DISASTERS AND CROSS-BORDER DISPLACEMENT IN CENTRAL AMERICA: EMERGING NEEDS, NEW RESPONSES

BACKGROUND PAPER
Prepared by the Nansen Initiative Secretariat
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The consultation will be hosted by the Government of Costa Rica, and co-organized by the Nansen Initiative Secretariat and the Coordination Center for the Prevention of Natural Disasters in Central America (CEPREDENAC).
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1. INTRODUCTION

Central America is exposed to a wide variety of natural hazards, including floods, hurricanes, drought, tsunamis, earthquakes, volcanoes and landslides, each of which have the potential to trigger population movements. The region has also arguably begun to face negative impacts of climate change, including sea level rise.

To date, as in other regions of the world, most displacement in Central America is internal following sudden-onset disasters, with people generally able to return to their homes shortly after the disaster. Rising sea levels have also prompted some communities to begin relocating, such as indigenous communities in coastal Panama, as their lands become increasingly uninhabitable. Disasters such as the 1998 Hurricane Mitch and the 1972 Nicaraguan earthquake have also pushed people to flee across international borders, with some people remaining displaced abroad for years pending a durable solution. In light of projected population growth, continued environmental degradation, and an anticipated increase in the frequency and/or intensity of disasters, it is anticipated that displacement in Central America, including across borders, is likely to increase.

Each state, and the Central American region as a whole, has developed sophisticated disaster preparedness and response policies, tools, and mechanisms to coordinate actions and improve overall protection and assistance to those in need, including internally displaced persons. Yet, the region is increasingly aware of the need to prepare for potential cross-border movements. Central America’s regional disaster risk management policy and the climate change policy both clearly acknowledge the need for national and regional responses to address migration and displacement concerns associated with disasters and climate change, both within states and across borders. Regional and national human rights institutions have also recognized the importance of protection needs associated with human mobility in disaster contexts.

While existing international, regional and national legal regimes respond to some of the protection concerns arising from cross-border displacement within the context of natural disasters, others remain unaddressed. To respond to these gaps, it is necessary to discuss issues such as i) undertaking preparedness and other measures such as facilitating voluntary migration or planned relocation in an effort to prevent cross-border displacement, ii) plans for admission to another country in the event of a need for temporary protection, iii) reuniting family members who may have been separated across international borders during flight, iv) ensuring access to humanitarian assistance for non-citizens, and v) guarding against premature return before it is safe to do so.

1.1 BACKGROUND TO THE CENTRAL AMERICAN REGIONAL CONSULTATION

This background paper has been drafted to inform the Nansen Initiative Regional Consultation in Central America, which will be held in San Jose, Costa Rica from 2–4 December 2013 to explore the issue of disasters and cross-border displacement in Central America.

The Nansen Initiative on disaster-induced cross-border displacement is a state-led, bottom-up consultative process intended to build consensus on the development of a protection agenda addressing the needs of people displaced across international borders by natural disasters, including those linked to the effects of climate change.

1 Central America includes Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. This paper will also discuss Mexico, the Dominican Republic, which recently joined the Central American Integration System (SICA), and Haiti in circumstances where they provide useful examples of cross-border displacement and from the Central American countries or within the surrounding region.

2 The Nansen Initiative is funded by the Governments of Norway and Switzerland, with additional financial support from the European Commission. It is governed by a Steering Group, which at the time of writing is comprised of nine Member States: Australia, Bangladesh, Costa Rica, Germany, Kenya, Mexico, Norway, the Philippines, and Switzerland. A Consultative Committee informs the process through expertise provided by representatives from international organizations addressing displacement and migration issues, climate change and development researchers, think tanks, and NGOs. The Envoy of the Chairmanship represents the Nansen Initiative throughout the process, providing strategic guidance and input. Finally, the Nansen Initiative Secretariat, based in Geneva, supports the process with additional strategic, research, and administrative capacity.
To begin the Nansen Initiative process, five regional consultations are planned to take place in the Pacific, Central America, East Africa, South Asia, and Southeast Asia over the course of 2013-2014. The first Regional Consultation took place from 21-24 May 2013 on Rarotonga, Cook Islands: Human Mobility, Natural Disasters and Climate Change in the Pacific. The Pacific Consultation brought together more than 70 representatives from 10 Pacific countries, 7 countries beyond the Pacific region, international organizations, international experts, NGOs, civil society and faith-based organizations. On the last day, senior government officials welcomed the Consultation’s outcome document that contained recommendations for further action at the community, national, regional and international levels, and expressed their commitment to bring the recommendations to a higher political level. Notably, in September 2013, the Pacific Island Forum Leaders welcomed the Consultation’s outcomes and decided to follow and monitor the Nansen Initiative’s activities.

In 2015, outcomes from the five Nansen Initiative Regional Consultations will be jointly addressed during a global consultative meeting, when state representatives, experts and practitioners from around the world will discuss a potential “protection agenda” for cross-border displacement in the context of natural disasters. While the Nansen Initiative does not aim at creating new legal standards, its outcomes may be taken up at domestic, regional and universal levels and lead to new laws, soft law instruments or binding agreements.

Within Central America, the Coordination Center for the Prevention of Natural Disasters in Central America (CEPREDENAC), as part of the Central American Integration System (SICA), 5 is responsible for regional disaster risk management. The 2010 Central American Policy on Comprehensive Disaster Risk Management (PCGIR), which was developed in the context of Hurricane Mitch, is the overarching policy framework governing regional cooperation on this issue. The current version of the policy addresses “processes of managing customs and migratory issues in emergency situations in the region, especially when a neighboring country is providing humanitarian assistance.”

Outcomes from the 18-19 June 2013 San Jose consultative meeting on the revision of the Policy more explicitly recommend the promotion of “mechanisms to ensure the protection of international migrants in disaster situations...” The Regional Strategy on Climate Change also explicitly acknowledges that migration and displacement associated with climate change, including across international borders, need to be addressed.

Finally, this paper and the consultation itself will discuss Central America’s regional approach for providing protection and assistance to political refugees in the 1980s and 1990s through the Cartagena Declaration 7 and the International Conference on Central American Refugees (Spanish acronym, CIREFCA), since these efforts pursued cross-border and regional cooperation on protection issues. It also recognizes the region’s current efforts to address the protection challenges associated with mixed migration within a general environment of violence and crime, such as through the Regional Conference on Migration.

The Nansen Initiative Central American Consultation will begin with a two-day workshop, with the last day taking the form of a governmental dialogue on the workshop’s outcomes and agreement for follow-up. Participants will include representatives from states, international organizations, NGOs, civil society, academic institutions and other key actors working on issues related to displacement, disaster risk reduction, disaster management, climate change adaptation, human rights protection, migration management, development and climate change. The consultation will be hosted by the Government of Costa Rica, and co-organized by the Nansen Initiative Secretariat in Geneva, the Costa Rican National Risk Prevention and Emergency Commission (CNE), and CEPREDENAC.

The overall objectives of the Consultation are to: (i) learn more about displacement, and human mobility dynamics generally, in the region, (ii) identify the region’s specific challenges related to disasters and displacement, and (iii) develop concrete, practical, policy and programmatic outcomes to enhance the region’s overall preparedness and response to these challenges.

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3 Participating countries included the Cook Islands, Fiji, Samoa, Kiribati, Nauru, New Zealand, Niue, Tuvalu, Vanuatu, and Australia.
4 The Outcome Document as well as the report from the Consultation can be found on: www.nanseninitiative.org
5 Membership includes Belize, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama. Regional observers include: Mexico, the United States, Argentina, Chile, and Brazil. Extra regional observers include: Spain, China, Germany, Japan and Italy.
6 PCGIR at 20.
7 “The Cartagena Declaration on Refugees” (Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Cartagena de Indias, Colombia, 22 November 1984).
2. OVERVIEW OF DISASTERS, DISPLACEMENT AND MIGRATION IN CENTRAL AMERICA

Human mobility within the context of natural disasters and climate change takes various forms in the Central American region. There is no internationally agreed upon terminology to describe these different types of movement. However for the purposes of this paper, and building upon paragraph 14(f) of the UN Framework Convention on Climate Change (UNFCCC) Cancun Outcome Agreement, human mobility will be discussed within three categories: (forced) displacement, (predominantly voluntary) migration, and (voluntary or forced) planned relocation. This section will first provide an overview of natural disasters in Central America, which will lead into descriptions and examples of different forms of human mobility that have occurred within the context of these disasters.

2.1 SUDDEN AND SLOW-ONSET DISASTERS IN CENTRAL AMERICA

Central America is one of the world’s most vulnerable regions to natural hazards. It is located on the edge of the Pacific tectonic plate in the “ring of fire” of volcanic activity and earthquakes. Hurricanes, floods, lahars, tsunamis, tropical storms and landslides are common. The region is also prone to droughts, particularly in the “Dry Corridor,” which spans Guatemala, Honduras, Nicaragua, El Salvador and Panama. Lastly, the negative impact of climate change through rising sea levels and changing rainfall variability has also begun to threaten human settlements, infrastructure, natural resources, and associated livelihoods. In this regard, a recent special report by the Intergovernmental Panel on Climate Change highlighted the particular vulnerability of 19 countries in the Americas to climate change by evaluating the combined effect of i) exposure and susceptibility, ii) socioeconomic fragilities, and iii) lack of resilience.8 (See the associated table from the report below.)

As the chart above indicates, the impact of natural hazards are influenced and exacerbated by other issues affecting the region. The combined impact of urbanization, varying levels of economic development, land use, diminishing water supplies, and the climate of insecurity and violence in the region must all be taken into account when addressing cross-border disaster-induced displacement.

2.2 DISPLACEMENT

The term displacement refers to situations where people are forced to leave their homes or places of habitual residence. In natural disaster situations, displaced people may leave to save their lives in the context of a sudden-onset-disaster or because the environment has deteriorated to such an extent that it is no longer possible for people to live there. Displacement may take the form of spontaneous flight, an evacuation9 or a planned relocation ordered or enforced by authorities. Displacement can occur within countries or across international border.

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8 Field, Christopher B.; Barros, Vicente; Stocker, Thomas F.; Dahe, Qin. Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation, Special Report of the Intergovernmental Panel on Climate Change, (Cambridge University Press, 2012) at 92.

9 Evacuation is defined as “Facilitation or organization of transfer of individuals or groups from one area/locality to another in order to ensure their security, safety and well-being.” See IASC, Handbook for the Protection of Internally Displaced Persons, March 2010, at 503.
Due to the multi-causal nature of human mobility generally, the tipping point between forced and voluntary movements, particularly in the context of slow-onset disasters, can be very difficult to pinpoint. However, the distinction between voluntary and forced movements is important not only because international law requires such precision, but also because the nature of the movement influences a person’s ability to successfully settle in the destination, which may in turn determine their need for additional assistance and their future plans, such as any desire to return.

Historically, Central America has experienced both internal and cross-border disaster-induced displacement. Although most examples to date are largely internal following sudden-onset disasters, Hurricane Fifi in the 1970s, Hurricane Joan in 1988 in Nicaragua, Hurricane Mitch in 1998 and the 2010 earthquake in Haiti prompted millions of people to flee, with tens of thousands seeking refuge across international borders. Recent droughts in the Dry Corridor and the relocation of Kuna communities from sea-level rise in Panama also pose unique human mobility challenges for the region.

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Figure 2.1: Prevalent Vulnerability Index (PVI) Evaluated for 2007

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Examples of displacement in the context of disasters in Central America

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Countries Affected</th>
<th>Displaced</th>
<th>Internal or Cross-border</th>
<th>Type of displacement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1700s</td>
<td>Landslide, earthquake</td>
<td>Guatemala</td>
<td></td>
<td>Internal</td>
<td>Relocation</td>
</tr>
<tr>
<td>1969</td>
<td>Hurricane Francelia</td>
<td>Guatemala, Belize, El Salvador, Honduras</td>
<td>18,200</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1971</td>
<td>Hurricane Edith</td>
<td>Nicaragua, Honduras</td>
<td>2,800</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1972</td>
<td>Earthquake</td>
<td>Nicaragua</td>
<td>10,000</td>
<td>Cross-border</td>
<td></td>
</tr>
<tr>
<td>1974</td>
<td>Hurricane Fifi</td>
<td>Honduras, Belize</td>
<td>670,000</td>
<td>Internal/Cross-border</td>
<td></td>
</tr>
<tr>
<td>1976</td>
<td>Earthquake</td>
<td>Guatemala</td>
<td></td>
<td>Internal</td>
<td>Evacuation/Relocation</td>
</tr>
<tr>
<td>1978</td>
<td>Hurricane Greta</td>
<td>Honduras, Nicaragua, Guatemala, Belize</td>
<td>2,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1983</td>
<td>Volcanic lahar</td>
<td>Guatemala</td>
<td>1,100 families</td>
<td>Internal</td>
<td>Relocation</td>
</tr>
<tr>
<td>1988</td>
<td>Hurricane Joan</td>
<td>Nicaragua</td>
<td>427,000</td>
<td>Internal/Cross-border</td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>Hurricane Cesar</td>
<td>Costa Rica, Nicaragua</td>
<td>681,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>Hurricane Mitch</td>
<td>Central America</td>
<td>1,981,000</td>
<td>Internal/Cross-border</td>
<td>Evacuation/Spontaneous/Relocation</td>
</tr>
<tr>
<td>2005</td>
<td>Hurricane Stan</td>
<td>Central America, Mexico and Haiti</td>
<td>500,000+</td>
<td>Internal</td>
<td>Evacuation</td>
</tr>
<tr>
<td>2007</td>
<td>Hurricane Dean</td>
<td>Belize</td>
<td>9,000</td>
<td>Internal</td>
<td>Spontaneous</td>
</tr>
<tr>
<td>2009</td>
<td>Hurricane Ida</td>
<td>El Salvador</td>
<td>15,000</td>
<td>Internal</td>
<td>Evacuation/Spontaneous</td>
</tr>
<tr>
<td>2010</td>
<td>Volcanic eruption</td>
<td>Guatemala</td>
<td>1,600</td>
<td>Internal</td>
<td>Evacuation</td>
</tr>
<tr>
<td>2010</td>
<td>Tropical storm Agatha</td>
<td>Guatemala</td>
<td>155,000</td>
<td>Internal</td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Earthquake</td>
<td>Haiti</td>
<td>2,300,000</td>
<td>Internal/Cross-border</td>
<td>Evacuation/Spontaneous</td>
</tr>
<tr>
<td>2010</td>
<td>Flooding</td>
<td>Panama</td>
<td>1,500</td>
<td>Internal</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>Hurricane Sandy</td>
<td>Haiti</td>
<td>58,000</td>
<td>Internal</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>Earthquake</td>
<td>Costa Rica</td>
<td>5,000+</td>
<td>Internal</td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>Volcanic eruption</td>
<td>Guatemala</td>
<td>33,000</td>
<td>Internal</td>
<td></td>
</tr>
</tbody>
</table>

This table is not comprehensive and likely has gaps and inaccuracies. While it is not complete, it is intended to provide a sense of Central America’s experience with displacement in disaster contexts and to highlight gaps in the availability of data regarding displacement. Sources include those noted in the text of the Nansen Initiative Desk Review for Central America, as well as Fannie Delavelle, “Climate Induced Migration and Displacement in Mesoamerica: A paper produced for the Nansen Initiative Central America Consultation,” September 2013, at 34-35.
2.3 MIGRATION

The term migration refers to a broad category of population movements.\textsuperscript{14} Likewise, the International Organization for Migration’s (IOM) working definition of an “environmental migrant” also encompasses various groups of individuals moving within different contexts: voluntarily and involuntarily, temporarily or permanently, within their own country or abroad.\textsuperscript{15}

Because the Nansen Initiative specifically focuses on the distinct protection needs of people displaced across international borders in the context of natural disasters, migration in this document is used to refer to human movements that are predominantly voluntary, e.g., to work abroad in order to support families back home with remittances or in order to avoid a situation at a later stage when moving to another country becomes unavoidable. In the context of slow-onset environmental degradation due to climate change, “migration as adaptation” refers to a primarily voluntary decision to “avoid or adjust to”\textsuperscript{16} deteriorating environmental changes that may result in a humanitarian crisis in the future. Such migratory movements can be temporary, circular, or permanent.

When addressing potential migration as a form of adaptation, this paper is cognitive of the fact that migration may not always be an effective solution to the prevention of displacement, but to the contrary, may result in additional protection concerns. For example, people unable to travel due physical, social or financial limitations may be left behind without adequate access to sufficient levels of food or medical assistance.

Because of its strategic location between North and South America, Central America has always been a place of transit. Some Central Americans move to reach a final destination, while others cross borders and return home numerous times. The stream of South and Central Americans heading north is one of the most predominant patterns of transit. Many migrants travel through Panama, a key point connecting South and Central America. Substantial numbers also travel to the United States through Mexico. This phenomenon is largely due to lasting U.S. influence, geographic proximity, motivating economic factors and family ties.

Within Central America, Costa Rica and Panama receive the largest number of migrants. Costa Rica is home to a large migrant population, among the highest per capita in the world, primarily from Nicaragua.\textsuperscript{17} Many Panamanians also cross the border to Costa Rica to study or work. At the same time, Panama receives a large number of migrants from other Central American countries, Colombia and the Dominican Republic.\textsuperscript{18} Central Americans, mostly Guatemalans and Salvadorians, are also increasingly choosing Belize as a destination country despite language differences. For example, in 2000, the number of foreign-born people in Belize increased by 34 percent from 1991 levels.\textsuperscript{19} Sharing an island, people have historically migrated between the Dominican Republic and Haiti. Today, many Haitians move to the Dominican Republic seeking employment and higher wages by working in agriculture, construction and domestic fields.

Migrants within and from Central America move for a variety of reasons (e.g., economic, conflict, or violence), travel with or without legal documentation, and migrate in an authorized or unauthorized manner.\textsuperscript{20} Traveling itself may also place migrants, and women in particular, at risk of violence, exploitation, and other types of protection risks from traffickers, smugglers or criminal networks. Those choosing an irregular path may also become exposed to starvation, dehydration and other physical risks along the route. Within these broader mixed migration flows and associated risks, specific protection concerns also arise for migrants residing in or transiting through a country when a disaster strikes, such as challenges accessing state protection and assistance as a non-citizen and/or as a non-documented person.

In Central America, studies have correlated disasters with increased migration levels, with migrants generally following pre-existing migration paths. For example, after Hurricane Mitch of 1998, visa requests at U.S. consulates increased by 40 percent from the previous

\textsuperscript{14} IOM defines migration as “The movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.” IOM 2011, Glossary on Migration. http://goo.gl/HeJC33
\textsuperscript{15} IOM’s working definition states: “Environmental migrants are persons or groups of persons who, for reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to have to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their territory or abroad.” Discussion Note: Migration and the Environment (MC/INF/288-1 November 2007- Ninety Fourth Session). Geneva: International Organization for Migration, 2007.
\textsuperscript{18} de Gracia and Guillén (n 142) at 237.
\textsuperscript{19} Sarah J. Mahler and Dusan Ugrina, “Central America: Cross Roads of the Americas” (MPI Migration Information Source 2006).
year. Mexico apprehended 5,800 migrants on its southern border in December 1998, an increase from 2,900 individuals in December 1997. Similarly, another study found that immigration from Costa Rica and Belize to the United States peaked after disasters. Even so, the Haitian experience following the 2010 earthquake also shows that over time (in this case years) when traditional migration paths are blocked, migrants have sought non-traditional destinations such as Brazil or Senegal.

2.4 PLANNED RELOCATION

The planned relocation of people at risk of exposure to natural hazards can be temporary or permanent. According to the IASC Operational Guidelines on the Protection of Persons in the Context of Natural Disasters, relocation is defined as follows:

a) Temporary relocation: The act of moving evacuated people to a place where they stay until return or settlement elsewhere in the country becomes possible;

b) Permanent relocation: The act of moving people to another location in the country and settling them there when they no longer can return to their homes or place of habitual residence.

While planned relocation efforts could be voluntary, it is important to note that relocations, even when taken for the best of reasons, can also be forced displacement when people move against their will, such as when government authorities have determined that an area is no longer safe for habitation due to the likely risk of future natural hazards.

In Central America, the majority of planned relocations in disaster contexts have taken place internally following a disaster, although governments have also moved communities as a preventative measure in response to identified disaster risks. For example, authorities in Guatemala relocated a city located on the foothills of the Tolimán volcano that was buried by mudflow associated with Hurricane Stan of 2005. In 2000 Guatemalan authorities proactively relocated 625 families from the town of Caratrian Ixtahuacan based upon scientific evidence of potential landslides.

Communities have also been known to decide to move themselves from hazardous areas. In Panama, the Kuna indigenous leaders of Carti Sugdub Island have signed a resolution to move from their island to another Kuna’s autonomous territory on Panama’s mainland by 2014 because of the effects of climate change. The Kuna Secretary of Congress said that while it was initially thought the relocation would occur quickly, it will likely take ten years for all 65,000 residents to move.

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21 ‘Hurricane Mitch,’ (1999) 6 Migration News. One official reported that by 1999, approximately 300 Hondurans were leaving daily for the United States.
22 Ibid. Most of the individuals apprehended were Hondurans.
25 Lomi Kriel, ‘Rising Sea Forces Panamanian Islanders to Move to Mainland’ (Reuters, 1 November 2012).
3. PROTECTION IN THE CONTEXT OF DISASTERS AND DISPLACEMENT

Protection risks potentially arise at all stages of cross-border disaster-induced displacement. While existing international and national legal regimes respond to some of the protection concerns arising from human mobility within the context of natural disasters, others remain unaddressed.  

At the regional level, Central American countries have numerous disaster risk reduction and preparedness activities too extensive to list here, all of which are important for building an overall environment that reduces the need for evacuation and spontaneous flight. In recent years, humanitarian actors have similarly increasingly recognized the need to address protection needs associated with forced displacement due to natural disasters.

The Inter-American Court of Human Rights and the Inter-American Commission on Human Rights have also reiterated the overall responsibility of states to protect the human rights of people within their jurisdiction, regardless of their migratory status. They have also noted the potential migration challenges associated with climate change. At the national level, each Central American country has an Ombudsman for Human Rights and/or a National Human Rights Institution. Some Ombudsman’s offices have directly acted to integrate human rights within national disaster management policies and practice.

Despite these developments, people displaced across international border in disaster contexts continue to face specific protection needs. This section identifies the protection concerns most likely to emerge in Central America by reviewing the phases of displacement in turn: 1) prevention and preparedness for displacement, 2) protection during displacement, and 3) the search for durable solutions. It also includes a sampling of activities that address specific elements of human mobility related aspects of disaster preparedness—although notably not all are from the disaster context.

3.1 PREVENTION AND PREPAREDNESS FOR DISPLACEMENT

State responsibility includes the obligation to prepare for and, when possible, prevent displacement. This duty requires states to prepare for foreseeable disasters and to do what is possible to prevent threats to the lives and property of people, including preventing forced displacement. Disaster risk reduction activities, contingency planning exercises, infrastructure improvements, relocating people at risk of displacement to safer areas, land reform, and other measures to improve resiliency are all potential actions to prevent displacement. State responsibility may also require the government to mobilize relevant regional and international organizations, arrangements and resources.

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28 Kälin, Walter and Nina Schrepfer, “Protecting People Crossing Borders in the Context of Climate Change: Normative Gaps and Possible Approaches,” UNHCR Legal and Protection Policy Research Series, February 2012, at 19. See also the Nansen Conference Principle II: “States have a primary duty to protect their populations and give particular attention to the special needs of the people most vulnerable to and most affected by climate change and other environmental hazards, including the displaced, hosting communities and those at risk of displacement.” UNHCR, “Summary of Deliberations on Climate Change and Displacement,” April 2011.

29 Note that planned relocation is addressed within the discussion on durable solutions to displacement.

3.1.1 Disaster risk reduction and preparedness

Each country in Central America already has legislation, national institutions (National Disaster Risk and Disaster Management Offices), policies and strategies designed to respond to the numerous hazards that may also induce displacement. Discussions during the consultation could focus upon how to build upon and/or adapt existing disaster preparedness mechanisms.

For example, the Central American Regional Mechanism for Mutual Assistance and Coordination Mechanisms in Disaster Situations (MECREG) addresses disasters that affect more than one country and require international humanitarian assistance. The MECREG offers an almost laboratory-like opportunity to consider and discuss how inter-state cooperation can address the humanitarian challenges of cross-border disaster-induced displacement, including the need for: i) standardized information management and needs assessments, ii) regional contingency planning, iii) development of standing funding capacity (Emergency Fund), and iv) strengthened coordination between national and international actors.

3.1.2 Migration as a form of adaptation

In the context of slow-onset disasters or the cumulative effect of multiple disasters that gradually render land uninhabitable, it is likely that people will initially migrate voluntarily from at risk areas, as opposed to waiting until a crisis point arrives.31 In such situations, the responsibility to prevent displacement could also mean that states have a duty to try to secure legal, voluntary means for their citizens to move to another part of the country, or in exceptional cases, to migrate abroad to another country. It is for this reason that the 2011 Nansen Conference in Oslo urged national governments to ‘proactively anticipate and plan for migration as part of their adaptation strategies and development plans...’32

A 2000 report from the Intergovernmental Group of Experts on Climate Change summarizes potential climate change adaptation options for Latin America. The Experts include assisted migration as one option, while noting that its potential success is uncertain.33 Similarly, migration in the context of climate change is discussed by some as having the potential to increase vulnerability, others highlight it as a potentially beneficial economic strategy in the context of environmental degradation. More recently, studies have shown that many Central American communities have already turned to migration as an adaptation strategy.34

While the region is integrated in many ways, Central American citizens do not have all of the same rights to freely move, work and reside within the region. The Central America 4 Border Control Agreement allows for the free movement of persons between the borders of Guatemala, Nicaragua, El Salvador and Honduras without visas or passports and with limited migration and customs restrictions35 for a maximum period of six months.36 However, the 4 Border Agreement does not grant work authorization or allow any other profitable activities, and stipulates that the member countries’ citizens working illegally in another member country are subject to deportation.37 Panama and Costa Rica have negotiated separate bi-lateral agreements with other Central American countries, each with their own specific legal requirements.

The consultation will seek to learn more about how these agreements, as well as initiatives that Central American states have undertaken to protect their citizens both in transit and upon reaching their intended destination, can address protection concerns of cross-border displacement in disaster contexts.

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31 Kälin and Schreper (2012) at 41.
35 ‘SICA Un Breve Vistazo al Sistema de la Integración Centroamericana’ (Programa de Formación en Integración Regional de la Secretaría General del SICA 2004) at25.
36 Francisco Alba and Manuel Angel Castillo, “New Approaches to Migration Management in Mexico and Central America,” The Regional Migration Study Group, 2012 at 12.
37 Ibid at 9.
3.2 PROTECTION DURING DISPLACEMENT

Central America’s past experiences with both internal and cross border displacement, both in disaster and conflict contexts, are useful to help identify potential protection needs that may arise during displacement to other countries following a sudden-onset disaster. Key issues that may emerge during the consultation include: i) admissions, ii) legal status during stay, iii) access to humanitarian assistance for non-citizens, irregular migrants or migrants in transit, iv) citizenship, and v) maintaining housing and property rights in the country of origin.

3.2.1 Admissions in the event of displacement

There is no international legal assurance that in the event of a sudden-onset disaster, or when a slow-onset disaster has left individuals with no other option for survival, a person will be able to seek international protection in another country, either temporarily or permanently. Although human rights law provides “an indirect right to be admitted and to stay where the removal of a person back to the country of origin would amount to inhumane treatment,” this would not address all displacement situations. Finally, while the International Convention on Protection of the Rights of All Migrant Workers and Members of their Families provides some protection for migrant laborers, it does not grant them a right to admission or continuing stay in the country. Notably it is in force for a number of countries in Central America and surrounding countries.

Finding solutions to ensure that displaced people can enjoy protection in another country requires international collaboration and cooperation. Consequently, Walter Kälin and Nina Schrepfer have argued, “In the absence of an ability to assist and protect them, [the country of origin] should advocate for and safeguard their interests in the state in which they have found refuge, for example by activating a temporary protection scheme where possible or even necessary.”

Central America does not have a regional temporary protection scheme that explicitly addresses disaster-induced cross-border displacement. National immigration regimes in Central America and the surrounding region, however, do have different options to grant temporary stays and visas on humanitarian grounds.

For example, in the wake of the 2010 Haitian earthquake specifically, many governments enacted special immigration measures in support of the disaster victims. The Dominican Republic adopted a one year multiple entry humanitarian visa allowing caregivers of the most gravely injured, accompanied by family members, to cross back and forth across the border legally to seek medical attention. Argentina, Chile, Ecuador, Honduras, Panama and Venezuela stayed deportations and issued humanitarian visas to assist Haitian citizens affected by the earthquake. Notably, the Brazilian Federal Police initially granted legal status to some 475 Haitians using refugee forms on humanitarian grounds pending a determination as to whether they qualified as refugees. Following February 2011, when it was determined they were not refugees, this process was replaced by a new system that, to date, has evolved to allow Haitians to continue apply for humanitarian visas at multiple Brazilian consulates.

In North America, the United States Government granted Temporary Protected Status (TPS) to Haitians under the US Immigration Act of 1990. The Government of Mexico created a humanitarian immigration program from May to February 2010 that allowed Mexican residents to travel to Haiti to bring back their family members, and sent three boats over the period of March to June 2010 to rescue a total of 511 Haitians. All received one year non-immigrant visas issued for “humanitarian reasons or in the public interest” that were later extended until the end of 2011. Notably, the Government of Canada, and the Province of Quebec in particular, primarily expedited and expanded the processing of

38 Kälin and Schrepfer have proposed the following as necessarily elements to be addressed: “Movement-related rights: Beneficiaries should be entitled (i) to enter countries of refuge, (ii) to stay there temporarily, i.e. as long as the obstacles to their return exist; (iii) to protection against refoulement as well as expulsion to other countries; and (iv) to permanent admission if after a prolonged period of time (some years) it becomes clear that return is unlikely to become an option again.”

39 Kälin and Schrepfer (2012) at 35. See also Chapter Three in McAdam (2012).

40 See, however, outcomes from the Bellagio Conference on Climate Change and Displacement, which stated that in the case of a mass influx of individuals, states have recognized “minimum obligations to ensure admission to safety, respect for basic human rights, protection against refoulement and safe return when conditions permit to the country of origin. In an analogous situation where persons are in distress at sea, states have accepted time honoured duties to come to their rescue.” UNHCR, “Summary of Deliberations on Climate Change and Displacement,” April 2011, at 5.


42 Kälin and Schrepfer (2012) at 43-44. See also Chapters Three and Four in McAdam (2012).

43 These examples from the Haiti context can be found in Patricia Weiss Fagan, “Receiving Haitian Migrants,” a discussion paper produced for the Nansen Initiative Central American Consultation, forthcoming.
existing immigration mechanisms. Quebec also applied humanitarian grounds to facilitate immigration for a small number of “particularly dire situations.”

Participants to the Central America Regional Consultation could consider whether and how admissions for the disaster-displaced could be implemented more systematically within the region and beyond. Discussions could address practical issues such as the ability to import personal possessions like vehicles and livestock, or to facilitate entry despite a lack of identity documents that may have been destroyed by the disaster or left behind during flight. Family members may also separate during flight, prompting some to take risks to stay with or find family members by entering a country illegally. Following the earthquake in Haiti, for example, a number of children in particular were separated from their families. Through a joint effort, the Dominican National Council of Children and other aid groups, a cross-border system was developed to reunite family members.

The examples of Hurricane Mitch in 1998 and the 2010 earthquake in Haiti, in particular, could allow participants an opportunity to reflect upon past experience at a broader policy level, and explore how: a) migration and labor migration policies, b) asylum policies, c) the use of humanitarian visas, and d) custom and border management policies at the national, regional and international level could all respond to the protection gaps that arise when people are displaced across borders in disaster contexts. Finally, discussions could also address the challenge of identifying individuals in need of protection in disaster contexts among the larger mixed migration flows within the region, and how to reduce reliance upon dangerous smuggling routes or other illegal migration paths in disaster situations.

3.2.2 Status during stay

In the event that an individual is admitted to a new country, on either a temporary or longer-term basis, it will be important to clarify rights and responsibilities while on the foreign territory. Depending on the duration of the displacement, Källin and Schrepfer propose that status rights address the following: (i) access to the labor market, (ii) access to housing, health services and education, (iii) protection against discrimination; (iv) freedom of conscience, religion and opinion; (v) property rights; (vi) the rights of persons belonging to an ethnic, religious or linguistic minority to enjoy, together with the other members of their group, their own culture, to profess and practice their own religion, or to use their own language; and be allowed (vii) to enjoy other relevant rights.44 Ideally, states from sending countries could play a role in negotiating these in advance and in consultation with potentially affected individuals and communities.

Again, each of the national immigration measures described above has different conditions attached to the granting of a humanitarian visa or stay of deportation. While some may have unrestricted access to work and allow for a pathway to permanent residency, others do not. Participants to the consultation may want to discuss what rights and responsibilities disaster-displaced may have while in another country, and whether efforts should be made to harmonize these rights within the region.

3.2.3 Access to Humanitarian Assistance: Non-citizens, irregular migrants and migrants in transit

In the event of a disaster striking a country or even the Central American region as a whole, the nature of on-going migration throughout the region means that inevitably there will be individuals in transit within the country at the time of a disaster who may be directly or indirectly affected by the event and potentially in need of humanitarian assistance. These migrants may be in the country legally or illegally.

In 2009, the OAS Permanent Council’s Special Committee on Migration Issues addressed the specific needs of migrants in disaster situations.45 While acknowledging the applicability of international human rights law to any type of migrant, Committee observed,

One of the most important legal questions regarding migrants in disaster is the extent to which undocumented migrants can receive disaster services. In some countries, it is unlawful for any individual or organization to provide humanitarian assistance to an undocumented person. However, guarantees for basic humanitarian assistance extend to every human being, including migrants, and irrespective of their legal status.46

Furthermore, some disaster relief laws allow for the provision of humanitarian assistance for all people during the immediate phase following the disaster, regardless of legal status in the country. However, over time, assistance may only be permitted for nationals.

44 Källin and Schrepfer (2012) at 61.
46 Ibid, Special Committee on Migration Issues at 2.
States also may want to consider reviewing other protection-related issues for those in transit, such as i) a situation when a transitory migrant’s country of origin was affected, ii) regularizing a transitory legal status if it was determined they should be permitted to stay, iii) consequences of potential deportation in the greater context of the disaster, or iv) family unity issues.

3.2.4 Housing and Property

As in any disaster situation, states have a responsibility to protect, to the maximum extent possible, housing and property left behind by displaced individuals, communities or indigenous peoples “against looting, destruction, and arbitrary or illegal appropriation, occupation or use.” 47 Lessons learned and good practices regarding how to protect these rights can be drawn from the refugee and IDP context. 48 For example, states may need to develop special land registry procedures in the event of destroyed records, or set up mechanisms to resolve land disputes in return areas. In particular, international guidelines also acknowledge that indigenous groups in particular may have different conceptions of the value of land and land ownership, including close cultural ties and communal ownership.

In the specific context of cross-border displacement in disaster contexts, two potential issues arise. First, provisions may need to be made to ensure that those crossing a border are able to bring property, such as vehicles and animals, across the border. Secondly, states may want to review the possible implications of residency outside of the country maintaining property rights. For example, states may want to consider how those displaced in other countries can ensure they benefit from compensation or insurance funds for damaged or destroyed property, can participate in potential land demarcation and registry exercises, or continue necessary maintenance on land and property during displacement.

These, and other land and property issues, could be addressed in contingency planning process for both the emergency and durable solutions phase.

3.2.5 Citizenship

Given the diversity of citizenship laws that vary from country to country, issues related to citizenship could emerge as a protection concern when people are displaced across an international border in the context of disasters. For example, in the case of the Haiti earthquake, recent changes to the Dominican Republic’s citizenship laws have placed a number of children of Haitian parents born in the Dominican Republic after the 2010 Haiti earthquake at risk of losing their nationality.

Proving citizenship could also be a challenge if necessary documents are not available or were destroyed in the disaster to register a birth or prove a right to citizenship. Undocumented irregular migrants who have been abroad for extended period of time may also lack the necessary documents to prove citizenship in their native country, placing them in a legal limbo.

States may want to consider reviewing their citizenship laws to not only account for non-citizens displaced within their country, but also from the perspective of a sending country’s nationals that may be displaced abroad in the context of a disaster.

3.3 DURABLE SOLUTIONS

Overall, states have the primary responsibility to find a durable solution for their displaced citizens or habitual residents. This section is primarily focused on the possibility of return for people displaced across international borders following a sudden-onset disaster.

In the context of cross-border disaster-induced displacement, states could consider developing inter-governmental mechanisms that would determine when return is permissible and how to facilitate the return, including necessary exit procedures and travel home. For example, clear criteria could establish when it is safe for individuals to return home. An inter-governmental mechanism could also facilitate planned return, in consultation with the affected communities, and include plans for rehabilitating areas damaged by the disaster, including ensuring compensation for lost property, adequate social services and appropriate livelihood opportunities. 50

Consultation participants could look to CIREFCA as a potential reference point since it focuses on many issues that are also relevant in the disaster context, including: the development of inter-governmental mechanisms for durable solutions including return, establishing linkages between relief and development efforts, and support for extra-territorial focused reconstruction programs. They may also want to consider the link between durable solutions for IDPs and those displaced across borders.

Notably, many of CIREFCA’s tenets are also echoed in the language of the PCGIR that seeks “recovery and reconstruction with transformation.” The Consultation

48 For detailed guidelines regarding principles and implementation see, IASC “Housing and Property Restitution for Refugees and Displaced Persons: Implementing the ‘Pinheiro Principles,’” March 2007. See also ibid.
provides an opportunity to foster a closer dialogue between humanitarian and development actors, including donors, to identify examples of existing recovery and reconstruction practices that are transformative, particularly for displaced persons seeking durable solutions.

Examples about return and planned relocation can be drawn from the context of internal displacement. A durable solutions process should ensure that displaced people have the capacity and information they need to make a voluntary and informed choice about the different options available (e.g., return or relocation). This may mean including displaced people as participants in the planning and management of the durable solutions process, such as visiting their home area prior to returning or visiting a potential relocation site. Displaced people should also have access to those administering and implementing the durable solutions process, such offices or organizations involved in the humanitarian or development programs within the overall plan. Finally, the displaced should have access to information about how the program is progressing.

In the case of the 2010 Haitian earthquake, the OHCHR Independent Expert on the situation of human rights in Haiti emphasized that return measures should take humanitarian consequences into account by ensuring adequate reintegration and support services. Finding that return was premature even a year after the disaster, the Expert, as well as UNHCR and OHCHR, repeatedly called for a temporary suspension of returns to Haiti.

Past experience has also proven that return to one’s home after a sudden-onset disaster is not always possible, for instance because the place of former habitual residence is no longer inhabitable or too exposed to the risk of recurrent disasters. In such cases, alternative ways to end cross-border displacement include returning to the country of origin followed by a planned relocation to a new place of residence within the country, or facilitating permanent admission to the country of refuge.


4. INTERNATIONAL COOPERATION AND SOLIDARITY

States have the primary responsibility to provide protection, assistance and durable solutions for their displaced citizens, as well as all people within their jurisdiction. However, if a situation or a disaster overwhelms the national capacity to respond, state responsibility requires States to mobilize relevant regional and international organizations, arrangements and resources. In the event of cross-border disaster-induced displacement, inter-state and regional coordination facilitating the movement of people and the humanitarian response will be essential.

Central America has a strong history of developing innovative, regional approaches to respond to new developments through regional institutions, laws, operational arrangements, and policies. The emerging needs associated with cross-border displacement in the context of disasters similarly calls upon the region to work together across institutions at the national, regional, and international levels to identify needs and craft an appropriate response. It also requires a cross-sectoral approach, bringing together the fields of disaster risk reduction, response and recovery (disaster risk management), immigration, human rights, climate change adaptation and development.

This section reviews these complex issues by providing a brief overview of existing laws, policies and processes at the global and regional level that are relevant to context of cross-border displacement in disaster contexts.

4.1 GLOBAL

4.1.1 Disaster Risk Management

The key international document regarding disaster risk reduction is the 2005-2015 Hyogo Framework for Action, which identifies priority actions and provides resources for measures to strengthen disaster resilience. The adoption of Hyogo Framework for Action has changed the approach to disaster risk management by adapting a multi-risk integrated approach that includes mitigation and disaster management. All of the Central American countries have taken the Hyogo Framework into account and are incorporating many, if not all, of its components within national legislation, plans and strategies.

Implementation of the Hyogo Framework is supported by the UN Office for Disaster Risk Reduction (UNISDR). UNISDR maintains a regional office in Panama, and has an extensive set of programs at the regional and national level. The Fourth Session of the Regional Platform for Disaster Risk Reduction of the Americas (RP14) will also be held from 27-29 May 2014 in Guayaquil, Ecuador. Regional consultations are planned in the

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56 LCR Disaster Risk Management Team World Bank, “Disaster Risk Management in Central America: GFDRR Country Notes” (Sustainable Development Unit, Latin America and the Caribbean, World Bank).
4.2 REGIONAL

4.2.1 Central American Policy on Comprehensive Disaster Risk Management

Central America has a number of regional disaster risk management mechanisms that are essential elements for the prevention of cross-border disaster-induced displacement. Building upon the Hyogo Framework for Action, SICA’s 2010 Central American Policy on Comprehensive Disaster Risk Management (Política Centroamericana de Gestión Integral de Riesgo de Desastres – PCGIR) and the corresponding Regional Disaster Risk Plan - (Plan Regional para Reducción de Desastres – PRRD) will be essential instruments for discussion during the consultation. Other relevant mechanisms and frameworks include national and regional climate change policies and institutions, such as the Regional Strategy on Climate Change (RSCC), and the Central American Commission on Environment and Development (CCAD), also part of SICA.

For example, in the context of Disaster Management and Recovery, the PCGIR notes that the Central American Regional Mechanisms for Mutual Assistance should guide the provision of humanitarian assistance to one or more affected countries in an emergency or disaster situation, based upon the principles of the Humanitarian Reform process. Humanitarian coordination mechanisms use the Regional Foreign Ministry Handbook on Disaster Procedures and apply the Regional Disaster Reduction Plan. In particular, the PCGIR states,

To facilitate operation the Central American countries will make every effort necessary to improve and become more agile in processes of managing customs and migratory issues in emergency situations in the region, [emphasis added] especially when a neighboring country is providing humanitarian assistance.60

Finally, the PCGIR adopts the “paradigm of Recovery and Reconstruction with Transformation” as the orienting principle for the post-disaster phase. This paradigm recognizes recovery and reconstruction as a “process [emphasis added] of restoring acceptable and sustainable living conditions...” It thus acknowledges that returning to pre-disaster conditions, if possible, takes time.

Under the PCGIR, the Regional Disaster Reduction Plan 2006-2015 remains in force, but is currently under revision to reflect the Central American region’s efforts...
under the PCGIR to harmonize regional coordination on disaster risk management by clarifying SICA’s various institutional roles and contributing to national and regional efforts to bring together sectoral and conceptual approaches, improve coordination and response, and address gap areas. In its current form, the Plan includes objectives to improve regional and bilateral humanitarian assistance and coordination following disasters. It also notes the need to improve the identification and monitoring of threats and vulnerabilities that could arise from disasters in countries within the region.61

More specifically, participants could discuss how to integrate disaster displacement issues within the Regional Mechanism for Mutual Support in the Case of Disaster (MecReg-SICA).62 They could also consider how the disaster risk management initiatives under the leadership of CEPREDENAC could be linked with other topical areas of responsibility within SICA, including Judicial, Political, Legislation, Regional Projects, Foreign Relations and Security.

Exploring coordination with other regions on these issues could also be useful, such as during the upcoming annual Caribbean Disaster Emergency Management Agency (CDEMA) meeting that will be held Jamaica from 2-6 December 2013.

4.2.2 Central American Regional Climate Change Policy

Within SICA, the Central American Commission on Environment and Development (CCAD) focuses on regional cooperation on issues related to the environment, including 1) the Environmental Plan for the Central American Region (PARCA), 2) the Regional Environmental Program, and 3) the Plan of Action for the Integrated Development of Water Resources in Central America.

CCAD is also specifically responsible for supporting implementation of the Regional Strategy on Climate Change (RSCC), which was finalized in November 2010. Like the PCGIR, the regional climate change strategy was developed after a significant period of consultation, and aims to harmonize regional processes, and complement national and local mitigation and adaption initiatives.63 Regarding human mobility concerns, the Regional Strategy recognizes that,

Permanent deficits in food security, water availability and population displacements are threatened by growing climatic variability associated with climate change. Risk factors for social instability, such as a lack of water, forced migration, losses in harvests and famines, are quite present and demand response from national governments.64

In light of these challenges, one objective is the development of national strategies that “deal appropriately with processes, which are becoming more frequent, for evacuation, temporary and permanent relocation and immigration of populations most affected by increased and reoccurring extreme climate.”65

Immigration issues are also addressed within the RSCC within the context of the development of a Regional Strategy on Security and Climate Change, which is an on-going collaboration between CCAD and the British Royal United Services Institute.

Participants to the Consultation could consider to what extent these priorities and activities address the challenges associated with cross-border displacement.

4.2.3 Humanitarian Coordination

Where present, National Disaster Management Offices generally coordinate a national response to a disaster, often supported by a national society of the International Federation of the Red Cross and Red Crescent. However, large-scale disasters have also overwhelmed national capacity due to wide-scale damage and the assistance needed for internally displaced people.

In the event that a government requests international humanitarian assistance, international actors respond using the cluster system.66 These actors work together under the leadership of a UN designated Humanitarian Coordinator. As at the global level, each cluster is led or co-led by an organization. Clusters leads also maintain emergency standby capacity that allows them to send

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62 In the context of the PCGIR, the Central American Regional Mechanism for Mutual Assistance and Coordination Mechanisms in Disaster Situations (MecReg) has been consolidated according to the Action Plan agreed at the XXXVIII Meeting of Heads of State and Government of SICA in San Salvador, El Salvador on 16 December 2011. Two of the nine operational objectives within the Action Plan are particularly relevant to the integration of issues related to displacement in the context of disasters: 1) Update and strengthen the Central American Regional Mechanism for Mutual Assistance and Coordination Mechanisms; 2) Promote and mainstream human rights in emergency and disaster management.


64 CCAD at 40.

65 CCAD at 50.

disaster response experts within hours of a disaster, regardless of whether the entire cluster system has been activated at the national level. Outside of emergency response efforts, cluster members collaborate with their respective government counterparts to assist with disaster preparedness activities, such as by developing emergency disaster response plans and providing training where requested.

The Inter-Agency Working Group on Risk, Emergencies and Disasters in Latin America and the Caribbean (REDLAC) establishes a regional humanitarian platform bringing together 27 actors represented by UN regional offices, IFRC, IOM, international NGOs, and donors. Modeled after the Inter-Agency Standing Committee (IASC), REDLAC coordinates humanitarian response on national and international levels and aims to increase cooperation in disaster risk reduction and response. More specifically, it provides training and technical support at the national level, facilitates information exchange following disasters, a roster for emergency deployment, and operational guidance and manuals.

REDLAC also maintains the Humanitarian Information Network, with information officers located in ten national disaster management offices in the region.

REDLAC and the national humanitarian coordination platforms have begun to address the challenges of protection in disaster contexts. Discussions within the Consultation could consider reviewing existing tools, manuals, plans, and coordination mechanisms, with special attention to the potential movement of people across border in a disaster who need humanitarian assistance and protection.

Participants could also discuss how to address regional coordination issues related to disaster displacement pre-existing humanitarian processes. For example, the fourth Regional Meeting on International Humanitarian Assistance Mechanisms (MIAH) took place in Kingston, Jamaica in October 2013, addressing the theme “Strengthening Public and Private Partnerships, toward a Common Regional Platform for Humanitarian Action.”

4.2.4 Cartagena +30

Although specifically created to respond to the 1980s Central American refugee crisis, the 1984 Cartagena Declaration and the subsequent 1989 Declaration and Concerted Plan of Action in Favour of Central American Refugees, Returnees and Displaced Persons (CIREFCA) provide useful examples of how governments, international organizations, academics and civil society joined together in an innovative way to protect the rights of refugees, IDPs and “externally displaced persons.”

Since then, the Cartagena Declaration has been commemorated every ten years with an international colloquium that re-affirms the relevance of the Cartagena Declaration, and discusses the challenges of refugee protection and human displacement more broadly in the Central American region. For example, the 1994 San Jose Declaration recognized international and regional efforts to address the protection needs of IDPs, by taking special note of the Permanent Consultative Group on the Internally Displaced in the Americas and promoting the extension of the mandate of the Representative of the Secretary General for Internally Displaced Persons. Similarly, the 2004 Mexico Plan of Action examined the issues of mixed migration, and terrorism and national security within the broader context of refugee protection.

Within this context, the 1984 Cartagena Declaration, CIREFCA and the Mexico Plan of Action may provide insight as to how the Central American region joined together in the past to find a pragmatic solution to what was then a contemporary and emerging protection concern (the displacement crisis in Central America). From this perspective, the Cartagena Declaration is not referenced for the purpose of asserting that its refugee definition should be extended to address cross-border displacement in the context of disasters. Rather, Central America’s response to refugees and displaced persons is important because it provides participants with an opportunity to draw upon the region’s previous establishment of inter-state humanitarian protection and assistance mechanisms and frameworks, particularly for those whose needs were not adequately covered by international or national laws at that time. The Declaration and the process by which it was subsequently developed and implemented (e.g. through CIREFCA and Mexico Plan of Action) are also relevant for the Nansen Initiative insofar as they were premised on a set of humanitarian and human rights principles.

UNHCR’s 10-Point Plan of Action on Refugee Protection and Mixed Migration Flows focused on the challenges of protecting displaced persons in the Central American region. In November 2009, the Government of Costa Rica hosted the “Regional Conference on Refugee Protection and International Migration in the Americas,” one of four regional consultations on the 10-Point Plan.

Planning is currently underway to commemorate 30 years since the Cartagena Declaration was made, which may provide a forum and an opportunity for addressing the emerging protection needs of the disaster displaced in Central America.

4.2.5 Regional Conference on Migration

The Regional Conference on Migration (RCM) or “Puebla Process” was founded in 1996 to address Central America’s particular challenges related to irregular migration. Its Member States include Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, as well as the Dominican Republic, Canada, Mexico and the United States. It has an annual rotating Presidency Pro-Tempore selected by consensus from Member States, and is supported by a Technical Secretariat at IOM’s Regional Office in San Jose. Each Member State has designated focal points at the national level within the Ministry of Foreign Affairs and the Ministry of Interior (which often includes immigration).

The RCM generally focuses on migration and development themes, chosen by respective Presidents. Its activities are guided by an informal Plan of Action, and have included regional discussions on pressing issues, supporting the development of national migration policies, developing regional guidelines relating to migration, strengthening the fight against trafficking, and developing a strategy regarding the return of illegal migrants.

The RCM maintains the Statistical Information System on Migration for Central America and Mexico, and supports a Regional Network of Civil Society Organizations on Migration. The RCM also established the RCM Fund for Migrants in Highly Vulnerable Situations, administered by IOM and funded by voluntary contributions from participating states.

Notably in 1999 the annual meeting chaired by El Salvador was devoted to discussing the effects of Hurricane Mitch. The Joint Communiqué reported that Member States agreed that,

"the Conference is an ideal forum to address the migration-related consequences of [the Hurricane Mitch] disaster from the broad-based point of view of the Puebla Process, with emphasis on the link between migration and development." 68

Thus, the RCM is another regional forum that has identified the need to link migration with other important issues such as climate change. The Government of Costa Rica presently chairs the RCM, with the next meeting planned to take place in Costa Rica from 26-29 November 2013.

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In addition to the many issues presented for consideration to the participants of the Nansen Initiative Central American Regional Consultation, an overarching crosscutting issue is the need for more comprehensive data and statistics on cross-border displacement in Central America, which is presently lacking. Gathering this information is by nature complex due to the diverse drivers of displacement, scientific uncertainties, and the lack of systematic data collection and sharing. Therefore, the participants may want to discuss how existing information management tools for disasters and immigration could be adapted to help inform the development of public policy and operational responses.

Conclusions from the Nansen Initiative Central American Regional Consultation will take the form of an Outcome Document containing a set of messages on disasters and cross-border displacement (e.g., to inform the December 2013 Summit of the SICA Heads of State and Governments, and the overall Nansen Initiative process).

Expected outcomes from the Consultation may include the following:

1. A better understanding of the overall displacement dynamics in the region (drivers, trends, patterns, pathways and characteristics of the population) and the general protection needs of people displaced by disasters;

2. Identification of good practices, at regional, national and community levels, in establishing mechanisms for disaster preparedness, building resilience, and responding to and managing displacement risks;

3. Identification of institutions, programs and policies that address the interests and rights of displaced populations to move (including transit) with dignity, in safety and with full respect for their human rights;

4. Identification of practices related to admissions and standards of treatment in the context of cross-border migration and displacement in disaster situations, highlighting opportunities for further inter-state collaboration;

5. Examples of return following disasters that have been accompanied by processes of recovery and reconstruction;

6. An outcome document identifying common displacement challenges in the context of disasters and climate change in Central America, and agreement on a road map to address these.
This is a multi-partner project funded by the European Commission (EC) whose overall aim is to address a legal gap regarding cross-border displacement in the context of disasters. The project brings together the expertise of three distinct partners (UNHCR, NRC/IDMC and the Nansen Initiative) seeking to:

1. **increase the understanding** of States and relevant actors in the international community about displacement related to disasters and climate change;

2. **equip them to plan for and manage** internal relocations of populations in a protection sensitive manner; and

3. **provide States and other relevant actors tools and guidance** to protect persons who cross international borders owing to disasters, including those linked to climate change.