

Conclusions and Recommendations

Third Thematic Consultation of the Cartagena+40 Process “Protection in Contexts of Forced Displacement due to Disasters” Bogota June 19 and 20, 2024

I. INTRODUCTION

The Third Thematic Consultation on *Protection in Contexts of Forced Displacement Due to Disasters* organized as part of the commemorative process of the 40th anniversary of the 1984 Cartagena Declaration on Refugees (Cartagena+40), took place in Bogota on June 19-20, 2024.

Prior to the consultation, the Technical Secretariat of Cartagena+40, led by the Government of Chile with the support of the Government of Colombia, the Platform on Disaster Displacement (PDD), the International Federation of Red Cross and Red Crescent Societies (IFRC), and the United Nations High Commissioner for Refugees (UNHCR), developed a [concept note](#).

More than 130 participants attended the consultation, making over 100 interventions on the topics of prevention, early warning and emergency response, international protection, and regional cooperation frameworks. The participants included government representatives from Argentina, Bahamas, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Curaçao, Ecuador, El Salvador, Guatemala, Haiti, Honduras, British Virgin Islands, Mexico, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Uruguay, and Venezuela. Additionally, Refugee Organizations (four representatives) and Civil Society Organizations (five representatives) also participated¹, Cities and Municipalities (a representative of MERCOCUIDADES)², Human Rights Ombudsman's Office (one representative from RINDHCA)³, the Academy (three GAIN representatives)⁴, ten United Nations Agencies, Funds and Programs⁵, four International or Intergovernmental Organizations⁶, five Regional Organizations or entities⁷, two financial institutions⁸, a representative of the Private Sector⁹, and three subregional mechanisms represented by their Pro Tempore Presidencies (Costa Rica representing the Quito Process, Belize representing the MIRPS and Paraguay representing the Meeting of CONARES of MERCOSUR). Finally, there were six cooperating countries¹⁰ and two cooperating entities¹¹, as well as three experts¹²; including the Platform on Disaster Displacement (PDD), which played a significant role in the technical preparation of the event.

¹ Representatives of the GAR-PAB; the Jesuit Service with Migrants LAC, the Coalition LAC RMD, Red Clamor, and the Scalabrini International Migration Network (SIMN).

² Representative of MERCOCUIDADES (Uruguay, Montevideo).

³ Network of National Institutions for the Promotion and Protection of Human Rights in the American Continent. (RINDHCA).

⁴ Global Academic Interdisciplinary Network (GAIN).

⁵ Resident Coordinator of the UN System in Mexico, UNHCR, OHCHR, IOM, ONU-Habitat, ILO, FAO, UN Women, OCHA, UNDRR, UNODC.

⁶ PDD, ICIC, IFRC, IDMC.

⁷ IACHR, OPS, CLARCIEV, DIS OAS, IDH Court.

⁸ World Bank, Inter American Development Bank.

⁹ LATAM Enterprise.

¹⁰ Germany, Canada, United States, Italy, Japan and the Netherlands.

¹¹ AECID and the European Union.

¹² Natalia Ángel Cabo, Magistrate of the Constitutional Court of the Republic of Colombia; and Romina Sijniensky, Expert Lawyer in the Inter-American Human Rights System, former Deputy Secretary of the Inter-American Court of Human Rights, and Professor

Throughout the Consultation, it was noted that the 2014 Brazil Declaration and Plan of Action already referenced disaster-related displacement, anticipating the challenges that would arise in the decade following its implementation. In 2018, the Global Compact on Refugees recognized that external forced displacement can be caused by sudden-onset disasters and environmental degradation, emphasizing that although climate change, environmental degradation, and disasters do not directly cause refugee movements, they increasingly interact with the causes of such movements.

It was emphasized that displacement in the context of disasters and the adverse effects of climate change is the issue of the future, although it's already impacting significantly so the region needs to be prepared to assist the most affected populations, including attention to internally displaced persons. It was highlighted that disasters interact with other factors of displacement and that this multi-causality must be considered in policies for prevention, adaptation, mitigation, and to promote resilience.

Several good practices on prevention and early warning were presented, including the relocation of entire communities that were progressively submerged, where the proposal was made to share experiences at the regional level to increase capacities, and where data collection and sharing are key to an effective response. Additionally, good practices in humanitarian response to disasters were highlighted across all phases of displacement, with an emphasis on the need for durable solutions and socio-economic integration.

Regarding international protection in the context of disaster-related displacement, states mentioned forms of complementary protection through humanitarian visas or other forms of temporary protection, in compliance with regional human rights instruments (such as the American Convention on Human Rights, which enshrines the principle of non-refoulement in a broader sense than the 1951 Convention). Good practices were also presented on protection mechanisms that allow access to legal stay or regularization. They mentioned forums and mechanisms where the link between climate and displacement is currently being discussed and highlighted the need to align with these consultative spaces.

Finally, the commitment to protecting the human rights of people displaced by disasters was reiterated, with a focus on prevention and early warnings, as well as on contingency and adaptation plans.

The conclusions and recommendations presented will serve for the development and subsequent adoption of the Chile Declaration and Plan of Action for the period 2024-2034.

II. OPENING

The meeting was inaugurated by the Minister of Foreign Affairs of Colombia, Luis Gilberto Murillo; the Director of the Human Rights Division of the Ministry of Foreign Affairs of Chile, Ambassador Tomás Pascual; UNHCR's Special Advisor on Climate Action, Andrew Harper; and the UN Resident Coordinator in Colombia, Mireia Villar.

The event also included the presence of Colombia's Vice Minister of Multilateral Affairs, Elizabeth Taylor Jay.

Walter Kälin, Envoy of the Presidency of the Platform on Disaster Displacement and former Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons.

The speakers unanimously recognized the importance of addressing disaster-related displacement throughout the Cartagena+40 Process and emphasized the need for pragmatic regional approaches, without disregarding the significance of global agreements.

It was noted that the region needs to be prepared to assist the most affected populations. There was agreement that disasters interact with other displacement factors, and this multi-causality must be considered. It was also highlighted that flexible responses are required, such as complementary protection, temporary protection, and other protection-oriented mechanisms that allow access to legal stay or regularization. The region was acknowledged to have many good practices in providing protective responses for those affected by disasters and the effects of climate change.

As an example for the region, the recent ruling by Colombia's Constitutional Court regarding internally displaced persons in contexts of disasters and the adverse effects of climate change was highlighted. The need for effective measures to address this form of displacement, including prevention, protection during and after displacement, voluntary relocation, and support for durable solutions—especially in situations of protracted displacement—was emphasized.

It was also noted that Chile and Colombia have requested an Advisory Opinion from the Inter-American Court of Human Rights on *Climate Emergency and Human Rights*, which, once issued, will provide standards for the next decade.

The United Nations system's commitment to protecting the human rights of people displaced in disaster contexts was reiterated, with an emphasis on the importance of focusing on prevention and early contingency warnings, as well as improving responses with appropriate adaptation plans.

Presentation of the Platform on Disaster Displacement (PDD) – Professor Walter Kälin, Envoy of the Presidency of the Platform on Disaster Displacement, and former Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons

Summary

This presentation primarily addressed the issue of protecting individuals displaced across international borders in the context of disasters.

It is crucial to revisit the content of the Cartagena Declaration of 1984, including the expanded definition of refugees, in light of the current context. This regional tool aims to ensure protection for people in the region, and displacement in the context of disasters is an increasingly significant challenge.

Countries in the region have several tools at their disposal, and their effective implementation is urgent. Displaced individuals must be able to access a safe place, whether within their country or abroad, as well as receive protection and humanitarian assistance, means of livelihood, basic services, and adequate housing. Furthermore, finding durable solutions that enable them to overcome their vulnerability is essential.

Ideas that contributed to the discussions throughout the consultation:

- Displacement in the Context of Disasters and Climate Change Effects: Should be understood as a multi-causal phenomenon.
- Mitigation and Risk Reduction: It is essential to mitigate the effects of climate change, reduce disaster risks, and promote orderly and safe migration pathways.

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- Principles and Implementation Gaps: The regional community has the 1998 Guiding Principles on Internal Displacement, but governments in the region have either not implemented them or have done so only partially, highlighting a gap that needs to be addressed.
- Application of Regional and International Instruments: It is crucial to apply the principles and rights contained in other regional and international instruments, such as the American Convention on Human Rights, the 1951 Refugee Convention, and the 1984 Cartagena Declaration, to this type of displacement.
- Recommendations: (i) Act through a substantial improvement in data and knowledge; (ii) Integrate Displacement Risks: Include displacement risks in national adaptation and mitigation plans and strategies; (iii) Internal Displacement Legislation: Integrate internal displacement into national laws, policies, and strategies; (iv) Ensure Access to Rights: Guarantee that displaced persons have access to their rights; (v) Clarify the circumstances under which the refugee definition in the Cartagena Declaration would apply in disaster contexts; (vi) Adopt or strengthen protection policies and solutions for those displaced by climate change; (vii) Build capacity at the national level, but especially at the subregional level; (viii) Conclude bilateral agreements and memoranda of understanding on these matters, (ix) Continue promoting regional dialogues on these issues, and (x) Strengthen provisions on humanitarian visa and temporary admission.

III. SEGMENT I – PREVENTION STRATEGIES, TAYLORED AND DIFFERENTIATED RESPONSES, AND HUMANITARIAN AID FOR THE PROTECTION OF PEOPLE ON THE MOVE IN THE MOST AFFECTED COUNTRIES

There was consensus that disaster-induced displacement is increasingly prevalent and that, on the occasion of the fortieth anniversary of the Cartagena Declaration, it is logical to address the discussion from a protection angle. This is because there are affected individuals who need protection from displacement or, once displaced, need to access durable solutions to overcome their vulnerability.

It was highlighted that displacement in the context of disasters must be understood through its multi-causal nature, with climate change being a factor that exacerbates displacement risks. Additionally, it was emphasized that this context significantly impacts the most vulnerable and marginalized individuals and communities, including those previously displaced. Emphasis was placed on the increased risks faced by women, girls, youth and people with diverse gender identities before, during and after displacement due to the effects of climate change, especially in cases of protracted displacement.

In this regard, the triple nexus approach—promoting cooperation, collaboration, and coordination between humanitarian action, development, and peacebuilding—was referenced as an essential tool for effectively addressing disasters and their consequences. This approach acknowledges that crises and disasters are interconnected and that isolated responses may be insufficient for addressing the immediate impacts of disasters and for building communities that are more resilient and capable of facing future crises sustainably. Integrating the triple nexus approach can be achieved through joint needs assessments, intersectoral coordination, and flexible long-term funding.

Finally, throughout the segment, the Guiding Principles on Internal Displacement (1998) were repeatedly cited as a relevant normative basis for this issue, as they include individuals or groups who have been forced to flee their homes due to or to avoid the effects of, among other things, "natural or human-made disasters".

Presentation of the United Nations Office for Disaster Risk Reduction (UNDRR)

Summary

Latin America and the Caribbean is the second most disaster-affected region globally, with at least 190 million people impacted. In 2023, there were 6.3 million displaced persons due to conflicts and disasters in the region. Key challenges include the lack of access to data, data interoperability issues, the prolonged nature of displacement, and understanding the impact of slow-onset disasters like droughts on displaced populations.

Factors such as dense urban populations, slow economic growth, poverty, inequality, political instability, and high violence levels interrelate and affect the population's ability to prepare for, respond to, and recover from disasters. Climate change exacerbates the frequency and intensity of disasters. According to a World Bank study, by 2050, over 17 million people in Latin America and the Caribbean will be forced to migrate due to climate change impacts.

The region faces one of the largest global migration crises, illustrating the cause-and-effect relationship between disasters and displacement: disasters drive and exacerbate displacement, which in turn increases disaster risks. Displacement further heightens vulnerability and exposure, leaving many without access to essential services such as health and education, as well as losing their belongings and livelihoods.

Displacements often lead to informal settlements that are frequently unsafe and expose displaced populations to new risks. They also create social tensions with host communities as local resources are strained. A proactive, coordinated, and comprehensive approach is necessary to address and prevent displacement.

Although most displaced individuals remain within their own countries, an increasing number are crossing international borders. Those crossing borders should receive international protection, either as refugees under the expanded Cartagena definition or through legal stay or regularization mechanisms.

It is important to note that individuals requiring international protection are often excluded from disaster management plans, so their inclusion in statistical data is crucial.

Displacement caused by disasters should be incorporated into refugee and internal displacement frameworks, as well as disaster management frameworks. While legal and policy frameworks for disasters are beginning to include displacement, they must contain disaggregated data to ensure effective and differentiated protection.

States should consider expanding risk transfer insurance and exploring anticipatory actions, such as forecast-based mechanisms. Displaced individuals need quality information about the risks and potential displacement scenarios.

The role of civil society and financing is crucial. The region has strong disaster risk management and climate change response mechanisms that should be leveraged and improved to ensure displaced individuals can recover quickly and live with dignity.

Following this presentation, concrete examples of humanitarian interventions were discussed across all phases of displacement, including prevention, preparedness, and response to disasters/extreme weather events, as well as recovery and reconstruction.

Presentation by the Internal Displacement Monitoring Centre (IDMC)

Summary

In 2023, the Americas, including the United States and Canada, experienced the displacement of 6.3 million people due to conflicts and disasters. Monitoring this situation is challenging in many areas due to data gaps. Storms and floods have led to an increase of over 2 million displaced individuals, with Peru and Chile being significantly impacted. Storms are the primary cause of displacement (66%) in the region. Floods also significantly contribute to displacement (especially in Brazil and Colombia), with southern Brazil currently facing a troubling situation which cannot be ignored. Despite Cuba's effective mitigation and emergency plans, it has reported the highest number of displacements in the past eight years since 2008. Brazil and Colombia also have high displacement numbers relative to their populations, while Caribbean countries report an even greater proportion.

The main challenges involve the lack of data access and interoperability, the duration of displacement, and understanding the impact of slow-onset disasters (such as droughts) on displaced individuals. The absence of indicators makes it difficult to grasp the reality, understand and assess how many people were specifically displaced by disasters, their specific needs and vulnerabilities compared to non-displaced populations, or the impacts of such displacement on host communities.

The accuracy of the concept of "damnificados" (disaster affected individuals) is also unclear, which hinders understanding and assessing the specific needs of this population. However, there are good practices: in Brazil, when a disaster occurs, the subnational government collects initial data and sends it to the federal government to request resources, effectively capturing the needs of the displaced. In Ecuador, data is collected on how long people stay in shelters, and in Uruguay, they track damages and losses.

IDMC recommends improving data monitoring; while there is no ideal formula, it should capture both short-term and long-term needs of displaced persons. This includes developing a registry, particularly for those in a prolonged displacement situation, promoting interoperability and exchangeability of displacement measurements, data, and analysis between countries, along with a regional harmonization of monitoring and reporting criteria and methodologies, and the creation of common displacement indicators for precise regional measurements. Finally, disaggregating data by gender and age group is key, especially for indigenous peoples, women, and individuals with disabilities, to establish inclusive strategies. Sharing best practices among countries is equally important.

Presentation by the International Federation of Red Cross and Red Crescent Societies (IFRC)

Summary

One of the most important issues in this thematic consultation is identifying pathways for the protection of refugees and displaced persons in disaster contexts and the impact of climate change.

Over the past 10 years, the IFRC alone has activated more than 230 operations in response to hurricanes, earthquakes, floods, volcanic eruptions, and other devastating events in the region. There has been an observed increase in extreme weather events, largely attributed to climate change, which is intensifying heatwaves, torrential rains, and droughts.

Natural disasters affect both migrants and refugees, in transit and host countries, as well as those previously displaced within their own countries. Indeed, people in situations of mobility or requiring international protection face additional vulnerabilities due to fears about their legal status, risk of exclusion from humanitarian response, and difficulties accessing basic services.

The lack of documentation, language and cultural barriers, and adoption of risky coping measures increase the vulnerability of refugees, asylum seekers, and migrants. Protection and inclusion are crucial in humanitarian response,

as pre-existing vulnerabilities determine the level of risk and impact of crises. Host communities also need specific support to mitigate negative effects and promote sustainable recovery.

It is necessary to ensure that emergency operation plans are comprehensive and include medium- and long-term measures, such as recovery and livelihoods. However, it is also important to explore and expand early action measures, such as forecast-based action mechanisms, to better anticipate the risks and needs associated with displacement before impacts occur.

Affected individuals, displaced persons, and host communities must be significantly involved and consulted in the planning and implementation of durable solutions. To make informed decisions, they must have access to adequate information about conditions in their place of origin, possibilities for local integration or resettlement after displacement, all in a language and format they can understand.

Funding is another relevant issue in disaster management. It must be sustainable and cover everything from planning and anticipation to response.

Finally, it should be recognized in all policies that addressing the needs of displaced persons, refugees, and migrants presents significant challenges from protection, recovery, and durable solutions perspectives, which must be addressed with special attention.

After these initial presentations, the floor was opened to the plenary, during which the interventions of numerous participants allowed for the identification of several examples of good practices related to protection during displacement in disaster contexts.

In terms of humanitarian measures, many states have provisions for discretionary admission and stay for humanitarian reasons, such as humanitarian visas or temporary protection. However, only some explicitly address the situation of displaced persons in disaster contexts.

Regarding free movement of people, CARICOM and OECS member states have used their agreements, originally intended for economic purposes, to evacuate and admit people affected by tropical storms and hurricanes. MERCOSUR has free movement agreements and participates in various regional forums, including risk and disaster management.

In terms of migration legislation tools, measures have been developed such as expedited processing of ordinary visa applications, visa exemptions, and extension of regular stay instead of return to disaster-affected countries. National emergency systems and migration laws that foresee risk management and response to internal displacement caused by disasters have also been established.

Concerning the determination of refugee status under the 1951 Refugee Convention and its 1967 Protocol, it was recognized that, although these instruments do not contain specific references to disaster contexts and adverse effects of climate change, its definition of a refugee could, under certain circumstances, be applicable to persons seeking international protection due to their exposure to such events, always in accordance with the eligibility criteria established in the refugee definition, whether or not these are a direct consequence of the circumstances of flight. In analyzing the situation in the country of origin for determining refugee status, specific issues related to climate change and disasters have been considered, including questions about environmental impacts in application forms or entry interviews.

Voluntary and planned relocations have been carried out in consultation with the affected individuals and the host community. Additionally, guidelines for internal displacement response and humanitarian care have been developed, along with legislative initiatives on internal displacement.

In terms of prevention and risk management policies, aspects related to human mobility have been included. Early warning systems for risk monitoring and displacement preparedness have been implemented, including emergency drills. Binational early warning alerts have also been established to strengthen cooperation in disaster response and information-sharing mechanisms on climate change and disaster risks.

The participation of affected individuals and communities has been promoted through the development of climate change adaptation plans. During emergencies, support from civil protection and its teams, as well as the involvement of national human rights institutes, has been utilized.

Media has been used to inform about disaster risks, and risk reduction management centers have been established, along with inter-institutional tables to address emergencies caused by disasters and climate change.

In the field of training, programs for public officials and civil society have been conducted. MERCOCIUDADES has coordinated work with UNHCR within the network of cities of solidarity, focusing on socioeconomic integration, building a positive narrative on human mobility, and developing adaptation and resilience plans. There is a commitment to ensure that cities remain spaces of protection, even in disaster situations, and they are expected to play an important role in the Chile Plan of Action.

Finally, it was highlighted that the Sendai Framework for Disaster Risk Reduction 2015-2030 has been incorporated into national legislations and risk reduction plans, as well as into early warning systems in countries of the region.

Based on the interventions, some recommendations were outlined:

On national policy and action:

- Collect and analyze data on figures, trends, and dynamics of cross-border displacements.
- Increase multi-hazard early warning systems that are accessible in all languages and communication channels.
- Incorporate displacement risks into national disaster risk reduction, climate change adaptation, and development plans and strategies.
- Include internal displacement in disaster contexts and adverse effects of climate change within national laws, policies, and strategies.
- Create inter-institutional and inter-sectoral mechanisms with specialists in human mobility and climate change.
- Promote and allocate resources for risk prevention through flexible funding.
- Relocate threatened populations to safe locations.
- Acknowledge displacement due to disasters within regulatory and disaster management frameworks, including the need for disaggregated data.
- Include refugees and displaced persons in insurance coverage.
- Define strategies and plans for countries most affected by displacement due to disasters and climate change.
- Coordinate effectively among humanitarian and international actors.
- Ensure coherence between human mobility policies, rural development, and risk management.

- Improve communication with communities and ensure consultations with displaced persons and host communities in decision-making.
- Provide essential services and support to displaced populations and host communities.

On gender, intersectional, and intercultural approaches:

- Include women as subjects of protection and in response or participation mechanisms.
- Consider CEDAW recommendations (Recommendation 37) in legislative frameworks.
- Incorporate domestic violence prevention approaches and diversity considerations in response mechanisms.
- Generate information with disaggregated data for specific contexts.
- Consider differentiated treatment for indigenous peoples, children and adolescents, LGBTIQ+ individuals, Afro-descendants, persons with disabilities, among others.
- Disaggregate data taking into consideration age, ethnicity, language, disability, gender identity and sexual orientation, in order to adequately identify existing protection gaps.

On empowerment and meaningful participation:

- Empower local communities and improve their disaster response capacity.
- Include indigenous peoples, children and adolescents, LGBTIQ+ individuals, Afro-descendants, ethnic, religious or linguistic minorities, persons with disabilities, among others in planning and decision-making processes.
- Ensure spaces for women's participation as key agents in climate change mitigation and adaptation, as well as in the development of policies for prevention and response to forced displacement and disaster response.

On protection of cross-border displaced persons:

- Ensure access to refugee status determination procedures and human rights protection for displaced persons in disaster contexts.
- Clarify the application of the notion of "other circumstances that have seriously disturbed public order" in the refugee definition contained in the 1984 Cartagena Declaration in disaster contexts.
- Adopt and harmonize humanitarian visas and temporary protection for persons displaced by disasters.

On agreements and cooperation:

- Conduct joint data collection and analysis at the regional level and create a common repository of best practices.
- Integrate disaster displacement into bilateral or sub regional agreements on free movement of people.
- Develop the capacities of relevant authorities through cross-border simulation exercises in disaster contexts.
- Conclude bilateral agreements or memorandums of understanding between neighboring countries for cooperation and mutual assistance in cases of cross-border displacement due to disasters.
- Continue regional and subregional dialogues on migration and displacement in the context of disasters and climate change.
- Ensure coordination and communication between countries regarding cross-border movements.
- Develop regional contingency plans.

On regional efforts and funding:

- Create inter-institutional and inter-sectoral mechanisms with specialists in human mobility and climate change.
- Promote and allocate resources for risk prevention, through flexible funding.
- Enhance multi-threat early warning systems that are accessible in all languages and communication channels.

Finally, in a transversal manner, the support that the private sector can provide in all areas of the Chile Plan of Action was mentioned:

- Map private enterprises that can join the UN Global Compact.
- Identify best practices in the employment of refugees and migrants.
- Provide training on best hiring practices.
- Organize regional events to disseminate best practices, share experiences, and engage new private sector actors.
- Create a regional platform for enterprises hiring forcibly displaced persons, as an extension of the Enterprises with Refugees Forum (*Foro Empresas con Refugiados*); and link it to the UN Global Compact, thereby regionalizing initiatives that have been developed and consolidated in Brazil.

IV. SEGMENT II - STRENGTHENING INTERNATIONAL PROTECTION IN HOST COUNTRIES

In this segment, the legal interpretation and applicability of principles and norms related to international protection were discussed, considering international refugee law, international human rights law, and the protection of internally displaced persons in the context of disasters and the adverse impacts of climate change.

Presentation of the United Nations High Commissioner for Refugees (UNHCR)

Summary

It is important to value this regional experience that reflects the culture of protection and prevention characteristic of Latin American and Caribbean countries, which can be shared with the international community.

It is crucial to recall the applicability of principles and norms established in international refugee law and human rights law, and that international protection is activated when a person faces risks of human rights violations in their country of origin. In disaster contexts, the risk of harm not only depends on the frequency and intensity of the natural threat but also on human factors such as urban planning, the presence of settlements in risk zones, and the capacity for emergency response.

These disasters can exacerbate pre-existing situations or create new tensions, including violence and armed conflicts, interacting with forced displacement. Additionally, disasters impact multiple human rights, such as the right to life, security, food, housing, health, education, employment, property, and specific rights of vulnerable groups. The state's responsibility to protect these rights in disaster contexts is supported by International Courts. In cross-border displacements, rights related to international refugee law are activated, with the principle of non-refoulement being fundamental. This principle prohibits rejecting or returning individuals to territories where their life or freedom is at risk. It is a customary binding norm for all states, according to the Inter-American Court of Human Rights.

The application of legal definitions of refugees in disaster contexts is consistent with the right to seek and receive asylum as enshrined in the American Convention on Human Rights. The principles of refugee law also apply to

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requests in disaster contexts, avoiding confusing terms such as "climate refugees". Individuals forced to cross borders due to disasters may require international protection and access to asylum procedures, considering social and political factors aggravated by disasters, violence, persecution, or armed conflicts. Marginalized and vulnerable individuals, such as women, children, the elderly, disabled persons, minorities, indigenous people, farmers, and fishermen, may have a well-founded fear of persecution.

Environmental defenders, activists, community leaders, and journalists may also face persecution due to their work. The lack of protection or selective aid after disasters, the politicization of relief, deliberate environmental destruction, and food insecurity can worsen persecution.

The definition of refugee under the Cartagena Declaration, adopted by 15 internal regulations in the region, includes "circumstances that have seriously disturbed public order", which can be applicable to disaster situations and the effects of climate change. This definition has been applied, for example, to Haitian individuals affected by the 2010 earthquake, considering the disaster's consequences as exacerbation of political instability and insecurity.

This leads to the need to adopt complementary forms of protection, such as complementary or temporary protection, humanitarian visas, or other mechanisms for legal stay or regularization under international human rights law. In this context, it is important to highlight existing mechanisms in some Latin American countries' immigration laws that constitute best practices and could become regional standards.

Particularly in cases of large-scale movements or humanitarian crises caused by disasters, when individual determination of refugee status is not feasible or applicable, such mechanisms should be adopted as pragmatic protection tools. Bilateral or regional framework agreements could be considered for this purpose. These mechanisms should not prejudice the human right to seek and receive asylum and should provide an efficient and agile form of protection that offers immediate protection against refoulement and provides standards of treatment similar to international protection status. If time-limited, it should be considered provisional and a preliminary phase of mechanisms that grant legal stay for a reasonable period to ensure stability.

Most people displaced by disasters remain within their countries as internally displaced persons, a phenomenon that requires intervention from various legal frameworks and disaster prevention, mitigation, and risk reduction policies. As outlined in the Guiding Principles on Internal Displacement and highlighted in the recent Judgment T-123 of 2024 by the Constitutional Court of Colombia, effective measures to address this form of displacement must include prevention, protection during and after displacement, including evacuation, voluntary relocation, and support for durable solutions, especially in cases of prolonged displacement.

In the Americas, several countries have advanced in creating legal frameworks to address internal displacement. However, most of these laws and policies focus on displacement related to armed conflict and violence, without specifically addressing displacement in the context of climate change and disasters. Greater efforts are needed to adequately integrate disaster-related displacement into existing legal frameworks on internal displacement.

After this presentation and prior to the opening of the plenary session, the Government of Mexico shared its best practices in this area, particularly the innovative approaches, both in terms of legal interpretation and procedural methods, that it has developed to address the new challenges that such cross-border displacement poses for its refugee status determination system.

Presentation of the Mexican Commission for Refugee Aid (COMAR)

Summary

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There is currently an internal discussion about the existing national tools to ensure effective protection for forcibly displaced persons, as it becomes increasingly common for individuals applying for refugee status to refer to displacement caused by disasters. Climate change and natural disasters in mobility contexts exacerbate or intensify vulnerability conditions and often highlight the limitations of state response capacities to these situations.

Thus, Mexico is questioning under what specific circumstances cross-border displaced persons can be protected under the refugee definition provided by the 1951 Convention and its 1967 Protocol. What interpretation of the regional refugee definition contained in the 1984 Cartagena Declaration could allow its application to displacements in the context of disasters and adverse effects of climate change?

For determining refugee status, COMAR (the Mexican Commission for Refugee Assistance) examines applications under both the 1951 Convention and its 1967 Protocol definition and the expanded Cartagena definition. In the former case, risk profiles have been identified among community leaders and environmental rights defenders. Regarding the Cartagena definition, there have been recognitions of refugee status based on the reason "other circumstances that seriously disturb public order in the country of origin" (according to the formulation in Mexican law) when the reasons for fleeing were the result of human-attributable acts, also considering the applicant's habitual residence country.

The following questions have also been raised to ensure protection for those in need: How can national legislation on complementary or temporary protection be strengthened to address these phenomena? How can national legislation be enhanced to establish protection mechanisms such as complementary admission pathways, humanitarian visas, or entry permits? How can legal and practical responses to urgent humanitarian situations be anticipated?

In Mexico, complementary protection pathways are being considered for individuals who are not refugees but cannot return to their country of origin. It is important to consider the reasons for their displacement, which requires reliable and accessible analysis and statistics; the work of international organizations is fundamental in this regard. However, it is crucial to continue discussions to determine what is needed to strengthen family unity recognition and make it effective, as well as what other legal pathways could be adopted.

From the plenary, references were made to the use of complementary protection mechanisms in the analysis and development of refugee status applications, as well as the existence of environmental visa programs that could benefit people displaced in disaster contexts. It was noted that protection measures need to be sustainable, as many remain in irregular situations once the temporary measures expire.

Other states highlighted the inclusion of disaster displacement and migration due to natural disasters in their legal frameworks, or the facilitation of entry procedures when displacement causes are linked to natural disasters or the effects of climate change. They also noted conducting training and awareness-raising activities with border staff and public outreach, as well as adopting protocols for the care of refugees, migrants, and others affected by natural disasters.

One state mentioned a commitment made at the 2023 Global Refugee Forum to ensure that people displaced in the context of climate change and natural disasters receive protection. Additionally, community sponsorship initiatives were mentioned as a way to support internally and cross-border displaced persons, in collaboration with the country where the disaster occurs.

Diverse perspectives were presented on this issue: from the need to strengthen asylum systems and use the refugee definition provided by the 1951 Convention, to acknowledging significant differences between refugees and those displaced by disasters. It was also highlighted that migration can be a strategy for adapting to climate change.

Calls were made to show solidarity with Caribbean countries severely affected by disasters.

The importance of international community support, both technical and financial, was emphasized.

Finally, several additional documents relevant to these contexts were highlighted, such as the 2021 UN Human Rights Office's "Guidance Note on Regular Pathways for the Admission and Stay of Migrants in Vulnerable Situations," which includes the adverse effects of climate change, and the 2016 "Effective Practices Guide for CRM Member Countries: Protection for People Moving Across Borders in the Context of Disasters," adopted by the Regional Conference on Migration (CRM).

Based on the interventions, several recommendations were made:

- Include displaced persons, refugees, and stateless persons in national contingency, evacuation, assistance, and protection plans related to disasters, ensuring their effective participation in these processes and their implementation.
- Adopt or modify national and regional policies to provide effective protection for internally and cross-border displaced persons, applying international and regional refugee and human rights laws; ensure access to territory, documentation, humanitarian assistance, services, inclusion, and durable solutions.
- Implement humanitarian agreements or other short-term stay arrangements as a rapid response to large-scale displacement caused by exceptional conditions in the country of origin, without prejudice to the protection of refugees and other forms of international protection, or to complement them with other mechanisms that grant legal stay for a reasonable period of time to ensure stability.
- Offer temporary protection or alternative stay arrangements for cross-border displaced persons who are not refugees but need international protection.
- Consider complementary pathways such as humanitarian admission or community sponsorship for disaster-displaced persons in countries where these have not been implemented, to ease the burden on first countries of asylum.
- Ensure that family reunification channels include individuals who fled their homes due to disasters, as appropriate.
- Facilitate social and economic integration for displaced persons, benefiting both the displaced individuals and the host country, through flexible and inclusive educational policies.
- Develop the technical capacities of authorities, professionals, and relevant actors in border management and asylum systems regarding the application of international refugee law and the principle of non-refoulement, in relation to climate change impacts, environmental degradation, and disasters.
- Strengthen research on the linkages between climate change impacts and associated protection risks for specific groups and communities in specific countries and areas.
- Create regional plans to address refugee needs, including cities of solidarity, resettlement programs, and other initiatives.
- Establish bilateral and binational protocols to support both origin and destination countries.
- Ensure mechanisms for technological interoperability of records at the regional level.

Additionally, the consultation reiterated that birth registration is crucial to prevent statelessness, even when parents lack documentation. The registration process should be entirely free of charge. It is also recommended to establish mechanisms for recording disappearances and deaths. Verifying the identities of nationals, even outside their borders, is essential.

V. SEGMENT III – MAIN REGIONAL FRAMEWORKS AND PROCESSES IN LATIN AMERICA AND THE CARIBBEAN ADDRESSING DISPLACEMENT IN THE CONTEXT OF DISASTERS, ARTICULATION AND SYNERGIES WITH THE CHILE PLAN OF ACTION

Presentation of the Platform on Disaster Displacement (PDD)

Summary

Displacement in the context of disasters and the adverse effects of climate change is already positioned on the agendas of various regional mechanisms, including the Inter-American Commission on Human Rights - Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights (CIDH-REDESCA); the Central American Integration System (SICA); the Regional Comprehensive Framework for Protection and Solutions (MIRPS); the Regional Conference on Migration (CRM); the Andean Community and the Andean Committee for Disaster Prevention and Response (Andean Community & CAPRADE); the Central American Commission on Environment and Development (CCAD); the Central American Policy on Comprehensive Risk Management (PCGIR); the Central American Coordination Center for Disaster Prevention (CEPREDENAC); the Caribbean Migration Consultations (CMC); the Caribbean Community (ECS); the Caribbean Community (CARICOM); the Caribbean Disaster Emergency Management Agency (CDEMA); the Southern Common Market (MERCOSUR); and the South American Conference on Migration (CSM).

In the context of the CSM, for example, a Mapping on Migration, Environment, and Climate Change in South America was developed in 2020 and, in 2021, with support from the PDD, the Regional Guidelines on Protection and Assistance for Cross-Border Displaced Persons and Migrants in Countries Affected by Natural Disasters were created.

Meanwhile, the Specialized Migration Forum (FEM) of MERCOSUR presented a draft agreement on migration management in cases of mass and/or abrupt entry of displaced persons from a MERCOSUR member or associated state due to sudden socio-natural disasters, which is under consideration by the delegations of the Member and Associated States.

In this context, it is necessary to promote greater coordination among the various actors and to generate articulation mechanisms to provide a more homogeneous response throughout the region. Additionally, it is particularly recommended to emphasize durable solutions for cross-border displacement, especially in cases where return is impossible due to the destruction of the place of origin.

How can the Chile Plan of Action be used to enhance what is already in place, to innovate, and to identify strengths? To do this, it should be considered that (i) the issue is already on the regional agendas: human mobility, disaster risk management, and climate change; (ii) it is important not to underestimate the significance of regional processes in the development of internal policies (e.g., in Argentina, Chile, or Costa Rica); (iii) the issue has been discussed, there is a lack of data and more evidence, but it is not new.

Thus, to innovate from what already exists, the questions to address would be: Improvement and learning in standards? Operational issues, SOPs, simulations? Procedures? Improvement in practices for durable solutions in the context of disaster displacement? Harmonization of language?

During this panel, participants discussed possible mechanisms and follow-up actions for the Chile Plan of Action.

Some participants suggested considering the establishment of a technical mechanism and working group to monitor the commitments made and to coordinate and create synergies with other regional processes.

It was recommended to avoid fragmentation across different regional mechanisms and seek effective coordination among them. Some states mentioned that Cartagena +40 could help coordinate with other regional initiatives, such as the Regional Conference on Migration (CRM) and the South American Conference on Migrations (CSM), to enhance best practices and existing documents.

It was suggested to include outcome indicators in the follow-up of the Chile Plan of Action and to ensure the substantive participation of stakeholders if a mechanism is created for this purpose.

Some international organizations expressed their willingness to build databases and complement the information collected. They even stressed the importance of generating policies within the framework of humanitarian assistance that complement socioeconomic integration, which includes a framework of rights, citing some conventions of the International Labor Organization.: Convention 87 (Freedom of Association and Protection of the Right to Organize, 1948), Convention 169 (Indigenous and Tribal Peoples, 1989), and Convention 190 (Elimination of Violence and Harassment in the World of Work, 2019). Additionally, promoting fair solutions strategies that ensure productivity and employment while respecting rights and sustainability is essential.

Furthermore, the need to work towards a comprehensive response to disasters was emphasized, including elements of social cohesion, and ensuring coherence with development agendas.

The work of the International Conference of the Red Cross was recalled, where resolutions on disaster and climate management are adopted, and it was proposed to include in the 2024 Conference a specific reference to the Cartagena +40 Process.

It was mentioned that strengthening cross-border cooperation is necessary to reduce disaster risks and address the challenge of associated displacement.

Some representatives from international organizations highlighted the importance of Cartagena coordinating regional processes under the commitment to include a gender perspective in responses and the contributions of women in participation mechanisms, such as the network of women in disaster response in Latin America and the Caribbean (a joint project of UN Women and UNDRR).

The importance of including civil society and organizations led by refugees and displaced persons in plans was mentioned, as well as analyzing potential access to resources established to address displacement, considering that they are the first to contact them.

One cooperating country recognized the importance of the Cartagena +40 Process for the region, considering displacement figures and the impact of natural disasters and climate change on human mobility, which affects countries of origin, transit, destination, and return. It underscored its commitment to Cartagena +40 and the implementation of the Chile Plan of Action, and offered support to develop measures to prevent, respond to, and mitigate the effects of disasters impacting human mobility.

VI. PANEL - ROLE OF THE NATIONAL AND INTER-AMERICAN JUDICIARY IN THE INTERNATIONAL PROTECTION AND PROMOTION OF HUMAN RIGHTS

Presentation Judge Natalia Ángel Cabo, Constitutional Court of Colombia,
Judgment of the Constitutional Court of Colombia on Internal Forced Displacement due to Environmental Factors, including those Associated with Climate Change

Summary

The Judgment of the Constitutional Court of Colombia on Internal Forced Displacement due to Environmental Factors, including those Associated with Climate Change, Judgment T-123 of 2024, addresses the following fundamental issues: the national and international context, current debates on the protection and assistance of people displaced by environmental factors, international standards, the characteristics of this type of displacement, the correlative obligations of the State, and the current response to displacement due to environmental factors.

Regarding the characteristics of environmental displacement, it is clear that it differs from displacement caused by violence or armed conflict, considering its complex and multi-causal nature, as well as the aspect of temporality, the greater impact on the most vulnerable people, and the fact that it involves both sudden and slowly emerging disasters. Nevertheless, it remains a scenario of forced displacement.

It is also necessary to consider the multiple impacts on human rights that these displacements entail, including economic, social, and cultural rights. The Court additionally analyzed the correlative obligations of the State, including efforts to prevent this type of displacement and the importance of community participation in this process, as well as in climate change adaptation processes.

Furthermore, the Court highlighted the challenges represented by displacement due to environmental causes, emphasizing the need to understand its multi-causality. It first stressed environmental factors, including those associated with climate change, environmental degradation, and disasters. It also specified that multi-causality involves recognizing the presence of other causes, such as poverty, inequality, lack of state presence or justice systems, and territorial conflicts. In this sense, the inclusion of other areas of knowledge is also required for prevention and response, as well as for the development of durable solutions.

In this context, states should adopt measures to fulfill their obligations in prevention, adaptation, assistance, and solutions.

Presentation by Ambassador Tomás Pascual, Director of the Human Rights Division of the Ministry of Foreign Affairs of Chile, and Daniel Torres Ramírez, Third Secretary of Foreign Affairs, Internal Working Group on Matters before the International Court of Justice. Request for an Advisory Opinion on Climate Emergency and Human Rights to the Inter-American Court of Human Rights from the Republic of Colombia and the Republic of Chile

The main aspects of the Advisory Opinion request on Climate Emergency, jointly submitted by the states of Chile and Colombia on January 9, 2023, to the Inter-American Court of Human Rights, were presented.

The presentation highlighted the six aspects of the consultation, one of which addresses the effects and obligations arising from climate change on human mobility, in light of the American Convention on Human Rights. Additionally, it was noted that there are two other consultative processes underway, one before the International Court of Justice and the other before the International Tribunal for the Law of the Sea.

The significance of this request is that the Inter-American Court of Human Rights could develop standards on the matter, which it has not yet addressed, as the OC-23/17 Advisory Opinion on Environment and Human Rights did not specifically address the obligations that states must fulfill to address the phenomenon of climate change.

Presentation Ms. Expert Romina Sijniensky, Lawyer of the Inter-American Human Rights System, former Deputy Secretary of the Inter-American Court of Human Rights

Contribution of Regional Instruments and the Jurisprudence of the Inter-American Court of Human Rights to the Promotion of Solutions for Displaced Persons in Disaster Contexts and the Adverse Effects of Climate Change

Summary

The risk of harm in disaster contexts is influenced by human factors such as urban planning and response capacity. Disasters can be sudden, recurrent, or slow-evolving and may exacerbate pre-existing tensions, leading to forced displacement. Individuals affected by disasters may experience violations of their human rights, and states have a responsibility to protect these rights. In contexts of cross-border displacement, rights related to international refugee law are activated, including the principle of non-refoulement, recognized as a binding norm for all states, ensuring that individuals are not returned to territories where their life or freedom is at risk.

There is an interaction and convergence between International Human Rights Law and International Refugee Law. The Inter-American Court of Human Rights (IACHR) recognizes the connection between environmental protection and the realization of other human rights. The IACHR has determined that the right to a healthy environment includes procedural and substantive elements, such as access to information and public participation. States must fulfill duties of prevention, cooperation, and ensure rights during forced displacement. The participation of displaced populations is essential to consider their needs and opinions in the adopted measures.

The IACHR has addressed the substantive and procedural obligations of states concerning environmental protection, which arise from the duty to respect and guarantee human rights: the obligation to protect the right to life and personal integrity does not imply restricting the obligation to preserve other rights, including those particularly vulnerable to environmental degradation, such as the right not to be forcibly displaced.

Regarding this, through Advisory Opinion OC-23/17, the IACHR established, among other duties of states: (i) Prevention: Implement necessary measures before environmental harm occurs, such as regulating, supervising, and overseeing potentially harmful activities; requiring and approving environmental impact studies; establishing contingency plans, and mitigating in cases of environmental harm; (ii) Good Faith Cooperation: Cooperate in protecting against environmental damage; (iii) Access to Information: Guarantee the right to access information related to potential environmental impacts; (iv) Public Participation: Ensure public participation in decision-making and policies that may affect the environment; (v) Access to Justice: Ensure access to justice.

Cross-border displacement due to disasters or adverse effects of climate change may require protection under refugee status if these displacements meet the definition of a refugee under the 1951 Convention and the 1967 Protocol. This means displaced individuals have the right to seek asylum and cannot be turned away at the border. Additionally, their applications must be properly assessed by national authorities.

The 1984 Cartagena Declaration proposes expanding the definition of a refugee to include those not covered by the classic definition but who still need international protection due to serious threats to their life, security, or freedom. This expanded definition should be considered as part of the international protection framework in countries that have incorporated it into their legislation. The IACHR has recognized that this expanded definition addresses the dynamics of forced displacement and current challenges, including displacement due to disasters and climate change.

The principle of non-refoulement, established in Article 22.8 of the American Convention on Human Rights (ACHR), protects all foreign individuals whose life, integrity, or freedom is at risk, regardless of their legal status or migratory condition. Complementary protection should be provided to those who do not qualify as refugees but cannot be returned to their country of origin due to threats to their life or security. The IACHR has urged states to incorporate this protection into their domestic laws to ensure the basic rights of individuals displaced by disasters and climate change.

VII. CLOSING REMARKS

The closing segment of this Consultation coincided with the end of the consultation phase of the Cartagena+40 Process. Participants included Ambassador Tomás Pascual, Director of the Human Rights Division at the Ministry of Foreign Affairs of Chile; Ambassador Alejandra Bonilla Leguizamón, Coordinator of the Refugee Internal Working Group (GIT) at the Ministry of Foreign Affairs of Colombia; Professor Walter Kälin, Envoy of the Presidency of the Disaster Displacement Platform and former UN Secretary-General's Representative on the Human Rights of Internally Displaced Persons; and José Samaniego, Director of the UNHCR Americas Office.

The speakers underscored that forced displacement has reached historic levels and has been exacerbated by conflicts and the climate crisis. The examples presented during the consultation regarding the regularization and strengthening of asylum systems, as well as the decision of the Constitutional Court of Colombia, are hopeful. There is a need to improve international protection systems, modernize asylum systems, and expand legal mobility pathways; as well as to promote local integration of refugees and displaced persons and mobilize resources to mitigate the causes of forced displacement. They emphasized

that international cooperation and shared responsibility are essential for an effective and coordinated response, and the framework of the Global Compact on Refugees and its implementation mechanisms are well-suited for articulating the implementation of the Chile Plan of Action.

They highlighted the importance of the Process and the Spirit of Cartagena for the region, as well as the way it has been worked on during the first phase of the commemoration of the fortieth anniversary of its initial declaration. The inclusive, participatory, and cross-cutting nature of the process has achieved a legitimacy that will positively impact the protection of people on the move in Latin America and the Caribbean. Special mention was made of the contributions from Caribbean countries, territories, and organizations, which symbolize the unity of the region and the need for dialogue to collaboratively and supportively address the challenges faced by all countries.

The participating governments were invited to continue the joint reflection process towards the design and consensus of the Chile Declaration and Plan of Action, which will guide states and other regional actors over the next 10 years in the areas of protection, solutions, and the eradication of statelessness.

Chile extended an invitation to the Ministerial Event in December 2024 in Santiago, Chile, for the joint adoption of these instruments, which will mark a new milestone in the tradition of protection for Latin American and Caribbean countries.