

# Incentivising Political Will for the Response to Internal Displacement: The Role of NGOs in Latin America

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## ABSTRACT

This article explores the role civil society can play in fostering political will amongst governments to respond to internal displacement. Political will is understood as recognition and prioritisation of the response to the phenomenon. In order to serve as actionable inspiration for other situations this article uses case studies from Mexico and El Salvador to highlight the role of gathering evidence on internal displacement and to illustrate how a particular type of human rights non-governmental organisation has leveraged it to generate political will.

**KEYWORDS:** internal displacement, political will, human rights, recognition, violence, NGOs, data, evidence, Mexico, El Salvador, NTCA, law and policy

## 1. INTRODUCTION

Since the international community started widely discussing the protection of internally displaced persons (IDPs) after the end of the Cold War, lack of political will has featured prominently as a key challenge. About 30 years later, the recently appointed High-Level Panel on Internal Displacement (HLP)<sup>1</sup> still makes “generating political

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1 The HLP was established by the Secretary-General of the United Nations in 2019 to focus “primarily on addressing protracted displacement and achieving durable solutions for persons displaced in the context of

will, capacity, responsibility and accountability” one of its six thematic workstreams.<sup>2</sup> This article explores one specific aspect of it, namely what role civil society can play in incentivising government recognition and prioritisation of the response. In order to serve as actionable inspiration for other situations it uses case studies from El Salvador and Mexico to highlight the role of evidence and illustrate how a particular type of human rights non-governmental organisation (NGO) has leveraged it to generate political will. The authors recognise that many other factors and stakeholders, beyond a single organisation, are involved in incentivising improved political will on the part of States for responding to, and resolving, situations of internal displacement. They also recognise that the concept of political will is broader and that political will is required from actors beyond national governments. However, these are beyond the scope of the analysis.

In this introduction, we discuss the chosen understanding of political will and how the lack of it remains a challenge for the response to internal displacement. We also provide context for the lack of information on internal displacement, briefly describe how information can incentivise political will, and explain the reasons for choosing the two countries and respective organisations to illustrate this. In a 2nd and 3rd section, we develop the two case studies, particularly focusing on describing to what extent the achievements of the two considered NGOs have been based on their data collection and analysis work, and on showing which outcomes in terms of political will can be traced back to their work. In a final part, we present the lessons that these case studies could offer for other situations of internal displacement.

The international community and civil society have their own responses to internal displacement and their work often contributes to fill protection voids that are generated by the lack of an official response, as illustrated in sections 2 and 3. There are significant challenges regarding their roles: responsibilities and coordination regarding the response to internal displacement have not always been clear within the international humanitarian system, the position of the representative of the United Nations (UN) Secretary-General evolved into a rapporteurship removed from the decision making levels, and IDPs in general receive less attention than migrants or refugees crossing borders.<sup>3</sup> This, as well as the lack of dedicated efforts among civil

armed conflict, generalized violence, human rights violations, as well as disasters and the adverse effects of climate change”. See: United Nations (UN), *Terms of reference. High-level panel on internal displacement*, Geneva, UN, 2019, available at: [https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/tor\\_of\\_the\\_panel.pdf](https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/tor_of_the_panel.pdf) (last visited 30 Aug. 2020).

- 2 Along with “(ii) prevention (Area 1 of the ToRs); (iii) improving the international system’s ability to facilitate solutions, including through the Humanitarian- Development-Peace Nexus, as well as enhanced coherence with climate and disaster displacement actors (Area 2 of the ToRs); (iv) establishing innovative financing mechanisms (Area 5 of the ToRs); (v) leveraging the role of the private sector at both the global and local levels (Area 5 of the ToRs); and (vi) improving the collection and analysis of credible data and evidence (Area 4 of the ToRs).” See: UN, *UN Secretary-General’s High-Level Panel on Internal Displacement. Dedicated thematic streams of work*, Geneva, UN, 2020, available at: [https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/hlp\\_thematic\\_work\\_streams\\_paper\\_final\\_may\\_2020.pdf](https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/hlp_thematic_work_streams_paper_final_may_2020.pdf) (last visited 31 Aug. 2020).
- 3 This point has been made and commented extensively by the Internal Displacement Monitoring Centre (IDMC). See: Internal Displacement Monitoring Centre (IDMC), *Publications. Thematic Series: The Invisible Majority*, Geneva, IDMC, 2020, available at: <https://www.internal-displacement.org/publications/thematic-series-the-invisible-majority> (last visited 30 Aug. 2020).

society, could also be partially attributed to a lack of political will. However, as set out in the Guiding Principles on Internal Displacement, “the primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies within national authorities” while “International humanitarian organizations and other appropriate actors have the right to offer their services to support the internally displaced”.<sup>4</sup> Thus, this article focuses on the political will of national and state governments.

The lack of political will of national governments as a key challenge to responding adequately to internal displacement has been part of the discourse since the phenomenon started being prioritised on the international agenda.<sup>5</sup> However, no clear and common conceptualisation of the meaning of political will is usually provided. Instead, “lack of political will” seems to be used as an expression to signal the lack of commitment in general.

One pragmatic approach to the concept of political will suggested by Lori Ann Post, Amber Raile, and Eric Raile<sup>6</sup> identifies four components. The authors suggest that political will exists when a) a sufficient set of decision-makers b) with a common understanding of a particular problem on the formal agenda c) is committed to supporting d) a commonly perceived, potentially effective policy solution. For the purpose of internal displacement in this article, the set of decision-makers would be government officials, law-makers, and judicial authorities. Their common understanding of the internal displacement situation starts with the recognition of the existence of internal displacement and goes as far as understanding its scope, causes, triggers, patterns, and impacts. While a potentially effective policy solution needs to be adapted to the specific context, there are internationally recognised and agreed-upon standards and guidelines. The 2005 Framework for National Responsibility,<sup>7</sup> for example, provides a guide for national governments to act on their responsibility to protect IDPs. It lays out twelve steps for this that can be used to assess their progress. A comprehensive analysis could consider to what extent enough decision-makers from the three branches of government acknowledge and understand an

4 United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Guiding Principles on Internal Displacement*, Geneva, OCHA, 2004, 13, available at: <https://www.unhcr.org/43ce1cff2.html> (last visited 23 Jul. 2020).

5 See, for example: Norwegian Refugee Council (NRC), *Off the Agenda: The Need to Refocus the World's Attention on Internal Displacement* [Oslo], NRC, 2017, 2, available at: <https://www.nrc.no/globalassets/pdf/briefing-notes/off-the-agenda—nrc-briefing-paper-on-internal-displacement-april-2017.pdf> (last visited 1 Sep. 2020); OCHA, *Breaking the Impasse: Reducing Protracted Internal Displacement as a Collective Outcome* [Geneva], OCHA, 2017, 44, available at: <https://www.unocha.org/sites/unocha/files/Breaking-the-impasse.pdf> (last visited 31 Aug. 2020); IDMC, *Global report on internal displacement 2020*, Geneva, IDMC, 2020, 70, available at: <https://www.internal-displacement.org/sites/default/files/publications/documents/2020-IDMC-GRID.pdf> (last visited 29 Jul. 2020); and L. Brain, *Internally Displaced Persons: Towards More Effective International Protection and Durable Solutions*, Report - Event No. WP1705, Steyning, Wilton Park, Sep. 2019, 3.

6 Post L., Raile A. & Raile E., “Defining Political Will”, *Politics & Policy*, 38(4), 2010, 653–676.

7 Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility*, Washington, Brookings Institution-University of Bern, 2005, available at: [https://www.brookings.edu/wp-content/uploads/2016/06/04\\_national\\_responsibility\\_framework\\_Eng.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/04_national_responsibility_framework_Eng.pdf) (last visited 30 Aug. 2020).

internal displacement situation and are committed to supporting each of the aforementioned twelve steps.

However, since the goal of this article is to illustrate pragmatic solutions, rather than offering a comprehensive political science analysis, we took a more simplified approach and consider political will to be the extent to which governments have i) recognised the existence of internal displacement and ii) prioritised responding to it in line with international guidelines. This approach focuses on the common understanding (b) (limited to recognition of the problem) and on the resulting response (d), assuming that both will occur if a sufficient set of decision-makers (a) is committed to support them (c).

While explicitly recognising internal displacement might seem to be a very basic level of understanding, it has been a challenge in many countries, especially when there is no officially recognised ongoing conflict. Recognising a lack of capacity to keep the population safe and that violence has become generalised is unappealing for electoral reasons. Recognition is a gradual process that is strongly related to the general public discourse, may start in individual government agencies, or independent bodies (for example, human rights ombudsmen), and can be understood as completed when the highest authorities from all three branches of government explicitly accept the existence of internal displacement in public statements or documents. The lack of recognition does not only constitute an obstacle for any dedicated government response, but also hampers efforts to raise awareness among the population.

The second component of our understanding of political will is the prioritisation of a response in line with internationally agreed principles. Several actions as outlined in the 2005 Framework for National Responsibility can be considered a response, for example, collecting data on internal displacement, designating an institutional focal point, or allocating dedicated resources. However, this article will focus on the prioritisation of normative changes implemented through the establishment of specific policy or law to protect the rights of IDPs as an indicator of national response. These instruments are important because protection is fundamentally a legal concept and because they assign clear responsibilities for the response.

The authors recognise that these two components only represent a partial aspect of political will and that recognition and the existence of specific policy and laws do not constitute the fulfillment of the rights of IDPs. Once there has been recognition and a law has been passed, there is still a long way to go in terms of showing commitment to an adequate response – but that is beyond the scope of this article.

Having clearly defined our approach to political will, it is important to elucidate the role that information on internal displacement can play in incentivising it. Not only governments, but also civil society organisations, and the international community – humanitarian and development actors – require information about the number of displaced people, their needs and profiles, the displacement situation as a whole – root causes, triggers, impacts, patterns – and the availability of public services and the situation in host communities. This can support the design of public policy and programming as well as the allocation of resources or, in terms of the concepts

discussed above, it can lead to a common understanding of the problem and inform a policy solution.

Overall, the available information on internal displacement has significantly improved over the past three decades.<sup>8</sup> However, in many situations of internal displacement, data remains scarce, incomplete, or even nonexistent. This is partly due to the nature of the phenomenon. IDPs do not cross borders, there is not always an agency mandated to protect them, they might not self-identify as IDPs, and they might mistrust the governments responsible for protecting them and thus prefer moving silently. However, in some cases, the lack of information is also due to unwillingness of governments to gather and publish information that may affect their image negatively.

Improving the available evidence is important not only because of its potential to inform policy and response. Gathering information, if done adequately, can transform attitudes and contribute to incentivising political will, build trust among actors that often have competing agendas, foster long-term collaboration, maximise local knowledge, build local capacity, and promote capacity sharing. Collaborative data processes have proven to be able to fulfill this potential.<sup>9</sup> However, when governments are reluctant or unable to fulfill their responsibility – that includes the collection of data on internal displacement – human rights NGOs have shown to be able to play a crucial role. The relationships they have built with the displaced population through their assistance and support generate the trust that is needed to be able to properly document the situation. When official recognition is not present, a sound evidence base combining quantitative and qualitative data can help shed light on the phenomenon and help inform public officials and strengthen awareness and solidarity in societies experiencing internal displacement. Beyond the generation of evidence, civil society can play a role in leveraging this evidence through advocacy and strategic litigation to shift public opinion and inform judicial decisions that mandate recognition and responses. In addition, through their assistance work and with help of the information they have gathered, NGOs can have an early and sound understanding of the protection needs of IDPs and are thus well positioned to contribute to the government response – again, through indirect means by influencing the individual decision-makers and their electorates and also through direct means by getting courts to make specific orders to the other branches of government. Thus, evidence on internal displacement can help create a common understanding among a sufficient set of decision-makers and foster the committed support to the prioritisation of an effective response.

It is worth noting that the relationship between internal displacement data and political will is bidirectional: gathering evidence is part of the government's

8 The first global survey of IDPs was published in 1998 and covered less than 60 countries while IDMC's Global Report on Internal Displacement 2020 registers new displacements in 145 countries. See: Global IDP Project & NRC, *Internally Displaced People: A Global Survey*, London, Earthscan, 2002; and IDMC, *Global Report on Internal Displacement 2020*, 8.

9 See, for example, the case study on Somalia in: Joint IDP Profiling Service (JIPS), *The Transformative Potential of Data in Internal Displacement Situations*, Geneva, JIPS, 2020, 6, available at: [https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/published\\_jips\\_submission.pdf](https://www.un.org/internal-displacement-panel/sites/www.un.org.internal-displacement-panel/files/published_jips_submission.pdf) (last visited 1 Sep. 2020).

responsibilities and should thus be part of an adequate response to internal displacement. Consequently, achieving such a response may lead to an improvement in the availability of information, initiating a virtuous cycle.

In 2019, there were over 602,000 displacements reported due to conflict and violence in the Americas, according to the Internal Displacement Monitoring Centre (IDMC). This is recognised to be underreported, as data from countries with high levels of violence and crime like Venezuela, Guatemala, Honduras, and Brazil is non-existent. In fact, most of the reported data (99.7 per cent) comes from El Salvador (454,000), Colombia (139,000), and Mexico (7,100),<sup>10</sup> and only the Colombian figure is an official one. The Americas have a strong human rights tradition and, within this, internal displacement has been gaining priority and receiving more specialised attention. While Colombia has a long history of official response to internal displacement, El Salvador and Mexico are the two most recent countries in the region to have acknowledged the phenomenon.<sup>11</sup>

This article was motivated by the collaboration of the authors around internal displacement data in Mexico and El Salvador. The authors chose to present the cases of these two countries and the role of the organisations they represent because of the incipient evidence base and response, and because of the parallels in the work their organisations have done - providing assistance, gathering information, engaging in advocacy and strategic litigation. This model for incentivising political will to respond to internal displacement is reminiscent of the work of the Consultancy for Human Rights and Displacement (CODHES), a similar human rights organisation, 20 years earlier in Colombia. CODHES was effective in incentivising political will. It mobilised civil society, the courts, and the international community around an issue that was not being considered before 1994. It significantly contributed to the creation and improvement of an official victims registry, as well as to the wider information system, and to the response to internal displacement in general. The Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) and Cristosal in Mexico and El Salvador respectively seem to be following a similar model and the authors consider that this can provide lessons for other situations of internal displacement.<sup>12</sup>

The following two sections present the case studies. They set the scene in a first subsection by describing the situation in the two countries, including the current stakeholders working on a response and the information landscape, and by introducing the work of the respective NGO. In a second subsection, they describe the work of the NGO in terms of setting up an evidence base and in a third one their other, complementary, work. A final subsection analyses how their work has contributed to

10 The IDMC's estimates are based on available sources making some figures outdated and methodologies across countries incomparable. The figure for Colombia is based on the Government's Victims Registry. The one for El Salvador is an extrapolation of a survey carried out by the University José Simeón Cañas' Institute for Public Opinion (IUDOP). The figure for Mexico corresponds to mass displacements identified by the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) during its media monitoring. See: IDMC, *Global Report on Internal Displacement 2020*, 102–103.

11 Honduras acknowledged the existence of internal displacement and started addressing it in 2013, and is still discussing an IDP bill. Venezuela, Brazil, and Guatemala are amongst the countries with no recognition and very little or no information on the topic.

12 The authors are part of the organisations whose work the article reviews.

incentivising political will, that is, to the recognition of internal displacement and to the establishment of a legal and policy framework, giving special attention to the role of the evidence base they have built up.

## 2. MEXICO

### 2.1. Internal displacement in Mexico

Internal displacement is a phenomenon that has existed for decades in Mexico, while being mostly absent from the public debate and the Government agenda. This was not only a matter of omission: federal authorities would explicitly deny the issue, saying that the conditions that could cause internal displacement were not present in the country.<sup>13</sup> In 2019, however, the Federal Government officially recognised the existence of internal displacement in the country and committed to addressing it. Since then, the Ministry of the Interior's (SEGOB) Unit for Migration Policy, Registry, and Identity of Persons (UPMRIP) has centralised the efforts related to the issue, a Government endorsed federal IDP bill has been presented to Congress, efforts to build an official evidence base have been stepped up, and other actors have been involved, particularly the Mexican Commission for Refugee Assistance (COMAR), the National Population Council (CONAPO), the National Commission for Dialogue with Indigenous Peoples, authorities from the states of Chiapas and Chihuahua, NGOs, and UN agencies including the High Commissioner for Refugees (UNHCR) and the Office for the Coordination of Humanitarian Affairs (OCHA).

Getting to this point, however, was not a quick or straightforward process. Before the official recognition by the Federal Government, authorities at the national and state level had taken independent steps to address internal displacement, according to their mandates and responsibilities. The National Human Rights Commission (CNDH), an autonomous government entity, had published documents<sup>14</sup> and issued recommendations, and precautionary measures based on complaints it had received from IDPs.<sup>15</sup> Until 2015, the National Indigenous Peoples Institute (INPI) operated an IDP assistance programme for indigenous families. Finally, the Executive Commission for Victims Assistance (CEAV) supported a few IDPs through its

13 In the official letter No. UDDH/911/DGAEI/920/2015, dated 29 Oct. 2015, and cited by the National Human Rights Commission (CNDH) in its *Special Report on Forced Internal Displacement in Mexico*, after an analysis based on the causes established by the Guiding Principles on Internal Displacement, the Human Rights Defense Unit of the Ministry of the Interior concludes that “the existence of any of the elements necessary for the presence of internal forced displacement is not proven, therefore its recognition is not possible”. See: CNDH, *Informe especial sobre Desplazamiento Forzado Interno en México*, Mexico City, CNDH, 2016, para. 239.

14 See: CNDH, *Informe especial sobre Desplazamiento Forzado Interno en México*; and CNDH, *Protocolo para la Atención y Protección a las Víctimas de Desplazamiento Forzado Interno en México*, Mexico City, CNDH, 2016, available at: [https://www.senado.gob.mx/comisiones/derechos\\_humanos/docs/protocolo\\_CNDH\\_DesplazamientoForzado.pdf](https://www.senado.gob.mx/comisiones/derechos_humanos/docs/protocolo_CNDH_DesplazamientoForzado.pdf) (last visited 2 Sep. 2020).

15 According to the response to a public information request sent by the CMDPDH, as of May 2018, the CNDH had received 14 complaints and issued six recommendations and 15 precautionary measures regarding internal displacement cases. See: CMDPDH, *Temas. Desplazamiento, Organismos de DDHH*, Mexico City, CMDPDH, 2020, available at: <http://cmdpdh.org/temas/desplazamiento/organismos-ddhh/> (last visited 24 Jul. 2020).

general victims' assistance system. Additionally, the states of Chiapas and Guerrero adopted specialised legislation on internal displacement in 2012 and 2014, respectively. However, these laws lack regulatory decrees and have not been implemented yet.

The aforementioned actions and steps were part of the process that eventually led to the official recognition of internal displacement in Mexico and the contributions of civil society were crucial to advance some of them. However, these efforts lacked coordination and consistency, did not fully comply with international standards,<sup>16</sup> were not based on comprehensive evidence or on a common understanding of internal displacement as a complex phenomenon, and in some cases were highly arbitrary<sup>17</sup> - highlighting the relevance of the recognition of internal displacement at the federal level.

The available information about the situation of internal displacement in the country is still incipient. In 2016, the CNDH published the findings of the first public specialised study by a Mexican governmental institution.<sup>18</sup> The report is based on interviews and public information requests, and provides information on case registers and an assessment of the Government's actions towards IDPs. In 2019, together with the official recognition of the existence of internal displacement in Mexico, the Government published *Violence as a cause of forced internal displacement: Approaches to its analysis in Mexico*, an analysis based on non-specialised official surveys.<sup>19</sup> Since then, Government entities have continued to explore official statistics to understand internal displacement.<sup>20</sup> The additional existing evidence regarding the situation of internal displacement in Mexico comes from documentation, studies, and research exercises carried out by academia and civil society. While they feature valuable and specialised analysis, the picture they paint remains a partial one as there is still no comprehensive and specialised national evidence base.

The CMDPDH, whose work is the subject of this case study, is a civil society organisation that has been fighting the conditions that create human rights violations and assisting victims for 30 years with legal representation, strategic litigation,

16 As an example, INPI's Project for Assistance to Displaced Indigenous People (PAID) provided assistance regarding housing, livelihoods, and property regularisation and restitution, but lacked a comprehensive approach that could fulfill other IDP needs and lead to durable solutions. See: CMDPDH, *Temas. Desplazamiento, Atención a Víctimas*, Mexico City, CMDPDH, 2020, available at: <http://cmdpdh.org/temas/desplazamiento/atencion-a-victimas> (last visited 2 Sep. 2020).

17 Although CEAV's victims' registration form has a question to identify if a person has been internally displaced, very few of those who answered affirmatively were registered as IDPs. Additionally, even for those who were registered as such, there was no protocol or guidelines regarding the types of services and assistance they should have access to in order to fulfill their specific needs as IDPs. See: *Ibid.*

18 CNDH, *Informe especial sobre Desplazamiento Forzado Interno en México*.

19 CONAPO, *La violencia como causa de desplazamiento interno forzado: Aproximaciones a su análisis en México*, Mexico City, CONAPO, 2019.

20 See: CONAPO, *Perfil sociodemográfico de la población que cambió de vivienda o lugar de residencia para protegerse de la delincuencia*, Mexico City, CONAPO, 2019, available at: [https://www.gob.mx/cms/uploads/attachment/file/514162/PERFIL\\_SOCIODEMOGRAFICO\\_final\\_ISBN.pdf](https://www.gob.mx/cms/uploads/attachment/file/514162/PERFIL_SOCIODEMOGRAFICO_final_ISBN.pdf) (last visited 14 May 2020); and UPMRIP, *Migración interna por violencia o inseguridad en México: Análisis sociopolítico basado en datos de la ENADID 2018*, Mexico City, UPMRIP, 2020, available at: <http://www.politicamigratoria.gob.mx/work/models/PoliticaMigratoria/CEM/Publicaciones/Revistas/Contextos/Contextos01.pdf> (last visited 26 May 2020).



psychosocial support, research, advocacy, and communications. In 2014, it created an internal displacement department to document and gather evidence on the phenomenon in Mexico. Among other objectives, the department aims for the Government to accept its national responsibility and respond to internal displacement. Since then, the CMDPDH has also provided specialised support to IDPs, especially through legal representation, strategic litigation, and psychosocial work.

## 2.2. The CMDPDH's efforts to establish an evidence base

As a response to the scattered and significantly limited information available, CMDPDH's internal displacement department has conducted several research exercises using both quantitative and qualitative approaches and different methodologies to measure and profile internal displacement in Mexico.

Since its establishment in 2014, CMDPDH's internal displacement department has conducted ongoing media monitoring to identify and systematise events of mass displacement caused by violence at a national level. This has served as a basis to produce an annual estimate of the number of people displaced by violence in mass displacement events in Mexico. The exercise provides information regarding the causes and context of the displacements, the use of violence, movement patterns, IDPs' profiles, places of origin and destinations, and the government response. Since 2016, the CMDPDH's figures constitute the basis for the IDMC's figure for violence and conflict induced displacements in Mexico in its annual Global Report on Internal Displacement and since 2017 the CMDPDH has been publishing its own annual reports.

In 2019, using data from three nation-wide surveys, the CMDPDH presented the first quantitative analysis of violence-induced displacement based on official statistics,<sup>21</sup> yielding estimates that range from hundreds of thousands to millions of people that changed their place of residence within Mexico for violence-related reasons since 2005. This was accompanied by a qualitative report that analysed five cases of internally displaced families and individuals from different states and regions of Mexico.<sup>22</sup> Both studies offered an opportunity to shed light on patterns and dynamics of

21 The analysis considered the National Survey of Victimization and Perception of Public Security, which provides an annual estimate of the number of people who have changed their homes "to protect themselves from crime" nation-wide since 2010; the National Survey of Demographic Dynamic, which offers a nation-wide estimate of the number of people who have moved between different states for reasons related to "public insecurity or violence" from August 2009 to August 2013 and from August 2013 to August 2017; and the National Survey on Occupation and Employment, which is published quarterly since 2005 and identifies people who have changed their homes due to "public insecurity" nation-wide. Subsequently, these surveys were also analysed by CONAPO in its study presented in April of the same year. See: CMDPDH, *Entre la invisibilidad y el abandono: un acercamiento cuantitativo al desplazamiento interno forzado en México*, Mexico City, CMDPDH, 2019, available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-entre-la-invisibilidad-y-el-abandano-acercamiento-cuantitativo-al-desplazamiento-interno-forzado-en-mexico.pdf> (last visited 24 Jul. 2020).

22 Based on 57 in-depth interviews carried out between April and July of 2018 and describing in detail the experiences of 104 IDPs before, during, and after their displacement. See: CMDPDH, *Entre la invisibilidad y el abandono: un acercamiento cualitativo al desplazamiento interno forzado en México*, Mexico City, CMDPDH, 2019, available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-entre-la-invisibilidad-y-el-abandano-un-acercamiento-cualitativo-al-desplazamiento-interno-forzado-en-mexico.pdf> (last visited 24 Jul. 2020).

individual displacements, which could not have been identified through the monitoring of mass displacements. Additionally, the qualitative report provides detailed insight into the impacts of internal displacement and the challenges that IDPs experience during each stage of their displacement. Finally, between 2018 and 2019, the CMDPDH conducted a comprehensive analysis of the Government response to internal displacement on a national and state level.<sup>23</sup> This exercise exposed the lack of coordination and the limited nature of the official response to the phenomenon, even highlighting that some authorities had little or no understanding of the concept of internal displacement.

### 2.3. The CMDPDH's complementary areas of work

In parallel to its research work, the CMDPDH provides comprehensive assistance to IDPs, including legal representation and psychosocial support. Based on the cases it represents, it also works on strategic litigation on a national and international level.<sup>24</sup> The detailed case documentation required for this complements the information obtained through research and has allowed the organisation to expand its understanding of the phenomenon and identify important gaps in Mexico's existing victims assistance and protection mechanisms and legislation, which in turn allows it to inform the Government's future response to internal displacement.

The CMDPDH also takes part in advocacy, engaging with local, national, and international actors, including members of academic institutions, NGOs, governmental institutions, and international agencies. This has allowed it to promote the prioritisation of internal displacement in the Mexican political agenda. In 2016, by request of the CMDPDH and other NGOs, a public hearing on the situation of internal displacement in Mexico was held by the Inter-American Commission on Human Rights (CIDH).<sup>25</sup> The CMDPDH has also presented the situation before the UN's Human Rights Council<sup>26</sup> and Committee, Committee on Economic, Social and Cultural Rights, and Special Procedures,<sup>27</sup> and maintains consistent communication with the

23 The CMDPDH sent over 300 information requests to federal and state-level institutions, analysed the responses, and published them on a public online platform. Some institutions declared they did not have the mandate to provide the requested information, some declined to comment claiming they did not understand the concept of [forced] internal displacement and others provided information about specialised programs and mechanisms, draft legislation, and other legal documents that had been issued regarding internal displacement, as well as information on cases documented by human rights and victims assistance institutions. See: CMDPDH, *Temas. Desplazamiento*, 2020, available at: <http://cmdpdh.org/temas/desplazamiento/> (last visited 2 Sep. 2020).

24 As an example of strategic litigation on an international level, the CMDPDH sent the Inter-American Commission on Human Rights (CIDH) a request for precautionary measures to prevent irreparable harm to two internally displaced human rights defenders from the state of Sinaloa, their families, and members of their communities. The precautionary measures were granted in April 2015. See: CIDH, *Medida Cautelar 77-15 – Asunto defensoras E. y K. y sus familiares respecto de México*, Washington, CIDH, 2015, available at: <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC77-15-ES.pdf> (last visited 24 Jul. 2020).

25 CIDH, *Audiencia temática sobre la situación de derechos humanos de las personas afectadas por el desplazamiento interno en México*, 159 Ordinary Period of Sessions, 5 Dec. 2016.

26 Every year since 2015.

27 Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the human rights of migrants; Special Rapporteur

mandate of the Special Rapporteur on the human rights of internally displaced persons, having arranged meetings of the Special Rapporteur with IDPs, academics and NGOs during her unofficial visit to Mexico in 2019.

#### 2.4. Contributions of the CMDPDH's work to incentivising political will

The research, psychosocial support, strategic litigation, and advocacy activities conducted by the CMDPDH work in a complementary manner and have allowed it to incentivise political will among certain government authorities, attaining significant achievements towards the recognition and response to internal displacement in Mexico. While the Federal Government's decision to recognise and address internal displacement in 2019 cannot be directly traced to the CMDPDH's work, there are several milestones leading up to official recognition to which the organisation made clear contributions.

The CMDPDH's annual reports have so far been the only systematic record of mass displacement events and provide the only regular estimate of the number of people displaced by violence in the country. They have been quoted and reproduced by the academic sector, media outlets,<sup>28</sup> national and international NGOs, IDPs, human rights organisations, as well as authorities and decision-makers, thus contributing to the public discourse around internal displacement, which can be seen as a first step towards official recognition.

In 2014, the documentation of cases carried out by the CMDPDH contributed to the approval of an agreement by the Federal Government agency with the mandate to assist victims (CEAV) that recognises "the situation of focused internal displacement as an autonomous victimizing event that needs to be treated with a differential and specialised approach".<sup>29</sup> Later, in 2017, the experience and information that the CMDPDH had acquired through accompanying and documenting IDPs' cases enabled them to influence the reform process of the General Victims' Law (which created the CEAV) by pointing out which specific gaps represented a challenge for IDPs' recognition and assistance. As a result, IDPs were incorporated in several articles.<sup>30</sup>

Finally, the litigation processes the CMDPDH has led, which are based on its documentation of cases and have also drawn on its media monitoring to describe the context of displacement in the country, have resulted in several landmarks such as the first recommendation by the CNDH<sup>31</sup> that recognises a person's right to not be

on the rights of indigenous peoples; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on minority issues.

28 In 2019 alone, at least 527 newspaper reports referred to the work of CMDPDH's internal displacement department or mentioned the information generated by it.

29 CEAV, *Acta de la Cuadragésima Tercera Sesión Ordinaria del Pleno de la Comisión Ejecutiva de Atención a Víctimas*, Mexico City, CEAV, 2014, available at: <http://www.ceav.gob.mx/wp-content/uploads/2014/04/AO-43.pdf> (last visited 25 Jul. 2020).

30 Until the last reform to this Law, from 2017, internal displacement is mentioned in articles 7, 8, 28, 38, 45, 47 and 79. See: CMDPDH, *Reforma a Ley General de Víctimas debe reconocer a víctimas de desplazamiento interno forzado en México: víctimas, OSC y expertas*, Mexico City, CMDPDH, 2016, available at: <http://cmdpdh.org/2016/09/reforma-ley-general-victimas-reconocer-victimas-desplazamiento-interno-forzado-mexico-victimas-osc-expertas/> (last visited 24 Jul. 2020).

31 CNDH is an autonomous government entity. Its recommendations determine the occurrence of human rights violations and are directed at the authorities who were responsible for them, establishing the

forcefully displaced and specifically identifies the violence generated by organised crime as a cause for internal displacement in Mexico, issued in 2017.<sup>32</sup> These efforts also led to an unprecedented court decision from 2019 that established CEAV's competence to determine and recognise IDPs as victims of human rights violations.<sup>33</sup> The latter made it possible for the CEAV to provide assistance for IDPs without a recommendation from a human rights institution or an official criminal complaint – which was a major obstacle given that internal displacement is not typified as a crime in Mexico.

Beyond the recognition of internal displacement in Mexico, the CMDPDH's work has also contributed to the establishment of a formal dedicated response. The CMDPDH's annual reports and figures have been referred to in a series of legislative documents such as draft legislation, points of agreement, and even applicable laws.<sup>34</sup> CMDPDH's internal displacement department's expertise has also led law-makers to request its feedback on their draft IDP bills.

In response to an evidence-based communication sent in 2014 by the CMDPDH to the Mexican presidency requesting the official recognition of the existence of internal displacement in the country, in 2015 an "Institutional Working Group" was established to develop public policies to address the subject. It was coordinated by the Ministry of the Interior's General Directorate for Public Policy on Human Rights and included several federal agencies, such as the Secretariat of Social Development, the National Housing Commission, the Attorney General's Office, the CNDH, the CEAV, the CONAPO, the Ministry of Education, and the National Institute of Statistics and Geography.<sup>35</sup>

At the state level, the Government of the state of Sinaloa has begun to conduct various efforts to comply with the Recommendation 39/17, issued in 2017 by the CNDH in benefit of 2,038 IDPs from Sinaloa,<sup>36</sup> a case represented by the

specific actions they must take in order to provide reparation to the victims. The recommendations are mandatory and must be formally accepted by the concerned authorities, who must also provide the CNDH with evidence of their compliance. To reject a recommendation, responsible authorities must present a formal justification. Responsible authorities who reject or do not comply with a recommendation may be requested to appear before the Senate. See: CNDH, *Funciones. Preguntas Frecuentes*, Mexico City,

32 CNDH, *Recomendación No. 39/17. Sobre el caso de 2,038 personas víctimas de desplazamiento forzado interno en el estado de Sinaloa*, Mexico City, CNDH, 2017, available at: [http://www.cndh.org.mx/sites/all/doc/Recomendaciones/2017/Rec\\_2017\\_039.pdf](http://www.cndh.org.mx/sites/all/doc/Recomendaciones/2017/Rec_2017_039.pdf) (last visited 25 Jul. 2020).

33 Décimo Tribunal Colegiado en Materia Penal del Primer Circuito, *Revisión penal 208/2018*, Judgment, 15 Feb. 2019.

34 The information documented by the CMDPDH is mentioned in the initial explanatory statement of at least ten draft bills on internal displacement at the federal level, in a draft bill in the state of Chihuahua, as well as in the internal displacement legislation that was recently passed in Sinaloa.

35 However, only three meetings were held: two in 2015 and one in 2016.

36 Among the main recommendations addressed to the Government of Sinaloa, the Attorney General's Office, and the municipalities of Sinaloa and Choix, the following stand out: the design and implementation of a reparation program in collaboration with the displaced persons and human rights defenders that were affected; the presentation of a draft legislation that provides attention to IDPs and criminalises the act of displacing people, the creation of the Victims' Attention System of Sinaloa, within the framework of the General Victims' Law, as well as the investigation of the facts and the implementation of a protocol for investigating internal displacement cases in the state. See: CNDH, *Recomendación No. 39/17. Sobre el caso de 2,038 personas víctimas de desplazamiento forzado interno en el estado de Sinaloa*.

CMDPDH. The state Government is now conducting a state-level census of IDPs, providing economic support to the displaced population, and has recently passed a state IDP law.<sup>37</sup>

Similarly, in Chihuahua, as a result of a recommendation issued by the CNDH in favour of 102 IDPs from this state,<sup>38</sup> another case that is represented by the CMDPDH, the state Government conducted a baseline study of the situation of internal displacement in Chihuahua, initiated the development of a protocol for recognising and registering IDPs, and developed, in collaboration with the CMDPDH, a comprehensive assistance plan for the 102 people referred to in the Recommendation. In May 2019, the CMDPDH requested the support of the Joint IDP Profiling Service (JIPS) in strengthening information management capacities. As a result of JIPS' engagement in Mexico, the Government of Chihuahua is currently participating in an internal displacement profiling exercise.<sup>39</sup> This illustrates how the build-up of political will for a response to internal displacement also leads to the strengthening of the available information.

### 3. EL SALVADOR

#### 3.1. Internal displacement in El Salvador

Internal displacement by violence in El Salvador is a consequence of a complex web of violence perpetrated primarily by gangs and, to a lesser degree, by death squads and repressive actions by State security forces. Despite the magnitude of the problem, official recognition and national responses to internal displacement have not been given priority by policy-makers. During nearly a decade of advocacy for the rights of IDPs led by civil society, national authorities treated recognition of internal displacement with hostility.<sup>40</sup> The very premise of Salvadorans fleeing uncontrolled violence in large numbers challenged the efficacy of security policy – one of the determinant issues for political success in El Salvador.

Up until the passing of the special law on internal displacement in early 2020, the State protection system focused on protecting witnesses and victims who cooperate

37 Ley para prevenir, atender y reparar integralmente el desplazamiento forzado interno en el estado de Sinaloa, 9 Jul. 2020 (entry into force: 22 Aug. 2020).

38 CNDH, *Recomendación No. 94/19. Sobre el caso de desplazamiento forzado interno de 80 personas integrantes de un grupo familiar originario del estado de Chihuahua*, Mexico City, CNDH, 2019, available at: [https://www.cndh.org.mx/sites/default/files/documentos/2019-10/REC\\_2019\\_094.pdf](https://www.cndh.org.mx/sites/default/files/documentos/2019-10/REC_2019_094.pdf) (last visited 25 Jul. 2020).

39 The profiling exercise in Chihuahua was one of the recommendations of the final report that resulted from JIPS' exploratory mission to Mexico in November 2019. The mission originated from a request for support that the CMDPDH presented to JIPS. The decision to include a visit to the state of Chihuahua during the mission was based on a recommendation by the CMDPDH according to its experience in researching and accompanying cases. To follow up on the profiling exercise in Chihuahua and other recommendations made by JIPS, a working group comprised of representatives of the government, civil society, academia, and the international community was formed.

40 For example, the director of the National Victims Directorate (DAV), Fatima Ortiz, said that in some cases of displacement "what people want is to move to a different house" in order to "take advantage", in an interview in the online magazine Factum in 2017. See: B. Avelar, "En algunos casos de desplazamiento la gente quiere cambiarse de casa. . . aprovecharse", *Factum*, 22 Mar. 2017, available at: <https://www.revisatafactum.com/en-algunos-casos-de-desplazamiento-la-gente-quiere-cambiarse-de-casa-aprovechase/> (last visited 29 Aug. 2020).

with the criminal justice system; it was limited to the active period of criminal trials, and to specialised protection services for women and children – primarily separating the vulnerable person from their aggressors, who are often family members. This protection system was poorly equipped to deal with family units fleeing persecution and violence by organised criminal groups or State security forces. Protection activities in El Salvador have been led by non-governmental actors like the Salvadoran Red Cross, and smaller national NGOs. In 2018, the UNHCR began to facilitate a protection team including national and international organisations like the Norwegian Refugee Council and the International Rescue Committee.

The primary source of data on internal displacement in El Salvador has been an annual opinion survey on the general situation of the country, conducted since 1986 by the University José Simeón Cañas' Public Opinion Institute (IUDOP). The alarm first went off in 2012, when two per cent of respondents reported that they had been internally displaced. In 2015 the number rose to five per cent and remained at that level until 2019.<sup>41</sup> The first official information on displacement in El Salvador came from a review of the Human Rights Ombudsman's (PDDH) case register conducted by Cristosal in 2016. Due to the lack of official recognition, State institutions did not register internal displacement. Cristosal's researchers thus had to detect displacements based on the description of events documented in the narratives of individual case files. The study found reports of 124 cases involving 427 IDPs from 2014 through the first quarter of 2016.<sup>42</sup> Cristosal conducted a second study with the PDDH from 2016 to 2017 in which 138 cases involving 458 IDPs were identified.<sup>43</sup> Simultaneously, between 2016 and 2018, the Ministry of Justice and Security led a group of actors to carry out a profiling exercise that helped understand the magnitude, causes, and impacts of "internal human mobility". The exercise yielded an estimate of 1.1 per cent of families with at least one member displaced by violence between 2006 and 2016, as well as information about the profiles of the IDPs.<sup>44</sup>

Cristosal, whose work is the subject of this case study, is a civil society organisation that has been supporting victims of violence through protection and strategic

41 The survey is nationally representative and currently yields an annual figure of almost half a million new displacements (counting the cases when a person was displaced multiple times within a given year) when extrapolated to the six million inhabitants of El Salvador. See: Instituto Universitario de Opinión Pública de la Universidad José Simeón Cañas (IUDOP-UCA), *Encuesta de opinión sobre el desplazamiento interno forzado por violencia y las medidas extraordinarias*, San Salvador, IUDOP-UCA, 2019, available at: <http://www.uca.edu.sv/iudop/wp-content/uploads/INFORME-CRISTOSAL-COMPLETO.pdf> (last visited 29 Jul. 2020).

42 Procuraduría para la Defensa de los Derechos Humanos (PDDH), *Informe de Registro de la Procuraduría para la Defensa de los Derechos Humanos sobre Desplazamiento Forzado*, San Salvador, PDDH, 2016, 19, available at: <https://enfoca.org/web/wp-content/uploads/2019/03/InformeoficinaombudsmandesplazamientoforzadoenElSalvador1.pdf> (last visited 29 Jul. 2020).

43 PDDH, *Informe preliminar de registros de la Procuraduría para la Defensa de los Derechos Humanos sobre desplazamiento forzado*, San Salvador, PDDH, 2017, 14, available at: <https://enfoca.org/web/wp-content/uploads/2019/03/Informe-PDDH-2016-2017.pdf> (last visited 13 Sep. 2020).

44 The exercise was carried out with the support of the UNHCR, JIPS, the General Directorate for Statistics and Censuses (DIGESTYC), and the Latin American Faculty for Social Sciences (FLACSO), and was financed by the European Union. See: Ministerio de Justicia y Seguridad Pública de El Salvador, *Caracterización de la movilidad interna a causa de la violencia en El Salvador*, San Salvador, Ministerio de Justicia y Seguridad Pública, 2018, available at: <https://www.jips.org/uploads/2018/10/Profiling-Report-ElSalvador-ES.pdf> (last visited 3 Sep. 2020).

litigation and working with municipalities to build safer and more democratic communities since 2010. It began to identify IDPs in El Salvador while supporting the implementation of the UNHCR's Program for Asylum-seekers in El Salvador (PARES) from 2007 to 2014. Starting in 2015, Cristosal began to develop more specialised programming to provide protection and legal assistance to IDPs. The organisation's early case documentation soon evolved into an effort to set up a regional monitoring system on internal displacement for the North of Central America.

### 3.2. Cristosal's efforts to establish an evidence base

Based on its assistance work and case documentation, in 2014 Cristosal started setting up a register of the people it assisted. At the time, different stakeholders were providing support to IDPs from their individual areas of expertise (childhood, security, human mobility, etc.). Those efforts, however, lacked the specific displacement lens necessary to systematically identify and document cases. Cristosal worked to build consensus among NGOs to standardise registration forms and promote a common conceptual framework about displacement through introductory workshops on the UN Guiding Principles on Internal Displacement, the Durable Solutions Framework and the Brazil Plan of Action. This cooperation among NGOs became formalised under the banner of the National Roundtable Against Displacement by Violence and Organised Crime. Cristosal supported the Roundtable in producing and publishing two annual reports in 2015 and 2016.<sup>45</sup>

Subsequently, Cristosal established partnership agreements to provide similar training and support in setting up case documentation systems with state institutions like the PDDH,<sup>46</sup> the National Institute for the Development of Women (ISDEMU),<sup>47</sup> and the Public Defender's Office (PGR). In negotiating the partnership agreements, Cristosal insisted that the term internal displacement be used, making the agreements themselves the first formal recognition of internal displacement by State institutions.

This process was significantly improved by the support from the IDMC, which helped evolve Cristosal's methodology to take international standards into account, and better organise and process data from case documentation to identify drivers, triggers, and impacts of displacement. The improved data gathering methodology

45 Mesa de Sociedad Civil contra el Desplazamiento Forzado por Violencia y Crimen Organizado, *Informe Testimonial de Desplazamiento Forzado en El Salvador Enfocado en Niñez, Adolescencia y Juventud*, San Salvador, Cristosal, 2016, available at: <https://enfoca.org/web/wp-content/uploads/2019/03/Informe-testimonial-sobre-desplazamiento-forzado.pdf> (last visited 30 Jul. 2020); and Mesa de Sociedad Civil contra el Desplazamiento Forzado por Violencia y Crimen Organizado, *Desplazamiento interno por violencia y crimen organizado en El Salvador. Informe 2016*, San Salvador, Cristosal, 2017, available at: <https://static1.squarespace.com/static/5784803e3e6594ad5e34ea63/t/5880c66b2994ca6b1b94bb77/1484834488111/Desplazamiento+interno+por+violencia+-+Informe+2016.pdf> (last visited 13 Sep. 2020).

46 PDDH, *Memorandum CP/087/2016*, San Salvador, PDDH, 2016, available at: <https://www.pddh.gob.sv/portal/wp-content/uploads/2019/03/39-2016.pdf> (last visited 30 Jul. 2020).

47 Instituto Salvadoreño para el Desarrollo de la Mujer (ISDEMU), "ISDEMU y CRISTOSAL firman convenio para impulsar programas para atención de mujeres víctimas de violaciones a los derechos humanos", *ISDEMU*, 30 Sep. 2020, available at: [https://www.isdemu.gob.sv/index.php?option=com\\_content&view=article&id=4571%3A2016-09-30-20-51-08&catid=1%3Anoticias-ciudadano&Itemid=77&lang=es](https://www.isdemu.gob.sv/index.php?option=com_content&view=article&id=4571%3A2016-09-30-20-51-08&catid=1%3Anoticias-ciudadano&Itemid=77&lang=es) (last visited 30 Aug. 2020).

allowed Cristosal to make increasingly sophisticated analysis of displacement trends and to present evidence that internal displacement was not an isolated problem, but rather a national one stemming from the systematic use of violence by criminal actors and a systematic failure of the State to protect and assist citizens.<sup>48</sup>

Cristosal experimented with different platforms, like Martus and KoBo Toolbox, to host a common database; it also led discussions among NGOs and state institutions about data sharing. In 2016, the NGO began to expand its work to Honduras partnering with other NGOs like Covenant House, the Centre for Research and Promotion of Human Rights (CIPRODEH), and the Pastoral for Human Mobility to replicate the Salvadoran experience of cooperation and standardisation of data gathering. By 2018, Cristosal began publishing reports under the collective logo of the Regional Monitoring System<sup>49</sup> with data gathered from all three countries in the North of Central America.<sup>50</sup> In 2019, the International Organisation for Migration (IOM) and the Central American Integration System (SICA), a regional multilateral organisation, endorsed the Regional Monitoring System.<sup>51</sup> In the Brazil Plan of Action, SICA is responsible for creating a regional human rights and displacement observatory. Towards that end, Cristosal is currently working with the UNHCR, the IOM, and SICA's statistical area, Central American Statistical Commission (CENTROSTAD), to develop an agreement with the national statistics institutes of SICA countries<sup>52</sup> to include questions about displacement in their national surveys.<sup>53</sup>

- 48 Cristosal annual reports on displacement provide disaggregated data about the geographic location of displacement events, the types of violence used and the perpetrators that trigger the displacement events. All of Cristosal's annual reports demonstrate displacement events across the national territory and patterns of violence perpetrated systematically by organised criminal groups. See: Sistema de Monitoreo de Desplazamiento Forzado en el Triángulo Norte de Centroamérica, *Señales de una Crisis: Desplazamiento Forzado Interno por Violencia en El Salvador, Guatemala y Honduras*, 2018, San Salvador, Cristosal, 2019, available at: <https://enfoca.org/web/wp-content/uploads/2019/06/Se%C3%B1ales-de-una-Crisis.-Desplazamiento-forzado-2018.pdf> (last visited 28 Jul. 2020); and Cristosal, *Visibilizar lo invisible: huellas ocultas de la violencia. Informe de Desplazamiento Interno Forzado por Violencia en El Salvador en 2017*, San Salvador, Cristosal, 2018, available at: <https://enfoca.org/web/wp-content/uploads/2019/03/Vizibilizarloinvisible.pdf> (last visited 13 Sep. 2020).
- 49 With participation from the IDMC, the Education and Cooperation Foundation (EDUCO), Save the Children, Plan International, Fundación Quetzacoatl in El Salvador, Covenant House in Honduras, and Pop No'j Association in Guatemala.
- 50 The reports produced for the Regional Monitoring System were made available online through a website that includes a virtual library and an interactive data page where users can run reports based on selected variables. See: Regional Monitoring System, *Forced Displacement Portal*, San Salvador, Regional Monitoring System, 2020, available at: <https://enfoca.org/web/en/forced-displacement/> (last visited 13 Sep. 2020).
- 51 Secretaría General del Sistema de la Integración Centroamericana (SG-SICA), "Lanzan Sistema Regional de Monitoreo de Desplazamiento Forzado", SICA, 19 Nov. 2019, available at: [https://www.sica.int/noticias/lanzan-sistema-regional-de-monitoreo-de-desplazamiento-forzado\\_1\\_120430.html](https://www.sica.int/noticias/lanzan-sistema-regional-de-monitoreo-de-desplazamiento-forzado_1_120430.html) (last visited 30 Aug. 2020).
- 52 Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Belize and the Dominican Republic.
- 53 SG-SICA, "SICA, ACNUR y CRISTOSAL fortalecen los Sistemas de Información sobre Migración y Desplazamiento Forzado en Centroamérica", SICA, 13 Aug. 2020, available at: [https://www.sica.int/noticias/sica-acnur-y-cristosal-fortalecen-los-sistemas-de-informacion-sobre-migracion-y-desplazamiento-forzado-en-centroamerica\\_1\\_123244.html](https://www.sica.int/noticias/sica-acnur-y-cristosal-fortalecen-los-sistemas-de-informacion-sobre-migracion-y-desplazamiento-forzado-en-centroamerica_1_123244.html) (last visited 30 Aug. 2020).



Based on the case register, Cristosal produced annual reports on internal displacement and periodic special thematic reports.<sup>54</sup> While never statistically representative, and at times primitive, these registers and reports provided important reference material for building the case, nationally and internationally, for a comprehensive response to internal displacement in El Salvador. They helped build public awareness and reinforce other existing data sets like the IUDOP annual survey results. The more in-depth qualitative evidence derived from case documentation helped build a narrative about the experience of Salvadoran families dealing with violence and displacement that many Salvadorans identified with and was key to building public support for recognition and response.

### 3.3. Cristosal's complementary areas of work

In 2015, Cristosal decided to offer shelter and assistance for a case involving 21 IDPs. At the time, internal displacement was still a largely invisible phenomenon with people moving about clandestinely without seeking assistance. The few that sought assistance generally found themselves in a frustrating cycle of referrals between State institutions, diplomatic missions, UN agencies, and NGOs, with no concrete response. Among NGOs there was a reticence to get directly involved with cases of internal displacement because of the security risks and the lack of clear solutions in the country for people fleeing violence. The decision to provide comprehensive protection and legal assistance to a large family group that had very publicly been seeking assistance allowed Cristosal to demonstrate capacity and the viability of working directly with IDPs.<sup>55</sup> The experience also illustrated that providing humanitarian relief builds trust that can empower IDPs to share their stories which, in turn, creates conditions for data gathering with IDPs. This was crucial for Cristosal's advocacy work.

Furthermore, Cristosal's reports have been featured in the Salvadoran media, in national forums, as well as internationally in Washington D.C., the UNHCR NGO consultations in Geneva, shadow events around the UN General Assembly meeting, in the Global Compact for Refugees and Migrants in New York, and the World Humanitarian Summit in Istanbul. The data set has also served as the basis for two thematic hearings on internal displacement at the CIDH and subsequent reports presented to the Commission.<sup>56</sup> The qualitative and quantitative data derived from

54 See: Sistema de Monitoreo de Desplazamiento Forzado en el Triángulo Norte de Centroamérica, *Niñez sin tregua: Desplazamiento forzado en el norte de Centroamérica*, San Salvador, Cristosal, 2018, available at: <https://enfoca.org/web/wp-content/uploads/2018/11/Informe-Ni%C3%B1ez-sin-Tregua-Final.pdf> (last visited 13 Sep. 2020); and Mesa de Sociedad Civil contra el Desplazamiento Forzado por Violencia y Crimen Organizado, *Informe Testimonial de Desplazamiento Forzado en El Salvador Enfocado en Niñez, Adolescencia y Juventud*.

55 D. Valencia, "El Salvador de los desplazados de Madreselva", *El Faro*, 13 Apr. 2015, available at: <https://salanegra.elfaro.net/es/201504/cronicas/16836/El-Salvador-de-los-desplazados-de-Madreselva.htm> (last visited 29 Jul. 2020).

56 The report submitted to the CIDH after the 2018 hearing by Cristosal, Covenant House and Pop No'j was adapted for the production of the special thematic report on children in displacement. See: Cristosal, *Generación sin retorno: Situación de la niñez y juventud frente al desplazamiento forzado causado por violencia*, San Salvador, Cristosal, 2018, available at: <https://enfoca.org/web/wp-content/uploads/2019/03/Generacion-sin-retorno-Informe-de-ninez-y-juventud-2016-2018-min.pdf> (last visited 30 Jul. 2020).

Cristosal's registry also served to provide context and reference material for public statements and reports made during high-level international visits to El Salvador from the UN High Commissioner for Refugees, Filippo Grandi, and the UN Special Rapporteur on the Human Rights of Internally Displaced Persons, Cecilia Jimenez-Damary,<sup>57</sup> in separate visits in August 2017, as well as a visit from academic and advocate Doctor Elizabeth Ferris.<sup>58</sup>

As the data set grew, clear patterns emerged in the case documentation of the direct and indirect role of the State in causing internal displacement through commissions of violence, abuse, and discrimination towards IDPs and omissions of its constitutional responsibility to protect. This evidence base allowed Cristosal to develop case theory for strategic litigation and select cases that were emblematic of the documented displacement patterns. Cristosal brought five different cases against the Salvadoran Government to the Constitutional Court between 2016 and 2017. The Court made its ruling on one case but used its authority to broaden the scope of the Ruling to set a precedent establishing the rights of all internally displaced Salvadorans and order structural changes to correct the systematic violation of constitutional rights stemming from the State's failure to protect people internally displaced by violence.<sup>59</sup>

The Ruling has been one of the key milestones that led to the current situation. It was crucial to the official recognition and to the development of a government response and it would not have been achieved without the different activities carried out by Cristosal, especially not without the gathering and systematising of an evidence base.

#### 3.4. Contributions of Cristosal's work to incentivising political will

The process of tilting political will towards recognition and response to internal displacement in El Salvador began by fostering the official recognition of the phenomenon through case documentation, communications strategies, and actions by NGOs to protect IDPs and enhance their participation in legal advocacy for their rights.

The litigation, and later the Court Ruling and debate of the national law, brought media visibility and greater public interest in Cristosal's annual and periodic special reports on internal displacement. From small gatherings of mostly NGOs, the presentations turned into large public events reported on by national and regional media. These presentations provided opportunities for public officials to make statements about displacement that over time reflected an evolution in political positions towards the recognition of internal displacement. At the presentation of the 2017

57 United Nations Human Rights Council (UNHRC), *Report of the Special Rapporteur on the human rights of internally displaced persons on her visit to El Salvador*, Geneva, UNHRC, 2018, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/G1811664.pdf> (last visited 29 Jul. 2020).

58 E. Ferris, "Caravans from El Salvador: The Tip of the Iceberg", *ISLM Blog*, 31 Oct. 2018, available at: <https://blogisim.tumblr.com/post/179637727835/caravans-from-el-salvador-the-tip-of-the-iceberg> (last visited 30 Jul. 2020).

59 The Court cited the reports produced by Cristosal with the PDDH and the Special Rapporteur's Report and highlighted the importance of "reports produced by national and international organisations" in demonstrating the scope of the phenomenon. It claimed that the institutions of the State have "minimised" the problem. See: Sala de lo Constitucional de la Corte Suprema de Justicia, *Amparo 411-2017*, Judgment, 13 Jul. 2018.

annual report, *Visibilizar lo Invisible*, in March of 2018, the Minister for Justice and Security, Mauricio Landeverde, acknowledged the report's findings about the role of State security forces in causing displacement. In his remarks during the event, he said that "there are members of the Police and the Armed Forces that provoke these cases, we have cases, civil society has more, and it is understandable because the victims are afraid".<sup>60</sup> In 2019, the newly elected Vice President, Felix Ulloa, was the keynote speaker at the presentation of the 2018 report, *Señales de una Crisis*. In his opening remarks he promised that his Government "will not take the reports as criticism of the government, but as fair, legitimate and timely signals so that the government can make decisions to address the issue".<sup>61</sup>

Cristosal's work also contributed to the establishment of a formal response to internal displacement. Among the Constitutional Court's prescriptive measures was an obligation placed on the legislative and executive branches to bring the Salvadoran legal framework in line with the standards set out in the Guiding Principles on Internal Displacement. Based on Cristosal's assessment of the existing legal framework at the time, the organisation determined that a special IDP law was necessary for compliance with the Ruling. Cristosal's legal team, in consultation with international experts Walter Kälin and Elizabeth Ferris, and with input from focus groups conducted with IDPs, developed a draft law that was presented to the Salvadoran legislature for expedited approval.

This initially generated backlash from the Government, the UNHCR, and organisations that had been working on a general reform of the legal framework for victims' assistance that did not exclusively recognise or address internal displacement.<sup>62</sup> Eventually, the tensions were dissipated by forming an NGO task force to assess the proposed legislation through a consensus-building exercise aimed at developing "minimum standards" for national IDP legislation. These exercises were built on criteria from the Brookings Institution's Manual on protecting IDPs for law and policymakers which Cristosal adapted to be used as a framework for these discussions.<sup>63</sup> The minimum standards were presented to the Legislative Assembly by the Minister

60 S. Luna, "Desplazamiento forzado aumentó en primer trimestre de 2018, según PDDH", *El Diario de Hoy*, 26 Apr. 2018, available at: <http://www.elsalvador.com/noticias/nacional/475009/desplazamiento-forzado-aumento-en-primero-trimestre-de-2018-segun-pddh/> (last visited 28 Jul. 2020).

61 J. López, "Vicepresidente Félix Ulloa promete buscar solución a los desplazamientos forzados", *El Diario de Hoy*, 11 Jun. 2019, available at: <https://www.elsalvador.com/noticias/nacional/vicepresidente-felix-ulloa-promete-buscar-solucion-a-los-desplazamientos-forzados/611538/2019/> (last visited 29 Jul. 2020).

62 The tension emerged because there were three bills related to protection of victims presented for consideration to the Legislative Assembly during the same time period. The Ministry of Justice and Security, with support of the International Red Cross and a group of NGOs, presented a general reform that extended protections to victims of all crimes, but not specifically to IDPs. The two other bills were specific to IDPs: one presented by the Executive Technical Unit of the Justice Sector (UTE) and the other presented by victims of forced displacement with the support of Cristosal. See: W. Hernández, "Gobierno del FMLN se retracta y reconoce (tímidamente) el desplazamiento forzado", *Gato Encerrado*, 10 Apr. 2019, available at: <https://gatoencerrado.news/2019/04/10/gobierno-del-fmln-se-retracta-y-reconoce-timidamente-el-desplazamiento-forzado/> (last visited 30 Jul. 2020).

63 Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, Washington, Brookings Institution-University of Bern, 2008, available at: [https://www.brookings.edu/wp-content/uploads/2016/06/10\\_internal\\_displacement\\_manual.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/10_internal_displacement_manual.pdf) (last visited 30 Jul. 2020).

of Justice and Security together with the NGO task force in April of 2019. Notably, the Minister expressed his support for the proposed IDP law stating that it complied with the Guiding Principles and the requirements of the Constitutional Court Ruling. The statement was considered to be the first “tacit” public recognition of internal displacement by a high-ranking member of the Salvadoran Government.<sup>64</sup>

Soon after, the President ratified the IDP law, making El Salvador the first country in Central America in which internal displacement has been recognised by all three branches of the Government. It is worth noting that the law provides for an IDP registry, illustrating the bidirectional nature of the relationship between evidence on internal displacement and political will.

#### 4. CONCLUSIONS

The case studies illustrate a long process that starts with government denial of the existence of internal displacement and a lack of systematic, specialised, and comprehensive information and moves throughout the build-up of an evidence base towards official recognition and national responsibility. During that process, political will builds up gradually – within governments, starting with some stakeholders and eventually moving towards a government-wide commitment to support an adequate response.

In both cases, such as in Colombia 20 years before, the first step was the official recognition of internal displacement. The denial was based on electoral considerations – admitting the existence of generalised violence and human rights violations may harm the image of the government. The creation of a specialised and sound evidence base that explained why and how displacement happened was important during this step, as it made it difficult for governments to keep denying the existence of the phenomenon.

Thus, while the information gathered was also used for judicial decisions and programmatic purposes of the organisations gathering it, shedding light on the phenomenon was a clear value of the data, beyond the concrete decisions themselves. For this purpose, it is also important to note that the combination of quantitative data and figures was complemented with case documentation and stories that illustrate the reality of the more analytical findings. Both are complementary and speak to different audiences that were important in order to shift government attitudes.

But the evidence did not do the job on its own. Once set up with enough figures and documented cases, the CMDPDH and Cristosal had to make it as public and known as possible. And by doing so, they did not only describe the situation, but also presented international standards on the government’s responsibility to address internal displacement. The change in political will required long-term commitment and advocacy by Cristosal and the CMDPDH. Reports were regularly produced and distributed, all aspects of displacement were addressed, and production of information was specialised and thus allowed for engagement with global experts on the topic such as the IDMC, JIPS, and the UN Special Rapporteur on the Human Rights of IDPs, which in turn led to constructive feedback and innovation in methodologies and approaches. Advocacy efforts also included the media and academic events. Civil

64 Hernández, “Gobierno del FMLN se retracta y reconoce (tímidamente) el desplazamiento forzado”.

society actors collaborated in pointing out the shortcomings of the government in light of international standards, while the involvement of the international community and its technical support to governments provided a way to address these shortcomings and thus offered them an incentive to engage.

Strategic litigation and legal representation of IDPs also played a crucial role in the cases considered and this role is twofold: on the one hand, the legal support to IDPs incentivised their sharing of information about their situation in a context of mistrust in which IDPs sometimes prefer to remain invisible. The documentation of their cases has subsequently served the advocacy processes mentioned. On the other hand, litigation led to the recognition of internal displacement by the judicial branch and resulted in direct obligations to the executive and legislative ones. The evidence built by the two organisations helped strengthen the cases and expand the scope of the sentences – particularly in the case of El Salvador.

While the work on documenting and measuring internal displacement by NGOs has been very important to generate the political will that exists now in both countries, it has to be clear that gathering evidence on internal displacement is the governments' responsibility. This has been made clear by the organisations in their reports and included in their advocacy. In fact, both the IDP law in El Salvador and the Government-endorsed bill currently awaiting discussion in the Mexican Congress provide for an IDP registry. This resembles the process in Colombia, where CODHES' early work and publication of an IDP figure preceded the Government's Victims Registry. Thus, civil society's efforts can be an important catalyst, but they should not replace governments' role. Once the political will is there and governments are willing to gather evidence on internal displacement, civil society's advocacy efforts can be strengthened.

Once the first step of incentivising political will and prioritising internal displacement in the public agenda is taken, the next step for NGOs is to participate in the design of a legal and policy framework. The experience built and evidence held by Cristosal and the CMDPDH has put them in a privileged position: Cristosal was able to draft the IDP bill and the CMDPDH has been closely following the incipient response process in Mexico. Their experience should be considered, and the evidence base they have built should be leveraged to inform the initial design of laws and policies.

It should be kept in mind that the complete scope of political will for the response to internal displacement goes beyond the analysis of this article and covers at a minimum the steps laid out by the 2005 Framework for National Responsibility. While the progress made in El Salvador and in Mexico is commendable, challenges remain in the implementation of an adequate response. In El Salvador, for example, the early political support of the Bukele administration for the IDP law was not followed through with budget allocation. While carrying out the largest increase in military spending since the end of the Salvadoran Civil War in 1992,<sup>65</sup> the Government reduced the budget of the incipient National Victims Directorate (DAV) – the focal

65 J. Alvarado, "El préstamo del BCIE, un paso más en la militarización de la seguridad pública de Bukele", *El Faro*, 8 Mar. 2020, available at: [https://elfaro.net/es/202003/el\\_salvador/24028/El-préstamo-del-BCIE-un-paso-más-en-la-militarización-de-la-seguridad-pública-de-Bukele.htm](https://elfaro.net/es/202003/el_salvador/24028/El-préstamo-del-BCIE-un-paso-más-en-la-militarización-de-la-seguridad-pública-de-Bukele.htm) (last visited 30 Aug. 2020).

point for the implementation of the Law. Subsequently, Cristosal's monitoring of the situation of IDPs has highlighted that the Local Protection Offices set up under the DAV have been either closed since the beginning of the year because of lack of funding or were dormant because of the lockdown and that the humanitarian response and life-line for IDPs during the global pandemic has thus been exclusively based on actions of NGOs and UN agencies in the Protection Cluster, and not the national systems established in the IDP law. This highlights the need for continuing with the strengthening of the independent evidence base to foster and sustain broader political will. The recognition and the formal response still need to be followed up with a proper implementation to guarantee the comprehensive and effective protection of IDPs' rights and the CMDPDH's and Cristosal's monitoring and reporting on the situation of IDPs will be of utmost relevance to evaluate the implementation of the government response. The debates on the IDP bill that has been presented to Congress in Mexico and the decisions and actions of the Salvadoran Government in the implementation of the IDP law will also determine if and how an official registry may be created and this in turn will contribute to the expansion of the evidence base, once again illustrating the bilateral nature of the relationship between political will and information on internal displacement.