

**Submission to UN Secretary General's High-Level Panel on Internal Displacement
Latin America Research Network - INDCaP Project**

'MAIN PROBLEMS AND POSSIBLE SOLUTIONS FROM LATIN AMERICA'

The Latin America research network of the global *Interdisciplinary Network on Displacement, Conflict and Protection* (INDCaP), makes the following submission in response to the Call for Inputs disseminated by the UN High-Level Panel (HLP) in March 2020.

The network

The INDCaP project promotes research on internal displacement in affected countries in Africa, Latin America and the Middle East. It aims to: (i) draw together researchers in each region to develop a robust research community on internal displacement; (ii) build the capacity of such researchers in academia, NGOs and IDP communities; and (iii) promote cutting-edge research from different disciplines to shape context-sensitive solutions to displacement challenges.

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Scope of the submission

This submission is addressed principally towards the following questions raised by the Call:

1. The key issues, problems or imperative which, as you see it, should be prioritized by the Panel in its analysis of the crisis of internal displacement today and how prevention, response at large and solutions can be effectively advanced.

4. Focusing on solutions, your perspectives on what has led to many situations of internal displacement remaining stalled for many years and how effective solutions can be catalyzed, driven forward and supported.

Main problems and possible solutions from Latin America

The following main problems and possible solutions are addressed by country, given the diverse factors at play in relation to internal displacement in different parts of Latin America.

Colombia

Main problems:

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1. **The Peace Agreement reached in 2016 by the National Government and *Fuerzas Armadas Revolucionarias de Colombia-Ejército Popular (FARC-EP)* has meant neither the end of the internal conflict nor forced internal displacement.** In spite of the expectation that the country would find a path to build a peaceful society, the Peace Agreement has not ended generalized violence and armed conflict. The interaction of several factors has prevented such a goal being reached. There have been many shortcomings in the implementation of the “Final Agreement”, including the State’s failure in averting the frequent assassinations of former FARC members, pushing some members of the demobilised group to take up arms again. Moreover, some traditional guerrilla groups —such as the Ejército Nacional de Liberación (ELN) — remain active. Finally, new armed actors have appeared, taking control of the territories and resources left by the FARC-EP. Although some have been around for a while, they do not fit into the traditional categories of the Colombian internal conflict. These new groups derive their subsistence from legal and illegal economies and have quickly adopted some of the worst practices of the armed actors, such as child recruitment, sexual violence, and killing of social leaders.

Forced displacement continues to be used by every armed actor in this context, as a key mechanism to obtain and ensure territorial control, access natural resources, and enlarge territorial dominion. Indigenous and afro-descendent communities have been particularly affected and forced to abandon their lands. Nevertheless, Forced displacement is also very present in urban areas.

2. **The armed conflict is not the sole cause of internal displacement.** To this day the only forced displacement officially recognized in Colombia is that linked to the internal armed conflict. Non-voluntary exoduses caused by environmental disasters and development projects face not only the absence of programmes to restore their rights and alleviate their basic needs but also the denial of their existence as IDPs. People displaced by disasters are included, by public policy on disaster risk reduction, in the general category of “damnificados” (injured parties). Some rights are granted to them, but their level of protection is considerably lower than for conflict IDPs and does not take into consideration their particular plight. In contrast, authorities responsible for designing and implementing territorial plans and development projects — such as mining, biofuel production, and extensive agriculture— have excluded even the faintest possibility that these programmes might trigger an involuntary exodus. Hence, no legal provisions have been crafted to assist or protect people expelled by these activities.
3. **High rates of protracted internal displacement.** The country faces high rates of protracted internal displacement. The continuous dynamics of expulsion and the impossibility of giving effective responses to IDPs have resulted in a large number of people being displaced for more than two decades. Nevertheless, there are no specific programs to deal with their particular plight.
4. **Assistance has been prioritized over protection.** In spite of the fact that Colombian public policy on IDPs includes both assistance and protection components, in practice the State has given priority to the former. Hence, the programs crafted to guarantee and restore IDPs’ rights do not reach every member of this population.
5. **Return has been prioritized over other possible durable solutions.** In terms of durable solutions to IDPs, Colombian public policy has taken up the three options of the international system: return, local integration, and resettlement. Nevertheless, from

the outset, return has been privileged. Although in most cases the essential requirements to implement successful returns —such as security conditions, socioeconomic support, and even the informed consent from IDPs themselves— have been absent, the end of displacement has been deeply linked to this particular solution by the authorities. This situation has led to new forced displacement processes, as well as the re-victimization of displaced persons.

6. **Urban IDPs.** Most IDPs live in cities. However, the public response to their plight has been incapable of averting their impoverishment and marginalization.
7. **Land restitution.** Land restitution has been considered a key element in the reparation of the victims of the armed conflict, the vast majority of whom are IDPs. A complex public policy has been put in place to facilitate their access to the lands they were forced to abandon. Nevertheless, after almost 10 years, the results of this public policy remain far from satisfactory.

Possible solutions:

1. **Crafting new programs to prevent internal displacement, as well as to provide assistance and protection for the new IDPs.** The current public policy needs to be reviewed and enhanced to cope with the challenges posed by the new reality in the post-“Final Agreement” context. People expelled by the so-called “new groups” must be fully included in the IDP concept that appears in public policy and receive the same assistance and protection granted to those uprooted by the traditional conflict actors.
2. **Enlarging the IDP concept to include people uprooted by environmental disasters and development projects.** Up to this point, little research has been done on catastrophes and development projects as displacement triggers. Even less work has been conducted regarding the relationship between these two factors and the armed conflict. A handful of academic papers have pointed out that, at least in some cases, fighting the guerrilla has been a mere excuse for expelling civilian population from areas where development projects are planned to be implemented. Other papers have suggested a connection between armed conflict and disasters that have produced involuntary exodus. But there is not enough evidence yet to properly document these trends.

An ambitious research project should be conducted to address both the impact of disasters and development projects in internal displacement, as well as the links between them and armed conflict. The results of such a project would be extremely useful to challenge the current IDP definition enshrined in the law and public policy; demanding a wider concept able to provide adequate assistance and protection to all who need it.

3. **Including specific programs to address protracted internal displacement in the Colombian public policy.** Despite its sophistication, the current public policy on IDPs lacks specific measures and indicators to manage protracted displacement. Thus, it is necessary to design and implement new programs targeting the needs of those who have been uprooted for five years or more.
4. **Crafting new indicators to measure progress in guaranteeing and restoring IDPs’ rights.** Current public policy has a wide variety and number of indicators. However, most of them are focused on measuring the system's effectiveness in providing

material assistance to IDPs. There is a lack of indicators for assessing progress in relation to both the effective guaranteeing and the restoration of the rights enshrined for IDPs in law.

5. **Taking a new approach for durable solutions.** There is a need for rethinking and reshaping the approach to durable solutions in public policy, as the current has been unable to guarantee the end of IDPs's vulnerability. This is an issue that has been discussed in several forums and diverse initiatives have been proposed both by academics and policy-makers. However, there are national, regional, and local dynamics preventing the implementation of structural changes. A real shift will only be achieved by meeting three conditions. First of all, a research project on this topic must be conducted in order to have an accurate diagnosis of the situation, along with the challenges, obstacles, and opportunities for each of the three durable solutions. Secondly, a new public policy on durable solutions must be designed, based on the results of such a research project. Finally, a political agreement among national, regional, and local authorities must be reached to guarantee the implementation of the new policy. IDPs, host communities, NGOs, academia, and international organizations must be actively involved throughout the whole process. Measures ought to be taken to ensure the participation of women and girls, ethnic minorities, elderly people, and LGBTI.
6. **Developing local integration measures for urban IDPs.** Urban displacement has been traditionally perceived by authorities as a temporary stage of the displacement process, based on the assumption that IDPs will ultimately return to their original communities. That idea has proved wrong and it is necessary to implement effective actions that facilitate the local integration of displaced persons.
7. **Land restitution public policy needs to be strengthened.** Although the aim of the land restitution policy is to restore the rights of conflict victims that have been dispossessed, its human rights approach still needs to be enhanced. The protection of IDPs, as well as current owners and tenants, often become just a side issue during the long and complex administrative and judicial processes needed to restore the land to their lawful owners or tenants. Moreover, the framing of the legal provisions ignores realities in the Colombian countryside. There is not enough emphasis on protecting the life and integrity of IDPs who claim their right to have lands restored. As a result, they become easy targets for the many political and armed groups opposed to restitution. Moreover, the current policy does not take into consideration the fact that some former peasant's lands have become territories where development projects have been implemented or are planned; hindering or even preventing proper reparation. Finally, there are deep challenges of collaboration and coordination among national, regional, and local authorities throughout the implementation of the whole policy.

Mexico

Main problems:

1. **Need for recognition of IDPs through a specific law:** To date, seven draft pieces of legislation have been presented to congress, but none has been passed.
2. **Lack of State's awareness regarding the plight of IDPs:** Despite the fact that the current national government has introduced some minor measures to cope with the internal displacement issue, it has not been possible to create a legal and institutional

framework for tracking this phenomenon throughout all its stages and providing assistance and protection to uprooted people. The fact that the country is facing a massive wave of forced disappearances has relegated internal displacement to a very low spot into the government's priorities. In fact, it is seldom mentioned as an issue by national authorities. ,

3. **Many IDPs lack proper documentation:** A significant proportion of IDPs have lost their identification documents during their flight, making extremely difficult for authorities to guarantee their right to be recognized as a person before the law.
4. **IDPs are frequently mistreated by civil servants:** Despite the lack of a proper public policy, there are some measures that provide some assistance and protection to IDPs during the first stages of their flight, in particular if their movement has been *en masse* in character. Nevertheless, civil servants have not been trained to deal with this vulnerable population; hence there is a high risk of re-victimizing these people.
5. **There is no official IDP register system, such that the number of IDPs and the main features of their profiles remain undocumented:** There are only some disconnected, fragmentary and partial registers created by civil society organisations, in particular the one held by the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), and some government bodies.
6. **Many IDPs end up being refugees or migrants in the USA:** A significant proportion of this forced displacement takes place in the Northern region of Mexico. Due to the longstanding tradition of transnational migration, as well as complex social and cultural networks between both countries, many IDPs seek shelter across the border. Their new condition of migrants further complicates efforts to identify the actual causes of their exodus and attempts to recognise their rights back in Mexico.

Possible solutions:

1. **A national response:** The country needs a national public policy on forced internal displacement that guarantees assistance and protection throughout every stage of the displacement process. Land and propriety restitution have to be included as key elements for achieving sustainable solutions. Moreover, the policy must enshrine a legal IDP definition, broad enough to include all victims of forced displacement.
2. **Analysis of conflicts and search for solutions:** given the different drivers for internal displacement (particularly due to organized crime, environmental factors, and extractive industries), each conflict should be analysed according to local contexts, and solutions sought to prevent displacement.
3. **A Unified Register of IDPs:** This could be created initially by drawing on existing partial registers by civil society organisations and government bodies. The register should be disaggregated by gender, race, locality, and other relevant criteria.
4. **Awareness rising for civil servants:** Civil servants working with IDPs should treat IDPs with respect and avoid re-victimization. This includes the need to be sensitive to the trauma, lived experience, and physical, material and symbolic losses suffered by IDPs. Interpreters of native languages should be used for indigenous IDPs. A training programme, conducted by experts, should be implemented.

5. **Lack of a differentiated approach:** Staff working with IDPs should have a gender and ethnicity perspective in their work approach.
6. **Sustainable solutions:** IDP needs and interests should be at the centre of policy-making. This calls for a bottom-up and local approach where IDPs are actively involved in solutions and not treated as vulnerable victims needing standardised welfare.
7. **Civil society participation:** NGOs and church organisations have played an important role in supporting IDPs. The new draft legislation presented to Congress in Mexico gives little importance to civil society, prioritising the three levels of government. It is urgent to reconsider this proposal, recognizing the important role played by civil society organizations in the response to internal displacement and enhancing the spaces for their participation.
8. **An independent monitoring centre:** This should be established to monitor and evaluate government programmes and policy.

North of Central America (Guatemala, Honduras and El Salvador)

Main problems:

1. **Internal displacement in the region is the outcome of multiple structural problems that, as they exacerbate one another, trigger other equally complex challenges:** Structural violence, institutional corruption, high rates of human rights violations, and the progressive weakness of the State are some of the most acute problems faced by Guatemala, Honduras and El Salvador. All of these issues have deep roots in these countries' history and have been worsened by drug-trafficking groups' ability to permeate institutional, economic, and military structures. The amalgam of these factors has triggered forced exodus in the region.
2. **There is a total lack of public acknowledgment in Guatemala:** The country completely denies the existence of internal displacement in its territory. Thus IDPs face a complete state of vulnerability.
3. **The Honduran and Salvadorian responses are insufficient:** In contrast with their neighbour, there is some recognition of the problem in both Honduras and El Salvador. However, the legal frameworks crafted to cope with forced displacement do not tackle its root causes, fail in granting efficient judicial protection, and do not protect IDPs from social stigma. Moreover, they lack an adequate IDP registration system, such that there is no reliable data on the impact of violent events on forced displacement. As a result, uprooted people face failures both in assistance and protection. Multiple rights are violated, such as non-discrimination, due process, access to livelihoods, housing, education, and access to health services. Second and even third forced displacements are very likely in this context, as well as transnational exodus as a way of looking for international protection.
4. **Megaprojects trigger forced displacement in the region:** Violence is not the only cause of forced displacement in the Northern Triangle, the implementation of several massive projects —related to extractive industries and power generation— is another displacement trigger, affecting peasant and indigenous communities. As a general rule, such projects do not comply with international standards regarding participation and consultation of the affected populations. Moreover, although the displacement of

these communities should be avoided in principle, alternatives are rarely proposed by either the State or the private companies involved in these projects.

Possible solutions:

1. **Crafting both legal and institutional frameworks in Guatemala:** There is urgency in the need to acknowledge internal displacement as an acute issue in this country and to draft and implementing national public policy on internal displacement and IDPs.
2. **Enhancing both Honduran and Salvadoran responses:** The current public policies should be reviewed and reshaped to meet IDPs' assistance and protection needs. A strong human rights approach ought to be incorporated and International Law standards and guidelines must be taken into consideration both in the design and implementation of the new legal and institutional frameworks. Moreover, , there must be an effort to allocate sufficient resources — from public, private, and international cooperation sources—to fund the measures included in the new public policy.
3. **Crafting a regional response:** Since 2017 a regional response for forced displacement has been developed in Central America, through the *Marco Integral Regional de Protección y Soluciones* (MIRPS). Although this initiative has a strong focus on transnational movements, it also entails measures regarding internal displacement. National authorities should paid more attention to this regional institutional and legal framework.
4. **Creating dialogue and coordination mechanisms:** Each county of the Northern Triangle should conduct a dialogue process on internal displacement, involving State, civil society, and international community actors. Every aspect of the forced exodus — from prevention to durable solutions— should be open to debate with the aim of building up the best possible response. A National Commission could be an adequate forum for holding this kind of dialogue.
5. **Crafting specific measures for indigenous communities:** Indigenous people are suffering from forced displacement in the region, mainly due to the aforementioned megaprojects. Coping with this situation demands a two-fold response. On one hand, a legal framework for the consultation process must be crafted and measures taken to ensure its enforcement. On the other, legal and institutional measures have to be taken to develop a resettlement strategy, complying with the international standards on the matter.

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