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特定群体和个人

人口大规模流亡和流离失所者

负责国内流离失所者问题的前秘书长代表弗朗西斯·登先生
关于美洲国内流离失所问题区域研讨会的报告

(2004 年 2 月 18 日至 20 日，墨西哥城)*

秘书长的说明

秘书长谨向人权委员会成员转递负责国内流离失所者问题的前任代表弗朗西斯·登先生按照人权委员会第 2003/51 号决议提交的报告。

* 本报告的内容提要以所有正式语文分发。报告本身载于内容提要附件，以英文和西班牙文两种原文分发。

内 容 提 要

关于美洲国内流离失所问题的第一次区域研讨会于 2004 年 2 月 18 日至 20 日在墨西哥城举行，研讨会由墨西哥政府担任东道主，并由联合国秘书长负责国内流离失所者问题的代表 * 办事处和布鲁金斯学会—约翰·霍普金斯高级国际研究学院国内流离失所问题项目联合主办。

研讨会的目的是审议该区域在国内流离失所方面当前的趋势，以及在国家、区域和国际一级所作出的反应。有 60 多人士参加了研讨会，其中包括哥伦比亚、危地马拉、墨西哥和秘鲁政府的代表；议员；国家人权机构的代表；地方和国际性非政府组织；联合国；世界银行；区域机构；国内流离失所者社团领袖；以及研究机构的专家。

研讨会产生了一个行动框架，其中提出了改善国家反应的要点以及在区域和国际一级为加强国家责任所可以采取的步骤。

* 秘书长代表为弗朗西斯·登，任期自 1992 年至 2004 年。

Annex

**REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL
ON INTERNALLY DISPLACED PERSONS, FRANCIS M. DENG, ON THE
REGIONAL SEMINAR ON INTERNAL DISPLACEMENT IN THE
AMERICAS, MEXICO CITY, 18-20 FEBRUARY 2004***

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
1. Opening of the meeting	1 - 2	4
2. Global overview of internal displacement	3	4
3. Internal displacement in the Americas	4 - 9	4
4. The Guiding Principles on Internal Displacement	10 - 13	5
5. The particular concerns of ethnic groups	14 - 19	6
6. Empowering IDP women	20 - 23	7
7. Other vulnerable groups	24 - 26	8
8. Durable solutions: return, resettlement and reintegration	27 - 30	8
9. Response by national and local governments	31 - 39	9
10. Role of national human rights institutions	40 - 43	10
11. Enhanced regional response	44 - 46	11
12. The role of the international community	47 - 48	11
13. The role of civil society, local non-governmental organizations and IDP associations	49 - 51	12
14. Safe access to the displaced and protection of those working on their behalf	52 - 56	12
15. A Framework for Action	57 - 98	13

* This is an abridged report; the full report can be obtained from the Brookings-SAIS Project on Internal Displacement, e-mail bjarrah@brookings.edu.

1. Opening of the meeting

1. Thierry Lemaresquier, United Nations Resident Coordinator in Mexico, and the Representative of the Secretary-General on internally displaced persons, Francis M. Deng, opened the meeting.

2. Luis Ernesto Derbez Bautista, Minister for Foreign Affairs of Mexico, said that the seminar was a direct result of the official visit of the Representative of the Secretary-General to Mexico. He noted that while in the Americas 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. The vulnerability of internally displaced persons (IDPs), especially as regards protection, necessitated greater governmental responsibility to address their needs. The Government of Mexico was committed to making use of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) in responding to internal displacement.

2. Global overview of internal displacement

3. The Representative of the Secretary-General presented a global overview of internal displacement. 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 IDPs in the Americas was small compared to the rest of the world, that by no means diminished the significance of their plight. IDPs 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.

3. Internal displacement in the Americas

4. Of the approximately 3.3 million IDPs in the region, some 3 million were displaced in Colombia alone, of whom 175,000 were newly displaced in 2003. Although Colombia had the largest number of displaced persons in the region, the difficulties faced by IDPs in the other countries in the region also were of concern.

5. Too often, the plight of IDPs in the Americas had been overlooked or given insufficient attention. One reason was that many of them were difficult to distinguish from other homeless and landless populations. Several other factors contributed to the difficulty of assessing their numbers and location. Firstly, 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 the authorities. In prolonged situations of displacement, the occurrence of multiple displacements, return movements, and demographic changes in the displaced population complicated the gathering of accurate information.

6. **Guatemala** - The case of Guatemala illustrated the challenges that arose in protracted situations of displacement. The Government as well as United Nations 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 faced extreme

poverty. However, Guatemalan NGOs, researchers, and some United Nations officials found that there might still be as many as 250,000 IDPs. They mainly lived in cities and still lacked a lasting solution, as they had not managed to return to their lands, nor had they been able to successfully reintegrate elsewhere.

7. **Colombia** - Although there had been a decrease in the number of IDPs in the past year, the information could be misleading. 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. A lack of attention by the media deriving from the protracted nature of the conflict further added to the lack of national visibility of the problem. The institutional capacity in Colombia was not sufficient to take care of the displaced and basic protection and assistance standards were deteriorating. Moreover, there was a need for the Government to revise its policy of return, so as to guarantee that returns were voluntary and that adequate security and protection were provided.

8. **Mexico** - The fact that there was still little information about displacement in the State of Chiapas was attributed to a lack of interest in 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, the problem only began to be documented relatively recently and, therefore, it had been difficult to accurately assess the number of the displaced. Numbers were estimates and varied according to the source. There was also a need for disaggregated data in order to better address the needs of specific groups of IDPs, in particular women and children. A dialogue recently had been initiated between the Government and civil society to fill information gaps and work out how best to respond.

9. **Peru** - Nine years after the visit of the Representative of the Secretary-General in 1995, IDPs’ needs had still not been met and many of the displaced persons lived in conditions of extreme poverty and social marginalization. Although State programmes were developed for providing reconstruction assistance and documentation to returnee populations, only 8 per cent 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. Civil society, together with members of Congress, were promoting the development of a law on internal displacement.

4. The Guiding Principles on Internal Displacement

10. The Guiding Principles on Internal Displacement, the first international standards for IDPs, were proving to be an effective tool in the Americas in six main ways: as a monitoring tool, as a guide for Governments in the development of national laws and policies, as a tool for advocacy and dialogue with national authorities, as an empowerment tool, as an authoritative guide for interpreting the law as it relates to IDPs, and as a tool for holding non-State actors accountable.

11. Participants emphasized 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 ruling that forced displacement was contrary to national law. However, participants underscored 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.

12. In the case of Mexico, government representatives said that the visit of the Representative of the Secretary-General had encouraged 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 them 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 that incorporated the Guiding Principles.

13. Training on the Guiding Principles was needed for national and municipal authorities, and for 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 therefore legitimate targets. Promotion of the Guiding Principles among parliamentarians was also needed to encourage greater attention to IDP rights in law. 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.

5. The particular concerns of ethnic groups

14. Indigenous and ethnic groups 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.

15. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people reported that he had found displacement caused by natural catastrophes, political and religious conflict, large development projects, as well as economic and environmental changes. There were also cases where displacement was planned by Governments. He proposed that responses be properly targeted, since the needs of the displaced differed according to the nature of their experience and whether displacement was transitory or permanent.

16. In Mexico, the causes of displacement of the indigenous population included religious conflict, natural disasters, and development projects; 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 allocated \$20 million this year to help address their plight.

17. 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 and a national policy that would address their needs.

18. In Colombia, Afro-Colombians were among the poorest sectors of society and would require special attention. They made up one third of Colombia's IDPs in 2002. They were disproportionately affected by the conflict, which largely took place in the rural areas - jungles, riverbanks, valleys and coastal communities - where there were strong national and international economic interests. Shortly after land titles were recognized for Afro-Colombian communities in 1996, they were subjected to a bombing campaign which led to the displacement of more than 20,000 persons.

19. The Office of the United Nations High Commissioner for Human Rights and the Representative of the Secretary-General called attention to the serious situation of Afro-Colombians. Participants recommended that the United Nations should 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 accelerate the collective land-titling process for Afro-Colombians to help prevent further displacement and to implement its National Development Plan for Afro-Colombians.

6. Empowering IDP women

20. Displacement by conflict brought about a fundamental change in the role of women within their families and society. They became the primary providers for their families and had to assume functions additional to household maintenance, cooking and childcare. Notwithstanding the hardships this entailed, the expansion of roles for internally displaced women also had positive implications: enhancing their self-esteem, helping them to overcome long-standing discrimination, and presenting an opportunity for a transformation in gender relations.

21. At the same time, conflict and displacement created particular risks for women. Systematic and widespread 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 strain. Also, women sometimes faced heightened rates of violence as a result of their participation in political processes and when advocating respect for their rights. 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.

22. Indigenous women faced additional challenges. Whereas IDP women generally suffered from a lack of access to income-generating opportunities, this problem was exacerbated in indigenous communities due to their social and economic marginalization and status.

23. Participants called for more disaggregated data on displaced populations, including on age and gender, and for differentiated responses tailored to the needs of specific groups. Comprehensive programmes were also needed, incorporating economic, social and health needs of women and stressing reproductive health rights.

7. Other vulnerable groups

24. Elderly IDPs as well as displaced children and adolescents also needed to be given higher profiles in protection and assistance programmes.

25. In Peru, older women experienced the greatest difficulty when trying to adapt to life in urban areas. Displacement also burdened older internally displaced women with additional responsibilities, in particular childcare and household maintenance. Little statistical information existed on the number, situation, and particular needs of displaced seniors. They tended to be overlooked in needs assessments and the design of assistance programmes. National and international actors should do far more to ensure the participation of older IDPs in consultation with displaced populations.

26. Participants underscored the importance of focusing on the needs of IDP children, including adolescents. Displacement typically entailed the disintegration of the family, 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 during displacement risked causing malnutrition that could affect children's natural growth. Psychosocial problems were common, and particular concerns were expressed about the higher rate of suicide among internally displaced children. Moreover, adolescents were especially at risk in the area of protection: adolescent internally displaced girls were often the victims of targeted sexual violence, and adolescent males were under tremendous pressure to join the ranks of armed groups.

8. Durable solutions: return, resettlement and reintegration

27. Strong emphasis was placed on the importance of supporting the safe and voluntary return to their place of origin, or resettlement and reintegration of IDPs in other areas of the country. 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 the return of IDPs in the country to be in accordance with the Constitution and said that government support for return was a form of assistance that the authorities could not abandon. Others, however, emphasized that in order to be a viable option, return should take place on a voluntary basis and with dignity, and with security guarantees for returnees. In Colombia, the United Nations did not promote return to zones where conflict persisted and where armed groups maintained an active presence. The United Nations would support and facilitate only return that was deemed voluntary. It was suggested that conditions of return should be closely monitored to ensure that return was voluntary 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 had committed past injustices.

28. Addressing the root causes of displacement was considered a further element in achieving safe and sustainable reintegration. Past conflicts would need to be settled or else unresolved human rights violations could obstruct reintegration. More broadly, participants emphasized the importance of establishing peaceful conditions and peaceful relations among communities.

29. In addition, the State would need adequate economic resources and technical expertise to support the peacebuilding process. International support would be crucial. 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.

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

9. Response by national and local governments

31. It was stressed that national responsibility encompassed preventive measures against arbitrary displacement; the provision of assistance and protection during displacement; and the finding of durable solutions.

32. 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 a normative framework and policies on the issue, but reiterated that lack of implementation was the main problem. Some participants noted that other Government decrees were in conflict with the laws and policies on IDPs and therefore inhibited their implementation. In particular, participants pointed to the decrees implementing Law 387 of 1997, asserting that they restricted the law in a manner incompatible with the Guiding Principles.

33. In the case of Mexico, consideration was being given to adopting legislation on internal displacement. While efforts to pass a law in 1998 had not succeeded, participants urged the development of a federal law to protect and assist IDPs. There was a need to develop a comprehensive legal framework to assess the numbers of the displaced and develop programmes on their behalf.

34. In Peru, legislators in the Congress had recently proposed a law to protect and assist IDPs. Participants underlined the importance of a firm commitment on the part of the Government to implement the law once it was 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.

35. Participants stressed that national policies and legislation should seek to prevent displacement. Early warning systems to alert governmental bodies to potential displacement would be important in averting displacement.

36. Participants also emphasized the need for greater support for reintegration assistance and recommended that Governments try to reach displaced persons who had insufficient access to basic services. Governments should also undertake efforts to increase 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.

37. Participants underscored that national and local authorities had the responsibility to ensure that return or resettlement occurred in conditions of safety. In the absence of such conditions, the United Nations should not support the return process. Indeed, United Nations involvement in returns should be a barometer of whether necessary conditions of safety, dignity, and voluntary return were in place.

38. It was also stressed that durable solutions entailed 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 challenges, and required that Governments seek creative and just solutions.

39. Governments also had a responsibility to bring to justice those who had committed crimes against displaced persons, in order to end the climate of impunity so heavily affecting IDPs and their advocates. There was an urgent and widespread need to do so in Colombia, while in Peru and Guatemala there remained the need to bring past abuses to justice.

10. Role of national human rights institutions

40. 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. Overall, four critical functions were identified for NHRIs:

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

41. 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 authorities' response. In particular the Guiding Principles had proved valuable to NHRIs in monitoring returns and had served as a follow-up tool for reinforcing public policy.

42. Participants recommended that NHRIs should play a greater role in promoting early warning systems by advocating for timely and effective responses by Governments and then monitoring feedback. NHRIs were also encouraged to increase their presence and extend greater support in high-risk areas of displacement.

43. Participants called on the international community to provide NHRIs with financial and political support and technical assistance to increase their capacity and help ensure their independence.

11. Enhanced regional response

44. Participants acknowledged the important role of regional actors in reinforcing national responsibility and accountability. The Inter-American Commission on Human Rights had been playing an active role in monitoring the extent to which States were fulfilling their obligations to IDPs. Its appointment of a Rapporteur on internally displaced persons in 1996 ensured that displacement situations in the region were regularly reviewed and that the Guiding Principles were used as a yardstick for measuring conditions on the ground. At the same time, the current culture of impunity in the region remained a major impediment to the Inter-American Commission's work.

45. The Inter-American Court of Human Rights, the highest judicial organ of the Inter-American system, had also demonstrated an awareness of and willingness to address issues of internal displacement, and specifically to protect internally displaced persons.

46. 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 Rapporteur and the Inter-American Court. In particular, the formation of a regional network of NGOs involved in issues of internal displacement was proposed. It was also suggested that the creation of IDP associations, including women's organizations, should be encouraged and supported.

12. The role of the international community

47. At the international level, participants noted that despite valuable efforts carried out by international actors to date, there remained scope for far greater international commitment. At the same time, the absence of security in many areas was a serious impediment. One feature of the conflicts in the Americas that made international assistance difficult was the disregard of combatants for the civilian status of the displaced population. As a result, access to IDP populations was often obstructed. In Colombia, the United Nations had launched a campaign to promote respect for the civilian status of the displaced population and had begun to form partnerships with civil society in promoting their protection. It had also attempted to increase the visibility of IDP concerns by fostering coordination among different sectors of civil society

including media, Churches and universities. The independence, impartiality and neutrality of the International Committee of the Red Cross enabled it to play an important role in enhancing respect for international humanitarian law among the armed actors in Colombia.

48. Participants called for greater United Nations commitment in the return process, considering United Nations participation to be a good barometer indicating whether returns met the necessary conditions of being safe and voluntary.

13. The role of civil society, local non-governmental organizations and IDP associations

49. Participants acknowledged that civil society, local NGOs and IDP associations were especially active and well organized in the Americas and played an important role in promoting and protecting the rights of IDPs.

50. Civil society organizations had made significant achievements in three areas:

- (a) Presenting recommendations to local and national authorities;
- (b) Increasing the attention paid by research and human rights organizations to IDPs;
- (c) Providing information to United Nations human rights and humanitarian mechanisms such as the Representative of the Secretary-General.

51. Participants urged that IDPs should have a voice in the planning and implementation of policies and programmes relating to their situation. National and international responses would be enhanced if the views of IDPs were reflected in the decisions taken. To promote such exchanges, it was recommended that formal consultation mechanisms such as *mesas de trabajo*, or round tables, should be established between the Government and civil society.

14. Safe access to the displaced and protection of those working on their behalf

52. Humanitarian workers and members of civil society helping IDPs had to work in increasingly dangerous environments. Academics and researchers investigating these conflicts and the displacement they engendered had also come under attack.

53. Participants pointed out that these dangers would continue to exist until steps were taken by national and international actors to mitigate the conflicts. 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 the work of the latter focused on actions by the State or its agents. A key case in this respect was the death 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 had initiated legal proceedings, which resulted in the conviction of one of the assassins and the indictment of some of those bearing political responsibility for the murder. Several participants expressed the hope that this judgement and other similar proceedings in the Inter-American Court would contribute to the safety of humanitarian workers and to the improvement of human rights conditions in the country.

54. In Colombia, it was reported that IDPs who organized themselves into associations had come under serious threat from political and military actors. The authorities' response to such threats and the early warning system proved inadequate. However, the Government's publicly stated view of human rights defenders as "terrorists" had in fact led to heightened threats from paramilitary forces, which operated with near impunity.

55. It was recommended that the international community should closely monitor the situation of local human rights defenders and that international personnel should establish a presence among persons at risk, provided they received adequate security guarantees. Participants noted in particular the important contribution of Peace Brigades International, who accompanied threatened IDP leaders and other members of civil society. Special protection mechanisms should be established for leaders of displaced groups to allow them to represent the needs of the displaced.

56. Finally, it was suggested that the international community should 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 to be a valuable means of encouraging responsibility.

15. A Framework for Action

57. 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 the role of regional and international actors in reinforcing national responsibility and assisting States in the discharge of their responsibilities.

National responsibility

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

Raising national awareness of the plight of IDPs

59. A critical first step towards an effective national response is to acknowledge that a problem of internal displacement exists and the national responsibility to address it. While Colombia acknowledged the problem several years ago, in Mexico this important first step had been taken only recently. In Peru and Guatemala, it still remained to be recognized that a problem of internal displacement exists, even though the conflicts have long since ended.

60. 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 solidarity is critical for the removal of the ethnic, racial, and ideological stigmas IDPs suffer in Latin America. This stigmatization puts IDPs at risk, discourages them from making their needs known and makes reintegration difficult.

61. Raising national awareness 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.

Ensuring that the national response covers all groups

62. In the Americas, internal displacement disproportionately affects indigenous populations and minority 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. Displacement also intensifies their marginalization and threatens them with the loss of their cultural cohesiveness. Moreover, indigenous and ethnic groups such as Afro-Colombians have a special attachment to their land, which makes solutions other than return particularly difficult.

63. A national response must seek to remedy 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 divisions that tear societies apart and fuel displacement.

Training government officials, the military, police and parliamentarians

64. Training government officials 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:

- (a) Government authorities, especially at the regional and local levels, who are in direct contact with IDPs;
- (b) Military and police, who are expected to play a key role in ensuring the protection of IDPs; and
- (c) Parliamentarians, who play a leading role in the development of legislation that can have important implications for IDPs.

Collecting data on the numbers and conditions of IDPs

65. Credible information on the numbers and conditions of IDPs is essential for designing effective programmes. Data should be disaggregated by age, gender and other key indicators, so that the specific needs of 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 displaced by armed conflict, generalized violence, human rights violations, natural disasters, development projects, and other causes, such as religious conflicts or crop-dusting, and who sometimes are not recognized as being displaced. Moreover, information is needed not only on IDPs in emergency situations, but also 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 indistinguishable from the urban poor.

66. 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 between internal displacement and other forms of migration, especially economic migration, was needed.

Developing national legislation upholding the rights of IDPs

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

68. National legislation on IDPs must pay special attention to protecting the rights of internally displaced women and children, and other vulnerable groups among the displaced.

69. Of course, in the absence of effective implementation, even the most comprehensive legislation will have little practical effect. In Colombia, Law No. 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 should engage in dialogue with civil society to promote understanding of the law and help foster the political and social will to implement it.

Adopting a national policy on internal displacement

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

71. Like legislation, a national policy should cover all phases of displacement - prevention, protection and assistance during displacement, and 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. It should include measures to address the needs of particular groups.

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

Making sure there is an interim response

73. While promoting the development and adoption of national laws and policies, it must be recognized that the development of such processes takes time. In the meantime, measures can and must be taken by national authorities to address the immediate needs of IDPs in terms of assistance, protection and reintegration. Longer-term policies should never be used as an excuse for setting aside the immediate needs of IDPs.

Designating a national institutional focal point

74. Critically important to the carrying out of national responsibility is the designation of a national institutional focal point for IDPs. This responsibility might be vested in one specific government agency or government committee, working group, or task force on IDPs.

75. This institutional entity should have a mandate for both assistance and protection. In addition, it 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 efforts to enforce national law and policy.

76. 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.

Establishing accountability mechanisms

77. 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.

Allocating adequate resources

78. Where a Government lacks the capacity to fully address the needs of IDPs, its indication, in particular through its 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.

Expanding national human rights institutions' involvement with IDPs

79. 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) by providing advice to government officials and legislators on draft legislation relating to internal displacement; (iii) by monitoring the implementation of national legislation as well as compliance with international treaty obligations; and (iv) by investigating individual complaints from IDPs.

80. NHRIs in the Americas could 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.

Cooperating closely with IDPs and civil society

81. Authorities have a responsibility to encourage and facilitate the participation of IDPs in the planning and implementation of policies and programmes relevant to their needs. Too often, IDPs and those advocating on their behalf do not have "a seat at the table". National and international responses to internal displacement can be significantly 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 designing policies, laws and programmes affecting the security and well-being of IDPs.

82. Consultation mechanisms with IDP organizations and other parts of civil society, such as *mesas de trabajo* or round tables, should be established to facilitate such exchanges. The international community could play a valuable role in fostering and facilitating such a dialogue.

Enhancing security for IDPs and those working on their behalf

83. An environment should be created in which IDPs can request and receive assistance and protection without risk of punishment or harm. In all countries in the region, acute problems of insecurity, including deliberate killings, are faced not only by IDP communities and their leaders, but also by those assisting them. The lack of security has had a chilling effect on research into and analysis of the needs of IDPs; this happened in Guatemala after the killing of anthropologist Myrna Mack. Governments must therefore make much greater efforts to protect IDPs and communities at risk of displacement and those seeking to help them, and bring to justice those responsible for attacks against them. Public information campaigns should be carried out 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.

Addressing the climate of impunity

84. Governments must make greater efforts to break links between their armed forces and paramilitary groups that are often engaged in fomenting displacement and committing abuses against IDPs. Furthermore, those who commit crimes against displaced persons and their advocates must be brought to justice. There is a particularly urgent and widespread need to do this 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 remains a taboo subject in Latin American society.

Supporting durable solutions

85. Governments have a responsibility to create conditions enabling IDPs to return to their places of origin or, if they choose, to resettle elsewhere, and to do so voluntarily and in safety and dignity.

86. Security is an essential element of durable solutions. Typically, it is only possible if the conflict has ended or the circumstances that originally caused the displacement have fundamentally changed. In addition, protection measures must be put in place in areas of return or resettlement, including landmine clearance, 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. The agreement of the United Nations to participate in a return or resettlement process is a good barometer indicating whether the necessary conditions have been met. For a Government to proceed without this agreement would be highly questionable and its decision to do so should be re-evaluated.

87. IDPs must be provided with reintegration assistance, whether they choose to return or resettle. Governments must support the rebuilding of infrastructure and create opportunities to allow IDPs to establish livelihoods and self-sufficiency. Special attention must be paid to ensuring the inclusion of women who, in the Americas and elsewhere, have been at the core of return and reconstruction processes and are key factors in social and economic development. Women's equal access to financial resources, credit and income-generating programmes must be

ensured. Steps must be taken to make sure that upon their return or resettlement, IDPs are not subjected to discrimination, that they have equal access to public services including health care and education, and can exercise their right to participate fully and equally in public affairs.

88. Further, the authorities have a responsibility to assist IDPs to recover the property 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 land titles is a particular challenge that require creative and just solutions. Restoring the access of indigenous and ethnic minorities to land is a means of integrating them into the life of the nation and ending long-standing discrimination against them. Special attention must also be paid to ensuring that property rights, traditionally restricted to men, are accessible to women.

89. To be truly effective and lasting, solutions must include addressing the fundamental social, economic and political injustices that are at the root 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 in Guatemala, are critical.

90. A decision to declare a displacement ended must not be taken arbitrarily and without due regard to the situation and needs of the displaced. IDPs will continue to require attention as long as specific needs and vulnerabilities resulting from their displacement persist. IDPs in Peru and Guatemala, especially those who remain in urban areas, as well as returnees to Chiapas in Mexico, continue to suffer needs related to their displacement. The nature of assistance to IDPs should therefore change over time from strictly emergency humanitarian assistance; strategies supporting self-sufficiency should be introduced as soon as possible so as to promote the economic and social reintegration of IDPs.

Addressing the situation of IDPs under the control of non-State actors

91. Wherever IDPs are under the control of non-State actors and beyond the reach of government assistance and protection, a dialogue on the humanitarian issues should take place between the Government and those non-State actors who, under international humanitarian law and the Guiding Principles, are responsible for providing 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 United Nations, NGOs or Church groups.

Regional and international efforts

92. Involving 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 is inadequate. A regional approach is valuable when similarities exist within a region or between situations of internal displacement, and when situations of displacement have the potential to spill over across borders and destabilize neighbouring countries.

Recommendations of the seminar

93. The seminar makes the following recommendations:

At the regional level

94. The Inter-American Commission on Human Rights of the Organization of American States should be supported and given more resources to carry out its valuable diplomatic and political role on the issue of internal displacement.
95. The position of Special Rapporteur on IDPs of the Inter-American Commission, which is currently vacant, should be maintained and expeditiously filled.
96. NGOs and others should be more proactive in bringing cases concerning IDPs to the Inter-American Court of Human Rights. The Court has demonstrated a strong sensitivity to issues of internal displacement and can exert influence on Governments.
97. A regional network of NGOs should be set up to exchange information, experiences and best practices on internal displacement.

At the international level

98. There is room for greater United Nations involvement. Activities recommended at the seminar include:
- (a) 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;
 - (b) Assessing whether government policies and programmes are in conformity with international standards set forth in the Guiding Principles;
 - (c) Monitoring and reporting on the implementation of recommendations made by international human rights and humanitarian mechanisms such as the Representative of the Secretary-General on internally displaced persons;
 - (d) Integrating the issue of internal displacement into intergovernmental forums and processes, such as the “Group of 24” on Colombia, which have leverage with Governments in the region;
 - (e) Translating into local languages and disseminating the Guiding Principles, the *Handbook for Applying the Guiding Principles on Internal Displacement* (The Brookings Institution Project on Internal Displacement, 1999), the *Annotations*, and the United Nations policy paper on the protection of IDPs.
 - (f) Developing a protection strategy to cover all phases of displacement. This would include establishing an enlarged United Nations presence in areas where the physical security of IDPs is under threat and accompanying returning IDPs. Governments must take all possible measures to ensure that international actors have safe and unimpeded access to the displaced;
 - (g) Speaking out against and refusing to support returns that violate international standards of safety and of voluntary return, and advocating with Governments to respect these standards and provide alternatives to return;

- (h) Increasing support for the reintegration of IDPs after return or resettlement;
- (i) Acknowledging that internal displacement has not yet ended in certain countries, in particular Peru and Guatemala, despite the end of hostilities, and supporting the development of international criteria on when internal displacement ends;
- (j) Assisting in property restitution and compensation, for example through the World Bank Post-Conflict Fund, which provides grants to IDPs to recover property and land lost as a result of displacement;
- (k) Providing for greater consultation with IDPs and NGOs in designing humanitarian action plans;
- (l) Promoting the integration of internal displacement into national plans for human rights and taking measures to assist Governments in carrying out these plans;
- (m) Including internal displacement in gender equity programmes and programmes for children, the elderly, minority groups and indigenous persons in order to strengthen protection and address the assistance and reintegration needs of these groups;
- (n) Supporting the creation of IDP associations;
- (o) Facilitating dialogue between Governments and IDPs and NGOs;
- (p) Facilitating negotiations, where possible, between Governments and non-State actors for the creation of a humanitarian space;
- (q) Providing Governments with technical cooperation and assistance in resource mobilization and the administration of funds.
