement.

National Responsibility

Key elements of national responsibility for IDPs in the Americas include:

1) Raising national awareness of the plight of IDPs and of responsibilities towards them

A critical first step toward effective national response to internal displacement is acknowledgement of the problem of internal displacement in a country and of the national responsibility to address it. While Colombia has acknowledged the problem for several years, in Mexico this important first step has been taken only recently. In Peru and Guatemala, it needs to be recognized that the problem of internal displacement persists even though the conflicts have long ended.

However this step itself will not be sufficient. Raising national awareness also must mean building a national consensus around the issue, making internal displacement a national priority and promoting solidarity with the displaced. Promoting national solidarity with the displaced is critical towards removing the ethnic, racial, and ideological stigmas IDPs typically suffer in Latin America. These stigmas put IDPs at risk, discourage them from making their needs known, augment their invisibility, and make reintegration difficult due to their increased marginalization.

Raising national awareness, therefore, should include mass sensitization campaigns that reach all relevant authorities, including the military and police, and also extend into the public sphere, so that national responsibility for addressing internal displacement becomes a concept embraced and implemented by all parts of society. Such campaigns should be developed in consultation with civil society and displaced communities.

2) Ensuring that the national response covers all groups

In the Americas, internal displacement is a phenomenon that disproportionately affects indigenous populations and minority ethnic groups, such as Colombians of African descent, as well as the rural poor. Once displaced, these already marginalized groups face further discrimination and difficulty in accessing protection and assistance. Because of language barriers, they may have difficulty in communicating with government authorities and

knowing their rights. In addition, displacement intensifies their marginalization and threatens them with loss of their cultural cohesiveness. Moreover, in the case of indigenous and other groups such as Afro-Colombians, they have a special attachment to the land, which makes displacement as well as alternative solutions other than return particularly difficult.

A national response must seek to remedy the fundamental social, economic, and political cleavages that give rise to the exclusion of certain groups from the political and economic life of the nation. Indeed, addressing a displacement crisis may present an opportunity to integrate marginalized groups into society and address the injustices and social divides that tear societies apart and fuel displacement.

3) Training government officials, the military, police, and parliamentarians

Training government officials on issues of internal displacement is essential to ensuring awareness of their responsibilities towards the displaced and to strengthening national capacity to effectively discharge these responsibilities. In particular, training should target:

- Government authorities, especially those at the regional and local levels, who are in direct contact with the displaced;
- Military and police, who are expected to play a key role in ensuring the protection of IDPs; and
- Parliamentarians, who play a leading role in the development of legislation that can have important implications for IDPs and can also exert influence on the executive branch of government.

4) Collecting data on the numbers and conditions of IDPs

Credible information on the numbers and conditions of the internally displaced is essential to designing effective programs for them. In particular, data should be disaggregated by age, gender, and other key indicators so that the specific needs of groups of IDPs, such as adolescents, women heads of household, the elderly, indigenous persons and ethnic groups, can be adequately addressed. Attention must also be given to the different categories of IDPs, including those from armed conflict, generalized violence, human rights violations, natural disasters, development projects, and those displaced by other causes, such as religious conflicts or fumigation, who sometimes are not recognized. Moreover, information is needed not only on IDPs in emergencies, but on those in protracted situations of displacement, especially in urban areas. These “long term IDPs” are among the most vulnerable but are often overlooked and considered indistinguishable from the urban poor. In this connection, the continued plight of IDPs in Guatemala and Peru must be acknowledged and accorded greater attention. The need for criteria on when internal displacement ends would help in this regard.

Information must also be collected about displaced populations who live in areas controlled by insurgent groups, and who are frequently inaccessible and forgotten. Furthermore, greater

understanding of the linkages of internal displacement with other forms of migration, especially economic migration, was needed.

At the same time, efforts to collect data on IDPs should not in any way jeopardize their security, protection, and freedom of movement. In particular, there is a need to be sensitive to the situation of displaced persons who may be fearful of making themselves known and may see little incentive to do so, or who do not have proper documentation. Information collection must be geared to protecting and assisting the internally displaced and helping them find solutions to their plight. A number of NGOs, researchers, and international agencies have experience and expertise in gathering data about displaced populations and could be enlisted to assist governments in their data collection efforts. Cooperation could also assist in reducing discrepancies in statistics as well as in assessments of the needs of IDPs.

5) Developing national legislation upholding the rights of IDPs

Developing and adopting national legislation for addressing the needs and protecting the rights of IDPs is an important indicator of national responsibility. Such legislation should be comprehensive, covering all causes and phases of displacement, and be based on the provisions in the *Guiding Principles*. It should include provisions to ensure that all IDPs have the documentation necessary to access services and entitlements provided for under the law. It must provide guidance on issues of land title and tenure as well as compensation and restitution of property lost or damaged in the course of displacement.

National legislation on IDPs must pay special attention to protecting the rights of internally displaced women and children, who constitute the majority of IDPs, as well as older IDPs, indigenous persons, and minorities and ethnic groups, all of whom have particular protection and assistance needs. Indeed, legislation should be developed in consultation with the different groups of IDPs and with civil society.

Of course, in the absence of effective implementation, even the most comprehensive legislation will have little practical effect. In Colombia, for example, Law 387 on internal displacement is often cited as a model piece of legislation, but one of largely only paper value. To help promote the implementation of legislation, monitoring, reporting, and enforcement mechanisms should be built into the law. Parliamentarians, in addition, should engage in dialogue with civil society to promote understanding of the law and help foster the political and social will to implement it.

6) Adopting a national policy on internal displacement

The adoption of a national policy on internal displacement is a distinct, though complementary, measure to the enactment of national legislation. A national policy or plan of action on internal displacement should, for instance, spell out the responsibilities of different government departments for responding to internal displacement as well as a mechanism for coordination among them.

Like the law, a national policy should cover all phases of displacement – ranging from prevention to protection and assistance once displaced, to durable solutions. It should encompass the various causes, including not only conflict and human rights violations, but also disasters and development projects. Particular emphasis should be placed on preventing displacement, with specific measures spelled out towards this end. The policy should also elaborate measures to address the needs of particular groups, such as women, children and the elderly, as well as indigenous and ethnic minorities who are displaced. While some countries in the region have undertaken important efforts to give attention to the needs of particular groups of IDPs, in other countries, there remains need for much greater focus in national policies and responses to such groups, especially to indigenous persons who are disproportionately affected by internal displacement in the Americas.

National policy, like legislation, should be developed in close consultation with the displaced and civil society. Moreover, the policy must be made widely and publicly known, especially to IDPs, in their own language and in a format they can easily understand.

7) Making sure there is an interim response

While promoting the development and adoption of national laws and policies on internal displacement, it must be recognized that these processes take time to develop, sometimes years. In the interim, IDPs cannot be left neglected. Measures can and must be taken by national authorities to address IDPs' immediate assistance, protection, and reintegration needs. Longer term policies should never be used as an excuse for setting aside the immediate needs of IDPs.

8) Designating a national institutional focal point

Critically important to the carrying out of national responsibility and promotion of an effective national response is the designation of a national institutional focal point for IDPs. This responsibility might be vested in one specific government agency. Another possibility would be to create a government committee, working group, or task force on IDPs that regularly brings together officials from the relevant ministries and departments to jointly discuss and coordinate national response.

Whatever the institutional option selected, it is essential for the institutional entity tasked with responsibility for IDPs to have a mandate for both assistance and protection. In addition, this body must have the political authority as well as adequate resources to carry out its mandate. Its staff must be trained on issues of internal displacement, including the *Guiding Principles*, and should be expected to play the leading role in national efforts to promote and apply the *Principles* as well as to implement and enforce national law and policy on internal displacement.

The international community can provide support by encouraging governments to develop and strengthen national institutions for addressing internal displacement and providing technical assistance to these entities. A number of international organizations, for example, the Office for the UN High Commissioner for Human Rights and the UN Development

Program have programs to support governments that establish national institutions for good governance and human rights.

9) Establishing accountability mechanisms

Procedures for regular monitoring and public reporting on the implementation of national law, policy and institutional responsibilities should be established and specified in national law and policy on internal displacement. Such procedures should be in addition to the critical monitoring and reporting role played by civil society. Moreover, international and regional actors should be given a key role to play in reinforcing national responsibility and accountability for the displaced (see below).

10) Allocating adequate resources

This is necessary not only to carry out effective responses, but also to signal that addressing the plight of the internally displaced is truly a national priority.

Where a government lacks the capacity to fully address the needs of the internally displaced, its indication, in particular through budgetary allocations, that the issue of internal displacement constitutes a national priority, can be important in attracting international financial assistance in support of national efforts.

11) Expanding national human rights institutions' involvement with IDPs

National human rights institutions (NHRIs) can play an important role in ensuring the promotion and protection of the rights of IDPs in a number of ways: (i) awareness-raising and human rights education, especially among national and local authorities, the police, and the military; (ii) providing advice to government officials and legislators on draft legislation relating to internal displacement; (iii) monitoring governments' implementation of national legislation as well as their compliance with international treaty obligations; and (iv) investigating individual IDP complaints.

NHRIs in the Americas have increasingly given attention to the plight of the internally displaced. They could, however, expand their activities, in particular by playing a greater role in follow-up to early warning, monitoring IDP conditions, and establishing a presence in high-risk areas. Measures and resources to strengthen the independence of these institutions and promote their increased public accountability should be supported.

12) Cooperating closely with IDPs and civil society

As articulated in the *Guiding Principles*, authorities have a responsibility to encourage and facilitate the participation of IDPs in the planning and implementation of policies and programs relevant to their situation. Too often, IDPs and those advocating on their behalf simply do not have "a seat at the table." Yet, national as well as international responses to internal displacement can be significantly informed and enhanced through consultation with IDP associations and civil society. Efforts must therefore be made to proactively and

systematically seek out the views of IDPs and to take them into account in the design of policies, laws, and programs affecting their security and well being.

To facilitate such exchange, formal consultation mechanisms such as *mesas de trabajo* or “working tables” should be established with IDP organizations as well as with civil society groups working with the internally displaced. Moreover, it is important to ensure that mechanisms exist to guarantee that these consultations influence responses by the government. The international community could play a valuable “bridging” role in fostering and facilitating such dialogue between the government and IDPs as well as civil society.

13) Enhancing security for IDPs and those working on their behalf

The *Guiding Principles* provide that IDPs have a right to request and receive assistance and protection without risk of punishment or harm. An environment must exist where IDPs can do so. Yet, in all countries in the region, acute problems of insecurity, including deliberate killings, confront not only IDP communities and their leaders, but also those assisting them and advocating on their behalf. The lack of security has also had a chilling effect on research and analysis of the needs of IDPs, as in Guatemala following the killing of anthropologist Myrna Mack. Far greater efforts therefore must be made by governments to protect IDPs and communities at risk of displacement as well as those seeking to help them and to bring to justice those responsible for attacks against them. In addition, public information campaigns should be launched to sensitize government authorities, including the military and police as well as the public, about the humanitarian nature of the work of those assisting and advocating on behalf of IDPs, drawing attention to its benefits and dispelling misconceptions.

14) Addressing the climate of impunity

Governments must make much greater efforts to break links between their armed forces and paramilitary groups, which are so often engaged in fomenting displacement and abuses against IDPs in the Americas. Further, those who commit crimes against displaced persons and their advocates must be brought to justice in order to end the climate of near impunity that further heightens their insecurity. There is a particularly urgent and widespread need to do so currently in Colombia. In Peru and Guatemala, there remains a need to bring past abuses to justice. Throughout the region, special attention must be paid to acknowledging and addressing crimes of sexual violence and abuses against women and children, which remain taboo subjects in Latin American society.

15) Supporting durable solutions to internal displacement

Governments have a responsibility, noted in the *Guiding Principles*, to establish the conditions enabling IDPs to return to their places of origin or, if they choose, to resettle elsewhere, to do so voluntarily and in safety and dignity.

Security is an essential element of durable solutions. Typically, this will require an end to the conflict or fundamental change in the circumstances that originally caused the displacement. In addition, protection measures must be put in place in areas of return or resettlement,

including landmine clearance and re-establishment of the rule of law and measures to ensure respect for human rights. In the absence of conditions of safety, the government should not encourage return or resettlement. Under no circumstances should IDPs be forced to return home or resettle elsewhere in the country against their will. Where possible, international monitors should accompany returns in order to verify that the process is voluntary and that conditions of safety exist. The UN's agreement to participate in a return or resettlement process is a good barometer as to whether the necessary conditions are being met. For a government to proceed without this agreement is highly questionable and should be revisited.

Whether IDPs choose to return or resettle, they must be provided with reintegration assistance. However, for the most part, IDPs in Latin America have returned on their own with a minimum of support from their governments. Aiding their reintegration would project national responsibility. Governments must support the rebuilding of infrastructure and create opportunities to allow IDPs to establish livelihoods and self-sufficiency. Special attention must be given to ensuring the inclusion of women who, in the Americas and elsewhere, have been at the core of return and reconstruction processes and a key agent of social and economic development. Women's equal access to financial resources, credit and adequate income-generating programs must be ensured. Steps must be taken to make sure that IDPs are not subjected to discrimination upon their return or resettlement, have equal access to public services including health care and education, and can exercise their right to participate fully and equally in public affairs.

Further, the authorities have a responsibility to assist IDPs to recover property and possessions of which they were dispossessed as a result of their displacement or, when this is not possible, to obtain compensation. The fact that few of the displaced in Latin America possess title to land poses particular challenges, which require creative and just solutions. Indeed, restoring access to land to indigenous and ethnic minorities is a means of integrating them into the life of the nation and ending longstanding discrimination against them. Special attention must also be paid to ensure that property rights, which traditionally have been restricted to men, are accessible to women.

To be truly effective and lasting, solutions must include addressing the fundamental social, economic and political injustices that are typically the root causes of conflict and displacement. Efforts to promote reconciliation, for instance, through mechanisms such as the Truth and Reconciliation Commission in Peru and a similar process underway in Guatemala, are critical.

Decisions that "displacement has ended" must not be taken arbitrarily, without due regard to the situation and needs of the displaced. So long as specific needs and vulnerabilities resulting from their displacement persist (which may be the case for some time even after they return or resettle), IDPs will continue to require attention. IDPs in Peru and Guatemala, especially those who remain in urban areas, as well as returnees to Chiapas in Mexico, continue to suffer outstanding needs related to their displacement. The nature of assistance to IDPs nonetheless should change over time from strictly emergency humanitarian assistance. Indeed, strategies supporting self-sufficiency should be introduced as soon as possible so as

to avoid creating long-term dependency and instead promote IDPs economic and social reintegration.

In short, supporting durable solutions for IDPs entails ensuring that they have options -- to voluntarily and safely return or resettle and the possibility to re-establish themselves, regain their livelihoods, and reintegrate back into society.

16) Addressing the situation of IDPs under the control of non-state actors

Because IDPs may be under the control of non-state actors and out of reach of government assistance and protection, humanitarian dialogues should be opened, when possible, with non-state actors, who, under international humanitarian law and the *Guiding Principles*, have responsibilities to provide protection and assistance to IDPs. Should the government not be in a position to initiate such a dialogue, it should seek the support of outside actors such as the UN, NGOs, or church groups to help open humanitarian space in politically protracted situations, such as in Colombia and Mexico. The protection and assistance of IDPs would benefit from efforts to open such humanitarian space.

Regional and International Efforts to Reinforce National Responsibility

The engagement of the international community is an important way to reinforce national responsibility and accountability for addressing internal displacement, and is particularly critical in situations where political will for addressing the problem is inadequate at the national level. A regional approach is valuable when there exist similarities between situations of internal displacement in a region and when situations of displacement have the potential to spill over borders and destabilize neighboring countries.

“Internal displacement is more than a humanitarian and human rights issue; it is also a political and security issue - indeed, a challenge to nation-building. For these crises to be resolved in a sustainable fashion, they require strong regional strategies to help address the root causes of conflict, as well as the needs of the displaced.”

The Representative of the UN Secretary-General on IDPs

The following key recommendations emerged from the seminar:

At the regional level:

- The Inter-American Commission on Human Rights of the Organization of American States can play a valuable diplomatic and political role on the issue of internal displacement. Most notably it has taken part in monitoring, advocating, and reinforcing the legal obligations of states and has even engaged in the direct protection of IDPs. It should be supported in these efforts and given more resources to carry out its activities.
- The Commission’s Special Rapporteur on IDPs has played a path-breaking role in promoting and protecting the rights of IDPs in the Americas. This position, which is currently vacant, should be retained and expeditiously filled.

- NGOs and others should be more proactive in bringing to the Inter-American Court of Human Rights cases concerning IDPs, for example on property issues. The Court has demonstrated an awareness and strong sensitivity to issues of internal displacement and can exert influence on governments.
- A regional network of NGOs engaged with the issue of internal displacement should be set up for the exchange of information, experiences, and best practices on internal displacement.
- The convening of a regional conference on displacement in the Americas, covering both refugees and IDPs and marking the 20th anniversary of the Cartagena Conference, should be explored.

At the international level:

There remains scope for much greater engagement by the international community, in particular the UN, with the problem of internal displacement in the Americas, with the aim of reinforcing national responsibility and accountability. Recommended steps include:

- Monitoring and reporting on the implementation of national laws and policies on internal displacement and advocating for the development of national legislation and policy where these do not already exist.
- Assessing whether government policies and programs accord with international human rights and humanitarian law as set forth in the *Guiding Principles*.
- Monitoring and reporting on the implementation of recommendations made by international human rights and humanitarian mechanisms. To this end, a follow-up visit to Colombia by the Representative of the UN Secretary-General on Internally Displaced Persons would be valuable. In addition, a mechanism should be created to provide the Representative with periodic reports and updated information from governments as well as NGOs on the degree of compliance with his recommendations.
- Integrating the issue of internal displacement into inter-governmental forums and processes, such as the “Group of 24” on Colombia, which have leverage with governments in the region.
- Translating into local languages and disseminating the *Guiding Principles* and related materials such as the *Handbook for Applying the Principles* and the *Annotations* as well as the UN IDP Protection Policy Paper.
- Building on the Policy Paper, a protection strategy should be developed to cover all phases of displacement: prevention, during displacement, and during return/resettlement and reintegration. This would include establishing an enlarged UN presence in areas where IDPs’ physical security is under threat and accompanying returns to verify conformity with international standards of voluntary return in safety and dignity. To undertake such measures, international actors themselves must have safe and unimpeded access to the displaced, which governments must take all possible measures to ensure.

- Speaking out against and refusing to support returns that violate international standards of voluntariness and safety, and advocating with governments to respect these standards and provide alternatives to return.
- Increasing support for the reintegration of IDPs after return or resettlement, including by addressing outstanding reintegration issues in Guatemala and Peru.
- Acknowledging that internal displacement is not yet over in certain countries, namely Peru and Guatemala, despite an end to the hostilities, and supporting the development of international criteria on when internal displacement ends.
- Assisting in property restitution and compensation, for example through the World Bank Post-Conflict Fund, which provides grants supporting IDPs in their efforts to recover property and land lost as a result of displacement.
- Providing for greater consultation with IDPs and NGOs when UN humanitarian action plans are designed.
- Promoting the integration of internal displacement into national plans for human rights, as has been done in Mexico with the human rights *Diagnóstico*, and taking measures to assist governments in carrying out these plans.
- Expanding the integration of internal displacement in gender equity programs and in programs for children, the elderly, minority groups and indigenous persons, to strengthen protection for and address the particular assistance and reintegration needs of these groups.
- Supporting the formation of IDP associations, including IDP women's associations.
- Facilitating dialogue between governments and IDPs and NGOs.
- Facilitating negotiations, where possible, between governments and non-state actors for the creation of humanitarian space and an end to conflict and monitoring the implementation of such agreements.
- Supporting governments, which demonstrate efforts to effectively discharge national responsibility for internal displacement, with technical cooperation as well as with assistance in resource mobilization and the administration of funds.

Seminar Report prepared by Rapporteurs:

Erin Mooney, Marcela Mora Cordoba, Gimena Sanchez-Garzoli, and Balkees Jarrah

Edited by:

Roberta Cohen

APPENDIX A

AGENDA

Regional Seminar on Internal Displacement in the Americas

*Mexico City, Mexico
February 18-20, 2004*

Hosted by the Government of Mexico and co-sponsored by the Office of the Representative of the United Nations Secretary-General on Internally Displaced Persons and The Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement.

Wednesday, February 18

8:30 AM REGISTRATION

9:00 AM WELCOMING STATEMENTS AND INTRODUCTION

Thierry Lemaesquier, Resident Representative/Resident Coordinator, United Nations Development Programme (UNDP), Mexico

Francis Deng, Representative of the United Nations Secretary-General on Internally Displaced Persons and Co-Director, The Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement

Luis Ernesto Derbez Bautista, Secretary of Foreign Affairs, Government of Mexico

9:25 AM Break

9:30 AM INTERNAL DISPLACEMENT: A GLOBAL OVERVIEW

The number of internally displaced persons worldwide has grown dramatically over the last decade to a current estimate of 25 million persons. An estimated 3 million internally displaced persons can be found in the Americas region. In 1992, at the request of the United Nations Commission on Human Rights, the Secretary-General appointed a Representative on Internally Displaced Persons. The Representative has undertaken two official visits to Colombia and has also visited El Salvador, Mexico and Peru. He has presented findings and recommendations to the UN Secretary-General, the UN Commission on Human Rights, the UN General Assembly and the UN Inter-Agency Standing Committee. Dr. Deng will provide a global overview of internal displacement with a particular emphasis on the Americas.

Moderator: *Merida Morales O'Donnell, Regional Representative, UNHCR*

Presentation

Francis M. Deng, Representative of the United Nations Secretary-General on Internally Displaced Persons

Discussion

10:15 AM **Coffee Break**

10:45 AM **INTERNAL DISPLACEMENT IN THE AMERICAS: THE CURRENT CHALLENGES**

This session seeks to identify the current trends in internal displacement in the region, the causes of displacement, how the numbers are calculated, the priority issues confronting the displaced and when displacement can be said to end.

Moderator: *Guillermo Bettocchi, Senior IDP Advisor, OCHA IDP Unit*

Presentations

Greta Zeender, Senior Information Officer and Trainer, Global IDP Project, Norwegian Refugee Council

Jorge Rojas, President, Consultancy for Human Rights and Displacement (CODHES)

Reynaldo German Martinez Velasco, Colegio de la Frontera Sur

Rosa Lia Chauca, National Coordinator, Mesa sobre Desplazamiento y Afectados por Violencia Politica (MENADES)

Discussion

12:30 PM **Luncheon**

2:00 PM **THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT: THEIR APPLICATION IN THE AMERICAS**

In 1998, the first international standards for internally displaced persons, the Guiding Principles on Internal Displacement, were presented to the UN Commission on Human Rights. The Principles have been widely promoted in the Americas. The first part of this session reviews how the Principles are being applied worldwide. The second part of the session will focus on specific efforts to implement the Guiding Principles in the Americas.

Moderator: *Robert Goldman, Professor of Law, Washington College of Law of American University, and former Chair, Inter-American Commission on Human Rights, OAS*

Presentations

Roberta Cohen, Senior Fellow at The Brookings Institution and Co-Director, The Brookings-SAIS Project on Internal Displacement

Catherine Bouley, Colombian Commission of Jurists

Juan Gonzalez Esponda, Comisionado para la Paz y Reconciliacion de los Pueblos Indigenas, Gobierno de Chiapas

Discussion

3:00 PM PROTECTION AND ASSISTANCE OF THE DISPLACED: THE PARTICULAR CONCERNS OF ETHNIC GROUPS

Internally displaced persons often do not receive adequate material assistance and often suffer from serious protection problems. Indigenous persons and those of African descent in particular suffer from discrimination and loss of livelihood and are especially vulnerable to human rights abuse. This session will seek to identify practical solutions to the assistance and security concerns of the displaced, in particular those belonging to minority ethnic groups.

Moderator: *Jorge Rojas, President, Consultancy for Human Rights and Displacement (CODHES)*

Presentations

Xochitl Galvez, Comisionada Nacional para el Desarrollo de los Pueblos Indigenas

Rodolfo Stavenhagen, United Nations Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People

Marino Cordoba Berrio, Founder and Director of International Affairs, Association for Internally Displaced Afro-Colombians (AFRODES)

Discussion

3:45 PM Coffee Break

4:15 PM EMPOWERING IDP WOMEN

Women face additional protection and assistance challenges when they become internally displaced. IDP women often become the sole heads of household and serve as the main breadwinners for their families. This session will address their particular concerns, among these, gender based violence, lack of documentation and discrimination when seeking assistance and employment. It will seek to identify the most effective strategies for integrating their specific concerns into IDP policies and programs.

Moderator: *Patricia Luna Paredes, Director, Program for Internally Displaced Persons, Social Solidarity Network, Government of Colombia*

Presentations

Rosa Lia Chauca, National Coordinator, Mesa sobre Desplazamiento y Afectados por Violencia Política (MENADES)

Paloma Bonfil, National Commission for Development of Indigenous Communities

Pilar Rueda, Gender Specialist, Colombia

Discussion

5:30 PM OTHER VULNERABLE GROUPS

Also in need of special consideration are children and older internally displaced persons. This session seeks to identify their particular concerns, the extent to which these are being addressed and further steps needed to improve their situation.

Moderator: *Nils Kastberg, Regional Director, UNICEF (Panama)*

Presentations

Jorge Rojas, President, Consultancy for Human Rights and Displacement (CODHES)

Diana Avila, Executive Director, Project Counselling Service, Peru

Discussion

6:30 PM Close of Session

7:30 PM Buffet Dinner- Hotel Fiesta Americana (Salon Stelaris, 25th Floor)

Thursday, February 19

9:00 AM DURABLE SOLUTIONS: RETURN, RESETTLEMENT AND REINTEGRATION

Finding durable solutions, the ultimate goal for internally displaced persons, may be achieved when internally displaced persons are able to resume stable, secure lives by returning to their places of origin or resettling in another location in their country. This session will focus on conditions for safe and voluntary return, including the protection of returnees and questions of property restitution and compensation, and will look at alternatives to return.

Moderator: *Juan Gonzalez Esponda, Comisionado para la Paz y Reconciliacion de los Pueblos Indigenas, Gobierno de Chiapas*

Presentations

Fernando Masaya, Coordinator for Peace and Multiculturalism, UNDP, Guatemala

Isabel Corral, Representative, Programa Nacional de Apoyo a La Repoblacion (PAR), Government of Peru

Mario Torres Torres, IDP Leader from Chiapas, Mexico

Elana Correa, Senior Social Scientist, The World Bank

Discussion

10:30 AM Coffee Break

11:00 AM RESPONSE BY NATIONAL AND LOCAL GOVERNMENTS

Since the protection and assistance needs of the internally displaced rest first and foremost with the national and local authorities, this session aims to identify the means through which national and local governments in the Americas respond to situations of internal displacement. It will examine the policies, laws and institutions developed at the national level to address the needs of the displaced and further steps that might be taken.

Moderator: *Victor Montejo, Secretario de la Paz, Oficina de la Presidencia, Guatemala*

Presentations

Patricia Luna Paredes, Director, Program for Internally Displaced Persons, Social Solidarity Network, Government of Colombia

Representative Emilio Zebadúa González, Coordinador del Área de Política Interna y Reforma del Estado del Grupo Parlamentario del Partido de la Revolución Democrática en la Cámara de Diputados, Mexico

Ezequiel Zuniga Galeana, Coordinador de Enlace con Organizaciones Sociales, Govenement of the State of Guerrero, Mexico

Congressman Walter Alejos Calderon, Peru

Discussion

12:30 PM Luncheon

2:00 PM ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS

National human rights institutions have begun to address internal displacement in the Americas. This session will take a look at the role that National Human Rights Institutions are playing with regard to internally displaced persons and will also examine what further steps they can take to integrate displacement and the Guiding Principles into their work.

Moderator: *Congressman Walter Alejos Calderon, Peru*

Presentations

Maria Camila Moreno Munera, Coordinadora, Atencion al Desplazado Forzado, Defensoria del Pueblo, Colombia

Eliana Revollar Añaños, Directora, Programa de Proteccion a Poblaciones Afectados por Violencia, Defensoria del Pueblo, Peru

Discussion

3:00 PM Coffee Break

3:30 PM RESPONSE BY REGIONAL AND INTERNATIONAL ORGANIZATIONS AND DONORS

The Organization of American States (OAS) was the first regional organization to create a position exclusively devoted to the problem of internal displacement. In 1996, its Inter-American Commission on Human Rights appointed a special rapporteur for internally displaced persons. The first part of this session will examine the efforts made by the Commission and the Inter-American Court of Human Rights to address the situation of internal displacement and identify further steps that might be taken.

The second part of this session examines the roles of international organizations and donors in reinforcing national and local efforts to assist internally displaced persons. Particular attention will be paid to the protection of the internally displaced and further steps to be taken to strengthen these efforts.

Moderator: *Alfredo Witschi-Cestari, Humanitarian Coordinator and Resident Coordinator, United Nations Development Programme, Colombia*

Presentation

Robert Goldman, former Chair, Inter-American Commission on Human Rights and former Special Rapporteur on Internally Displaced Persons, OAS

Discussion I

Presentations

Guillermo Bettochi, Senior IDP Advisor, OCHA IDP Unit

Francisco Galindo, Representative, UNHCR, Colombia

Ariane Tombet Caushaj, Deputy Director, International Committee of the Red Cross, Mexico

Discussion II

5:00 PM **Break**

5:15 PM **RESPONSE BY CIVIL SOCIETY, LOCAL
NON-GOVERNMENTAL ORGANIZATIONS
AND IDP ASSOCIATIONS**

In the Americas, local NGOs and civil society are active on behalf of the internally displaced and the internally displaced have also organized themselves. This session examines the roles of local NGOs and IDP associations and their collaboration with national and local authorities and the international community.

Moderator: *Merardo Herrera, Advicora (IDP Association), Colombia*

Presentations

Juan Manuel Bustillo, Coordinator, Program to Support IDP Organizations, MENCOLDES

Ana Isabel Suasnabar Huaroc, Coordinadora, Desplazados y Comunidades en Construcción (CONDECOREP), Peru

Demetrio Elegio Us Alvarez, Secretary, National Council for the Displaced in Guatemala (CONDEG)

Marcos Arana, Red de Defensoria del Derecho a la Salud, Mexico

Discussion

6:30PM **Close of Session**

7:30 PM **Buffet Dinner- Hotel Fiesta Americana (Salon Stelaris, 25th
Floor)**

Friday, February 20

9:00 AM SAFE ACCESS TO THE DISPLACED AND PROTECTION OF THOSE WORKING ON THEIR BEHALF

Security concerns present a serious challenge to those who work on behalf of the displaced and frequently hamper their access to internally displaced persons. Leaders of displaced persons organizations, NGOs, academics and also governmental officials have been threatened, targeted and in some instances killed in trying to help internally displaced persons. In this session the security concerns will be discussed as well as government responsibility for providing security; strategies will be identified for ensuring that those who work on behalf of the displaced are properly protected from harm.

Moderator: *Anders Kompass, Director, Office of the High Commissioner for Human Rights (OHCHR), Mexico*

Presentations

Helen Mack, Myrna Mack Foundation and sister of anthropologist Myrna Mack, Guatemala

Catherine Bouley, Colombian Commission of Jurists

Patricia Luna Paredes, Director, Program for Internally Displaced Persons, Social Solidarity Network, Government of Colombia

Discussion

10:00 AM Coffee Break

10:30 AM PRESENTATION OF GENERAL CONCLUSIONS AND CONCLUDING REMARKS

This session will bring together the major conclusions and recommendations reached during the seminar on the protection, assistance, reintegration and development needs of internally displaced persons in the Americas and how these can best be met at the national, regional and international level.

Moderator: *Roberta Cohen, Senior Fellow at The Brookings Institution and Co-Director, The Brookings-SAIS Project on Internal Displacement*

Report of the Rapporteurs presented by the Report Coordinator: Erin Mooney, Deputy Director, The Brookings-SAIS Project on Internal Displacement

Discussion

Concluding Remarks

Patricia Olamendi-Torres, Under-Secretary for Global Affairs, Government of Mexico

Francis Deng, Representative of the United Nations Secretary-General on Internally Displaced Persons

12:00 PM CLOSURE OF MEETING AND LUNCH

7:30 PM Buffet Dinner- Hotel Fiesta Americana (Salon Jalisco, 3rd Floor)

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APPENDIX C

Background Paper

Introduction

In 1982 when the magnitude of global internal displacement was first assessed, there were a reported 1.2 million internally displaced persons (IDPs) in 11 countries. More than twenty years later, there are an estimated 25 million internally displaced persons in 52 countries around the globe. While in 1982 refugees outnumbered IDPs by a factor of 10 to one, there are now twice as many IDPs as there are refugees.

Governments, as a crucial element of their sovereignty, bear the primary responsibility for ensuring that the protection and assistance needs of the internally displaced are met. In 1992, Francis Deng, the Representative of the United Nations Secretary-General on Internally Displaced Persons, introduced the formulation of “sovereignty as responsibility” as the conceptual framework for dealing with the problem of internal displacement. According to this concept, governments are primarily responsible for providing life-supporting protection and assistance for internally displaced persons on their territories, but when they are unable to do so, they are expected to request and accept outside offers of aid. Further, the international community has the right and even the responsibility to assert its concern and assist the displaced if the state is unable or unwilling to do so. At times the conditions that contribute to displacement in the first place and the sheer magnitude of the problem can impede governments’ abilities to react effectively. Regional and international organizations, international and national non-governmental organizations, national human rights commissions, as well as IDP associations, can play a useful role in working together with governments to address the complex protection, assistance and reintegration and development concerns of the displaced and make certain that their rights are respected.

Purpose of the Seminar

The seminar will identify the current trends in internal displacement in the Americas and examine national, regional and international responses. It aims to promote a greater understanding of displacement in the Americas and to help identify effective policies and practices for addressing the current protection, assistance, reintegration and development needs of IDPs in the region. To supplement the discussions on these issues, this paper will provide a brief overview of internal displacement in the region, discuss the content and reception of the Guiding Principles on Internal Displacement, the innovative institutional frameworks developed in the Americas, and introduce the current challenges that will be addressed at the seminar.

Internal Displacement in the Americas

An estimated 12 percent of the world's internally displaced persons are found in the region of the Americas. While the magnitude of the problem is small compared to other regions of the world, such as Africa, it is important to emphasize that the level of suffering of this population is profound and should not be minimized. The civil wars of the 1980s and early 1990s in the Americas displaced more than two million people. By the end of the 1990s, these figures had fallen dramatically because the establishment of peace in several countries led to returns of many of those displaced. As the number of internally displaced persons dropped, the international spotlight on the region's displaced persons shifted to other areas of the world. Yet, displacement continues to plague the Americas and those affected suffer greatly.

The Norwegian Refugee Council's Global IDP Project reports that some 3.3 million persons remain internally displaced in the Americas. In some countries, like Peru and Guatemala, the displaced mainly face the challenges of post-conflict return and reintegration, whereas in Mexico, the displaced continue to have compelling protection and assistance needs, although their numbers are comparatively small. The country with the most acute problem is Colombia. With over 2 million persons displaced (official estimates are more than one million, while some NGOs estimate that the actual number may be closer to 3 million), Colombia contains the largest IDP population in the Western Hemisphere and the third largest IDP population in the world, with new displacements continuing.

Displacement in Colombia is mainly caused by political violence associated with a 40 year armed conflict that is characterized by serious violations of international human rights and humanitarian law. In Colombia, displacement is not merely incidental to the armed conflict but is a deliberate strategy of war. The armed groups rarely confront each other directly but most often settle scores by attacking civilians suspected of being with the "other" side, thus forcing persons who are not involved in the conflict to flee due to threats and attacks. Armed groups also induce displacement in order to control strategic areas of the country for economic and political purposes.

Protection from arbitrary displacement and during the various phases of displacement remains the primary concern for Colombia's internally displaced. A disproportionate number of the displaced are ethnic minorities who are of African descent or belong to indigenous groups. In addition to experiencing the difficulties associated with displacement, they also suffer from discrimination in areas of refuge. Moreover, because indigenous populations have a special dependency on and attachment to their lands, displacement results in the loss of their specific cultural and land rights. Increasingly, the displaced from rural areas seek safety in urban environments. Many of the displaced live in poor conditions and lack sufficient food, medical attention, the necessary documents needed to obtain vital assistance and to exercise their full rights as citizens, and access to sustainable income generating activities. Many continue to come under suspicion or even suffer discrimination for the mere fact of being internally displaced. At the same time, IDPs throughout Colombia are highly organized and very active in trying to remedy their situation. However, by doing so they are at higher risk of harm. IDP leaders and persons who work on behalf the displaced often face serious security threats.

Displacement in Mexico has multiple causes, with the conflict in Chiapas being the primary source of displacement. Other sources of displacement include land disputes, religious intolerance, development projects and natural disasters. According to Government sources, estimates place the number of IDPs in Chiapas at 12,000, with larger scale displacement having taken place in the mid-1990s. Women and children IDPs suffer from malnutrition and food shortages. Protection from intimidation and harassment by armed groups and basic assistance needs are issues of particular concern to Mexico's IDPs.

Displacement in Peru was mainly caused by the violence generated by the Shining Path insurgency and the counterinsurgency efforts of the Peruvian armed forces during the 1980s and 1990s. An estimated 600,000 to a million persons became internally displaced as a result of the violence which ended in the mid-1990s. After the conflict, thousands of IDPs returned home, encouraged by a government program that promised assistance and development in their areas of origin. Many other displaced persons settled elsewhere, such as on the perimeter of the cities to which they had fled. Although most IDPs have reintegrated into their surroundings, many still continue to require assistance, particularly with finding sustainable income generating activities. In light of the recently released Truth and Reconciliation Commission report, issues of visibility, national recognition of their displacement, justice and reparations are particularly relevant to Peru's IDPs. In addition, in recent years, there have been reports of new small-scale displacements occurring in isolated areas of the country. The latest figure available for the current number of IDPs in Peru is 60,000.

In Guatemala, the 1996 peace agreement between the government and the Guatemalan National Revolutionary Unity (URNG) ended the decades-long conflict, begun in the 1960s, which had uprooted more than a million persons. At times, displacement was not only a consequence of violence but an objective of counterinsurgency strategies. During the 1980s, entire communities became internally displaced, and the profile of those displaced was poor indigenous populations. In 1997, one year after the peace, IDP leaders signed an agreement with the government entitled the "Accord on the Resettlement of Populations Uprooted by the Armed Conflict," which addressed important IDP needs, such as land and basic infrastructure in areas of relocation. Although many of Guatemala's IDPs returned to their areas of origin, others settled permanently in their areas of refuge. While some observers consider there no longer to be any IDPs in the country, according to the Norwegian Refugee Council Global IDP Database, there remain an estimated 250,000 persons who continue to need assistance to enable them to have their rights fully restored and resume their lives as productive citizens. The number of IDPs who have yet to find durable solutions to their plight remains a controversial issue that requires further exploration.

Tied to the question of numbers of IDPs in Colombia, Guatemala and Peru is the complex question of when displacement can be said to have ended. Participants in the seminar will discuss this and other pertinent questions with a view to finding effective national, regional and international responses. Given that governments and their national and international partners are engaged in policies and programs to improve the response to the displaced in the region, it is useful to briefly review the existing normative framework that has been developed to help guide governments and other actors in addressing IDP concerns.

The Guiding Principles on Internal Displacement

The Guiding Principles on Internal Displacement are the first international standards developed for IDPs. These 30 Principles, which are based on international humanitarian law, human rights law and refugee law by analogy, set forth the rights of the internally displaced and the obligations of governments and non-state actors toward these populations. They cover all three phases of displacement: protection from arbitrary displacement; protection and assistance during displacement; and during return or resettlement and reintegration.

The first section of the Principles contains general principles that relate to the equal treatment of IDPs and assert that the displaced cannot be discriminated against because of their displacement. At the same time, they acknowledge that certain vulnerable groups such as women, children and elderly persons may require special attention. The second section includes Principles relating to protection from displacement and articulates a right not to be arbitrarily displaced. It is worth noting that states are under a particular obligation to avoid displacement and to provide protection against the displacement of groups with a special dependency on and attachment to their lands. The Principles also provide minimum guarantees to be complied with when displacement occurs. The third section sets forth the full range of civil, political, economic, social and cultural rights that all persons, including IDPs, should enjoy. The fourth section on provision of humanitarian assistance goes beyond simply pointing out the primary role of the national authorities in providing humanitarian assistance. It adds that when those governmental authorities responsible are unable or unwilling to provide assistance, international organizations have the right to offer their services, and, consent to do so shall not be arbitrarily withheld. The last section of the Principles emphasizes the importance of voluntary return in safety and dignity, resettlement or local integration, as well as the need to assist IDPs to recover their property and possessions or, when this is not possible, to receive compensation or just reparation.

Throughout the Principles, special attention is paid to the protection and assistance needs of vulnerable groups such as women, children, the elderly and disabled. For example, the Principles call for the participation of women in the planning and distribution of relief supplies, prohibit sexual violence and the recruitment of minors into hostilities, and stress the need for family reunification. Of particular significance to situations of displacement in the Americas, the Principles also refer to the right of women to obtain personal identity and other documents on an equal basis as men.

Since their presentation to the United Nations in 1998 by the Representative of the Secretary-General on Internally Displaced Persons, the Principles have gained worldwide international standing and authority. Intergovernmental bodies, such as the UN Commission on Human Rights and the General Assembly have acknowledged and encouraged the use and dissemination of the Principles in their resolutions. The UN Secretary-General has called upon the Security Council to encourage states to observe the Principles in situations of mass displacement. All of the main international humanitarian, human rights and development organizations and umbrella organizations have endorsed the Principles and taken the decision to disseminate and apply them in the field. Many regional intergovernmental organizations around the world, such as the Organization of African Unity (OAU, now the African Union) and the Organization for Security and Cooperation in Europe (OSCE), have been disseminating and

applying the Principles. In the Americas, the Inter-American Commission on Human Rights of the Organization of American States (OAS) has formally endorsed the Principles as an authoritative guide to applicable law and uses them as a checklist for evaluating conditions of internally displaced persons in the different countries it visits.

The Principles were first introduced in the Americas by the Inter-American Commission during its 1998 mission to Colombia. When the Representative of the Secretary-General paid his second visit to Colombia in 1999, the Principles served as the basis for his dialogue with government officials and other actors and served as the framework for dialogue on his mission to Mexico in 2002. The Representative found that government officials in these two countries accepted the Principles as a framework for dealing with the concerns of the displaced. Indeed, the Colombian government has taken a number of steps based on the Principles to further develop national legal and institutional frameworks for addressing the problem of internal displacement. One such effort was Presidential Directive No. 6 (2001), which supported the 2001 Colombian Constitutional Court's decision that upheld the Guiding Principles and stressed the need for government officials to receive training in them. A prior Constitutional Court decision SU-1150 (August 2000) affirmed that the Principles should be utilized in the interpretation of existing IDP legislation and as the standard for any new legislation on displacement.

In addition, during the Representative's 1999 mission to Colombia, a seminar was organized with government officials, international organizations, NGOs and displaced persons groups to analyze the situation of internal displacement in Colombia and to develop strategies based on the Principles. Co-hosted by the Grupo de Apoyo a Organizaciones de Desplazados (GAD), the US Committee for Refugees, and the Brookings Project on Internal Displacement, the seminar's concluding statement stressed the importance of putting the Guiding Principles into practice, and thereafter, increasing numbers of government officials, and international and national NGOs and church groups began to utilize the Principles in their work. Although the main focus of the seminar was on Colombia, Peruvian NGOs also participated. And it is noteworthy that members of the Peruvian legislature recently drafted legislation on internal displacement, which draws on the Guiding Principles.

In the Americas, NGOs in particular have been extremely active in promoting the rights of the displaced and have been widely disseminating and applying the Principles, as well as the companion *Handbook for Applying the Guiding Principles*. In Peru, for example, NGOs have disseminated and applied the Principles as benchmarks against which to monitor and evaluate national policies and law and to promote and strengthen dialogue with the government on the rights of the displaced. Peruvian NGOs and IDP groups are currently promoting the above-mentioned draft law on internal displacement. Displaced persons organizations have also begun to use the Principles as an empowerment tool.

Regional and International Responses

Faced with the challenge of seeking solutions for the displaced, the Americas region has responded by developing some innovative institutional arrangements for the displaced. One early initiative was the International Conference on Central American Refugees (CIREFCA), convened in 1989 by the UN High Commissioner for Refugees (UNHCR) and the Central

American governments. It put into place mechanisms at the international, regional and national levels for the design and implementation of reintegration programs for returning refugees and internally displaced persons. In the Conference Plan of Action, Central American governments and international donors committed themselves to far-reaching humanitarian and development programs for uprooted peoples, and many of these programs were effectively carried out. In addition, the UN Development Program for Displaced Persons (PRODERE) brought together relief and development agencies to facilitate over a five-year period the reintegration of more than two million refugees and IDPs. Carried out between 1989 and 1995, PRODERE supported the restoration of infrastructure and community-based development projects and assisted displaced persons in securing legal documents and legal aid. While studies have found that IDPs could have received more attention under both programs, CIREFCA and PRODERE are generally regarded as being among the most successful regional approaches to the reintegration of uprooted populations.

Another institutional innovation in the Americas concerns the Organization of American States (OAS). It was the first regional organization to create a position exclusively devoted to the problem of internal displacement. In 1996, its Inter-American Commission on Human Rights appointed Professor Robert K. Goldman, as its special rapporteur for IDPs. The special rapporteur has been actively monitoring situations of internal displacement in the Americas and using the Guiding Principles as the framework for doing so. For example, the Commission's 1999 report on the human rights situation in Colombia contains an extensive chapter on internal displacement, with recommendations addressed to both the government and insurgent groups. The Commission's April 2001 report on Guatemala also analyzes the human rights situation of those uprooted by armed conflict and makes recommendations to the Guatemalan government designed to aid the reintegration of the displaced. In particular, it recommends that the government intensify efforts to ensure that the displaced obtain identity documents and that it adopt concrete measures and procedures to implement the 'Agreement on Resettlement,' which provides that uprooted populations should be allowed to participate in the design and implementation of policies and projects that affect them.

Even before the appointment of the rapporteur, the Inter-American Commission had begun to report on the situation of IDPs in Haiti and Guatemala, and in the case of Nicaragua it took a seminal decision. As early as 1984, it ruled that compensation should be awarded to the Miskito Indians for the damage done to their property during displacement. This decision helped guide future approaches to returns of IDPs and influenced the development of the Guiding Principles on this point. Some have proposed that the Commission take additional steps, for example, that it engage in preventive measures, as indeed the Commission has initiated in response to threats faced by IDP communities in Colombia.

At the international level, United Nations agencies and international humanitarian organizations have played an important role in directly providing protection and assistance to internally displaced persons. This has particularly been the case in Colombia. UN agencies and offices such as UNHCR, the Office of the UN High Commissioner for Human Rights, UNICEF, the World Food Program (WFP) and the Office for the Coordination of Humanitarian Affairs (OCHA) as well as the International Committee of the Red Cross (ICRC) and an array of international NGOs have undertaken a number of critical steps in support of IDPs, such as

promoting adherence by armed actors to international human rights and humanitarian law, monitoring the conditions of IDPs, establishing field presence, accompanying individuals and communities at risk, and providing basic assistance. Donor countries also have played an active role in drawing attention to the crisis in Colombia, for instance in undertaking missions to particular IDP communities and in advocating with the government for more effective responses to their plight. International actors, however, face a number of challenges to assisting and protecting the internally displaced, in particular as regards security and access. Moreover, the magnitude of the displacement crisis in a country like Colombia also presents significant challenges in terms of sufficient resources to cover identified needs. In the case of Mexico, the Representative of the Secretary-General has called for greater international attention to the problem of internal displacement.

Addressing the Current Challenges

Although the national, regional and international responses to internal displacement in the Americas have often been innovative and sometimes expansive, and the Guiding Principles have been widely disseminated and utilized, there continues to exist a gap between the policies and programs developed and the reality faced by IDPs on the ground. Moreover, since 1999, many new challenges have arisen, among these the deliberate targeting of persons working for the displaced, especially the leaders of displaced communities, necessitating new strategies.

This seminar will examine the different problems confronting the displaced and search for practical solutions to their protection and assistance concerns, with particular attention paid to indigenous groups and those of African descent. The particular concerns of IDP women and the most effective strategies for integrating these into policies and programs will be discussed, as will the further steps that can be taken to improve the situation of children and older IDPs.

Participants will also discuss and develop recommendations on how durable solutions for IDPs, either safe and voluntary return or alternatives to return, can best be achieved in the region. The current response by local, national, regional and international actors will be explored, with particular attention paid to national responsibility and the development by governments of policies and laws to address displacement. A specific session will be devoted to discussing the role that national human rights institutions can play to integrate displacement into their work. Ways of strengthening the collaboration among NGOs, IDP organizations and national authorities will be examined as well as cooperation with the international community. Strategies will also be identified for ensuring that those who work on behalf of the displaced, such as IDP leaders, academics and government officials, are protected from harm.

Conclusion

Internal displacement remains a pressing issue in the Americas. A great deal remains to be done at the national level to ensure protection and assistance as well as to find durable solutions for the millions uprooted and to prevent further displacement from taking place. To reinforce the existing efforts already underway at the national and local level, the further development of regional approaches should prove valuable. At the same time, the root causes of the problem must be addressed. Internal displacement after all is a reflection of much larger political,

economic and social problems within societies. It is therefore first and foremost a problem for national and local authorities to work out with their displaced communities, but it is also a problem that the international community as well as regional bodies can help address. The normative framework found in the Guiding Principles on Internal Displacement should provide participants with a framework for dialogue on these issues and thereby lend support to achieving more effective strategies for persons internally displaced in the Americas.