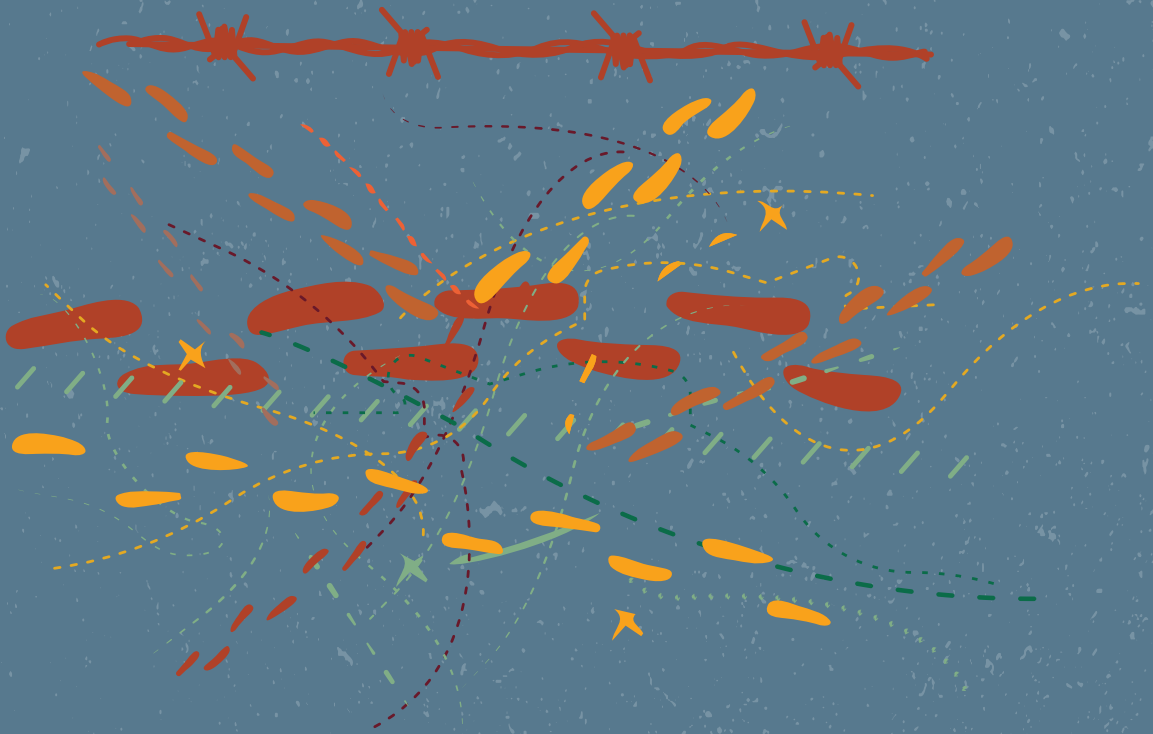


PRACTICAL GUIDE

**Guidelines for the formulation
of public policies on
internal displacement**



OAS

More rights for more people

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El jale (Tapanatepec, Istmo, Oaxaca)
Carlos Hernández

A / Objectives and scope

1

The *Practical Guide on Guidelines for the Formulation of Public Policies on Internal Displacement* constitutes an Inter-American Commission on Human Rights (hereinafter the "Inter-American Commission," "Commission," or "IACHR") initiative to present, didactically, the **main recommendations** contained in the "Internal Displacement in the Northern Triangle of Central America Report" and relatives to the **formulation of public policies** to address this human rights problem.

2

Pursuant to the mandate envisaged in Article 41 of the American Convention and Article 106 of the OAS Charter to **advise** States on human rights matters, the Inter-American Commission has decided to draft this document, the chief purpose of which is to offer **guidelines for formulating public policies** with an human rights approach; as well as providing **tools** to civil society and internally displaced people to **demand, accompany, influence and control** the state action.

3

Considering the previous, the purpose of this guide is to **provide a practical tool** for government officials in charge of **compliance with human rights obligations** as well as for representatives of civil society organizations that work in **promotion and protection** of the rights of internally displaced persons and that demand that the State adopt measures and policies to respond to this troubling situation.



4

For approaching this guide, it is necessary to resume the notion of forced internal displacement adopted by the IACHR. In accordance with the “Human Mobility” report, which the IACHR approved in 2015 through the office of its Rapporteur on the Rights of Migrants,

“internally displaced persons” are persons or groups of persons who have been **forced or obliged to flee** or to leave their homes or places of habitual residence, in particular **as a result of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters**, and who have not crossed an internationally recognized State border ¹.

That report also established that a person becomes displaced by the mere fact of having been forced to abandon their usual place of residence, regardless of any official registration by governmental agencies².

5

Those three characteristics define the status of internally displaced persons:

first, the mobility or displacement **is not voluntary**; secondly, that displacement **is the result of armed conflict, situations of generalized violence, human rights violations, and/or natural or manmade disasters**; and third, the person **remains within the jurisdiction of their country** of origin or of habitual residence, which very often is responsible for the violation of rights or for the failure to adopt measures for their protection. .



These factors in combination make internally displaced **persons extremely vulnerable**, since they are under the protection of their country of origin which, in many cases, caused them to flee or was unable to prevent them from fleeing.

6

In that connection, the IACHR has stated that

internally displaced persons are entitled to enjoy in free equality the same rights and freedoms under the American Convention and other domestic and international law norms, as the rest of the country's citizenry. However, in practice, they are seldom able to do so, because the displacement in itself is antithetical to the effective enjoyment of human rights.

One of the principal characteristics of forced displacement is that its **victims have been forced to flee their homes or habitual places of residence**, which means they are **forced to abandon their life plans**; in most cases, they lose land, housing and other property they own. Various rights are affected in the process of being uprooted and displaced⁴.



7

Definitely, through this Guide the IACHR intends to offer a series of practical recommendations that serve as a reference for the formulation of public policy with a human-rights focus on internal displacement, a situation that the Commission has been addressing through its various mechanisms for promotion and protection of human rights.

8

The Commission aspires that this guide will be sufficiently broad and flexible to serve as a model for other social, cultural, political, and environmental contexts.

B / Structure

9

Considering the purpose of this practical guide, its structure is divided into the following sections:

Proposed Guideline 1:
Public Institutional Framework.

Proposed Guideline 2:
Data Gathering and the Production, Analysis, and Dissemination of Information.

Proposed Guideline 3:
Prevention measures.

Proposed Guideline 4:
Recognition and Protection of Rights.

Proposed Guideline 5:
Inclusion of a Gender and Diversity Perspective.

Proposed Guideline 6:
Protection of Groups that have traditionally been Victims of Discrimination.

Proposed Guideline 7:
Humanitarian Assistance.

Proposed Guideline 8:
Return, Resettlement, and Local Re-integration.

Proposed Guideline 9:
Access to Justice and Reparation Measures.

Proposed Guideline 10:
Social Participation.

Proposed Guideline 11:
Sustainability and Budget.

Proposed Guideline 12:
Regional and International Cooperation.

B

10

On that understanding, the Commission proposes the following guidelines and guidance tailored to the different branches of government and their distinct competencies and functions. Methodologically, they are arranged to address the principal international obligations that, in the Commission's understanding, States have agreed to honor in order to **guarantee the rights of internally displaced persons** (hereinafter "IDPs").

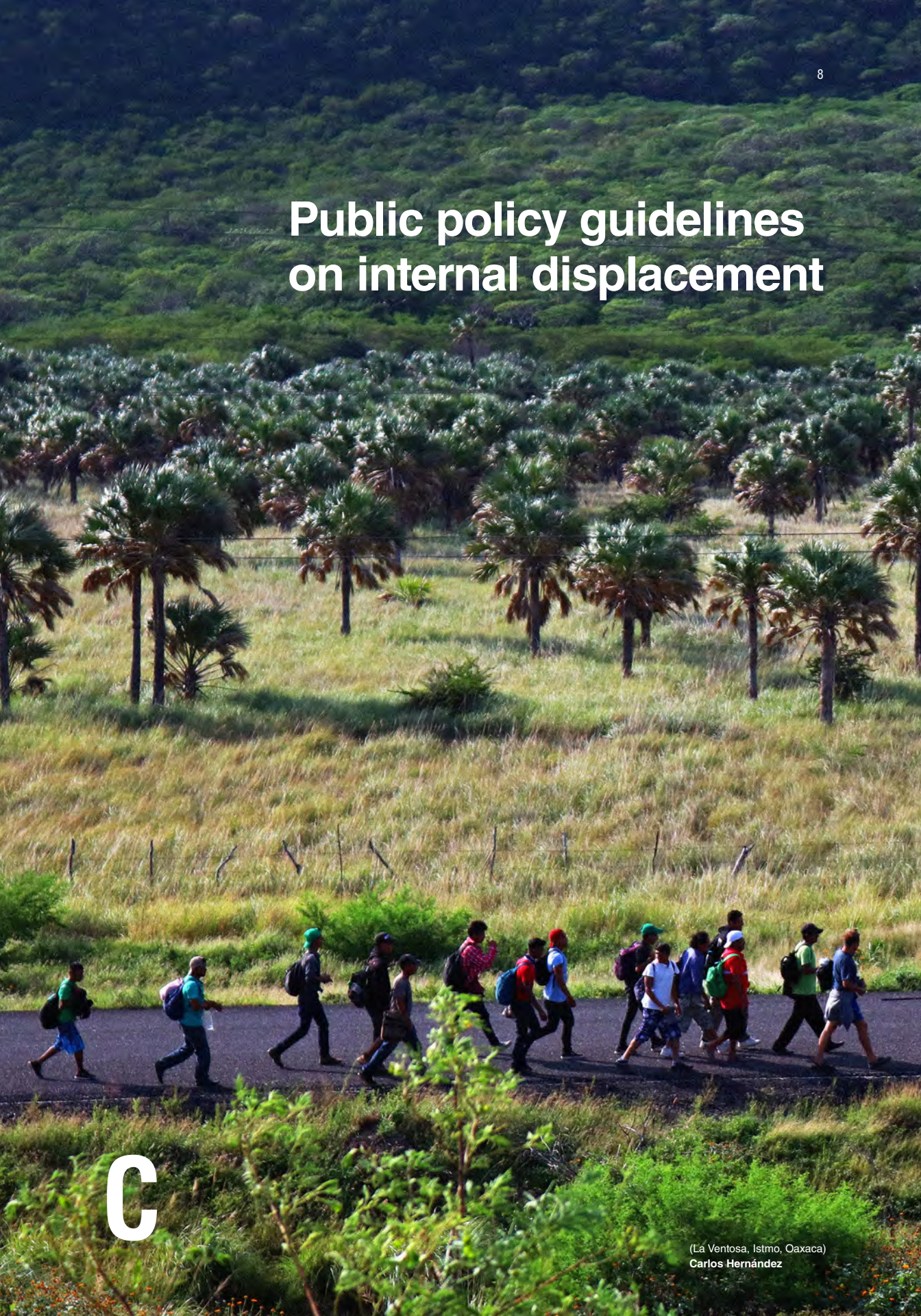
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The IACHR would like to underscore the gradual nature of some of the measures that States need to adopt to comply with their international obligations, considering current capacities and resources. Accordingly, the path toward comprehensive compliance with the recommendations put forward here presupposes **prioritizing and designing gradual strategies** that enable States to act in accordance with their real capacities and with an eye to their most pressing needs.

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To that end, the IACHR urges States to develop, with its support whenever needed, **strategic plans geared to advancing the protection of the human rights** of the internally displaced population in a manner that is both coherent and realistic.

Public policy guidelines on internal displacement



C

PROPOSED GUIDELINE 1:

Public Institutional Framework

The Executive and Legislative Branches

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

Legislative Branch

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

Executive Branch

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

Judiciary

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

PROPOSED GUIDELINE 2:

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

Executive, Legislative, and Judicial branches

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

Legislative Branch

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

Judiciary

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

Executive Branch

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

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

PROPOSED GUIDELINE 3:

Prevention measures

Executive, Legislative, and Judicial branches

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

Executive Branch

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

Executive and Legislative Branches

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

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

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

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

Judiciary

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

PROPOSED GUIDELINE 4:

Recognition and Protection of Rights

Executive, Legislative, and Judicial branches

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



*Junto al río (Nillepec, Istmo, Oaxaca)
Carlos Hernández*

Judiciary

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

Legislative Branch

- **Pass** a law officially recognizing the rights of internally displaced persons, drawn up with social participation, and taking the following aspects into account:
 - The rights recognized in international and inter-American human rights instruments, and in particular the Guiding Principles on Internal Displacement;
 - The interpretation developed in the inter-American human rights system of the rights of internally displaced persons;
 - Recognition and protection of the right not to be displaced;
 - Recognition and protection of economic, social, cultural, and environmental rights;
 - Recognition and protection of the right to humanitarian assistance;
 - Recognition and protection of the right to family life;
 - Recognition and protection of the right to return and/or resettlement under safe and dignified conditions;
 - Inclusion in the law of a gender, diversity, and intercultural perspective;
 - Protection of abandoned property;
 - Policies for protection, restitution, and guarantees of non-repetition.
- **Repeal** any provision that, even if it is ostensibly neutral, may impair access to rights for internally displaced persons.
- In general provisions, **make sure** to include a differentiated approach tailored to the circumstances of internally displaced persons.
- **Adopt** a provision that characterizes as a crime forced displacement induced either arbitrarily, violently, and/or through human rights violations.

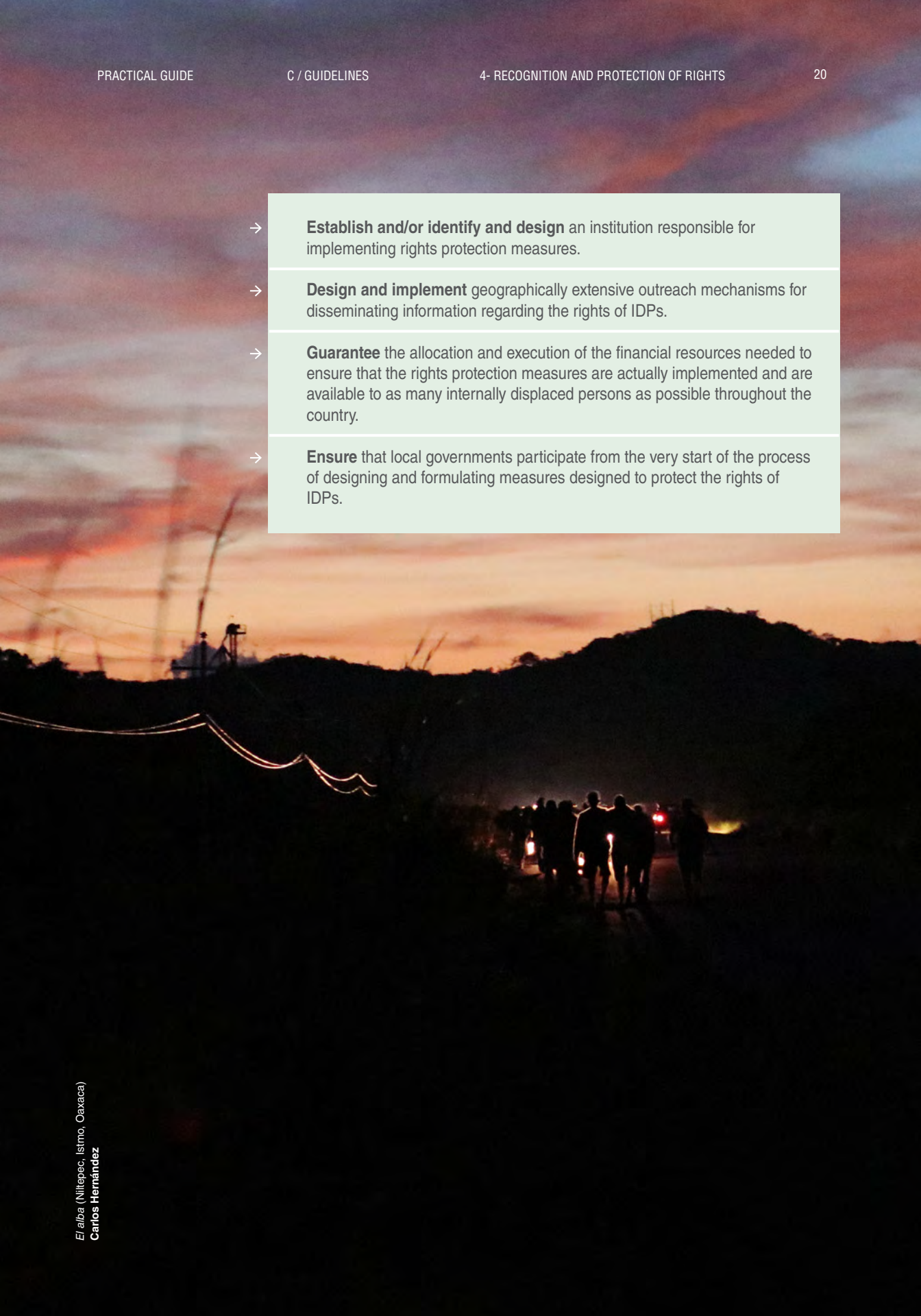
Bearing in mind the difficulties internally displaced persons face in acceding to their rights, the Commission suggests repealing all provisions that, although they are not intended to curtail that populations' rights, fail to consider the particular disadvantages they face with respect to access to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

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

Executive Branch

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

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

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

PROPOSED GUIDELINE 5:

Inclusion of a Gender and Diversity Perspective

PRIOR CONSIDERATIONS

THE GENDER PERSPECTIVE NEEDS TO TAKE THE FOLLOWING INTO CONSIDERATION⁶:

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

THE DIVERSITY PERSPECTIVE NEEDS TO TAKE THE FOLLOWING INTO CONSIDERATION:

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

Executive, Legislative, and Judicial branches

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

Legislative Branch

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

Judiciary

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

Executive Branch

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

PROPOSED GUIDELINE 6:

Protection of Groups that have traditionally been Victims of Discrimination

PRIOR CONSIDERATIONS

A DIFFERENTIATED APPROACH INVOLVES CONSIDERING⁸:

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



Migrantes (Ayutla migración desplazados de Guadalupe)
Adrián Acevedo

Executive, Legislative, and Judicial branches

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

Ensure the inclusion of an intersectional and intercultural perspective that takes into consideration the possible aggravation and frequency of human rights violations due to factors such as race, ethnicity, age, country of birth, and/or economic position⁹.

Legislative Branch

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

Judiciary

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

Executive Branch

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

PROPOSED GUIDELINE 7

Humanitarian Assistance

Executive, Legislative, and Judicial branches

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

Executive Branch

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



Executive and Judicial Branches

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

PROPOSED GUIDELINE 8:

Return, Resettlement, and Local Re-integration

Executive, Legislative, and Judicial branches

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

Legislative Branch

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

Executive Branch

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

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

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

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

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

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

Judiciary

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

PROPOSED GUIDELINE 9:

Access to Justice and Reparation Measures

Executive, Legislative, and Judicial branches

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

Legislative Branch

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

Executive Branch

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

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



Acompañado (Tapanatepec, Istmo, Oaxaca) Adrián Acevedo
Carlos Hernández

Judiciary

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

PROPOSED GUIDELINE 10:

Social Participation

Executive, Legislative, and Judicial branches

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



Migrantes (Ayuda migración desplazados de Guadalupe)
Adrián Acevedo

Legislative Branch

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

Executive Branch

- **Design**, together with civil society organization, mechanisms for effective social participation in the whole process of formulating, implementing, monitoring, and evaluating policies and/or programs for IDPs.
- **Establish** procedures for evaluating the participation mechanisms in order to verify their effectiveness in the eyes of the protagonists and correct and/or adjust them as necessary depending on the findings.
- **Guarantee**, through credible means, that the views of IDPs and of the civil society organizations participating in those processes are taken into account. This can be reflected in the modifications or contributions made to the design, implementation, monitoring, and evaluation of the policies.
- **Allocate** financing for the implementation of the social participation mechanisms.
- **Ensure** that the mechanisms incorporate the gender, diversity and differentiated approaches so as to ensure effective participation of traditionally ostracized groups.
- **Promote** dialogue and debate between the State and civil society to draw attention to internal displacement issues and engage in a joint quest for solutions.
- **Guarantee** the safety and dignity of the IDPs who decide to participate in these processes.
- **Promote** a safe environment in which human rights defenders are empowered to freely exercise their right to defend human rights, by guaranteeing, within the jurisdiction of the State, all the rights needed for them to go about their work.¹⁰

Judiciary

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

PROPOSED GUIDELINE 11:

Sustainability and Budget

Executive, Legislative, and Judicial branches

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

Legislative Branch

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

Executive Branch

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

Judiciary

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

PROPOSED GUIDELINE 12:

Regional and International Cooperation

Executive, Legislative, and Judicial branches

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

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

¹ United Nations, Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Annex, Guiding Principles on Internal Displacement, Introduction: Scope and Purpose, E/CN.4/1998/53/Add.2, 11 February 1998.

² I/A Court H.R., Ituango Massacres v. Colombia, Judgment of July 1, 2006, par. 2014.

³ IACHR, Third Report on the Situation of Human Rights in Colombia (1999), Chapter VI, Internal Displacement, par. 1, Section C; and IACHR, Violence and Discrimination against Women in the Armed Conflict in Colombia, par. 85.

⁴ IACHR, Human Rights of Migrants, Refugees, Stateless Persons, Victims of Human Trafficking and Internally Displaced Persons: Norms and Standards of the Inter-American Human Rights System, par. 234.

⁵ Here it is worth referring to the recommendations put forward by this Commission in the report on Poverty and Human Rights in relation to public policies designed to eradicate poverty and extreme poverty, based on principles that underscore the need for comprehensive and cross-cutting policies with a human rights perspective. IACHR. Report on Poverty and Human Rights. P. 196.

⁶ IACHR. Practical Guide to Reduce Pretrial Detention P. 45.

⁷ IACHR. Practical Guide to Reduce Pretrial Detention P. 50.

⁸ IACHR. Practical Guide to Reduce Pretrial Detention P. 50.

⁹ Ibid.

¹⁰ IACHR. Report "Toward a Comprehensive Policy for the Protection of Human Rights Defenders." P. 188



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