

THE NANSEN INITIATIVE

DISASTER-INDUCED CROSS-BORDER DISPLACEMENT



AGENDA FOR THE PROTECTION OF CROSS-BORDER DISPLACED PERSONS IN THE CONTEXT OF DISASTERS AND CLIMATE CHANGE VOLUME II

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The rivers in the coastal area of Patuakhali Bangladesh are getting wider day by day. They quietly gobble up thousands of hectares of agricultural lands every year.

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A photograph of a child jumping rope in a rubble-strewn alleyway next to a damaged building. The child is in the foreground, wearing a white tank top and pink shorts, jumping over a black rope. To the right, two other children are standing near a doorway with a metal grille. The ground is covered in debris and rubble, and the building shows signs of damage. The text "ANNEX I REGIONAL DYNAMICS OF DISASTER-RELATED HUMAN MOBILITY" is overlaid on the right side of the image.

ANNEX I
REGIONAL DYNAMICS
OF DISASTER-RELATED
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ANNEX I: REGIONAL DYNAMICS OF DISASTER-RELATED HUMAN MOBILITY

According to the Internal Displacement Monitoring Centre (IDMC), between 2008 and 2014 a total of 184.6 million people were displaced by disasters, an average of 26.4 million people newly displaced each year.¹ Of these, an annual average of 22.5 million people was displaced by weather related hazards.² While the majority of these estimates represent internal displacement, IDMC notes that its global data “covers only the incidence of displacement, and not where displaced people flee to or where they eventually settle.”³ Furthermore, these estimates, while indicative of overall trends, do not include all small scale displacements, slow-onset hazards, or data collection on protracted displacement.

Conclusive global figures on cross-border disaster-displacement are not possible to compile for many reasons, including the diverse drivers of displacement, scientific uncertainties and the lack of systematic data collection and sharing. For example, censuses and other forms of population data collection rarely include questions that determine what factors influence movement, or whether it was voluntary or forced. Compiling comprehensive figures is further hindered by that fact that “displacement” terminology is not consistently utilized within disaster response efforts, or disaster-loss databases. Instead, many disaster-related statistics report “displaced,” “homeless,” “evacuated,” and “affected” populations interchangeably⁴ or refer only to “damaged” and “destroyed” homes.

Displaced persons may also resist defining themselves as displaced in disaster contexts, or they may disperse and disappear in small groups after a disaster. Finally, it may not be clear whether the impacts of the disaster forced an individual to move, or whether the disaster became one of several factors driving the decision to move. Thus, sufficient evidence is not currently available to provide global figures as to how many people have crossed international borders in disaster contexts.

Recognizing these challenges, this Annex provides an overview of information on cross-border disaster-displacement, as well as broader regional dynamics on human mobility associated with natural hazards and the adverse effects of climate change, in different regions of the world as gathered by the Nansen Initiative in the course of its consultations and meetings, and reflecting research commissioned by it. Notably, this overview is incomplete, as the Nansen Initiative did not hold Regional Consultations or conduct in-depth research in all areas of the world, nor was the objective of the Nansen Initiative to collect and consolidate primary data.

1 IDMC, *Global Estimates 2015: People Displaced by Disasters* (2015) p.20 at <http://www.internal-displacement.org/assets/library/Media/201507-globalEstimates-2015/20150713-global-estimates-2015-en-v1.pdf>.

2 Ibid. p.8.

3 Ibid. p.17.

4 For example, see ‘Figure 2 total displaced and evacuated in 2008 by sudden onset disasters by region’ in UNOCHA & IDMC, *Monitoring Disaster Displacement in the Context of Climate Change: Findings of a study by the United Nations Office for the coordination of Humanitarian Affairs and the Internal Displacement Monitoring Centre* (2009) p.13.

I. Africa and the Middle East

Across Africa, the impacts of disasters often result in displacement both within countries and abroad, while temporary or permanent migration is commonly used as a strategy to adjust to climatic variation.⁵ Between 2008 and 2014, an estimated 14.7 million people were displaced in the context of sudden-onset disasters in Africa.⁶ Given the “varied and patchy” evidence base on internal and international migration in Africa, the IPCC has reported that projections on the impact of climate change on human mobility vary, and sometimes even contradict one another given the complex relationship between natural hazards, climatic changes, environmental degradation, population growth, levels of development and governance.⁷ That said, in general, increasing levels of displacement in the context of extreme weather events are anticipated across the continent. The following sections explore Africa and the Middle East’s sub-regional dynamics in more detail.

A. Greater Horn of Africa and Central Africa

The Greater Horn of Africa⁸ is particularly vulnerable to natural hazards such as droughts and floods that compound the impacts of conflict in the region. Over recent years, large-scale disasters have prompted millions of people to flee internally and across porous international borders in search of humanitarian assistance. Central Africa,⁹ which already suffers from political instability and humanitarian crises that have displaced thousands of people, is exposed to a range of natural hazards, including flooding, earthquakes, landslides and volcanic eruptions.¹⁰ Pastoralists, particularly in the Horn of Africa, also traditionally move internally and across international borders to access water, grazing land and markets in response to environmental stress, with community-based mechanisms in some areas playing an important role in mitigating potential conflict with host communities. Migrants leaving their country using irregular means due to poverty, and in many cases linked to drought, also face numerous protection risks when they use perilous routes upon which they are exposed to smuggling, human trafficking, extortion and violence while moving within the region or to the Middle East, Southern Africa, Europe and beyond.

1. Examples of Cross-Border Disaster-Displacement in the Horn of Africa and Central Africa

In the context of the 2011-2012 Horn of Africa drought crisis, which exacerbated the pre-existing instability within Somalia, some 1.3 million Somalis were internally displaced. In addition, approximately 290,000 disaster displaced people sought protection and assistance across international borders.¹¹ Some 160,000 people crossed the Kenyan border in 2011, most from the drought affect southern and central parts of Somalia and the majority traveled to the Dadaab refugee camp.¹² The Government of Kenya issued a statement explaining that the “current influx of refugees into Kenya is of Somalis seeking food and not people running away from violence. The refugees are coming into Kenya to get food due to the

5 Isabelle Niang and Oliver C Ruppel (et al.) ‘Chapter 22 Africa,’ *IPCC WGII AR5* p.1239 at https://ipcc-wg2.gov/AR5/images/uploads/WGIIAR5-Chap22_FINAL.pdf.

6 IDMC, *supra* note 1, p.30.

7 Niang & Ruppel, *supra* note 5 p.1239.

8 As classified as member States of the Intergovernmental Authority on Development (IGAD): Djibouti, Eritrea (suspended 2007), Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda.

9 As classified as Member States of the Economic Community of Central African States (ECCAS): Angola, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, the Republic of the Congo, Equatorial Guinea, Gabon, Rwanda and Sao Tome and Principe.

10 Royal Museum for Central Africa, *The Natural Disaster Database for Central Africa*, Tervuren, Belgium at <http://www.africamuseum.be/museum/research/general/research-picture/natural-disasters-database>.

11 According to the UNHCR’s 2011 Global Report for Somalia, as a result of the drought, famine, ongoing conflict, insecurity and human rights violations, “an estimated 290,000 Somalis fled across the border into neighbouring countries, mainly to Ethiopia and Kenya, while more than 1.3 million were estimated to be internally displaced.” UNHCR, *Global Report 2011- Somalia* (Geneva, 2011) p.95 at <http://www.unhcr.org/4fc880a70.html>.

12 Mehdi Achour & Nina Lacan, Drought in Somalia: A migration crisis in François Gemenne, Pauline Brucker and Dina Ionesco (Eds.), *The State of Environmental Migration 2011*, Institute for Sustainable Development and International Relations/International Organization for Migration (2012) p.83.

severe drought situation in Somalia.”¹³ An estimated 85 per cent of Somalis displaced during the drought used unofficial border routes to enter Kenya.¹⁴

During the 2011 drought crisis, some 117,000¹⁵ Somalis crossed into Ethiopia, many to refugee camps, including in Dollo Ado.¹⁶ The Somali government also helped to facilitate localized evacuations from southern Somalia into Ethiopia.¹⁷ Other examples of severe drought in the pastoral border regions of Kenya, Somalia, Ethiopia, Uganda and Tanzania have also caused recurrent internal and cross-border movements.¹⁸ Most recently in March 2014, a year-long drought prompted some 30,000 Turkana pastoralists from north-west Kenya to move their livestock into Uganda in search of water and food.¹⁹

The 2002 eruption of Mount Nyiragongo in the DRC destroyed 40 per cent of Goma, forcing some 350,000 people to flee across the border into Rwanda and Uganda.²⁰ According to the local authorities, an estimated 300,000 Congolese fleeing the eruptions were allowed to enter Rwanda and were hosted in Gisenyi, a border town in Rwanda.²¹ Over the days and weeks that followed, thousands of Congolese moved back and forth across the DRC and Rwandan border, with most returning home in the first week, while others first visited their homes before moving back permanently.²² One week after the eruption, an estimated 10,000 people remained in Rwanda.²³ The Ugandan Government also allowed thousands of Congolese from Goma to cross the border. Kabale Resident District Commissioner James Mwesigye authorized their entry, and was quoted in the media as stating, “These people are not a security threat to Uganda, they are just fleeing for their lives and escaping the volcanic eruptions. Nobody should stop them from entering Uganda.”²⁴

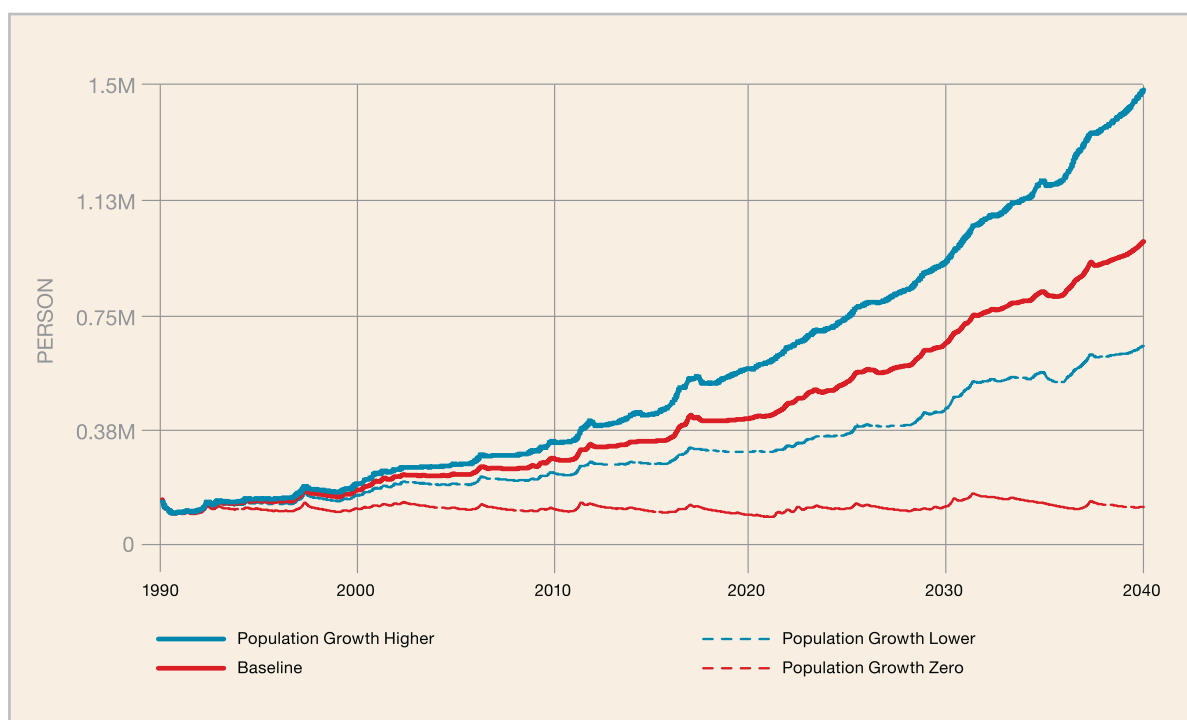
In Central Africa, flooding and drought have compounded the impacts of conflict and insecurity, food insecurity and weak resilience in the region, contributing to higher numbers of people displaced within their own countries and abroad, such as following the 2010 and 2012 Sahel drought and floods.²⁵ For

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- 13 Government of Kenya (2011), *Government of Kenya Briefing on the Refugee and Drought Situation in the Country* (21 July 2011) cited in Vikram Kolmannskog, ‘We are in between: Case studies on the protection of Somalis displaced to Kenya and Egypt during the 2011 and 2012 drought’ (20014) 2(1) *International Journal of Social Science Studies* p.85.
 - 14 Achour & Lacan, *supra* note 12, p.85.
 - 15 OCHA, *Humanitarian Response Fund: Ethiopia* (Annual Report 2012) p.6 at <https://docs.unocha.org/sites/dms/Documents/Ethiopia%20HRF%202012.pdf>.
 - 16 James Darcy, Paul Bonard and Skukria Dini (Eds.), *IASC Real Time Evaluation of the Humanitarian Response to the Horn of Africa Drought Crisis: Somalia 2011-2012*, Inter Agency Standing Committee Report (May 2012) p.18 at <https://docs.unocha.org/sites/dms/Documents/IASC-RTE%20Somalia%202012.pdf>.
 - 17 Shabelle Media Network, ‘Somalia: MP - Drought-Affected People Evacuated to Ethiopia’ (10 July 2011) *allAfrica* at <http://allafrica.com/stories/201107110074.html>.
 - 18 Security in Mobility Initiative, *Security in Mobility: Advocating for Safe Movement as a Climate Change Adaptation Strategy for Pastoralists in the Horn and East Africa*, OCHA, IOM, ISS and UNEP (June 2010) p.14.
 - 19 Sam Jones, ‘Kenya’s Turkana region brought to the brink of humanitarian crisis by drought,’ *The Guardian* (26 March 2014) at <http://goo.gl/THXvPk>.
 - 20 Danna Harman, ‘Volcanic Eruption Devastates War Weary Congo City’ (January 2002) *National Geographic online* at http://news.nationalgeographic.com/news/2002/01/0122_020122_wirevolcano.html.
 - 21 ICRC Resource Centre, *Democratic Republic of the Congo (DRC): Eruption of Nyiragongo Volcano, Goma*, Operational Update (22 January 2002) at <https://www.icrc.org/eng/resources/documents/misc/57jrkx.htm>.
 - 22 Alice Edwards, ‘Refugee Status Determination in Africa’ (September 2006) 14(2) *African Journal of International and Comparative Law*, p.225-227; ReliefWeb, *DR Congo and Rwanda: Volcanic eruption in Goma Appeal No.02/02 Operations Update No.1* (20 January 2002) at <http://tinyurl.com/pyp6hum>.
 - 23 UN OCHA, *The role of OCHA in the Emergency Operations Following the Eruption of the Nyiragongo Volcano in Goma, Democratic Republic of Congo* (2002) at <http://reliefweb.int/report/world/role-ocha-emergency-operations-following-eruption-nyiragongo-volcano-goma-democratic>.
 - 24 Reliefweb report, *Volcano-hit Congolese cross into Uganda* (22 January 2002) at <http://reliefweb.int/report/democratic-republic-congo/volcano-hit-congolese-cross-uganda>.
 - 25 UN OCHA, *Sahel Regional Strategy 2013* (2013) p.6 at https://docs.unocha.org/sites/dms/CAP/2013_Sahel_Regional_Strategy.pdf.

example, in 2004, prolonged drought in Kirundo, Burundi prompted an unknown number of people to cross into neighboring Rwanda, where they shared ethnic and linguistic heritage with the people. One researcher found that in light of the post-conflict situation in Burundi and concerns about upcoming elections, UNHCR reportedly “made an effort to consider them within a political context,” and provided assistance to such persons from Burundi as refugees under UNHCR’s mandate, although most people gave both political and disaster related reasons for seeking asylum.²⁶

2. Projections

The IPCC Fifth Assessment report expects extreme weather events to become more frequent and intense as the climate changes.²⁷ Such events are expected to further weaken resilience to natural hazards and exacerbate the potential for conflict associated with competition over scarce resources, such as water and grazing areas. Consequently, the number of disaster displaced people in the Horn of Africa is likely to increase, and will be influenced by factors related to population growth, access to pasture land, and the frequency of drought. An IDMC study found that addressing these contributing factors, as well as undertaking policy measures such as implementing higher grazing efficiency and introducing drought tolerant livestock, could help to reduce future levels of displacement.²⁸ Furthermore, due to Central Africa’s largely agricultural based economy, the region is particularly vulnerable to the risks of climate change²⁹ since slight variations in temperature can lead to food shortages, drought and flooding.



Source: Justin Ginnetti and Travis Franck, “Addressing Drought Displacement Risk for Kenyan, Ethiopian and Somali Pastoralists,” Internal Displacement Monitoring Centre (2014) p.31.

- 26 Vikram Kolmannskog, ‘Climate change, disaster, displacement and migration: Initial evidence from Africa’ (2009) *New Issues in Refugee Research*, Research Paper 180, UNHCR p.12.
- 27 IPCC (2014). *Climate Change 2014: Impacts, Adaptation, and Vulnerability*. Chapter 10, Key Economic Sectors and Services p.4
- 28 Justin Ginnetti and Travis Franck, *Assessing Drought Displacement Risk for Kenyan, Ethiopian and Somali Pastoralists*, IDMC Technical Paper (26 April 2014) pp.35-37 at <http://www.internal-displacement.org/assets/publications/2014/201405-horn-of-africa-technical-report-en.pdf>.
- 29 IFRC, ‘West and Central Africa: A strengthened partnership in response to natural disasters and floods’ (18 May 2010) at <http://www.ifrc.org/en/news-and-media/news-stories/africa/senegal/west-and-central-africa-a-strengthened-partnership-in-response-to-natural-disasters-and-floods/>.

B. North Africa and the Middle East

Since the 1980s the number of disasters in North Africa and the Middle East has almost tripled.³⁰ Rapid urbanization with growing informal settlements, particularly in coastal areas where some 60 million people live, is a major contributing factor to increased disaster risk. Floods, earthquakes, and droughts remain the most common natural hazards in the region.³¹ Between 1980 and 2010, six countries experienced 81 per cent of all disaster events in the region: Algeria, Djibouti, Egypt, Iran, Morocco and Yemen.³² However, to date, the region has not experienced a significant amount of disaster displacement.³³ Specific examples include the 2003 Bam earthquake in Iran, which killed 27,000 people and displaced hundreds of thousands of Iranians, and was one of the region's most devastating events.³⁴ Algeria also suffered from a significant earthquake in May 2003 that killed over 2,000 people, and forced an estimated 150,000 displaced people to live in 185 camps,³⁵ with government-led relocation efforts beginning in early 2004.³⁶ The region is also characterized by high levels of internal and regional migration. Morocco in particular is known as a transit country for migrants largely from Sub-Saharan Africa, who travel to Europe. Yemen also receives a large number of people from Southern Africa and the Horn of Africa, which places additional strain on the country's already fragile situation.³⁷ Irregular migrants moving in parts of the Middle East and North Africa may also face protection risks associated with people trafficking, organized crime and political violence.

1. Examples of Cross-Border Disaster-Displacement in the Middle East and North Africa

No documented examples of cross-border disaster-displacement within the Middle East and North Africa were identified. However, in the context of Syria, some researchers have explored to what extent the devastating social and economic consequences of the prolonged 2007-2010 drought, and climate change in particular, was one of many contributing factors to the Syria's civil war³⁸ that has resulted in 7.6 million IDPs³⁹ and over four million refugees.⁴⁰

Countries in the Middle East and North Africa have, however, received cross-border disaster-displaced persons arriving from outside of the region, or have not returned people from disaster-affected countries. For example, the Government of Lebanon reported to the UN Independent Expert on the situation of human rights in Haiti that it had suspended the deportation of Haitians after the 2010 earthquake.⁴¹

During the 2011-2012 Horn of Africa drought crisis, Somalis fled to Egypt and received asylum. An estimated 100,000 people from southern Somalia also moved first to Djibouti, and then across the Gulf of

30 The International Bank for Reconstruction and Development/The World Bank, *Natural Disasters in the Middle East and North Africa: A Regional Overview* (January 2014) p.1 at <http://tinyurl.com/oz7tees>.

31 Ibid. p.6.

32 Ibid. p.1.

33 IDMC, *supra* note 1, p.31.

34 The International Bank for Reconstruction and Development/The World Bank, *supra* note 30, p.63.

35 OCHA, *OCHA Situation Report No. 9 Algeria Earthquake* (23 June 2003) OCHA/GVA-2003/0099 at <http://reliefweb.int/report/algeria/algeria-earthquake-ocha-situation-report-no-9>.

36 IFRC, *Algeria Earthquake Appeal No. 14/03 Final Report* (24 July 2006) at <http://reliefweb.int/report/algeria/algeria-earthquake-appeal-no-1403-final-report>.

37 UNHCR Briefing Notes, *Mixed Migration Between Horn of Africa and Yemen Reaches Record High* (18 November 2011) at <http://www.unhcr.org/4ec63ace9.html>.

38 See for example, Colin P. Kelley, Shahrzad Mohtadi, Mark A. Cane, Richard Seager, and Yochanan Kushni, 'Climate change in the fertile crescent and implications of the recent Syrian drought,' (2015) 112(11) *PNAS* pp.3241-3246; published ahead of print (2 March 2015).

39 IDMC, 'Global Figures' as of July 2015 at <http://www.internal-displacement.org/middle-east-and-north-africa/syria/>.

40 UNHCR, *Syria Regional Refugee Response* (9 July 2015) at <http://data.unhcr.org/syrianrefugees/regional.php>.

41 United Nations Human Rights Council, 'Report of the Independent Expert on the Situation of Human Rights in Haiti, Michel Forst, Addendum, Forced Returns of Haitians from Third States', *UN Doc A/HRC/20/35/Add.1* (4 June 2012) p.7.

Aden to Yemen, with some people traveling on to the Middle East and Europe.⁴² There is also evidence that people from Somaliland, who fled from Libya after the political upheaval, appealed to UNHCR in Egypt that they could not go home to Somaliland, due to, inter alia, the Horn of Africa drought crisis.⁴³ For example, one displaced individual in Cairo told an interviewer, “Here we are in between. If we try to go to Europe, we die in the Mediterranean. In Somalia we die of conflict and drought.”⁴⁴

In Djibouti, extended periods of extreme drought that led to food insecurity, such as between 2007 and 2011, were also found to contribute to extensive rural-urban displacement, feeding into the mixed migration flow across the Gulf of Aden, and into Yemen.⁴⁵

2. Projections

Arguably already the most water-scarce region in the world, rising temperatures in the Middle East and North Africa are expected to result in decreased annual precipitation and increase aridity.⁴⁶ The largest precipitation decreases are likely to be found in “southern Egypt, Morocco, central and coastal Algeria, Tunisia, central Libya, Syria, and central and eastern Iran.”⁴⁷ These changes could impact agricultural productivity, food and water scarcity, and potentially contribute to violence and conflict.⁴⁸ The IPCC has also found that millions of people in the Middle East and North Africa’s growing coastal urban areas would be displaced by sea level rise, with a one meter rise affecting some 3.2 per cent of the region’s population.⁴⁹ Low-lying coastal regions of Kuwait, Qatar, Libya, Tunisia, UAE and Egypt would also be exposed to significant risks from sea level rise.⁵⁰

C. Southern Africa

Flooding associated with tropical cyclones, and severe droughts have consistently contributed to both internal and cross-border displacement and migration in Southern Africa. Other natural hazards include landslides, flashfloods, seasonal flooding, earthquakes, tsunamis, tornados, excessive snowfall, hail storms, sand storms, extreme temperatures and volcanic eruptions. Hazards such as these take place in broader environmental, social and political contexts impacted by inequality, poverty, violence and governance challenges with implications for elevated levels of disaster and displacement risk. Between 2008 and 2014, IDMC estimated that more than 2.24 million people were displaced by sudden-onset disasters in Southern Africa. To date, the 2000 Cyclone Eline was the most devastating sudden-onset disaster affecting Southern Africa in recent memory. It traversed 2,000 km across the continent, affected five million people, and displaced as many as 1.25 million people across Southern Africa, with 250,000 displaced in Mozambique alone.

Migration within Southern Africa “has increased dramatically over the past two decades,” building on a

42 Regional Mixed Migration Secretariat, *Global Migration Futures: Using scenarios to explore future migration in the Horn of Africa & Yemen*, Project Report (November 2012); Michelle Leighton, Xiaomeng Shen and Koko Warner, *Climate Change and Migration: Rethinking Policies for Adaptation and Disaster Risk Reduction*, United Nations University for Environment and Human Security (UNU-EHS) (2011) p.36.

43 Kolmannskog, *supra* note 13, p.86.

44 Ibid. p.87.

45 *IRIN News Brief*, ‘DJIBOUTI: Food security critical as drought intensifies’ (25 October 2013) at <http://tinyurl.com/oue6hx3>.

46 Balgis Osman Elasha, ‘Mapping of climate change threats and human development impacts in the Arab Region,’ *Research Paper Series UNDP* (2010) p.22 at <http://www.arab-hdr.org/publications/other/ahdrps/paper02-en.pdf>.

47 Wilco Terink, Walter Willem Immerzeel and Peter Droogers, ‘Climate change projects of precipitation and reference evapotranspiration for the Middle East and North Africa until 2050’ (2013) *International Journal of Climatology* p.1 at http://www.futurewater.nl/wp-content/uploads/2013/05/Terink_MENA_JOC.pdf.

48 Elasha, *supra* note 46, p.25.

49 The International Bank for Reconstruction and Development/The World Bank, *supra* note 30, p.2.

50 Elasha, *supra* note 46, p.25.

long history of regional migration for labour and other purposes.⁵¹ The majority of migration in Southern Africa is circular, and tends to follow kinship and other community ties.⁵² The region is also a frequent destination for migrants, refugees and displaced persons from across the rest of Africa, including in the context of disasters.⁵³

1. Examples of Cross-Border Disaster-Displacement in Southern Africa

During the height of the 2001-2002 drought in Zimbabwe, a conservative estimate of between 1.5 and 2 million Zimbabweans left the country to South Africa, Botswana, other SADC countries and further abroad to the UK, Australia and the US. While political instability was the principal driver for this movement, studies have shown that drought significantly contributed to migration.⁵⁴ For example, during the same period, an unknown number of Malawians also migrated across the border into Zambia as a coping strategy as a result of drought and food insecurity.⁵⁵

Severe drought in 2013-2014 affected an estimated 2.2 million people across Southern Angola and Northern Namibia, prompting the two governments to set up displacement camps, including in border regions. Angolans also reportedly crossed the Kunene River into Namibia in search of food and medical care.⁵⁶

The arrival of Cyclone Chedza on 19 January 2015 caused substantial damage and displacement across eastern Southern Africa, with severe flooding particularly affecting southern Malawi and northern Mozambique. At least 21,475 people were internally displaced in Madagascar as the storm moved across the island, with an estimated 230,000 people displaced in Malawi, and 50,000 in Mozambique.⁵⁷ Severe flooding also prompted displacement in both directions across the border between Malawi and Mozambique.⁵⁸ The Governments of Mozambique and Malawi worked in collaboration to assist the displaced persons, which allowed the Government of Mozambique to access and assist their own citizens who were receiving assistance in Malawi.⁵⁹ Anecdotal evidence indicates that people from Mozambique and Malawi quite regularly temporarily move into neighbouring countries, including Zimbabwe and South Africa, when flooding occurs.⁶⁰

51 Belinda Dodson & Jonathan Crush, *Migration Governance and Migrant Rights in the Southern African Development Community (SADC): Attempts at Harmonization in a Disharmonious Region*, Draft Paper prepared for the UNRISD Conference on Regional Governance of Migration and Socio-Political Rights: Institutions, Actors and Processes (14-15 January 2013) p.2.

52 Jonathan Crush, Vincent Williams and Sally Peberdy, *Migration in Southern Africa*, Global Commission on International Migration (September 2005) p.17.

53 See Christopher Horwood, *In Pursuit of the Southern Dream: Victims of Necessity Assessment of the Irregular Movement of Men from East Africa and the Horn to South Africa*, International Organization for Migration (April 2009).

54 See Craig Richardson, 'How much did drought matter? Linking rainfall and GDP growth in Zimbabwe' (2007) *106 African Affairs*; Carolina Dube, *The impact of Zimbabwe's drought policy on Sontala rural community in Matabeleland South Province*, MSc thesis, Stellenbosch University (2008); Sithabiso Gandure, *Coping with and Adapting to Drought in Zimbabwe*, PhD dissertation, University of Witwatersand (2005).

55 Stephen Devereux, 'State of disaster, causes, consequences & policy lessons from Malawi,' *ActionAid* (2002) at http://www.actionaid.org.uk/sites/default/files/doc_lib/113_1_state_of_disaster.pdf.

56 Reidun Gjerstad, 'Angola's migration of thirst: The 2013 drought' in Gemenne, Brucker & Ionesco, *supra* note 12, p.92.

57 UN OCHA, *Weekly Report 10 to 16 February 2015* (16 February 2015) at http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA_ROSA_Weekly_Report_Map_10to16Feb2015.pdf.

58 *Times Live*, 'Relief for flood-hit Mozambique and Malawi' (18 January 2015) at <http://www.timeslive.co.za/thetimes/2015/01/18/relief-for-flood-hit-mozambique-and-malawi>.

59 Nansen Initiative, *Draft Report: Nansen Initiative Southern Africa Consultation* (Stellenbosch University, 3-4 June 2015) p.6.

60 *Ibid.* p.6.

2. Projections

While recognizing that human mobility is complex and multi-causal in nature, many of the interacting social, demographic and economic drivers of observed migration are sensitive to climate change impacts.⁶¹ The Intergovernmental Panel on Climate Change's (IPCC) Fifth Assessment Report concludes that there is a medium to high risk that the effects of climate change will result in an increase in migration and displacement across Southern Africa, and the rest of Africa.⁶² Mauritius, the Comoros and the Seychelles are all susceptible to the effects of natural hazards, but are particularly exposed to the potential salt water intrusion of fresh water sources and arable land, and coastal erosion associated with sea level rise. For example, in the Comoros, the effects of climate change could cause the displacement of 10 per cent of the country's population by 2050 if current IPCC predictions are realized.⁶³

D. West Africa

West Africa⁶⁴ is prone to many natural hazards, especially droughts and floods. Steadily increasing since 1980, floods in West Africa have affected, although not necessarily displaced, some 14.2 million people from 2004 to 2015.⁶⁵ The region is also known for its exceptionally high level of intra-regional migration. Migrants move not only for reasons related to economic inequality and political unrest but also because of environmental degradation. Many people follow customary migration routes, often crossing international borders drawn during the colonial period. Due to the ECOWAS Protocol on Free Movement of Persons, Residence, and Establishment,⁶⁶ West African nationals can freely cross the borders between most countries in the region. In particular, recognizing the need for pastoralists to move in times of drought and environmental stress to access water and grazing lands for the survival of their livestock, ECOWAS has developed a protocol that permits and facilitates movement along traditional routes across international borders among 15 Member States.⁶⁷ A large number of migrants from West Africa also travel to Europe, sometimes under very dangerous conditions.

61 Niang & Ruppel, *supra* note 5, p.1204.

62 Ibid. p.1204.

63 UNFCCC, *Initial National Communications on Climate Change: Executive Summary* (December 2002) p.1 at <http://unfccc.int/resource/docs/natc/comnc1e.pdf>.

64 As classified as Member States of the Economic Community of Western African States (ECOWAS): Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

65 According to statistics from the database EM-DAT (2014) at http://www.emdat.be/advanced_search/index.html.

66 ECOWAS, *Protocol on Free Movement of Persons, Residence, and Establishment* (29 May 1979) at <http://www.cfr.org/world/economic-community-west-african-states-ecowas-protocol-free-movement-persons-residence-establishment/p28124>.

67 For example ECOWAS utilizes international transhumance certificate (ITC) to administer transhumance in the region. See F.A. Abiola, A. Teko-Agbo, C. Biao and M. Niang, *Socio-Economic and Animal Health Impact of Transhumance*, Ecole Inter-Etats des Sciences et Médecine Vétérinaires BP5077 Dakar, Senegal at <http://www.oie.int/doc/ged/D3248.PDF>.

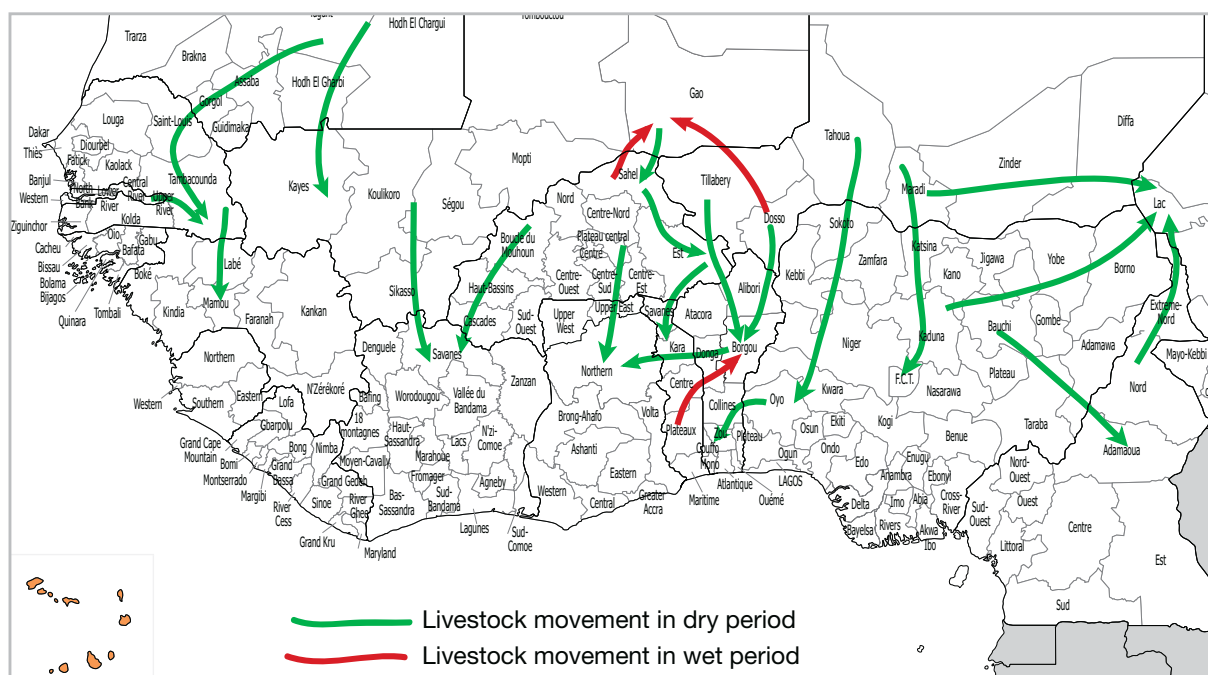


Figure 1 : Cross-Border Transhumance Migration in West Africa
Source: SWAC/OECD. 2007. Livestock in the Sahel and West Africa. Policy Note 3.

1. Examples of Cross-Border Disaster-Displacement in West Africa

The ECOWAS free movement protocol makes it difficult to identify recorded examples of cross-border disaster-displacement in West Africa. However, floods in particular, but also droughts, commonly contribute to displacement in the region. For example, floods in 2009 affected some 600,000 people in Burkina Faso, Ghana, Niger, Senegal and Sierra Leone, with 150,000 people displaced in Burkina Faso alone.⁶⁸ Nigeria, in particular, has had a high number of disaster displaced persons, with IDMC reporting that over six million people were displaced by the devastating 2012 floods that destroyed major infrastructure and devastated large swaths of agricultural land.⁶⁹ The 2012 drought across the Sahel region has also been found to contribute to the political instability and conflict in Mali that displaced over 100,000 people into neighboring countries, including Burkina Faso.⁷⁰ After the 2010 earthquake in Haiti, the President of Senegal offered to receive survivors. In October 2010, the Government ultimately hosted 163 Haitian university students, paying all their expenses.⁷¹

2. Projections

The IPCC Fifth Assessment Report concludes that the frequency and intensity of drought will continue to increase in West Africa into the late 21st century.⁷² Rising sea levels are also expected to have a significant impact on displacement risk along the Gulf of Guinea, from the Senegalese and Gambian coast to as far as Egypt. Some 40 per cent of the region's population live in growing coastal cities along the coast, most notably the port cities of Abidjan, Accra, Dakar, Conakry, Lagos, and Lomé, but also Cotonou and

68 ReliefWeb, *Fact box – West Africa's Seasonal Floods in 2009* (4 September 2009) at <http://reliefweb.int/report/benin/factbox-west-africas-seasonal-floods-2009>.

69 IDMC, *Global Estimates 2014: People Displaced by Disasters* (2014) p.15.

70 Nakia Pearson and Camille Niaufre, 'Desertification and drought related migrations in the Sahel – The cases of Mali and Burkina Faso' in Gemenne, Brucker & Ionesco, *supra* note 12, pp.94-95.

71 Patricia Weiss Fagen, *Receiving Haitian Migrants in the Context of the 2010 Earthquake*, Nansen Initiative Commissioned Paper (2013) p.21 at <https://www.nanseninitiative.org/central-america-consultations-intergovernmental/>.

72 IPCC, *Summary for Policymakers* (2013) p.7 at http://www.climatechange2013.org/images/report/WG1AR5_SPM_FINAL.pdf.

Nouakchott.⁷³ Consequently, the number of people threatened by coastal flooding could potentially increase from one million in 1990 to 70 million in 2080.⁷⁴

II. Americas

A. The Caribbean

The Caribbean Islands are exposed to a wide range of natural hazards including hurricanes, floods, earthquakes, volcanic eruptions, tsunamis, storm surges, and drought. Hurricanes in the Caribbean, such as Tomas in 2010, Isaac in 2012 and Sandy in 2012, have destroyed infrastructure and agricultural areas, and displaced thousands of people across the region.⁷⁵ Flooding from Tropical Storm Nicole in 2010 devastated Jamaica, St. Lucia, Barbados, Antigua, St. Vincent and Belize.⁷⁶ A major drought linked to the 1997-1998 El Nino Southern Oscillation (ENSO) significantly affected the region, causing forest fires as well as lost livestock and agriculture. The devastating 2010 earthquake in Haiti displaced some 2.3 million people, mostly within the country but also to neighbouring Caribbean countries, and to other countries in the Americas.

1. Examples of Cross-Border Disaster-Displacement in the Caribbean

After the 2010 Haiti earthquake over 200,000 disaster displaced persons were admitted by the Dominican Republic in the days and months following the earthquake.⁷⁷ Other neighbouring States also received Haitians, including Antigua & Barbuda,⁷⁸ Jamaica⁷⁹ and countries across the Americas.⁸⁰ Caribbean States also announced non-return policies for Haitians already on their territories, including the Bahamas,⁸¹ Dominica,⁸² the Dominican Republic,⁸³ Jamaica⁸⁴ and the Turks and Caicos Islands.⁸⁵

After the 1995 Montserrat volcanic eruption, Cuba reportedly admitted a small number of Montserradians, mainly children in need of medical treatment, as “refugees” under Cuban Law.⁸⁶

73 Caroline Zickgraf, Sara Vigil, Florence de Longueville, Pierre Ozer and François Gemenne, *The Impact of Vulnerability and Resilience to Environmental Changes on Mobility Patterns in West Africa*, Paper presented at the Vulnerability and Resilience in the Context of Environmental Change and Migration, World Bank (19 March 2015) p.4 at <http://paa2015.princeton.edu/uploads/153399>.

74 Sally Brown, Abiy S. Kebede & Robert Nicholls, *Sea level rise and impacts in Africa 2000 to 2100*, University of Southampton (11 April 2011) p.7 at <http://www.unep.org/climatechange/adaptation/Portals/133/documents/AdaptCost/9%20Sea%20Level%20Rise%20Report%20Jan%202010.pdf>.

75 Brookings-LSE Project on Internal Displacement, *Caribbean Regional Disaster Response and Management Mechanisms: Prospects and Challenges* (July 2013) p.1 at <http://www.brookings.edu/~media/research/files/reports/2013/07/caribbean%20regional%20organizations%20disasters/caribbean%20regional%20disaster%20response.pdf>.

76 Ibid. p.2.

77 See Fagen, *supra* note 71, pp.12-13; IOM, *Earthquake-Displaced Haitians in the Dominican Republic Provided Assisted Voluntary Return Home* (31 May 2011) at <http://reliefweb.int/report/dominican-republic/earthquake-displaced-haitians-dominican-republic-provided-assisted>.

78 *Caribbean 360*, ‘Antigua Accepting Limited Haitians’ (5 February 2010) at <http://www.caribbean360.com/news/antigua-accepting-limited-haitians>.

79 United Nations Human Rights Council, *supra* note 41, p.15.

80 Fagen, *supra* note 71, pp.15-17; David Cantor, *Law, Policy and Practice Concerning the Humanitarian Protection of Aliens on a Temporary Basis in the Context of Disasters: States of the Regional Conference on Migration and Others in the Americas*, Nansen Initiative Commissioned Paper (December 2014) p.54.

81 United Nations Human Rights Council, *supra* note 41, p.6.

82 *Dominica News Online*, ‘CARICOM Welcome: Region Relaxes Visa Requirements for Haitians’ (16 January 2010) available at <http://dominicanewsonline.com/news/homepage/news/accidents-tragedy/caricom-welcome-region-relaxes-visa-requirements-for-haitians/>.

83 United Nations Human Rights Council, *supra* note 41, p.6.

84 Ibid. p.6.

85 Richard Green, ‘UN refugee agency “concerned” with Haitian repatriation,’ *Turks and Caicos Free Press* (12 January 2011) <http://tinyurl.com/ot5xxzt> cited in United Nations Human Rights Council, *supra* note 41, p.8.

86 Cantor, *supra* note 80, p.18.

2. Projections

Because the Caribbean primarily consists of small island States with a large percentage of their territory in low-lying coastal areas, the region faces particular risks linked to climate change, such as rising sea levels, rainfall variability, stronger storms, coral bleaching, and ocean acidification. However, there is currently only limited evidence to predict which small island States will be most affected by sea level rise.⁸⁷ One model based upon a four degree warming for all small island States, including the Caribbean, the Pacific Ocean and Indian Ocean, projected that between 1.2 and 2.2 million people could be displaced by a 0.5 to 2.0 m sea level rise.⁸⁸

B. Central America

Central America is vulnerable to a significant number of sudden-onset hazards (hurricanes, volcanoes, earthquakes, floods, and landslides), and also has areas affected by changing patterns of rainfall variability known as the Dry Corridor.⁸⁹ In response, Central American States have developed strong national and regional disaster risk management mechanisms and policies. Disasters such as the 1998 Hurricane Mitch and the 1972 Nicaraguan earthquake have also pushed hundreds of thousands of people to flee internally and across international borders, with some people remaining displaced abroad for years pending a durable solution.⁹⁰ Migrants within and from the region moving due to environmental changes and degradation, also face significant protection challenges in the context of other situations of violence associated with smuggling, trafficking and the drug trade.⁹¹ Migrants who are caught up in a disaster may also face particular protection risks. For example, in some circumstances only citizens may be eligible to access humanitarian assistance, or migrants in the disaster-affected country irregularly may be reluctant to seek assistance.

Coastal erosion, flooding, and the salinization of fresh water sources and agricultural land associated with sea level rise have also prompted some communities, including indigenous communities, to plan for the relocation of their villages to higher ground. In Panama, the Kuna indigenous leaders of Carti Sugdub Island have signed a resolution to move from their island to another part of their autonomous territory on Panama's mainland by 2014 because of the effects of climate change.⁹²

1. Examples of Cross-Border Disaster-Displacement in Central America

Following a major earthquake and aftershocks that occurred in Managua in 1972, some 10,000 Nicaraguans entered Costa Rica to escape the vast infrastructure damage.⁹³

Smaller scale disasters have also resulted in cross-border movements. For example, flooding along the Sixaola River Basin has also often displaced families living in the border area between Costa Rica and Panama, as families seek temporary protection on either side of the border.⁹⁴

87 Leonard Nurse, Roger McLean et al. 'Chapter 29: Small Islands,' *IPCC WGII AR5* (March 2014) p.27 at https://www.ipcc.ch/pdf/assessment-report/ar5/wg2/drafts/fd/WGIIAR5-Chap29_FGDall.pdf.

88 Ibid. p.27.

89 Ruth Silva, *Central America: Building Resilience Against Drought in the Dry Corridor*, European Commission: Humanitarian and Civil Protection (2014) at <http://tinyurl.com/on7jl56>. Over two million people were displaced by sudden-onset disasters in Mexico between 2008-2014 see internal Displacement Monitoring Centre (IDMC) data as of 01/06/2015. Accessed on 15 September 2015 at www.internal-displacement.org/global-figures.

90 See cross border examples below pp.14-15 of this Annex.

91 *CBCNews*, 'Human smugglers cash in on Central American migration to US' (21 July 2014) at <http://www.cbc.ca/news/world/human-smugglers-cash-in-on-central-american-migration-to-u-s-1.2712878>.

92 Lomi Kriel, 'Rising Sea Forces Panamanian Islanders to Move to Mainland,' *Reuters* (1 November 2012) at <http://www.reuters.com/article/2012/11/02/us-panama-environment-idUSBRE8A102B20121102>.

93 International Organization for Migration, *Bi-National Study the State of Migration Flows between Costa Rica and Nicaragua* (December 2001) p.8 at <http://www.rcmvs.org/documentos/investigacion/BinationalStudyCR-Nic.pdf>.

94 Federación Internacional de Sociedades de la Cruz Roja y de la Media Luna Roja, *Caracterización de la Dinámica Transfronteriza Guabito - Sixaola* pp.13-14 at <http://www.educacionvirtual.ws/desaprender/pdf/espaa/panama/Caracterizacion-eps.pdf>

Central American countries have received or did not return disaster-affected individuals after a number of disasters, most notably Hurricane Mitch and the 2010 Haiti Earthquake. For example, Costa Rica, Nicaragua and Panama used one off regularization measures within their national migration laws to provide temporary residence to Central American nationals after Hurricane Mitch.⁹⁵ Panama also received disaster displaced persons following the 2010 earthquake in Haiti,⁹⁶ while Costa Rica did not deport Haitians back to their country of origin.⁹⁷

There is also some evidence that the impacts of climate change on the agriculture in the Dry Corridor are prompting some people in Nicaragua to migrate abroad to Spain, Costa Rica, El Salvador and the U.S.⁹⁸

2. Projections

The negative impact of climate change in Central America through rising sea levels and changing rainfall variability has also begun to threaten human settlements, infrastructure, natural resources, and associated livelihoods. Looking to the future, one study, based upon historical trends between 1971 and 2010, predicts that Central America will experience a trend of delayed rainy season with more intense rain falls over a shorter period of time, but with less overall total accumulation of rainfall likely.⁹⁹ The Costa Rican Vice-Minister of the Environment has thus argued for the need to prepare for the most extreme migration scenarios related to access to water and increased aridity, which should include development plans, immigration measures, capacity building programs to strengthen regional coordination, and national policies to address the assistance and protection needs of migrants.¹⁰⁰

C. North America

North America¹⁰¹ is exposed to a wide variety of slow and sudden-onset natural hazards, including hurricanes, tornadoes, forest fires, earthquakes, landslides, volcanic eruptions and drought. Despite the United States' robust disaster risk management capacity, major disasters such as the 2012 Hurricane Sandy and 2005 Hurricane Katrina still severely impacted New York City and New Orleans, respectively, resulting in significant internal displacement. Disasters also regularly lead to displacement in Mexico, such as following Hurricane Stan in 2005, as well as smaller incidences of flooding and storms.¹⁰² Canada has had only low-levels of internal displacement, largely due to flooding. In North America's Arctic region, climate change is already having an impact, with one study finding that over the last 30 years, half of the Arctic ice cover and eight per cent of sea ice volume has been lost, while significant portions of the Arctic coasts of Canada and Alaska, as well as Siberia and Greenland, already face eroded by the sea.¹⁰³ North America is also the world's main destination for international migrants, both regular and irregular.¹⁰⁴ The Mexico-US migration corridor is the most widely used in the world, with irregular migrants in particular often using dangerous routes to reach the US.

95 Cantor, *supra* note 80, p.66.

96 Ibid. p.17.

97 United Nations Human Rights Council, *supra* note 41, p.7.

98 See research carried out by Servicio Jesuita para Migrantes, discussed in "Cambio climático, razón de peso para la emigración de nicaragüenses," Lima COP 20, 29 September 2015 at <http://www.cop20.pe/26147/cambio-climatico-razon-de-peso-para-la-emigracion-de-nicaraguenses/>.

99 Nansen Initiative, *Disasters and Cross-Border Displacement in Central America: Emerging Needs, New Responses*, Nansen Initiative Central America Regional Consultation, San Jose, Costa Rica 2-4 December 2014, Outcome Report p.21 at https://www2.nanseninitiative.org/wp-content/uploads/2015/02/FINAL_Outcome_Report_Central_America_EN.pdf.

100 Ibid. p.21.

101 For the purpose of this Annex, North America refers to Canada, Mexico and the United States of America.

102 IDMC reports that over two million people were displaced by sudden-onset disasters in Mexico between 2008-2014 see Internal Displacement Monitoring Centre (IDMC) data as of 01/06/2015. Accessed on 15 September 2015 at www.internal-displacement.org/global-figures.

103 Renee Cho, 'How the warming Arctic affects us all,' *Earth Institute, Columbia University Blog* (6 December 2012) at <http://blogs.ei.columbia.edu/2012/12/06/how-the-warming-arctic-affects-us-all/>.

104 UN Department of Economic and Social Affairs, *Number of International Migrants Rises Above 232 Million* (11 September 2013) at <http://www.un.org/en/development/desa/news/population/number-of-international-migrants-rises.html>.

1. Examples of Cross-Border Disaster-Displacement in Central America

Documented examples of disaster displacement from North American countries have not been identified. However, countries in North America have received cross-border disaster-displaced persons arriving from outside the region or not returned people from disaster-affected countries following a number of disasters.

For example, the United States granted Temporary Protected Status (TPS) for eligible Montserratians following the 1997 volcanic eruption, however this was terminated on 27 February 2005 with the United States Government declaring that the likelihood of continuous eruptions for decades meant that “the situation that led to Montserrat’s designation can no longer be considered ‘temporary’ as required by Congress when it enacted the TPS statute.”¹⁰⁵

In 1998, Hurricane Mitch also resulted in people moving into North America. For example, some 300 Guatemalans crossed into the Mexican town of El Mollejon in the southern state of Chiapas.¹⁰⁶ Thousands of others from El Salvador and Honduras also fled their homes in the aftermath, mainly for Mexico, the United States and Canada. In the first few months following the disaster, the United States border patrol recorded a 28 per cent rise in interdictions of Central Americans, and a 61 per cent increase for Hondurans specifically.¹⁰⁷ Consequently, the United States enacted TPS after Hurricane Mitch in 1999. More recently the United States granted TPS for Haitians following the 2010 earthquake,¹⁰⁸ and in June 2015, TPS was granted for Nepalese nationals,¹⁰⁹ potential benefiting 10,000 to 25,000 people in the United States.¹¹⁰ Studies have also reported a peak in immigration to the United States from Costa Rica and Belize after disasters.¹¹¹

Canada also implemented special immigration measures to receive and not return individuals residing in Canada who had been affected after the 2004 Indian Ocean Earthquake and Tsunami, the 2010 Haitian Earthquake, the 2013 Typhoon Haiyan in the Philippines¹¹² and individuals affected by the 2015 Nepal Earthquake.¹¹³

Tropical storms and flooding in northern Guatemala have also resulted in short-term displacement to Mexico.¹¹⁴ Mexico also received a number of Haitians after the 2010 earthquake using various humanitarian protection measures.¹¹⁵

105 United States Department of Justice: Temporary Protection Status, ‘Termination of the designation of Montserrat under the Temporary Protected Status Program, extension of employment authorization documentation,’ *Federal Register Vol 69(128) Notices* (6 July 2004) at <http://www.justice.gov/sites/default/files/eoir/legacy/2004/08/12/fr06july04.pdf>.

106 AP Archive, ‘Mexico: Guatemalan refugees flee hurricane devastation’ (12 November 1998) at <http://tinyurl.com/p5quc8k>.

107 Sarah J. Mahler and Dusan Ugrina, ‘Central America: Crossroads of the Americas,’ *Migration Policy Institute* (1 April 2006) at <http://tinyurl.com/pb2avye>. For more information on displacement after Hurricane Mitch see Kevin O’Neil, Kimberly Hamilton and Demetrios Papademetriou, *Migration in the Americas*, Global Commission on International Migration (GCIM) (2005) p.18; Inter American Commission on Human Rights, *Second Progress Report of the Special Rapporteurship on Migrant Workers and their Families in the Hemisphere* at <http://tinyurl.com/oyq6e7g>.

108 USCIS, ‘Extension and Redesignation of Haiti for Temporary Protected Status’, *Federal Register, Vol. 76, No. 97* (13 May 2011) cited in Cantor, *supra* note 80, p.39.

109 United States Department of Homeland Security, *DHS Announces Temporary Protected Status Designation for Nepal* (24 June 2015) at <http://www.uscis.gov/news/dhs-announces-temporary-protected-status-designation-nepal>.

110 Nisha Desai Biswal, *Everest Trembled: Lessons Learned From the Nepal Earthquake Response*, U.S. Department of State, Bureau of South and Central Asian Affairs House Foreign Affairs Committee, subcommittee on Asia and the Pacific (20 May 2015) at <http://www.state.gov/p/sca/rls/rmks/2015/242702.htm>.

111 Onelica Afonso, ‘Natural Disasters and Migration: Storms in Central American and the Caribbean and Immigration to the U.S.’ (2011) *14 Explorations: The US Davis Undergraduate Research Journal* p.10.

112 Cantor, *supra* note 80, p.33.

113 Citizenship and Immigration Canada, *Notice: Immigration Measures in Support of the Government’s Response to the Earthquake in Nepal* (27 April 2015) at <http://www.cic.gc.ca/english/departement/media/notices/2015-04-27.asp>.

114 Cantor, *supra* note 80, p.32.

115 United Nations Human Rights Council, *supra* note 41, p.7.

2. Projections

The IPCC Fifth Assessment Report concluded that the frequency of heavy precipitation events has likely increased in North America and will continue to increase into the late 21st Century.¹¹⁶ In the future, the US and Canada are projected to suffer prolonged and intense, floods, snow storms and drought, reduced water availability, as well as coastal erosion,¹¹⁷ with one study projecting that by 2030 some 12 million people could be displaced in the US along four major coastal areas.¹¹⁸ The Arctic areas in Canada and Alaska are expected to see increasing glacial retreat and reduction in arctic sea ice, permafrost thaw and warmer winters.¹¹⁹ Rising sea levels and coastal erosion in the small Alaskan community of Newtok is steadily eating away at the land to such an extent that a US Army engineer report found that the highest point of the village could be underwater by 2017.¹²⁰ Mexico's climate is likely to become drier and warmer,¹²¹ with one modelling study predicting that such changes would result in the depopulation of rural areas and an increase of Mexico-US emigration rates along preexisting routes.¹²²

D. South America

South America's vast size and diverse geography, ranging from deserts and mountain ranges to rainforests and sub-Antarctic regions, mean that the region is exposed to a multitude of natural hazards. Flooding remains the most frequent natural hazard in South America, often linked to the adverse effects of the La Nina Southern Oscillation (ENSO).¹²³ The region also experience significant volcanic and earthquake activity along the continental west coast Andean Volcanic Belt, as well as tropical storms, hurricanes, droughts, and landslides. Chile consistently experiences some of the world's largest natural hazard events with the 2010 Chile Earthquake alone responsible for an estimated 1.5-2 million displaced people.¹²⁴ South America is also heavily urbanized, with 83 per cent of people living in urban centres as of 2010, and internal migration flows generally moving toward urban areas, which are also exposed to natural hazards and sea level rise.¹²⁵ In particular, severe droughts in the primarily agricultural region of Northeastern Brazil have contributed to recorded spikes in internal migration,¹²⁶ for example some 3.4 million people from 1960 to 1980.¹²⁷

116 IPCC, *supra* note 72, p.7.

117 Patricia Romero-Lankao and Joel B. Smith (et al.), 'Chapter 26 North America,' *IPCC WGII AR5* pp.1455-1456 at https://ipcc-wg2.gov/AR5/images/uploads/WGIIAR5-Chap26_FINAL.pdf.

118 W. Neil Adger and Juan Pulhin (et al.), 'Chapter 12 Human Security,' *IPCC WGII AR5* p.14 at https://www.ipcc.ch/pdf/assessment-report/ar5/wg2/drafts/fd/WGIIAR5-Chap12_FGDall.pdf.

119 National Snow and Ice Data Centre at <http://nsidc.org/cryosphere/glaciers/questions/climate.html>.

120 *The Guardian*, 'America's first climate refugees' at <http://www.theguardian.com/environment/interactive/2013/may/13/newtok-alaska-climate-change-refugees>.

121 IPCC, *Working Group II: Impacts, Adaptation and Vulnerability chapter 14.1.2.2 Future climate Scenarios at* <http://www.ipcc.ch/ipccreports/tar/wg2/index.php?idp=524>.

122 Adger & Pulhin, *supra* note 118, p.13.

123 See N. Hoyos, J. Escobar, J.C Restrepo, A.M Arango & J.C Ortiz, 'Impact of the 2010-2011 La Nina phenomenon in Colombia, South America: The human toll of an extreme weather event' (2013) *Applied Geography* pp.16-25.

124 IDMC, *Global Estimates for 2009 and 2010: Displacement due to Natural Hazard-Induced Disasters* (2011), p.26.

125 Elizabeth Warn and Susana B. Adamo, 'The impact of climate change: Migration and cities in South America' (2014) 63(2) *WHO Bulletin* at <http://www.wmo.int/bulletin/en/content/impact-climate-change-migration-and-cities-south-america>.

126 See Council on Hemispheric Affairs research paper 'Climate Migration in Latin America: A Future 'Flood of Refugees' to the North?' at <http://www.coha.org/climate-migration-in-latin-america-part-1/>; Organización Panamericana de la Salud, *Hacia un Mundo más Seguro Frente a los Desastres Naturales: La Trayectoria de América Latina y el Caribe* (OPS 1994) p.31; Luis José Mata and Carlos Nobre, *Background Paper: Impacts, Vulnerability and Adaptation to Climate Change in Latin America* (2006).

127 Étienne Piguet, *Climate Change and Forced Migration* (2008) 153 *UNHCR New Issues in Refugee Research* p.6 at <http://www.unhcr.org/47a316182.pdf>.

1. Examples of Cross-Border Disaster-Displacement in South America

While most disaster displacement is internal, examples of cross-border disaster-displacement include movements by Colombians to Ecuador after widespread flooding during the 2010 wet season,¹²⁸ Chileans crossing into neighboring Argentina following earthquakes and landslides¹²⁹ and Brazil hosting 120 Bolivian families in 2014 that had fled across the border after flooding of the Mamore River.¹³⁰

During 2010-2011, Colombians from the La Siberia community in Norte de Santander were forced to temporarily cross into Venezuela in order to reach the Colombian town of Herrán to obtain food supplies, commerce and health care because the only road connecting to Herrán had deteriorated due to the extensive wet season.¹³¹ Along the border between Colombia, Brazil and Peru, communities periodically relocate to one of the neighbouring countries to avoid cyclical rises in water level, generally for a period of less than three months.¹³²

Argentina, Brazil, Bolivia, Colombia, Ecuador, Peru and Venezuela¹³³ also received significant numbers of disaster-affected foreigners following the 2010 earthquake in Haiti.¹³⁴ For example, by mid-2015, some 26,000 Haitians had benefited from admission granted by Brazil.¹³⁵ Brazil, Ecuador, Chile, Paraguay, Peru and Venezuela also implemented policies of non-return of Haitians residing in their countries.¹³⁶

2. Projections

Evidence from climate change models also suggests that South America will see increases in the severity of slow-onset desertification, coastal erosion, flooding and glacial retreat.¹³⁷ Within the region there is also a high likelihood of migration (both internal and transnational) as an adaptive response to natural hazards and environmental degradation. Urbanization in South America is also expanding into low-lying deltas and plains as well as drylands, coastal areas and stepped slopes that will be particularly exposed to stronger storms and increased flooding associated with climate change.¹³⁸ A study on Peru's Andes Mountains anticipates that deteriorating environmental conditions associated with climate change will likely lead to significant levels of migration in the future, even though communities' cultural and social attachments to their homes and land currently inhibit migration.¹³⁹ While Suriname is projected to be a country most at risk of sea level rise, erosion and more frequent and intensive flooding events considering that 90% of the country's population, including the capital Paramaribo, is located in low lying coastal areas.¹⁴⁰

128 Nicolas Rodriguez Serna, *Human Mobility in the Context of Natural Hazard Related Disasters in South America*, Nansen Initiative Commissioned Paper (2015) p.10.

129 Cantor, *supra* note 80, p.12.

130 Veridiana Sede, Floods and displacement in Bolivia in Gemenne, Brücker & Ionesco, *supra* note 12, p.180.

131 Daniel Salgar Antolínez, Confinados en la Frontera Colombo-Venezolana (El Espectador 16 May 2015) at <http://www.elespectador.com/noticias/elmundo/confinados-frontera-colombo-venezolana-articulo-560989>.

132 Serna, *supra* note 128, p.10.

133 See Cantor, *supra* note 80; Serna, *supra* note 128.

134 For more detailed information on the policies of individual South American countries after the 2010 Haitian Earthquake please refer to Annex II Effective Practices for Cross-Border Disaster-Displacement that accompanies this Annex.

135 Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva, communication to the Nansen Initiative, 19 August 2015.

136 See Cantor, *supra* note 80; United Nations Human Rights Council, *supra* note 41.

137 Inter-American Development Bank, 'Natural disasters in Latin America and the Caribbean: An overview of risk' (2000) *Research Department Working Paper Series 434* p.9 at <http://www.iadb.org/res/publications/pubfiles/pubwp-434.pdf>.

138 Warn & Adamo, *supra* note 125.

139 Adger & Pulhin, *supra* note 118, p.14.

140 Michael van Drunen, Ralph Lasage and C. Dorland (eds.), *Climate Change in Developing Countries: An Overview of Study Results from the Netherlands Climate change Studies Assistance Programme*, Report R-05/01 (22 March 2006) p.109 <http://dspace.ubvu.vu.nl/bitstream/handle/1871/15640/R05-01.pdf?sequence=2>.

III. Asia

A. Central Asia

Flooding and landslides remain the most common natural hazards facing Central Asia, with earthquakes also prevalent in the region. Intense rainfall events are also increasingly leading to prolonged flooding in the Amu Darya and Syr Darya river basins.¹⁴¹ In Kazakhstan, for example, unusually warm days and heavy rains in February 2008 resulted in the inundation of 48 settlements in southern Kazakhstan, forcing 13,000 people from their homes, mostly into camps or relatives' homes. For some, the floods caused long term damage to farmland and irrigation canals, making restoration of earlier living patterns unlikely.¹⁴² Landslides have also destroyed houses and infrastructure of settlements located nearby, particularly in rural areas, resulting in significant economic losses and displacement. In Kyrgyzstan, for instance, some 7,900 households have moved from landslide zones since 1992, an annual average of around 650 households.¹⁴³

Central Asia also faces the impacts of climate change. In combination with other factors, one of the more visible impacts of climate change is the continual shrinking of the Aral Sea. The sea, which lies within Kazakhstan and the autonomous Karakalpakstan region of Uzbekistan, was once one of the largest lakes in the world but as of 2007 had shrunk to a mere 10 per cent of its original size.¹⁴⁴ Such environmental changes led to significant levels of migration.

1. Examples of Cross-Border Disaster-Displacement in Central Asia

Evidence indicates that natural hazards in the Ferghana Valley, shared by Kazakhstan, Kyrgyzstan and Tajikistan, such as earthquakes, floods, and landslides, frequently lead to displacement and migration, both internally and across international borders. However, additional information and data collection is required.¹⁴⁵

The impacts of the shrinking Aral Sea, including water shortages, salinization, desertification and dust storms between 1999 and 2001, as well as the subsequent economic and social impact on surrounding villages, have contributed to hundreds of thousands of Karakalpakstan people migrating into other parts of Uzbekistan, as well as Kazakhstan and the Russian Federation.¹⁴⁶

2. Projections

According to the IPCC, some parts of Central Asia could experience benefits of climate change, such as northern and eastern Kazakhstan, which could expect a longer growing season and more precipitation in the winter season. However, increased flooding in Kazakhstan could also displace as many as 250,000 people.¹⁴⁷ Other parts of Central Asia may face more frequent droughts, such as in western Turkmenistan and Uzbekistan, which could result in heightened demands for water for irrigation and contribute to desertification.¹⁴⁸

141 Michael Thurman, *Natural Disaster Risks in Central Asia: A Synthesis* (11 April 2011) p.28 at <http://tinyurl.com/pffwluv>.

142 UNOCHA, *Kazakhstan: Floods Situation Report No.1-11 March 2008* (11 March 2008) at <http://reliefweb.int/report/kazakhstan/kazakhstan-floods-situation-report-no-1-11-mar-2008>.

143 Thurman, *supra* note 141, p.28.

144 University of Columbia, *The Aral Sea Crises* at <http://www.columbia.edu/~tmt2120/environmental%20impacts.htm>.

145 Francois Gemenne and Philip Reuchlin, 'Central Asia' (October 2008) 31 *FMR Review* p.15 at <http://www.fmreview.org/FMRpdfs/FMR31/FMR31.pdf>.

146 See Asian Development Bank, *Climate Change and Migration in the Asia Pacific* (2011) paras.149-150 at <http://www.adb.org/sites/default/files/publication/29662/addressing-climate-change-migration.pdf>; Jake Shenker, 'The people of the central Asian nation of Karakalpakstan are being driven out by two of the 21st century's biggest challenges – ecological disaster and resurgent nationalism,' *Prospect Magazine* (17 November 2010) at <http://tinyurl.com/o3ve8kq>.

147 The World Bank, *Adapting to Climate Change in Europe and Central Asia* (1 June 2009) at http://www.worldbank.org/eca/climate/ECA_CCA_Full_Report.pdf

148 Yasuaki Hijioka, Erda Lin and Joy Jacqueline Pereira, 'Chapter 24 Asia' *IPCC WGII AR5* p.3 at https://www.ipcc.ch/pdf/assessment-report/ar5/wg2/drafts/fd/WGIIAR5-Chap24_FGDall.pdf.

B. East Asia

East Asia,¹⁴⁹ with its densely populated and rapidly expanding urban areas,¹⁵⁰ is also exposed to a wide range of natural hazards that have led to significant levels of disaster displacement. For example the 2008 Sichuan earthquake and accompanying mudslides in China impacted over 100,000 sq. km., killing at least 70,000 people and displacing up to 15 million people.¹⁵¹ Within the region, China has the most internally displaced persons, with approximately 58.33 million people displaced by sudden-onset hazards between 2008 and 2014.¹⁵² Among other hazards, Japan is particularly exposed to earthquakes, such as the 2005 Kobe earthquake that caused 102 billion USD in damage. Despite sophisticated disaster risk management measures in place, the catastrophic 2011 Fukushima Earthquake and Tsunami killed an estimated 16,000 people and displaced more than 400,000 others.¹⁵³ In July 2015, the Democratic People's Republic of Korea was facing what some called the worst drought in over 100 years.¹⁵⁴

1. Examples of Cross-Border Disaster-Displacement in East Asia

Typhoon Chanchu in May 2006 led to “the largest international rescue operation at sea ever conducted by the People's Republic of China.”¹⁵⁵ Following a request from the Government of Viet Nam, Chinese rescue ships saved some 330 Vietnamese fishermen from 22 ships in the South China Sea, and recovered 18 bodies. Vietnamese fishermen from the province who were caught in the typhoon took shelter on a Chinese island.¹⁵⁶

2. Projections

Urbanization is one of the largest human made drivers of disaster risk in East Asia, and has the potential to place hundreds of millions of people at risk of the impacts of climate change.¹⁵⁷ According to researchers, some one million people in China would be forced to move if no climate change adaptation measures to address sea level rise were taken.¹⁵⁸ Similarly, without adaptation measures, coastal erosion could potentially led to the displacement of some 80,000 people in China, 62,000 in Japan, and 4,000 people in the Republic of Korea.¹⁵⁹

C. Southeast Asia

Southeast Asia¹⁶⁰ is one of the world's most vulnerable regions to natural hazards and experiences numerous disasters annually. The region is exposed to a wide variety of natural hazards that can trigger population movements, including typhoons, earthquakes, tsunamis, volcanos, floods, droughts and landslides. Floods are the most common natural hazard in Southeast Asia, occurring with increasingly

149 For the purpose of this Annex East Asia refers to the People's Republic of China, Japan, Hong Kong, Macau, Mongolia, the Democratic People's Republic of Korea, and the Republic of Korea.

150 The Pearl River Delta, comprising the urban mega cities of Hong Kong, Shenzhen, Dongguan, Macau and Guangzhou, is home to more than 42 million people, making it the most densely populated area in the world.

151 AFP, *China Quake Fact File* (12 June 2008) at <http://reliefweb.int/report/china/china-quake-fact-file>.

152 IDMC, *supra* note 1, p.36.

153 Japanese Red Cross Society, *Japan: Earthquake and Tsunami 24 Month Report* (26 July 2013) at <http://reliefweb.int/report/japan/japan-earthquake-and-tsunami-24-month-report>.

154 OCHA, *Situation Report: Democratic People's Republic of Korea: Drought* as of July 2015 at http://reliefweb.int/sites/reliefweb.int/files/resources/PRK_drought_150701.v3.pdf.

155 AFP, 'Typhoon kills 37 Vietnamese sailors, China rescues 330' (22 May 2006) at http://www.chinadaily.com.cn/china/2006-05/22/content_596542.htm.

156 Government of the People's Republic of China, *China: Typhoon death toll rises to 23* (20 May 2006) at <http://reliefweb.int/report/china/china-typhoon-death-toll-rises-23>.

157 Abhas K. Jha & Zuzana Stanton-Geddes (Eds.), *Strong, Safe and Resilient: A Strategic Policy Guide for Disaster Risk Management in East Asia and the Pacific*, The World Bank, Washington DC (2013) p.xi.

158 Michael Westphal, Gordon Hughes & Jörn Brömmelhörster (Eds.), *Economics of Climate Change in East Asia*, Asian Development Bank, Philippines (2013) p.76 at <http://adb.org/sites/default/files/pub/2013/economics-climate-change-east-asia.pdf>.

159 Ibid. p.76.

160 For the purposes of this annex Southeast Asia refers to the States of Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

frequency and severity over the last two decades.¹⁶¹ The region is also increasingly facing the negative impact of climate change through rising sea levels and changing rainfall variability. Over the last six years, some 36.9 million people were displaced in Southeast Asia,¹⁶² including approximately 7.32 million people displaced in 2014 alone.¹⁶³ For example, some 800,000 people were displaced in Myanmar by Cyclone Nargis in 2008, and more than 1.5 million people were displaced in Cambodia, Lao PDR, Myanmar, Thailand and Viet Nam due to flooding in 2011. Typhoon Haiyan/Yolanda displaced over four million people in the Philippines in November 2013. IDMC reported that relative to its population size the Philippines suffered the world's most severe population displacement in 2014, with Typhoon Rammasun and Typhoon Hagupit alone displacing 2.99 million and 1.82 million people, respectively.¹⁶⁴

The Government of Viet Nam's "Living with Floods" policy addresses the needs of populations affected by the extensive flooding that occurs annually in the Mekong Delta. Elsewhere in the region, volcanoes, landslides and mudslides have necessitated the relocation of villages in Indonesia and Cambodia. Increasingly, environmental factors have been identified as a driver of migration in Southeast Asia. Studies in Viet Nam,¹⁶⁵ Cambodia,¹⁶⁶ Myanmar,¹⁶⁷ and Thailand¹⁶⁸ have all identified natural hazards such as floods, river bank erosion, and droughts as factors influencing migration, albeit in many cases indirectly.¹⁶⁹ For example, the 2010 drought affected some 65 million people in Cambodia, Lao PDR, Thailand and Viet Nam, although numbers of displaced persons are not known.

While recognizing that natural hazards contribute to human mobility in Southeast Asia, in many circumstances such movements occur within a complex environment impacted by wide variety of social, political and economic factors including poverty, a growing demand for foreign labour,¹⁷⁰ increased urbanization, violence, and conflict. Displaced people and migrants moving irregularly in the context of disasters also face numerous protection challenges linked to human smuggling and trafficking prevalent within the region.

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- 161 Rebecca Barber, *Responding to Emergencies in Southeast Asia: Can We Do Better?: A Review of the Humanitarian Response to the 2011 Thailand and Cambodia Floods* (2012), Save the Children and AADMER (2012) p.8 at http://www.savethechildren.org.au/_data/assets/pdf_file/0018/6561/SC_report._Review_of_2011_southeast_Asia_floods.pdf
- 162 Internal Displacement Monitoring Centre (IDMC) data as of 01/06/2015. Accessed on 15 September 2015 at www.internal-displacement.org/global-figures. Note that the overall numbers are incomplete, as not every country had data for each year. The number represents the combined available totals for each Southeast Asian State where displacement was observed.
- 163 Internal Displacement Monitoring Centre (IDMC) data as of 01/06/2015. Accessed on 15 September 2015 at www.internal-displacement.org/global-figures. The number represents the combined available totals for 2014 in Southeast Asian States where displacement was observed.
- 164 IDMC, *supra* note 1, p.37.
- 165 Nguyen Viet Khoa, Nguyen Cong Thao and Kees Van der Geest, "Where the Rain Falls" Project Case Study: Viet Nam: Results from Dong Thap Province, Thap Muoi District, Bonn (2012).
- 166 Social Environment Research Consultants, *A Comparative Picture of Migration in Laos, Myanmar, Cambodia, Vietnam and Thailand* at http://www.sercasia.com/images/A_Comparative_Study_of_Migration_%20Summary.pdf.
- 167 Mekong Migration Network and Asian Migrant Centre, *Climate Change and Migration: Exploring the Impacts of Climate Change on People's Livelihoods and Migration in the Greater Mekong Sub-region* (2013) p.49 at <http://www.mekongmigration.org/CC-M%20Report%20Final.pdf>.
- 168 Panomsak Promburom and Patrick Sakdapolrak, "Where the Rain Falls" Project Case Study: Thailand: Results from Thung Hua Chang District, Northern Thailand, Bonn (2012).
- 169 IOM/UNDP, *Climate Change Adaptation and Migration in the Mekong Delta, Workshop Report*, Can Tho University, 4-5 June 2012 (2012) p.3.
- 170 The industrialized economies of East Asia are also major destinations for temporary low-skilled and semi-skilled migrant workers from Southeast Asia. See Rupa Chanda, 'Migration between South and Southeast Asia: Overview of trends and issues' (February 2012) 140 ISAS Working Paper p.8.

1. Examples of Cross-Border Disaster-Displacement in Southeast Asia

Following the 2004 Indian Ocean Earthquake and Tsunami, “large numbers” of Burmese migrants living in Phangnga Province, Thailand, returned to Myanmar. According to registration records, over 1,000 migrants returned to Myanmar, and an additional unknown number also likely returned but were not listed in official records.¹⁷¹ Malaysia also implemented an amnesty on deportations of illegal workers to countries affected by the earthquake and tsunami.¹⁷² The Malaysian Deputy Prime Minister Datuk Seri Najib Tun Razak commented that the decision was to “show that we sympathize with the situation faced by the Indonesian government and people.”¹⁷³ The Government of Indonesia also worked closely with the Government of Singapore to allow Indonesians to extend their visas.¹⁷⁴

During the 2006 Typhoon Ketsana, upon the request of the Cambodian government, Vietnamese Authorities rescued some 500 Cambodians¹⁷⁵ in border areas as part of an evacuation of 600,000 Vietnamese people from flooding in areas downstream from the Kon Tum reservoirs.¹⁷⁶

In 2008, a reported 600 Cyclone Nargis survivors from Myanmar entered Thailand through the Thai border town of Mae Sot in the months following the disaster and received assistance from two local NGOs. As of December 2008, the majority of those survivors were living and working in the same region of Thailand, while 30 per cent had continued on to Bangkok and 20 per cent had returned home.¹⁷⁷

Flooding and drought have also prompted individuals or families to move internally or abroad, usually in search of alternative livelihood activities and/or assistance. However, there is insufficient evidence to determine whether movements associated with such disasters could accurately be described as “involuntary” or “forced.” For example, in August 2010, hundreds of Cambodians crossed the border into Thailand irregularly in search of work after drought caused food shortages in their home villages.¹⁷⁸ Similarly, in the aftermath of severe flooding, some 100,000 migrants from Myanmar crossed into Thailand using the Mae Sot pass between September and November 2011.¹⁷⁹

2. Projections

In Southeast Asia, the incidence and severity of droughts, as well as floods, are expected to increase as a result of climate change.¹⁸⁰ Southeast Asia’s rapidly expanding urban areas susceptible to coastal flooding are the same areas expected to be adversely affected by climate change, particularly due to rising sea levels. Low-lying areas of Indonesia, the Philippines, and Malaysia are at risk from coastal erosion, land loss, inundation and sea flooding, and seawater intrusion into freshwater sources and agricultural

171 IOM, *Technical Assistance Mission Report*, Joint Tsunami Migrant Assistance Mission to the Provinces of Krabi, Phangnga, Phuket and Ranong, Thailand (20-25 January 2005) pp.8-12.

172 *BBC News Online*, ‘Malaysia suspends migrant sweep’ (Tuesday 1 February 2005) at <http://news.bbc.co.uk/2/hi/asia-pacific/4224827.stm>.

173 *AsiaNews Online*, ‘Kuala Lumpur suspends expulsion of Indonesian immigrants’ (30 December 2004) at <http://www.asianews.it/index.php?art=2226&l=en>.

174 Meeting between the Envoy of the Nansen Initiative Secretariat and the Indonesian National Agency for disaster Management (BNPB) and the Head of Legal Affairs and the Cooperation Bureau, as reported in the Nansen Initiative Report from the Envoy of the Chairmanship of the Nansen Initiative’s Pre-Visit to Southeast Asia (30 August 2014).

175 Report from the Government of Viet Nam, *Viet Nam: Typhoon Ketsana Breaks Records* (7 October 2009) at <http://reliefweb.int/report/viet-nam/viet-nam-typhoon-ketsana-breaks-records>.

176 Deutsche Presse Agentur, *Typhoon Ketsana Death Toll Rises to 101 in Vietnam* (2 October 2009) at <http://reliefweb.int/report/viet-nam/typhoon-ketsana-death-toll-rises-101-vietnam>.

177 *IRIN News*, ‘MYANMAR-THAILAND: Cyclone migrants face challenges’ (3 December 2008) at <http://www.irinnews.org/printreport.aspx?reportid=81793>.

178 Danny Marks, ‘Climate Change and Thailand: Impact and response’ (2011) 33(2) *Contemporary Southeast Asia* p.229 at http://www.academia.edu/2047244/Climate_Change_and_Thailand_Impact_and_Response.

179 Patrick Phongsathorn, ‘Environment and Migration: The 2011 Floods in Thailand’ in Gemenne, Brucker & Ionesco, *supra* note 12, p.17.

180 Marks, *supra* note 178, pp.230-231.

lands.¹⁸¹ Coastal areas and deltaic regions in Viet Nam, Thailand, and Myanmar are also threatened by expected sea level rise, although it is the Mekong Delta where effects are predicted to be most severe. In Viet Nam, a one meter rise in sea level could displace an estimated 10.8 per cent of the nation's population, particularly in the Mekong and Red River deltas.¹⁸² Similarly, one expert has cautioned that if sea level rise reaches one meter by the end of the century, in a best case scenario, there will be significant consequences for people living in coastal and deltaic regions, emphasizing that the vast majority of Cambodians and Filipinos would be exposed to the risk of flood and cyclones, respectively.¹⁸³

D. South Asia

South Asian¹⁸⁴ geography is diverse, ranging from the world's highest elevations in Hindu-Kush Himalayas to vast low lying coastal plains and islands.¹⁸⁵ Due to these unique geo-climatic conditions, South Asia is exposed to sudden onset tropical cyclones, flash floods, earthquakes, tsunamis, landslides, avalanches and glacial lake outburst floods, as well as slow-onset desertification, droughts, salt water intrusion, and erosion.¹⁸⁶ In 2014, over five million people were internally displaced in South Asia due to sudden-onset disasters.¹⁸⁷ In a densely populated region with approximately 1.7 billion people, a single event in South Asia can result in large-scale movements. For example, an estimated 11 million people were displaced in 2010 when Pakistan's Indus River flooded.¹⁸⁸ In October 2013 the Indian Government evacuated over one million people in anticipation of Tropical Cyclone Phailin reaching its shores, with 13.2 million people ultimately affected by the disaster.¹⁸⁹ While estimates suggest that seasonal flooding in Bangladesh displaces 500,000 to 1 million people every year.¹⁹⁰ Increasingly, natural hazards and environmental degradation have been identified as drivers of migration in South Asia. Increased migration to cities following sudden-onset disasters has also been documented in Bhutan,¹⁹¹ across the Hindu Kush

181 See The Global Mechanism/IFAD, *Climate Change Impacts-South East Asia* (2007) at http://www.ifad.org/events/apr09/impact/se_asia.pdf.

182 World Bank, *Climate Change and Impact on Coastal Countries: Risk of Sea Level Rise – High Stakes for Developing Countries* (12 February 2007) at <http://tinyurl.com/426qcuq>.

183 Presentation by François Gemenne cited in Nansen Initiative, *Human Mobility in the Context of Disasters and Climate Change in Southeast Asia*, Nansen Initiative Southeast Asian Regional Consultation, Manila, Philippines 15-17 October 2014, Outcome Report p.19 at <https://www.nanseninitiative.org/south-east-asia-consultation-intergovernmental/>.

184 Classified as Member States of the South Asian Association for Regional Cooperation (SAARC): Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka, and most recently, Afghanistan.

185 Notably, many natural features such as river basins, fault zones, or mountain ranges are shared by several countries; therefore, impacts of climate change and natural hazards in this region often “transcend national boundaries” and require intergovernmental cooperation. The World Bank/GFDRR, *Disaster Risk Management in South Asia - A Regional Overview*, Washington DC (2012) p.31.

186 Asian Development Bank, *Addressing Climate change and Migration in Asia and the Pacific* (2012) pp.19 & 23 at <http://www.adb.org/sites/default/files/publication/29662/addressing-climate-change-migration.pdf>.

187 IDMC, *supra* note 1, p.31.

188 IDMC, *Pakistan: Displacement Caused by Conflict and Natural Disasters, Achievements and Challenges* (10 January 2012) p.1 at <http://www.internal-displacement.org/assets/library/Asia/Pakistan/pdf/Pakistan-Overview-10jan12.pdf>.

189 World Bank, ‘Government of India and World Bank sign \$153 million agreement for Odisha disaster recovery project’ (11 July 2014) at <http://reliefweb.int/report/india/government-india-and-world-bank-sign-153-million-agreement-odisha-disaster-recovery>.

190 Jane McAdam and Ben Saul, ‘Displacement with dignity: International law and policy responses to climate change migration and security in Bangladesh’ (2010) 53 *German Yearbook of International Law* p.238.

191 Laurence Levaque, *Disaster Management Analysis in Bhutan: Final Version*, United Nations Disaster Management Team (May 2005) pp.3 & 7 at http://www.raonline.ch/pages/bt/pdf/UNDMT_BT hazards0502.pdf.

Himalaya more generally,¹⁹² in Sri Lanka,¹⁹³ and in Bangladesh.¹⁹⁴ Planned relocation in South Asia has largely taken place within a community's own land boundaries following a severe sudden-onset disaster, such as an earthquake, tsunami or cyclone. In general, communities are relocated inland or to designated settlements built in remote areas.

1. Examples of Cross-Border Disaster-Displacement in South Asia

While mostly internal, cross-border disaster-displacement was reported in the wake of a few large sudden-onset disasters. For example, on 18 August 2008, a breach of the Kosi River embankment caused flash flooding that displaced 45,000 people from the Sunsari District in Nepal, and affected about three million people from 1,704 villages in North Bihar, India.¹⁹⁵ Flooded and damaged roads forced Nepalese displaced persons seeking to enter Kathmandu from the east to take a 32 hour detour into India.¹⁹⁶

In the aftermath of Cyclone Aila in 2009, a report based on field interviews found that 123,000 displaced Bangladeshis were forced to move to nearby urban areas. The report also cites a multi-stage movement of people where more than 15 days after the Cyclone, people continued to move into Dhaka, Chittagong and across the border into the Indian city of Kolkata.¹⁹⁷ Some Indians also reportedly sought relief following the cyclone in border areas of Bangladesh.¹⁹⁸

After the April 2015 earthquake in Nepal, an unknown number of Nepalese and foreigners fled across the Indian border, with Indian authorities opening 15 border outposts to evacuate stranded people and offering free visas on arrivals for tourists fleeing Nepal.¹⁹⁹ A number of Nepalese were evacuated to India via trains. Some 1,200 evacuees reached India on numerous North Eastern Railway trains, while East Central Railways made two trains available to evacuate people to the West Bengali city of Howrah.²⁰⁰ Notably, because of the free movement agreement between Nepal and India, Nepalese and Indian nationals were able to move freely without passports or visas.

Other recurrent slow-onset hazards, such as droughts or annual flooding, have also prompted individuals or families to move internally or abroad, usually in search of alternative livelihood activities and/

192 Soumyadeep Banerjee, Brigitte Hoermann and Jean Y Gerlitz (Eds.), *Labour Migration as a Response Strategy to Water Hazards in the Hindu Kush-Himalayas*, International Centre for Integrated Mountain Development, Kathmandu (2011).

193 *IRIN*, 'Beating wild weather in Sri Lanka' (9 May 2013) at <http://www.irinnews.org/printreport.aspx?reportid=98008>.

194 McAdam & Saul, *supra* note 190, p.243.

195 Rashmi Kiran Shrestha, Rhodante Ahlers, Marloes Bakker & Joyeeta Gupta, *Institutional Dysfunction and Challenges in Flood Control Along the Transboundary Kosi River: A Case Study of the Kosi Flood 2008* (2009) p.3 at <http://tinyurl.com/nhc9m9d>.

196 *NCM online*, 'Koshi Flood Disaster in Nepal' (2008) at <http://www.ncnnews.com/nphweb/html/ht/article.jsp?id=10006357>.

197 Hasan Mehedi, *Climate Induced Displacement Case study of Cyclone Aila in the southwest coastal region of Bangladesh, Technical report, Coastal Livelihood and Environmental Action Network* (July 2010) pp.15-16 at http://www.researchgate.net/publication/281112189_CLIMATE_INDUCED_DISPLACEMENT_case_study_of_cyclone_Aila_in_the_southwest_coastal_region_of_Bangladesh.

198 McAdam & Saul, *supra* note 190, p.245 citing Bangladesh Institute of International and Strategic Studies, Panel Discussion on Management of Water Resources and Water Security: The Case of the Ganges-Brahmaputra-Meghna (GBM) River Basins (Dhaka, 15 June 2010). McAdam also notes that such movements from India to Bangladesh is a rare phenomenon and the border between the two countries is hard to define see McAdam & Saul, *supra* note 190, p.245.

199 Press Information Bureau, *Day Two of Rescue and Relief Operation in the Wake of Earthquake*, Government of India, Ministry of Home Affairs (26 April 2015) at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=118741>; *rediffNews*, 'No visa fee for foreigners who want to be evacuated to India: HM' (27 April 2015) at <http://tinyurl.com/ofc4fl3>; Manan Kumar, 'India opens 15 border points with Nepal to facilitate evacuation,' *dnaindia* (28 April 2015) at <http://tinyurl.com/p6u74wm>.

200 Francois Gemenne, *Border Policies in a Context of Environmental Changes: India, Bangladesh and Nepal*, Nansen Initiative Commissioned Paper (October 2015) p.10.

or assistance. For example, there is a history of seasonal migration between Bangladesh and India, particularly into the West Bengal region of India. Slow-onset hazards, such as desertification for remote villagers in the Himalayas of Nepal²⁰¹ or for Kuchi nomadic communities in Afghanistan,²⁰² have also prompted people to move internally or abroad in search of alternative livelihood activities or humanitarian assistance. However, there is insufficient evidence to determine whether movements associated with such slow-onset hazards could accurately be described as “involuntary” or “forced.”

In coastal areas, rising sea levels, cyclones, erosion and salt water intrusion have also been linked to domestic and international migration.²⁰³ For example, in Bangladesh’s Chittagong, Farid Pur, and Chand Pur Districts such factors contributed to hundreds of thousands of people moving from their homes, with some reportedly moving to India and Pakistan.²⁰⁴

2. Projections

The IPCC highlights South Asia’s particular vulnerability to climate change, predicting warmer temperatures, more variable precipitation, and, very likely, an increase in the frequency of precipitation events, extreme winds and rainfall caused by tropical storms. At the same time, monsoons are likely to weaken. In 2007, the IPCC reported that across Asia, by the end of the 21st century, even a 40 cm rise in sea level could “increase the annual number of people flooded in coastal populations from 13 million to 94 million.”²⁰⁵ The report found that almost 60 per cent of this increase will occur in South Asia, particularly along the coastal areas of Pakistan, India, Sri Lanka, Bangladesh and Myanmar.²⁰⁶ Similarly, a 2012 UNDP report concluded that a one metre rise in sea level could displace 15 million people in Bangladesh and result in 20 per cent of its land being lost.²⁰⁷ Over the next ten years, a model by IDMC projects that South Asia will increasingly face higher levels of disaster displacement risk as a consequence of increasing exposure to natural hazards due to population growth and rapid, unplanned urbanization.²⁰⁸

201 See Nam Raj Khatri, ‘Climate-change refugees in Nepal: The need for climate-smart capacity building’ in Walter Leal Filho (Ed.), *Climate Change and Disaster Risk Management*, Climate Change Management, Springer (2013); Jeevan R. Sharma, *CS10: The Impact of Environmental Change on Labour Migration from Nepal to the Gulf States*, UK Government Foresight Project, *Migration and Global Environmental Change*, Final Project Report (2011) p.4.

202 Samuel Hall Consulting, *DISPLACEMENT DYNAMICS IDP Movement Tracking, Needs and Vulnerability Analysis: Herat and Helmand Afghanistan*, Kabul (2014) p.17.

203 Uma Kothari, ‘Political discourses of climate change and migration: resettlement policies in the Maldives’ (2014) 180(2) *The Geographical Journal* p.130.

204 See Rafael Reuveny, ‘Climate change-induced migration and violent conflict’ (2007) 26(6) *Political Geography* pp.656–73; Adnan Sattar, ‘Migration, water stress and climatic change in the Indus Delta,’ *Badin Development and Research Organization Scoping Study* p.13 at <http://bdro.org/wp-content/uploads/2013/04/Indus-Delta-MIGRATION-study.pdf>.

205 IPCC Fourth Assessment Report: Climate change 2007, *Chapter 10.4.3 Coastal and Low Lying Areas* at https://www.ipcc.ch/publications_and_data/ar4/wg2/en/ch10s10-4-3.html.

206 Ibid.

207 UNDP, ‘The Health Impacts of Climate Change in Asia-Pacific,’ *Asia-Pacific Human Development Report Background Papers Series 2012/16* p.11 at <http://tinyurl.com/np8j2hb>.

208 Justin Ginnetti and Chris Lavell, *The Risk of Disaster-Induced Displacement in South Asia*, IDMC/NRC (April 2015) p.3.

Country	Population	Future Annual Displacement Risk (next 10 years)				
		Average Annual Displacement Risk	Regional Rank	Relative Annual Displacement (per 1 million people)	Regional Rank	Annual change in displacement risk
Afghanistan	35,516,224	137,000	5	3,900	7	2.4%
Bangladesh	156,536,136	1,486,500	3	9,500	4	4.8%
Bhutan	829,184	7,700	7	9,300	5	1.4%
India	1,292,502,640	5,314,400	1	4,100	6	4.2%
Maldives	311,724	3,700	8	11,900	2	3.3%
Nepal	32,054,000	124,100	6	3,900	7	3.1%
Pakistan	187,250,400	1,805,600	2	9,600	3	2.2%
Sri Lanka	21,529,024	325,800	4	15,100	1	2.4%

Displacement risk estimates Source: Justin Ginnetti and Chris Lavell, “*The Risk of Disaster-Induced Displacement in South Asia*,” IDMC/NRC, April 2015 p.7.

IV. Europe

While the most common natural hazards in Europe are flooding and drought, it also experiences earthquakes, avalanches, landslides, volcanoes and wildfires. European countries also have some of the strongest and most comprehensive national and regional disaster risk management mechanisms. As a region, Europe has comparatively low levels of displacement in the context of disasters, with an average of 86,700 people displaced per year from 2008-2014.²⁰⁹ For example the 2009 L'Aquila earthquake in Italy caused some 65,000 Italians to be internally displaced.²¹⁰ In early 2010, Cyclone Xynthia affected France, Germany, Spain, Portugal, Belgium and England. During the cyclone, a total of 53 people were killed in Vendée, France when high tides from the Atlantic Ocean caused by the storm overwhelmed sea walls. The cyclone later prompted the French Government to organize a relocation plan and order the destruction of over 800 homes located in risky areas.²¹¹

Flooding is becoming more prevalent across Europe, with severe examples including the 2002 European floods that affect Eastern Europe and Germany, and heavy rain in June 2013 that caused widespread flooding in central Europe, primarily impacting the Czech Republic, Germany, Switzerland and Austria. In the Czech Republic alone some 1.3 million people were affected or displaced by the floods.²¹² The Russian Federation most commonly experiences landslides, hurricanes, forest fires, floods, extreme cold weather and earthquakes. For example, the 2010 Russian heat wave and wildfires were responsible for 56,000 deaths.²¹³ Historically earthquakes have proven to be the most dangerous natural hazard in the mountainous Caucasus region, however, the region is also exposed to floods, drought, landslides, mudslides, avalanches and extreme temperatures.²¹⁴

1. Examples of Cross-Border Disaster-Displacement in Europe

As a region there is little evidence of significant disaster-related displacement or migration to other countries in recent years, particularly because of the free movement of persons as part of the European

209 IDMC, *supra* note 1, p.30.

210 Thomson Reuters, 'Italy Earthquake' (1 January 2009) at <http://www.trust.org/spotlight/Italy-earthquake-2009>.

211 D.M. Lumbroso and F. Vinet, 'A comparison of the causes, effects and aftermaths of the coastal flooding of England in 1953 and France in 2010' (2011) 11 *Nat. Hazards Earth Syst. Sci.* p.2327 at <http://www.nat-hazards-earth-syst-sci.net/11/2321/2011/nhess-11-2321-2011.pdf>.

212 See Robert Stojanov, Ilan Kelman and Barbora Duzi, 'Floods and Migration in the Czech Republic,' (June 2013) 49 *Forced Migration Review*; ReliefWeb, 'Central Europe: floods – June 2013' at <http://reliefweb.int/disaster/fl-2013-000068-cze>.

213 Daria Mokhnacheva, 'Wildfires in Russia' in François Gemenne, Pauline Brucker and Dina Ionesco (Eds.), *The State of Environmental Migration 2010*, Institute for Sustainable Development and International Relations/ International Organization for Migration (2011) p.30.

214 ISDR, *Central Asia and Caucasus Disaster Risk Management Initiative: Risk Assessment for Central Asia and Caucasus* (2009) p.iii at http://www.unisdr.org/files/11641_CentralAsiaCaucasusDRManagementInit.pdf.

Economic Agreement. However, there are a few historical examples. In December 1988, the Spitak earthquake in Armenia devastated the northern part of the country, killing more than 24,000 people, and displacing some 400,000 people.²¹⁵ Due to the devastation, the USSR evacuated some 200,000 people to other republics. Although they were technically internally displaced persons, moving amongst the republics at that time was a complex administrative procedure. An estimated 50,000 people never returned home, even after Armenia gained independence in 1991.²¹⁶

Disasters have also been linked to historical migratory movements. For example, an estimated three million Italians emigrated during the first two decades of the 20th century, with some citing the eruption of two volcanoes and a 1908 earthquake in the southern part of the country, which killed tens of thousands of people, as significantly exacerbating the poverty and negative socio-economic conditions and thus contributed to overall migration flows. The 1968 Belice Valley Earthquake in Sicily also contributed to increased migration to countries such as France, Switzerland and Germany.²¹⁷

After the 2004 Indian Ocean Earthquake and Tsunami, Spain implemented subsidiary humanitarian protection under its domestic laws to halt the return of individuals affected by the disaster to their countries of origins.²¹⁸ The UK and the Netherlands also temporarily suspended the return of individuals to areas directly affected by the earthquake and tsunami.²¹⁹ Similarly, Switzerland also temporarily suspended the deportation of people from India, Indonesia, the Maldives, the Seychelles, Somalia, Sri Lanka and Thailand.²²⁰

The Governments of Denmark, France, Germany, Romania, Slovakia and Slovenia also reported to the UN Independent Expert on the situation of human rights in Haiti that they had suspended forced returns of Haitians after the 2010 earthquake.²²¹

Between 2001 and 2006, Denmark had a non-return policy for young children to Afghanistan because of drought. The policy extended to include single women, families and people from areas where there was a lack of food and who would be particularly vulnerable upon return.²²²

2. Projections

The IPCC Fifth Assessment Report concluded that it is likely that the frequency of heat waves and heavy precipitation events have already increased throughout large parts of Europe.²²³ Global warming in the Russia Federation and the Caucasus is expected to increase the frequency of hydro-meteorological hazards, with the IPCC concluding with medium confidence that the country would likely see earlier spring riverine flooding. Glacial retreat is a particular concern in Europe. The IPCC found with high confidence

215 UK Foreign & Commonwealth Office, *Refugees & Internally Displaced Persons (IDPs) in the South Caucasus: The Numbers Game* (10 December 2014) p.1 at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384760/South_Caucasus_II__2_.pdf.

216 European Training Foundation, *Migration and Skills in Armenia, Georgia and Morocco: Comparing the Survey Results* (2013) p.9.

217 Giacomo Parrinello, 'Post-disaster migration and returns in Sicily: The 1908 Messina Earthquake and the 1968 Belice Valley Earthquake' (2012) 9 *Global Environment: A Journal for History and Social and Natural Sciences* p.45 at <http://www.ericademon.co.uk/GE/Articles/Parrinello.pdf>.

218 European Council on Refugees and Exiles, *ECRE Country Report 2005* (2005) p.295 at <http://www.refworld.org/publisher/ECRE/COUNTRYREP/PRT,4a54bbf5f,0.html>.

219 European Council on Refugees and Exiles, *ECRE Country Report United Kingdom 2004* (1 September 2005) p.8 available at <http://www.refworld.org/country,,ECRE,COUNTRYREP,GBR,,43b2a2c04,0.html>; Jane McAdam, *Climate Change Displacement and International Law: Complementary Protection Standards*, UNHCR Legal and Protection Policy Research Series, Division of International Protection (May 2011) p.42.

220 Frank Laczko and Elizabeth Collett, 'Assessing the Tsunami's effects on migration,' *Migration Policy Institute* (1 April 2005) at <http://www.migrationpolicy.org/article/assessing-tsunamis-effects-migration>.

221 United Nations Human Rights Council, *supra* note 41, pp.6-8.

222 Vikram Kolmannskog and Finn Myrstad, 'Environmental Displacement in European Asylum Law' (2009) 11 *European Journal of Migration and Law* p.324.

223 IPCC, *supra* note 72, p.5.

that Alpine, Scandinavian and Icelandic glacial retreat has been caused by climate change.²²⁴ For example, between 1850 and 2005 the total glacial area of the Swiss Aletsch Glacier, the largest in Europe, had reduced by 40 per cent and, if trends continue, could completely disappear by 2100.²²⁵ Russia's far north Arctic region is also already experiencing glacial and tundra shrinkage, and permafrost thawing.²²⁶ Scandinavian Sámi reindeer herders have also reported changing reindeer migration patterns and insufficient food for their herds.

Some authors have argued that the effects of climate change such as "drought, crop failures and desertification, flooding and inundation" not only in Europe, but around the world, could play a role in increasing disaster displacement risk and altering European migration patterns.²²⁷ The IPCC highlighted "coastal retreat" as necessary in some of Europe's low-lying areas in response to coastal erosion linked to sea level rise, storm surges, and coastal flooding, as well as "managed retreat" as a potential adaptation measure in anticipation of such changes.²²⁸

V. Oceania

A significant number of the Pacific region's States have small, low-lying islands, making them particularly at risk of the effects of climate change. However, all of the Pacific Island States are affected by both slow and sudden-onset natural hazards including cyclones, earthquakes, tsunamis, floods, and drought, and in some countries, notably PNG and New Zealand, volcanoes. People moving from small outer islands already inhabitable due to erosion, salt-water intrusion or drought to the main islands can be observed in several States including Kiribati. Other States such as Fiji have started to relocate villages away from coastlines. Pacific Islanders have repeatedly emphasized that moving from their homes to other countries is a last resort. However, they also acknowledged that voluntary migration, planned relocation and displacement in the context of disasters are already a reality in the Pacific region. Australia and New Zealand are the primary destinations for migrants from their neighboring Pacific Island countries, either through shared citizenship or various migration schemes. The Pacific region's historical experience with planned relocation processes also highlight the specific challenges and protection concerns linked to customary land tenure, cultural ties, and ensuring adequate levels of consultation and participation with both the relocated and receiving community.

Australia is the driest of all inhabited continents and regularly faces drought, with seasonal bushfires continuing to increase in severity and number. Northern Australia is also affected by the annual cyclone season²²⁹ and severe flooding. For example, in 1974, Cyclone Tracy virtually destroyed the city of Darwin, leaving 25,000 people homeless and forcing the evacuation of most of the Darwin population,²³⁰ while the 2010-11 Queensland floods affected some 200,000 people.²³¹ Earthquakes, volcanoes, floods and landslides are a common feature of New Zealand's landscape and always have the potential to cause great devastation and displacement, most recently following the 2010-2011 Canterbury earthquakes that killed

224 IPCC, *Climate Change 2014: Impacts, Adaptation and Vulnerability Summary for Policymakers* (2014) p.30 https://ipcc-wg2.gov/AR5/images/uploads/WG2AR5_SPM_FINAL.pdf.

225 Swissinfo, *Experts Size Up Glaciers As They Melt Away* (16 July 2007) at <http://www.swissinfo.ch/eng/experts-size-up-glaciers-as-they-melt-away/33424>.

226 UNDP, *Climate Change Russia Country Paper*, Human Development Report Occasional Paper (2007/2008) p.15.

227 Mark Mulligan, Sophia Burke & Caitlin Douglas, 'Environmental change and migration between Europe and its neighbours' in Etienne Piguet & Frank Laczko (Eds.) *People on the Move in a Changing Climate: The Regional Impact of Environmental Change on Migration*, Springer (2014) p.54.

228 Sari Kovats & Riccardo Valentini, 'Chapter 23 Europe,' *IPCC WGII AR5* p.25 at https://www.ipcc.ch/pdf/assessment-report/ar5/wg2/drafts/fd/WGIIAR5-Chap23_FGDall.pdf.

229 Australian Bureau of Meteorology, *Australian Tropical Cyclone Season Outlook* at <http://www.bom.gov.au/climate/ahead/tc.shtml>.

230 Northern Territory collection of the Northern Territory Library online, *Cyclone Tracy* at <http://ntlapp.nt.gov.au/tracy/>.

231 Australian Government, *Natural Disasters in Australia* at <http://www.australia.gov.au/about-australia/australian-story/natural-disasters>.

185 people.

1. Examples of Cross-Border Disaster-Displacement in Oceania

In 1966, approximately half of the Tokelauan population was resettled in New Zealand following a severe hurricane. More recently, after Cyclone Heta struck Niue in 2004, New Zealand offered to resettle the affected population, but the offer was refused by Niue authorities. However, an unknown number of individuals may have still moved to New Zealand after the cyclone.²³²

There are also examples of inter-island customary practices in the Pacific Islands that have facilitated post-disaster mobility. As early as the 1870s, there are reports that communities from disaster-affected islands (e.g., drought, frost, or cyclones) would stay on other islands providing them food and assistance, including in the displaced peoples' home areas, until it was possible to return.²³³

Although there is insufficient evidence to determine whether movements associated with such disasters could accurately be described as "involuntary" or "forced," disasters have contributed to migration increases. For example, following the September 2010 to February 2011 Canterbury earthquakes in Christchurch, New Zealand, the number of people migrating to Australia in 2011 from Christchurch more than doubled as compared to the previous year, affecting all occupational groups but with notable increases for women.²³⁴ Migration trends returned to pre-earthquake levels as of June 2012.²³⁵

Following the 2015 Cyclone Pam that devastated Vanuatu, the Government of New Zealand used its Recognised Seasonal Employment worker scheme to grant special concessions to nationals of Vanuatu, including extending the work visas of those already working in New Zealand, waiving visa fees, and encouraging new vacancies to be filled with workers from Vanuatu.²³⁶

After the 2015 Nepal Earthquake, Immigration New Zealand announced that it would consider requests for temporary visas for Nepalese citizens unable to return to a disaster-affected area, with each request to be considered on a case by case basis.²³⁷

Following the 2004 Indian Ocean Earthquake and Tsunami, Australia implemented a policy of processing temporary visas and fast tracking existing visa applications for individuals and families from disaster-affected areas.²³⁸ There were also calls from members of the Australian Government to receive those left homeless in tsunami-affected areas in Sumatra, such as Aceh.²³⁹ However, Indonesia's ambassador to Australia said that such measures would not be required, citing in particular the distress associated with

232 Although it is a self-governing country, the inhabitants of Niue Island are also citizens of New Zealand, entitling them to freely migrate to New Zealand. Jon Barnett and Heidi Ellemor, 'Niue after Cyclone Heta,' (February 2007) 22(1) *Australian Journal of Emergency Management*; Justin Locke, 'Climate change-induced migration in the Pacific region: Sudden crisis and long-term developments' (September 2009) 175(3) *The Geographic Journal* p.177.

233 John Campbell, 'Traditional disaster reduction in Pacific Island communities' (2006) *GNS Science Report* 2006/38, p.23.

234 In 2011 a little over 3,500 New Zealanders left Christchurch, as compared to just over 1,500 in 2010. See Peter Lafferty, 'International Migration to/from Christchurch after the Earthquakes,' *Statistics New Zealand Presentation*, (29 November 2011).

235 Alan Wood, 'Migration back to pre-quake levels,' *The Press* (20 July 2012) at <http://www.stuff.co.nz/the-press/business/7317138/Migration-back-to-pre-quake-levels>.

236 *Vanuatu Daily Post*, 'Visa Fee Waived for RSE Workers' (2 April 2015) at <http://www.pina.com.fj/?p=pacnews&m=read&o=1009499524551dff2716f49df8d7ca>.

237 Immigration New Zealand, *Nepal Earthquake* (1 May 2015) at <http://www.immigration.govt.nz/migrant/general/generalinformation/news/nepalearthquake.htm>.

238 *ABC News*, 'Australia to fast track visas for tsunami victims' (3 January 2005) at <http://www.abc.net.au/news/2005-01-04/australia-to-fast-track-visas-for-tsunami-victims/612762>.

239 *The Age*, 'Indonesia rejects Australian refugee calls' (4 January 2005) <http://www.theage.com.au/news/Asia-tsunami/Indonesia-rejects-Australian-refugee-calls/2005/01/04/1104601332584.html?from=moreStories>.

leaving behind their communities and moving to a new environment.²⁴⁰

2. Projections

Oceania's many small island States with a large percentage of their territory in low-lying coastal areas face particular risks linked to climate change, such as rising sea levels, rainfall variability, stronger storms, coral bleaching, and ocean acidification. However, there is currently only limited evidence to predict which small island States will be most affected by sea level rise.²⁴¹ One model based upon a four degree warming for all small island States, including the Caribbean, the Pacific Ocean and Indian Ocean, projects that between 1.2 and 2.2 million people could be displaced by a 0.5 to 2.0 m sea level rise.²⁴² Such changes are compounded by growing populations and poorly managed urbanization, leaving people even more vulnerable to disaster displacement risk. Given such challenges and costs, migration and planned relocation are widely recognized as potential adaptation measures for the small island States in the future.²⁴³

In the region's larger islands, the IPCC has concluded the frequency and duration of heatwaves is likely to have already increased over large parts of Australia, with such changes continuing in the future. It is also expected that New Zealand will likely see a substantial reduction in glacial ice volume.²⁴⁴

240 See Ibid; Laczko & Collett, *supra* note 219.

241 Nurse & McLean, *supra* note 87, p. 27.

242 Ibid. p.27.

243 Ibid p.30.

244 IPCC, *supra* note 223, p.31.



Two Somali refugee girls run through a dust storm on the outskirts of a settlement near Dadaab, Kenya. They are part of a recent exodus from Somalia due to continued civil war and the consequences of drought and famine.

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ANNEX II EFFECTIVE PRACTICES FOR CROSS-BORDER DISASTER-DISPLACEMENT



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ANNEX II: EFFECTIVE PRACTICES FOR CROSS-BORDER DISASTER-DISPLACEMENT

A. Identifying the Displaced

There are no universally recognized criteria to determine, in the context of disasters, when a movement could be characterized as forced across international borders. Although the difference between displacement and migration can be difficult to pinpoint, it is important to distinguish between voluntary and forced movement. Such a distinction underlies responses by States and the international community because it is commonly acknowledged that those forced to leave their country face a heightened degree of vulnerability and thus have specific protection and assistance needs, including how to find a lasting solution to their displacement.

Examples of descriptions used by States to identify disaster-affected people who may benefit from humanitarian protection measures include:

Argentina: “Special treatment” possible for “persons who, despite not requiring international protection, temporarily cannot return to their countries of origin by reason of the prevailing humanitarian conditions or due to the consequences generated by natural or man-made environmental disasters.”¹

Canada: “In the event of a disaster, visa offices are reminded to continue to pull the applications of affected persons to the front of the queue for review, and advise the appropriate Geographic Desk, International Region, of the situation. Given the variety of situations which can occur as a result of any disaster, it remains the applicant or sponsor’s responsibility to demonstrate that they are negatively affected by the situation.”²

In the case of the 2015 Nepal earthquake, such measures were used for individuals who were “*significantly and personally* affected by one of the earthquakes in Nepal.”³

“if the circumstances in that country or place pose a generalized risk to the entire civilian population as a result of ... (b) an environmental disaster resulting in a substantial disruption of living conditions; or (c) any situation that is temporary and generalized.”⁴

Cuba: People who left their country “due to cataclysm or other phenomena of nature” can be recognized as refugees “until normal conditions are re-established in their country of origin.”⁵

Finland: “Humanitarian protection” for persons who “...cannot return to his or her country of origin or country of former habitual residence as a result of an environmental catastrophe.”⁶

Mexico: A visa may be granted for “humanitarian reasons” to a foreigner, who has a relative in Mexico,

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- 1 *Decreto 616/2010* (Argentina), Article 24(h), cited in David Cantor, *Law, Policy and Practice Concerning the Humanitarian Protection of Aliens on a Temporary Basis in the Context of Disasters: States of the Regional Conference on Migration and Others in the Americas*, Nansen Initiative Commissioned Paper (December 2014) p.53.
 - 2 Citizenship and Immigration Canada, *Guidelines for Priority Processing in the Event of Disaster Situations*, Operational Bulletins 083 (30 October 2008) at <http://www.cic.gc.ca/english/resources/manuals/bulletins/2008/ob083.asp>.
 - 3 Citizenship and Immigration Canada, *Notice: Immigration Measures in Support of the Government’s Response to the Earthquake in Nepal* (27 April 2015) at <http://www.cic.gc.ca/english/departement/media/notices/2015-04-27.asp>.
 - 4 The citation refers to temporary stays of removal. Canada, *Immigration and Refugee Protection Regulations* (2002), Regulation 230.
 - 5 Cuba, *Decree No. 26* (1978), Article 80.
 - 6 Finland, *Alien Act*, S.88a (323/2009).

that “finds herself in a situation of danger to her life or integrity owing to violence or a duly accredited natural disaster”⁷ with procedural guidance explaining that this includes a person who “is a victim of a natural catastrophe.”⁸

New Zealand: Following the 2015 earthquake in Nepal ... “Immigration New Zealand onshore offices will consider any requests for further temporary visas by customers who are in New Zealand and are not currently able to return to an area affected by a natural disaster.”⁹

Peru: A six month temporary visa (renewable for a similar period) can be granted under a humanitarian category (Humanitaria T7) established to protect foreigners displaced due to disasters and the effects of climate change. Beneficiaries of the category are entitled to work or be self-employed.¹⁰

Sweden: A “person otherwise in need of protection” is someone “who is outside the country of the alien’s nationality, because he or she... is unable to return to the country of origin because of an environmental disaster.”¹¹

USA: Temporary protected status (TPS) can be granted if in a foreign state or parts of it:

(B) (i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the states resulting in a substantial, but temporary, disruption of living conditions, (ii) the foreign state is unable, temporarily, to handle the return to the state of aliens who are nationals of the state, and (iii) the foreign state officially has requested designation under this subparagraph;” or

(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety.¹²

B. Preparedness

States, particularly those in regions exposed to high levels of disaster risk, need to prepare for potential cross-border disaster-displacement to avoid being overwhelmed in the event of a sudden or large-scale influx of people in search of protection and assistance abroad.

Within the context of the Regional Conference on Migration (Puebla Process), in February 2015, Member States held a workshop to discuss the use of humanitarian protection measures in disaster contexts, and the potential for harmonizing their use in the event of future cross-border disaster-displacement.¹³

At the national level, a few States in the Americas are in the process of reviewing their migration laws in ways that could ultimately address cross-border disaster-displacement.¹⁴ For example, in Peru, a 2011 legislative proposal seeks to establish a “migratory category of a humanitarian nature,” which includes,

7 Mexico, *Ley Migración* (2011, reformed 2013), Article 116(I)(b).

8 Mexico, Lineamientos Generales para la expedición de visas que emiten las secretarías de Gobernación y de Relaciones Exteriores, published in Diario Oficial de la Federación, 11 October 2014, eighteenth general provision, procedure 9, second resolution criteria, insert (a)(ii).

9 Immigration New Zealand, *Nepal Earthquake* (1 May 2015) at <http://www.immigration.govt.nz/migrant/general/generalinformation/news/nepalearthquake.htm>.

10 Peru, *Decreto Legislativo No. 1236* (26 September 2015), 59.2 En la categoría migratoria de “Temporal”.

11 Sweden, *Alien Act*, Chap. 4, S. 2.3.

12 USA, *Immigration and Nationality Act* (2002), section 244.

13 Regional Conference on Migration, “Regional Workshop on Temporary Protection Status and/or Humanitarian Visas in Situations of Disaster,” San José, Costa Rica (February 2015).

14 Juan Pablo Terminiello, ‘Los Desastres Naturales, el Cambio Climático y la Protección de los Derechos Humanos: Realidades y Desafíos frente al Desplazamiento Forzado’ in Martín Lettieri (ed.), *Protección Internacional de Refugiados en el Sur de Sudamérica* (Universidad Nacional de Lanús 2012) p.309.

among others, people fleeing disasters and the effects of climate change.¹⁵ The proposal is currently under consideration in Congress. Migration reform currently underway in Brazil aims to establish clearer humanitarian protection standards and institutional responsibilities towards disaster-affected foreigners in the future.¹⁶ Further developments in Bolivia are likely in the future following the 2013 Law on Migration that gave the National Migration Council the responsibility to develop and execute policies that will make it viable to admit people displaced by the effects of climate change and disasters.¹⁷ Similarly, the General Directorate on Migration of Paraguay has started to work with an inter-agency group of NGOs, service providers, and international organizations to promote the timely detection of disaster-related entries into the country and strengthen the necessary responses.¹⁸

C. Humanitarian Protection Mechanisms for Admission and Stay

In the absence of clear provisions in international law, some States, particularly in the Americas, selected regions in Africa and a few States in Europe, have developed a multitude of measures that have been or could be used to admit cross-border disaster-displaced persons on their territory. These humanitarian protection measures may be based on regular immigration law, exceptional immigration categories, or provisions related to the protection of refugees or similar norms of international human rights law.

1. Regular Migration Categories

A first tool consists of admitting disaster displaced persons on the basis of regular migration categories. In some situations, States have applied “special” or “temporary relief” measures (Canada¹⁹ and US,²⁰ respectively also Australia²¹) that allow individuals from disaster-affected countries to request that the State prioritize or expedite the processing of their existing or new immigration applications, including permanent residency and citizenship applications to enter the country. The use of regular migration categories to resolve appropriate cases may be advantageous since these categories usually provide foreign nationals affected by a disaster with a more stable humanitarian protection status than the often more temporary and precarious “exceptional” migration categories.²²

In some cases a formal policy sets out the kind of individuals for whom the procedures apply, as well as the grounds for demonstrating that the disaster has negatively impacted the applicant as an individual (Canada²³), although not all States require proof of a personal link to the disaster (USA²⁴). In other States, use of “temporary relief measures” is not formally activated for a specific disaster situation, but is available at the discretion of immigration officials (Canada and USA) when processing applications for regular migration categories from people in disaster affected countries. Such measures may also allow

15 Congresista Humberto Lay Sun, ‘Proyecto de Ley que Establece la Calidad Migratoria de Carácter Humanitario (2011).

16 Projeto de Lei do Senado, Nº 288 de 2013. See further Isabel Piacentini de Andrade, ‘Brazil’s Draft Migration Law’ (2015) 49 *FMR* p.36; Nicolas Rodriguez Serna, *Human Mobility in the Context of Natural Hazard Related Disasters in South America*, Nansen Initiative Commissioned Paper (2015) p.25.

17 See Serna, *supra* note 16, p.27.

18 E-mail correspondence with the Departamento de Prensa y Comunicación de la Dirección General de Migraciones de Paraguay (8 May 2015), on file with the author, Nicolás Rodríguez Serna. Ibid p.26.

19 Citizenship and Immigration Canada, *supra* note 2.

20 US Citizenship and Immigration, ‘Special Situations’ (last updated 1 May 2015) at <http://www.uscis.gov/humanitarian/special-situations>.

21 Jane McAdam, *Climate Change Displacement and International Law: Complementary Protection Standards*, UNHCR Legal and Protection Policy Research Series, Division of International Protection (May 2011) p.42.

22 Nansen Initiative, *Discussion Paper: Draft Elements of a Guide to Effective Practices on Admission and Stay for Persons Moving across Borders in the Context of Disasters*, Regional Workshop on Temporary Protection Status and/or Humanitarian Visas in Situations of Disaster (February 2015).

23 Citizenship and Immigration Canada, *supra* note 2. Previous use of the “special measures” in Canada has required the applicant to demonstrate that they have been “directly and significantly affected” “seriously and personally affected” or “significantly and personally affected” by the disaster (Haiti earthquake, Indian Ocean Earthquake and Tsunami, and Typhoon Haiyan, respectively). See Cantor, *supra* note 1, pp.33-34.

24 Cantor, *supra* note 1, p.34.

immigration officials to waive certain requirements, application fees, or criteria on “humanitarian and compassionate” grounds (Canada and Dominica²⁵), or grant a visa waiver for non-national residents to sponsor relatives from disaster affected countries (Antigua and Barbuda²⁶).

States have also granted tourists visas to disaster-affected foreigners. Following the 2010 Haiti earthquake, Bolivian authorities granted temporary tourist visas to children so that they could enter the country while other migration alternatives were sought for the long term.²⁷ In Ecuador, Haitians could also request three month tourist visas following the earthquake, although with no possibility to change to another status.²⁸

Finally, States have expanded the use of pre-existing temporary work quotas to target migrants from disaster-affected areas and areas facing adverse impacts of climate change (Spain,²⁹ New Zealand,³⁰ and Australia³¹), or actively encouraged individuals from disaster-affected areas to apply for residency permits (Senegal³²).

2. Free Movement of Persons

In some regions of the world, disaster displaced people may be automatically permitted entry on the basis of pre-existing regional or bilateral agreements on the free movement of persons. Because these movements do not require a specific authorization, they are often not officially recognized as facilitating the cross-border movement of displaced persons. However, disaster-affected foreigners have relied upon these agreements in the context of both sudden-onset (Mexico-Guatemala;³³ Nepal-India;³⁴ Colombia/Brazil/Peru³⁵) and slow-onset disasters and environmental stress (Nepal-India³⁶). Particularly in parts of Africa, pastoralists have used formal and informal arrangements that permit the cross-border movement of

25 Ibid. p.35.

26 Family members had to show they could provide economic support for their family members. Ibid. p.35.

27 El Nacional, *Envían a Orfanatos Niños Haitianos Llegaron Bolivia* (4 de marzo de 2010) at <http://elnacional.com.do/envian-a-orfanatos-ninos-haitianos-llegaron-bolivia>.

28 Patricia Weiss Fagen, *Receiving Haitian Migrants in the Context of the 2010 Earthquake*, Nansen Initiative Commissioned Paper (2013) p.14 at <https://www.nanseninitiative.org/central-america-consultations-intergovernmental/>.

29 Nicole de Moor, *Temporary Labour Migration for Victims of Natural Disasters: The Case of Colombia*, Universiteit Gent, Paper prepared for UNU-EHS Summer Academy on Social Vulnerability, Hohenkammer, Germany (25-31 July 2010).

30 Len Garae, ‘NZ waives visa fee for RSE workers,’ *Vanuatu Daily Post* (31 March 2015) at http://www.dailypost.vu/news/article_642dd990-881c-51ec-9954-c01120dc6209.html.

31 The Australian Seasonal Worker Programme recently changed to allow people from Kiribati, Tuvalu and Nauru to stay for longer periods (9 instead of 6 months per year). Although notably the Australian policy states that this distinction is made “due to the higher costs of transportation to and from Australia for citizens from these countries.” See Australian Government, *Seasonal Worker Programme expansion- Q & A* at http://docs.employment.gov.au/system/files/doc/other/expansion_of_the_seasonal_worker_programme_-_faqs.pdf.

32 Fagen, *supra* note 28, p.21.

33 Guatemalans living in border areas with Mexico may be entitled to receive a “frontier work visa.” Some disaster-affected Guatemalans have relied upon this visa to facilitate “localised trans-border displacement at times of rapid-onset natural disasters” into Mexico, such as when tropical storms or flooding have affected Guatemala. See Cantor, *supra* note 1, pp.32 and 54.

34 See Press Information Bureau, *Day Two of Rescue and Relief Operation in the Wake of Earthquake*, Government of India, Ministry of Home Affairs (26 April 2015) at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=118741>; *rediffNews*, ‘No visa fee for foreigners who want to be evacuated to India: HM’ (27 April 2015) at <http://tinyurl.com/ofc4fl3>; Manan Kumar, ‘India opens 15 border points with Nepal to facilitate evacuation,’ *dnaindia* (28 April 2015) at <http://tinyurl.com/p6u74wm>.

35 Serna, *supra* note 16, p.11.

36 See Nam Raj Khatri, ‘Climate-change refugees in Nepal: The need for climate-smart capacity building’ in Walter Leal Filho (Ed.), *Climate Change and Disaster Risk Management*, Climate Change Management, Springer (2013); Brigitte Hoermann, Soumyadeep Banerjee and Michael Kollmair (Eds.), *Labour Migration for Development in the Western Hindu Kush Himalayas: Understanding a Livelihood Strategy in the Context of Socioeconomic and Environmental Change*, International Centre for Integrated Mountain Development, Kathmandu, Nepal (2010).

pastoralists during time of drought (West Africa³⁷ and Uganda-Kenya³⁸). In certain cases, States provide humanitarian assistance during sudden-onset disasters in border areas, recognizing that some of the recipients are from the neighboring country (Mexico³⁹). However, even where they exist, free movement agreements do not guarantee the entry of disaster displaced persons. For example, some free movement agreements have documentation requirements that disaster displaced persons may not be able to meet, or agreements may contain suspension clauses in the case of a mass influx of people.

3. Exceptional Migration Measures

A third tool to admit disaster displaced persons is granting them temporary entry and stay on an exceptional basis through humanitarian protection measures, the issuance of humanitarian visas or other exceptional migration measures.

A small number of States⁴⁰ have developed specific legal measures to temporarily admit individual foreigners who cannot safely return to their home country or country of habitual residence because of the effects of an “environmental catastrophe,” “natural disaster” or “natural or man-made environmental disasters.”⁴¹ Some of these laws grant national immigration authorities the discretionary authority to determine whether the measures will be activated, and are limited to certain categories of individuals.⁴² Laws that are based on concepts of international protection for disaster-affected persons are non-discretionary, and are applied if an individual meets the criteria (Finland⁴³ and Sweden⁴⁴), and there is no internal flight option in the country of origin⁴⁵ or another ground for exclusion. Once admitted, Finland permits the ability to sponsor family members.

China and the Democratic People’s Republic of Korea have a 1964 bilateral agreement, which stipulates, “Civilians who are forced to enter the other side’s territory as a result of a disaster should be assisted ... those who were forced to cross the border as a result of a disaster will not be treated as illegal border crossers.”⁴⁶

37 François Gemenne, Julia Blocher, Florence de Longueville, Nathalie Perrin, Sara Vigil, Caroline Zickgraf, Dalila Gharbaoui & Pierre Ozer, *Catastrophes, Changement Climatique et Déplacements Forcés Dynamiques Régionales de Mobilité en Afrique de l’Ouest*, Nansen Initiative (2014) at <https://www2.nanseninitiative.org/wp-content/uploads/2015/02/West-Africa-Background-Paper-FINAL-FRENCH.pdf>.

38 Nansen Initiative Secretariat, *Natural Hazards, Climate Change, and Cross-Border Displacement in the Greater Horn of Africa: Protecting People on the Move*, Background Paper for the Nansen Initiative Greater Horn of Africa Regional Consultation, Nairobi, Kenya, 21-23 May 2014 pp.11 and 19.

39 Cantor, *supra* note 1, p.54.

40 Argentina, Cuba, Finland, Mexico, Peru and Sweden all have national laws that explicitly recognize the impacts of natural hazards as potential grounds for authorizing the entry and stay of foreigners. See above, section A. Identifying the Displaced.

41 The terminology is drawn from national legislation in Finland, Mexico, and Argentina/Sweden, respectively. Ibid.

42 In Argentina such measures are limited for “special cases” of a broader “transitory residents” class of people. While in Mexico, a visa issued for a “humanitarian cause” is available only for those with a relative already in the country who can sponsor a person who “finds herself in a situation of danger to her life or integrity owing to violence or a duly accredited natural disaster.” See Cantor, *supra* note 1, pp.52-54. See also Fagen, *supra* note 28, pp.19-21.

43 Finland, *Alien Act*, S. 88a (323/2009).

44 Sweden, *Alien Act*, Chap. 4, S. 2.3.

45 Both Sweden and Finland address the question of a potential internal flight option. In Finland, humanitarian protection may be refused “if he or she, in a part of his or her home country or country of permanent residence, does not ... face a real risk of being subjected to serious harm, and if he or she can reasonably be expected to reside in that part of the country.” Assessment will take account of the “general circumstances prevailing in that part of the country and of the applicant’s personal circumstances.” Finland, *Alien Act*, Section 88e(323/2009).

46 1964 Protocol between the PRC Ministry of Public Security and the DPRK Social Safety Ministry for Mutual Cooperation in Safeguarding National Security and Social Order in Border Areas.

A few States have humanitarian visa systems that permit applicants to apply for visas prior to departure (Mexico and Nicaragua⁴⁷), including in the disaster-affected country itself (Brazil⁴⁸). Some of these measures have been limited to residents in the host country who can sponsor their relatives in disaster-affected countries to join them (Mexico), while others were open to all nationals from the disaster-affected country (Brazil).

Brazil's Special Visa Policy for Haitian Migrants after the January 2010 Earthquake in Haiti

In the two years following the major earthquake which hit Haiti in January 2010, it gradually came to the attention of Brazilian authorities that Haitians were increasingly relying on irregular migration channels to reach Brazilian territory, where they hoped to start a new life.

After extensive debates within the National Council for Immigration (CNIg), a decision was taken to create a legal channel which could allow these Haitian migrants to reach Brazil without having to put their lives at risk in perilous journeys in the hands of “coyotes.” In January 2012, CNIg approved Normative Resolution 97, which authorized the Brazilian Embassy in Port-au-Prince to grant permanent visas, on humanitarian grounds, to 1,200 Haitians per year.

Normative Resolution 97 is still in force, more than five years after the earthquake, which motivated CNIg to take action in favor of Haitian migrants willing to come to Brazil. In the three and a half years since its adoption, however, its original terms were altered in accordance with the lessons learned during its implementation.

It was realized, for instance, that the quota originally established was not enough to assist all of the Haitians interested in migrating to Brazil. As a result, many were still making use of the illegal routes which the special visa policy had intended to preclude.

In order to prevent the problem, and in line with the norm's original aim, the quota was abolished. With the same purpose, Brazilian consular authorities in other countries, such as Ecuador and Peru, were authorized to grant permanent visas to Haitians on the same humanitarian basis, which allowed them to reach persons who would otherwise fall prey to smugglers in the dangerous journey across the Amazon Forest.

More recently, as a result of an increase in human and material resources made available by the Ministry of External Relations, the technical capacity of the Brazilian Embassy in Port-au-Prince to grant humanitarian visas was greatly enhanced. A partnership was also established with the International Organization for Migration (IOM), ensuring the delivery of a more efficient service to visa applicants. Presently, Brazilian consular authorities are capable of granting 1,800 permanent visas per month.

On the other hand, the illegal routes and the activities of coyotes is the subject of constant dialogue and cooperation with neighboring countries. The prevention of the risks associated with the smuggling of migrants complements and reinforces the use of the legal migration channel created by Normative Resolution 97.

As a direct result of the efforts reported, around 26,000 Brazilian permanent visas have already been granted to Haitian nationals since January 2012.

Source: Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva

47 Upon arrival, recipients granted stay as temporary resident for an initial period of one year, which may be renewed if the need for protection continues. See Cantor, *supra* note 1, p.50.

48 For a full discussion on Brazil's special visa policy for Haitians following the earthquake see the text box below (pp. 7-8); Fagen, *supra* note 28, pp.14-18; and Cantor, *supra* note 1, pp.47-48.

Many States have used discretionary powers, which either explicitly or indirectly rely upon “humanitarian” grounds, to grant temporary entry and stay for individuals who are personally and seriously affected by a disaster. This practice is particularly common in the Americas,⁴⁹ where following disasters such as the 1995 Monserrat volcanic eruption, 1998 Hurricane Mitch, the 2010 earthquake in Haiti, as well as other smaller disasters, States in the region relied upon discretionary powers to admit individuals affected by disasters using exceptional migration categories. The wide variety of measures include: granting one-year multiple entry “humanitarian visas” (Dominican Republic),⁵⁰ issuing longer-term temporary residence permits for “humanitarian reasons” (Argentina⁵¹ and Panama⁵²), and waiving normal visa requirements for disaster-affected people with connections to the hosting country (Canada⁵³).

In limited cases, people have been evacuated across international borders in the context of sudden-onset disasters, including the 1995 volcanic eruption in Montserrat, the 2002 Cyclone Eline, the 2006 Typhoons Chanchu and Ketsana, and the 2010 earthquake in Haiti (UK,⁵⁴ China,⁵⁵ Viet Nam,⁵⁶ Canada, Mexico, and USA⁵⁷) a measure largely used for people who needed urgent medical or lifesaving assistance and their accompanying caregivers. Notably, Viet Nam’s national Law on Natural Disaster Prevention and Control addresses international cooperation, including contacting “other countries and territories to provide coordinated assistance for Vietnamese people and means hit by natural disasters on the sea and in land border areas and assistance for people and means of other countries upon their request.”⁵⁸

While exceptional migration measures are often granted on an individual basis, a few States have developed exceptional measures to respond to a group or “mass influx” of people who have been displaced for a variety of reasons and cannot return to their country of origin. Finland’s measures for “registering a large number of displaced persons entering the country simultaneously,” within its Aliens Act specifically include situations when aliens “cannot return safely to their home country or country of permanent residence because there has been a massive displacement of people in the country or its neighboring areas as a result of... an environmental disaster.”⁵⁹ While the EU Temporary Protection Directive and the Panamanian mass influx measures do not explicitly address their use in disaster

49 See general overview of the use of discretionary powers for individual determinations on “humanitarian” grounds regarding entry and stay in the RCM Member States (Canada, Costa Rica, Honduras, Mexico, Nicaragua and Panama), as well as other States in the Americas (Argentina, Brazil, Bolivia, Jamaica and Uruguay) in Cantor, *supra* note 1, pp.45-54; See also Fagen, *supra* note 28, p.21 regarding Venezuelan President’s authorization for temporary humanitarian visas immediately after the 2010 Haitian earthquake.

50 See discussion in Cantor, *supra* note 1, pp.42-43 regarding use of the term “humanitarian visas.”

51 Ley No. 25871: Política Migratoria Argentina (Argentina), 17 December 2003, published in Boletín Oficial, 21 January 2004, Article 29. See Cantor, *supra* note 1, p.50 for further discussion.

52 Argentina has the possibility to grant two year temporary residence permits, while in Panama permits may last up to six years. Although intended to be used for foreigners already in the country who meet specific criteria, in some cases it was used for new arrivals following the 2010 Haiti earthquake. Cantor explains, “Similar to Argentina, Panama thus appears to give the term ‘humanitarian reasons’ a broad meaning in practice, despite the enunciation of certain limited criteria in law, at least for aliens affected by a natural disasters.” For further discussion, see Cantor (2014) pp.50-52.

53 Cantor, *supra* note 1, p.44.

54 BBC online, ‘Case study: chances Peak, Monserrat, 1995-97, an LEDC’ at http://www.bbc.co.uk/schools/gcsebitesize/geography/natural_hazards/volcanoes_rev6.shtml.

55 Government of the People’s Republic of China, *China: Typhoon death toll rises to 23* (20 May 2006) at <http://reliefweb.int/report/china/china-typhoon-death-toll-rises-23>.

56 Government of Viet Nam, *Viet Nam: Typhoon Ketsana Breaks Records* (7 October 2009) at <http://reliefweb.int/report/viet-nam/viet-nam-typhoon-ketsana-breaks-records>.

57 See Cantor, *supra* note 1, p.16.

58 Government of Viet Nam, *Law on Natural Disaster Prevention and Control*, Order No. 07/2013/L-CTN, 28 June 2013, Article 39.

59 Finland, *Aliens Act*, Section 133.

situations, their potential application is not excluded.⁶⁰

In other disaster situations, migration officials have exercised their discretionary authority to exceptionally permit groups of displaced people fleeing disasters based upon humanitarian and solidarity principles. This is an approach often used in Africa where laws do not provide for temporary protection measures addressing disaster situations.⁶¹ Examples include cross-border displacement from the Democratic Republic of Congo into Uganda⁶² and Rwanda⁶³ following a volcanic eruption; between Botswana and Tanzania during floods⁶⁴; between Mozambique and Malawi during floods⁶⁵; and from Angola to Namibia during drought.⁶⁶

Regional and national measures for a mass influx of individuals grant different forms of “temporary protection” that authorize the entry of a group of foreigners for a limited period of time, ranging from two months (Panama⁶⁷) to one year (EU Temporary Protection Directive), with renewal often viewed as “exceptional” but possible.⁶⁸ In the aftermath of the 2010 Haiti earthquake, Brazil’s National Council on Immigration used its discretionary authority to exceptionally grant “humanitarian visas” to Haitians allowing them to enter and stay in Brazil for up to five years, even allowing Haitians to apply for visas at Brazilian embassies.⁶⁹ Some also include measures to ensure family unity and the needs of unaccompanied minors (EU Temporary Protection Directive⁷⁰).

Measures for designated groups from disaster-affected countries may be activated informally or through

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- 60 For further discussion on the potential applicability of the EU Temporary Protection Directive, see Michael D. Cooper, *Migration and Disaster-Induced Displacement: European Policy, Practice and Perspective*, Center for Global Development (CGD) Working Paper 308, Washington, DC at <http://www.cgdev.org/content/publications/detail/1426605>; Vikram Kolmannskog and Finn Myrstad, ‘Environmental displacement in European asylum law’ (2009) 11 *European Journal of Migration and Law* pp.315-319; Jane McAdam, *Climate Change, Forced Migration, and International Law*, Oxford University Press, Oxford (2012) pp.102-103. For further information on Panama see Cantor, *supra* note 1, p.21.
- 61 See Tamara Wood, who explains that African states do not have temporary protection measures at the national or regional level to address mass influxes of displaced persons, but instead rely on informal arrangements. Tamara Wood, *Protection and Disasters in the Horn of Africa: Norms and Practice for Addressing Cross-Border Displacement in Disaster Contexts*, Nansen Initiative (2014) p.54.
- 62 Nansen Initiative, *Natural Hazards, climate Change and Cross-Border displacement in the Greater Horn of Africa: Protecting People on the Move*, Outcome Report, Nansen Initiative Greater Horn of Africa Regional Consultation, Nairobi, Kenya 21-23 May 2014 (2014) p.9.
- 63 Alice Edwards, ‘Temporary protection, derogation and the 1951 Refugee Convention’ (2012) 13 *Melbourne Journal of International Law* 595 p.3.
- 64 Walter Kaelin and Nina Schrepfer, ‘Protecting people crossing borders in the context of climate change: Normative gaps and possible approaches’ (February 2012) *UNHCR Legal and Protection Policy Research Series* p.14.
- 65 Nansen Initiative, *Report: Nansen Initiative Southern Africa Consultation* (Stellenbosch University, 3-4 June 2015) p.6; See also *Times Live*, ‘Relief for flood-hit Mozambique and Malawi’ (2015) at <http://www.timeslive.co.za/thetimes/2015/01/18/relief-for-flood-hit-mozambique-and-malawi>.
- 66 See Reidun Gjerstad, Angola’s migration of thirst: The 2013 drought in François Gemenne, Pauline Brucker and Dina Ionesco (Eds.), *The State of Environmental Migration 2014: A Review of 2013*, Institute for Sustainable Development and International Relations/International Organization for Migration (2014) p.92; UN OCHA, *Namibia: Hundreds of Thousands Affected by Drought* (19 July 2013) at <http://www.unocha.org/rosa/node/3245>.
- 67 Cantor, *supra* note 1, p.19.
- 68 See discussion on Panama’s “temporary humanitarian protection” measures in Cantor, *supra* note 1, pp.51-52.
- 69 Cantor explains that this use of discretionary authority “represents an important example of where the general situation of persons from a country affected by a disaster has been expressly qualified to engage an undefined ‘humanitarian reasons’ provision.” Cantor, *supra* note 1, pp.47-48.
- 70 Council of the European Union, Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures for promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (EU Temporary Protection Directive). See Art. 15 family reunification; Art. 16 unaccompanied minors.

a formal determination process (EU Temporary Protection Directive⁷¹). Measures to address a mass influx may also include arrangements with the country of origin of the foreigners,⁷² as well as “solidarity” or “burden-sharing” mechanisms (EU Temporary Protection Directive⁷³ and Panama,⁷⁴ respectively) such as with other States, international organizations, UNHCR or other actors (Panama).

4. Pastoralist Transhumance Arrangements

Recognizing the need for pastoralists to move in times of drought and environmental stress to access water and grazing lands for the survival of their livestock, some African States have developed bilateral, multilateral or regional agreements that permit or facilitate movement along traditional routes across international borders (ECOWAS and CEMAC⁷⁵). Such arrangements may include the provision of certificates or other supplemental documentation to ensure that those crossing a border are able to bring property, such as vehicles and animals.

5. Refugee Law and Similar Protection under Human Rights Law

In general, disaster situations do not as such fall within the scope of application of international or regional refugee protection instruments.

However, in some cases, refugee law or similar protection under human rights law will be applicable. For instance, the effects of a disaster may create international protection concerns by generating violence and persecution, such as when a collapse of governmental authority triggered by the disaster leads to violence and unrest, or when a government uses a disaster as pretext to persecute its opponents.

In some situations, States have determined that the effects of both sudden and slow-onset disasters have given rise to conditions covered by international, regional or national refugee law. For example, a few States (Panama, Peru) found that asylum seekers from Haiti had a “well-founded fear of persecution by non-State actors that arose from the vacuum of governmental authority after the earthquake in Haiti,” thus applying the 1951 Refugee Convention.⁷⁶ In New Zealand, refugee status was granted to someone from a country with an authoritarian regime because her delivery of humanitarian assistance to disaster survivors

International Transhumance Certificates

The Economic Community of West African States (ECOWAS) and the Economic and Monetary Community of Central Africa (CEMAC) have both created international transhumance certificates (ITC) to facilitate the cross-border movement of livestock and their herders to access grazing lands and water in neighboring countries. A number of States have also negotiated bilateral transhumance agreements.

The ECOWAS programme maps out pastoralist migratory pathways, informs people living in those areas prior to the movement, and includes environmental conservation and conflict resolution mechanisms to resolve potential disputes. It also sets out the rights and responsibilities of receiving States and the herders during their stay in the foreign country.

71 The EU Temporary Protection Directive requires a Council Decision based upon an initial proposal from the Commission that at a minimum includes: “(a) a description of the specific groups of persons to whom the temporary protection applies; (b) the date on which the temporary protection will take effect; (c) information received from Member States on their reception capacity; and (d) information from the Commission, UNHCR and other relevant international organizations.” Chapter 1, Article 5.

72 For example, Cantor states that the “Panama law expressly envisages a role for the State of origin, requiring the Executive to put in place bilateral mechanisms with the other State with a view to facilitating return in conditions of safety and dignity, as well as the possibility of resettling the most vulnerable persons elsewhere.” Cantor (2014) pp. 19-20.

73 EU Temporary Protection Directive, Para. 20.

74 Cantor, *supra* note 1, p.20.

75 F.A. Abiola, A. Teko-Agbo, C. Biaou and M. Niang, *Socio-Economic and Animal Health Impact of Transhumance*, Ecole Inter-Etats des Sciences et Medecine Veterinaires BP5077 Dakar, Senegal at <http://www.oie.int/doc/ged/D3248.PDF>.

76 Cantor, *supra* note 1, p.17.

was regarded by authorities as an act of prohibited political opposition.⁷⁷

Wider notions of who is a refugee as enshrined in regional instruments may also justify the application of refugee law. In the case of the 2011-2012 droughts in the Horn of Africa, States in the region applied the 1969 AU Refugee Convention's expanded definition of a refugee for people fleeing Somalia. This determination was based upon the *prima facie* recognition of refugee status for people from particular parts of Somalia. Arguably, the facts that the famine threatened their lives, domestic authorities able to help them did not exist, and the ongoing conflict and violence greatly hindered international organizations' capacity to protect and assist Somalis during the famine, justified considering them as victims of an event "seriously disturbing public order in either part or the whole" of the country that "compelled" them to seek refuge abroad.⁷⁸ Similarly, a few States (Ecuador, Mexico⁷⁹) relied upon the 1984 Cartagena Declaration's broader refugee definition⁸⁰ to admit Haitians following the earthquake, recognizing a breakdown in public order that created a "lack of protection and increased insecurity faced by these individuals."⁸¹

In a unique case, Cuba's national refugee legislation recognizes people who left their country "due to cataclysm or other phenomena of nature" as refugees "until normal conditions are re-established in their country of origin."⁸² Similarly, the refugee definition within the 1994 League of Arab States' Convention on Regulating the Status of Refugees in the Arab Countries includes those fleeing "because of natural disasters or grave events resulting in major disruption of public order in the whole country or any part thereof."⁸³ However, although the Convention was adopted in 1994 by the League of Arab States, it has not been ratified by any Member States.

Although no longer valid, between 1965 and 1980 the United States' 1952 Immigration and Nationality Act allowed for the resettlement of refugees who included "persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode."⁸⁴

Finally, in some countries, measures under regional or domestic frameworks of "complementary protection," such as the EU Temporary Protection Directive,⁸⁵ adopted to address "refugee-like" situations of people fleeing violence or civil unrest that did not fall within the 1951 Refugee Convention,⁸⁶ could also be relevant, with some temporary protection measures administered by national refugee authorities.⁸⁷

77 The Refugee Status Appeals Authority found that a female activist from Myanmar had a well-founded fear of arrest and sentencing because in the aftermath of Cyclone Nargis she had distributed humanitarian aid purchased by foreigners who supported an opposition party. *Refugee Appeal No 76374*, Decision of 28 October 2009 (B.L. Burson [tribunal member]) at https://forms.justice.govt.nz/search/IPT/Documents/RefugeeProtection/pdf/ref_20091028_76374.pdf cited in Kaelin & Schrepfer, *supra* note 64, p.33.

78 See Wood, *supra* note 61, pp.32-33.

79 Cantor, *supra* note 1, p.18.

80 Under the 1984 Cartagena Declaration on Refugees, "refugees" include "persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order."

81 Cantor, *supra* note 1, p.18.

82 See Cuba's Edición actualizada del Decreto No. 26, Reglamento de la Ley de Migración (Cuba), de 19 de Julio de 1978 in the Gaceta Oficial, No. 44, 16 October 2012, 1373-1387, Article 80, cited in Cantor, *supra* note 1, p.18.

83 League of Arab States, *Arab Convention on Regulating Status of Refugees in the Arab Countries*, 1994 at <http://www.refworld.org/docid/4dd5123f2.html>.

84 United States, *1952 Immigration and Nationality Act* (1964 ed., Supp. V), section 203(a)(7)(B). See Cantor, *supra* note 1, p.23.

85 See Council of the European Union, Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures for promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

86 See UNHCR, *Guidance Note on Temporary Protection or Stay Arrangements*, Division of International Protection (January 2014).

87 For example, Panama, Venezuela, and Peru's "temporary humanitarian protection" measures are located within their domestic refugee legislation. For further details see Cantor, *supra* note 1, pp.27-33.

However, while it is not excluded that such measures could apply in other, unforeseen scenarios, including disaster situations, to date they have not explicitly been used in practice for this purpose.⁸⁸

D. Rights and Responsibilities during Stay

When cross-border disaster-displaced persons are admitted to a country, it is important to clarify their rights and responsibilities for the duration of their stay, taking into account the capacity of receiving States and host communities and the likely duration of stay. Such clarification not only ensures respect for the rights and basic needs of those admitted, but also helps avert the risk of secondary movements to another country.

State practice, laws and policies vary regarding the rights and responsibilities that people coming from disaster-affected countries have or could potentially have during their stay, depending upon the migration category upon which they were admitted into the country. Short-term temporary protection measures⁸⁹ responding to mass influx situations tend to focus on meeting immediate, basic humanitarian assistance needs without authorizing employment (Peru, Venezuela,⁹⁰ Panama⁹¹), and detail responsibility for receiving displaced persons (Venezuela, Peru⁹²). Others grant permission to enter, travel or stay on a temporary basis, with the potential to seek employment requiring a separate, but not automatic, authorization (Argentina⁹³). Others rely on the sponsoring family member to meet the needs of their relatives rather than authorizing employment (Mexico⁹⁴). People entering in mass-influx situations may also face restrictions on their movement (Panama⁹⁵), such as being required to stay in a transit centre during a registration period (Finland⁹⁶).

Migration measures that offer longer-term residency permits allow for a fuller spectrum of rights, including

88 See McAdam, *supra* note 21; Kaelin & Schrepfer, *supra* note 64, pp.34-36; Cantor, *supra* note 1, pp.19-22 and pp.24-25.

89 Some temporary protection mechanisms for a mass influx limit initial entry to period to a “maximum of 90 days” (Venezuela, see Cantor, *supra* note 1, p.21) or three months (Peru, see Cantor, *supra* note 1, p.21; Finland, Section 133).

90 Cantor, *supra* note 1, p.21.

91 Temporary protection mass influx: right to basic necessities, but no right to work and restricted freedom of movement; has not yet been applied. See Cantor, *supra* note 1, pp.19-20.

92 In the case of Peru, Cantor explains that upon admission, measures ensure “necessary assistance to meet their basic human needs, including the provision of food, shelter and basic hygiene and health services, in conditions of security; and the maintenance of the unity of the basic nuclear family. Towards this end, the national refugee office coordinates the identification of sites, reception procedures, responsibilities of local authorizes and international technical and financial assistance.” See Cantor, *supra* note 1, pp.21-22.

93 Cantor clarifies that Argentina’s “transitory residents” status is distinct from temporary residents in that it is “shorter in duration and does not automatically imply the right to work in Argentina, although this may be expressly authorized in appropriate cases.” See Cantor, *supra* note 1, pp.53.

94 According to Cantor, A “visa as a visitor without possibility to work” may also be available for those with a relative already in the country who can sponsor a person who “finds herself in a situation of danger to her life or integrity owing to violence or a duly accredited natural disaster.” *Ley de Migración* (Mexico), Article 41 and 116(I)(b). Procedural guidelines further explain that such visas can be issued when the person is “is a victim of a natural catastrophe.” See Cantor (2014) pp.52-53.

95 Cantor, *supra* note 1, p.20.

96 Finland, *Aliens Act*, Section 133 on “Registering a large number of displaced persons entering the country simultaneously”. This period of time should not exceed three months. Health or “other important personal reasons” may mean a person does not need to stay in a transit centre. Section 133(2-3).

access to employment (Brazil,⁹⁷ Finland, Sweden, USA,⁹⁸ EU Temporary Protection Directive⁹⁹), and vocational training (EU Temporary Protection Directive¹⁰⁰).

E. Non-Return of Foreigners Abroad at the Time of a Disaster

Citizens and permanent residents of a disaster-affected country may be abroad when a disaster hits. In particular, if they were required to leave the country or face deportation under applicable migration law, such persons may face a real risk to their life and safety or very serious hardship linked to the disaster upon return to their country of origin or habitual residence. Under such circumstances such persons may be considered cross-border disaster-displaced persons *sur place*.¹⁰¹ In this and other situations, a number of States have refrained from sending such persons back to their country of origin or former habitual residence during and in the aftermath of a disaster, or allowed them to extend their stay, for reasons of international solidarity and grounded in humanitarian considerations.¹⁰² To identify such persons, States often use the same or similar criteria as described above (Section A. Identifying the Displaced).

In such situations, States use a variety of humanitarian protection measures to ensure that foreigners already on their territory are not returned during or in the aftermath of a disaster. For example, States have relied on their discretionary “temporary relief measures” or “special measures” (USA, Canada, and New Zealand¹⁰³) to allow regular migrants to extend or change their existing status on humanitarian grounds to support an extended stay until return to the disaster-affected country is possible, for example by transferring from a student to a work permit. Often, such measures require that a disaster has been officially declared by competent authorities in the country affected by the disaster.

Similarly, States have also drawn on discretionary authority to temporarily regularize regular and irregular foreigners from disaster-affected countries who were already in the country at the time of the disaster and subject to deportation by granting various forms of residency permits ranging in duration and associated rights (Ecuador, Venezuela, Costa Rica, Nicaragua, Panama, and USA¹⁰⁴). In the USA, “environmental disasters” are specifically identified as potentially activating a “temporary protected status” for nationals

97 Brazil’s National Council on Immigration used its discretionary authority to exceptionally grant “humanitarian visas” to Haitians allowing them to enter, stay and work in Brazil for up to five years, even allowing Haitians to apply for visas at Brazilian embassies. Cantor, *supra* note 1, p.47.

98 US Citizenship and Immigration, ‘Temporary Protected Status’ (last updated 9 March 2015) at <http://www.uscis.gov/humanitarian/temporary-protected-status>.

99 EU Temporary Protection Directive: 13.1 “shall ensure... access to suitable accommodation, or if necessary, receive the means to obtain housing; 13.2 social welfare and means of subsistence, and medical care; 13.4 “necessary medical or other assistance” for people with special needs. 14.1 “shall grant to persons under 18 years of age... access to the education system under the same conditions as nationals.”

100 EU Temporary Protection Directive para.9 chapter 1: Member States: “shall authorise, for a period not exceeding that of temporary protection, persons enjoying temporary protection to engage in employed or self-employed activities... as well as in activities such as education opportunities for adults, vocational training and practical workplace experience.” With general labour laws in force: remuneration, social security, etc. (Art. 12).

101 Such circumstances could arise, if applied by analogy to the circumstances under which a person becomes a refugee *sur place*. “A person who was not a refugee when he left his country, but who becomes a refugee at a later date, is called a refugee ‘sur place.’ A person becomes a refugee ‘sur place’ due to circumstances arising in his country of origin during his absence.” UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, HCR/1P/4/ENG/REV. 3, Reissued, Geneva, December 2011 paras.94-96.

102 Examples of States and their response to not return disaster-affected foreigners in specific disaster situations are described in Annex I, according to sub-region. **Africa and the Middle East:** Lebanon; **Asia:** Singapore; **Caribbean:** Antigua and Barbuda, Bahamas, Dominica, Dominican Republic, Jamaica, Turks and Caicos British Overseas Territory; **Central America:** Costa Rica, Nicaragua and Panama; **North America:** Canada, Mexico and USA; **South America:** Brazil, Ecuador, Chile, Paraguay, Peru and Venezuela; **Europe:** Denmark, France, Germany, the Netherlands, Romania, Slovakia, Slovenia, Spain, Switzerland and the UK; **Oceania:** Australia and New Zealand.

103 Immigration New Zealand, *supra* note 9.

104 Cantor, *supra* note 1, pp.36-40.

from a “foreign state (or any part of such foreign state)” that has resulted in a “substantial, but temporary, disruption of living conditions” in the affected area.¹⁰⁵ Such measures have an activation date used to determine eligibility, and set an initial expiration date and review process for extending the temporary measure, if necessary.

Many States have also issued temporary suspension of removals for foreigners from disaster affected countries, regardless of the date upon which they entered the country (Bahamas, Canada, Dominican Republic, Jamaica, Mexico, Turks and Caicos British Overseas Territory, and USA;¹⁰⁶ and Denmark, Germany, the Netherlands, and the UK¹⁰⁷) with some even suspending removals of people who normally would be considered inadmissible (Canada and USA¹⁰⁸). Temporary suspensions of removal have also been supported by international and regional organizations in the aftermath of disasters.¹⁰⁹

Temporary measures for foreigners already abroad are generally framed in terms of solidarity with a disaster-affected State (Costa Rica, Ecuador, USA, and Venezuela), while emphasizing the safety and security concerns for affected individuals were they to be returned prematurely (USA¹¹⁰), and may even require that the disaster-affected State request activation of the status due to its temporary inability to receive its own nationals (USA¹¹¹).

F. Finding Lasting Solutions for Cross-Border Disaster-Displaced Persons

Admission, stay and non-return of cross-border disaster-displaced persons usually are granted on a temporary basis. When such temporary measures come to end, displaced persons will need to find a solution that allows them to rebuild their lives in a sustainable way either in their country of origin, or in some cases, in the country that received them or in exceptional cases in a third country.

Some temporary protection mechanisms, particularly for mass influx situations, explicitly create bilateral mechanisms with the country of origin to find durable solutions (Panama,¹¹² EU Temporary Protection Directive). Such mechanisms could include developing criteria and joint assessments to determine when return can occur in safety and dignity. They could also include measures to verify the voluntariness of the return (Venezuela¹¹³) and specifically address the particular needs of the most vulnerable people (Panama). Such a mechanism could also ensure adequate reintegration and support services, such as by including plans for rehabilitating areas damaged by the disaster, compensation for lost property, adequate social services and appropriate livelihood opportunities.¹¹⁴ Consultation and participation of disaster-affected communities, including those receiving the returnees, is essential throughout the planning and implementation of such measures. Allowing temporary visits to the place of origin during displacement to manage land and property issues and to participate in recovery and reconstruction processes also helps people prepare for their return.

105 United States, *Immigration and Nationality Act* (2002), Section 244.1(b)(1)(B).

106 Cantor, *supra* note 1, pp.40-41.

107 McAdam, *supra* note 21, p.42.

108 Cantor, *supra* note 1, p.40.

109 For example, after the 2010 Haiti Earthquake the Bolivarian Alliance for the Peoples of Our America (ALBA) called on members to “decree a migratory amnesty that regularizes the migratory status of Haitian citizens resident in ALBA countries” see Cantor (2014) p.29; See also the United Nations Human Rights Council, ‘Report of the Independent Expert on the Situation of Human Rights in Haiti, Michel Forst, Addendum, Forced Returns of Haitians from Third States’, *UN Doc A/HRC/20/35/Add.1* (4 June 2012) pp.6-7.

110 Note that the grounds for activating the USA’s temporary protected status also include a category for “extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety.” TPS, Section 244.1(b)(1)(C).

111 USA, *Immigration and Nationality Act* (2002), Section 244.1(b)(1)(B).

112 Cantor explains, “Panama law expressly envisages a role for the State of origin, requiring the Executive to put in place bilateral mechanisms with the other State with a view to facilitating return in conditions of safety and dignity, as well as the possibility of resettling the most vulnerable persons elsewhere.” Cantor, *supra* note 1, p.20.

113 For those who receive “temporary protection” in Venezuela in a mass influx situation, Cantor states that the “voluntariness of their decision to leave Venezuela must be documented in a formal act drafted by the national refugee office in coordination with UNHCR.” Cantor, *supra* note 1, p.21.

114 UNHCR, *Summary of Deliberations on Climate Change and Displacement* (April 2011) p.6 at www.unhcr.org/4da2b5e19.pdf.

When the conditions causing displacement persist for an extended period of time, some States have established measures to allow for the displaced person to either renew their temporary protection status, or to apply for a more secure immigration status, such as permanent residency under regular immigration law.¹¹⁵ Particular measures, including permanent admission on an *ad hoc* basis, such as resettlement in a third country, may need to be taken in exceptional circumstances when return to the country of origin becomes permanently impossible. This situation could arise when the capacity of a disaster-affected country to receive returning citizens is permanently impaired, for instance as a consequence of a substantial loss of state territory.

115 For example, those granted continuous residency under the “humanitarian protection” provision in Finland have the possibility to receive permanent residency if the conditions for displacement extend beyond four years (Section. 56 (380/2006)). In a mass influx situation, Finland grants a four year continuous residence permit after residing in the country for three years, and also allow for permanent residence if the conditions persist further (*Alien Act* Section. 109). In Panama, the Government ultimately granted Colombians admitted under the temporary humanitarian protection measure permanent residency after they had been in the country after six years. (Cantor, *supra* note 1, p.20) Peru’s provisions for mass influx situations also include measures for seeking a lasting solution with the reasons for continued stay are protracted. (Cantor, *supra* note 1, p. 22).



Celebrating Children's Day in Nukufetau, one of Tuvalu's nine islands in the Pacific. Tuvalu is severely affected by the adverse impacts of climate change and in particular rising sea levels.

ANNEX III
DISASTER DISPLACEMENT
REFERENCES IN
INTERNATIONAL,
(SUB-)REGIONAL AND
BILATERAL AGREEMENTS,
DECLARATIONS, AND
POLICIES

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ANNEX III: DISASTER DISPLACEMENT REFERENCES IN INTERNATIONAL, (SUB-)REGIONAL AND BILATERAL AGREEMENTS, DECLARATIONS, AND POLICIES

I. International

1. Conference of the Parties of the UN Framework Convention on Climate Change

The 2010 Conference of the Parties (COP) to the UN Framework Convention on Climate Change (Cancun Agreement) invites States in paragraph 14(f) to enhance their action on adaptation including by:

[m]easures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels.¹

Decision 3/CP.18(7)(iv) of the 2012 COP 18 Doha decision on loss and damage encouraged further work to enhance understanding of “how impacts of climate change are affecting patterns of migration, displacement and human mobility.”²

2. Sendai Framework for Disaster Risk Reduction 2015-2030

The Sendai Framework explicitly recognizes displacement and human mobility as one of the devastating impacts of disasters and calls for the participation of all relevant stakeholders, including displaced persons and migrants, to reduce disaster risk.³ The Sendai Framework also recognizes the need to build that resilience of individuals and communities, including those at risk of displacement.⁴

Paragraph 28 acknowledges that in order to strengthen disaster risk governance to manage disaster risk it is important to promote “transboundary cooperation” and build “resilience and reduce disaster risk, including epidemic and displacement risk.”⁵

At the national and local level, the Sendai Framework calls for investment in disaster risk reduction for resilience which includes the encouragement for states to “adopt policies and programmes addressing disaster induced human mobility to strengthen the resilience of affected people and that of host communities as per national laws and circumstances.”⁶

3. UN 2030 Agenda for Sustainable Development

The UN 2030 Agenda for Sustainable Development recognizes that global challenges threatening “to reverse much of the development progress made in recent decades” include “more frequent and intense natural disasters” as well as the “forced displacement of people.”⁷

1 United Nations Framework Convention on Climate Change Decision 1/CP.16, *The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention*, FCCC/CP/2010/7/Add.1 (15 March 2011) p.5 at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>.

2 Report of the Conference of the Parties on its eighteenth session, held in Doha from 26 November to 8 December 2012, Decision 3/CP.18, *Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity*, FCCC/CP/2012/8/Add.1.

3 Paragraphs 19(b) and 33(a) *Sendai Framework for Disaster Risk Reduction 2015-2030* adopted at the Third UN World Conference in Sendai, Japan (8 March 2015) at http://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf.

4 Ibid. Para.30(I).

5 Ibid. Para.28.

6 Ibid. Para.30(I).

7 UNDP, *Transforming Our World: The 2030 Agenda for Sustainable Development*, (advance unedited version) para.14 at <https://sustainabledevelopment.un.org/content/documents/7891Transforming%20Our%20World.pdf>.

The 2030 Agenda also contains a commitment “to cooperate internationally to ensure [...] the humane treatment”, inter alia, of “displaced persons,”⁸ and to build the resilience, inter alia, of those in vulnerable situations to climate-related extreme events and other disasters.⁹ In this regard, Goal 13 – Take Urgent Action to Combat Climate Change and Its Impacts, with its intention to “leave no one behind” when the goals are implemented, together with the reference to displaced persons and migrants among vulnerable groups, establishes a clear link between displacement, climate change, natural hazards, and development.

4. World Humanitarian Summit

The World Humanitarian Summit process has also identified disaster displacement as a current and emerging humanitarian challenge in different regions during the consultative process.¹⁰ For example, the WHS online consultation forum for the Pacific Region examined the theme “Disasters, Climate Change and Displacement,” inviting participants to discuss two specific questions: 1) How can we best protect people displaced by disasters and the impacts of climate change in the Pacific?; and 2) How can urban communities be supported to better prepare for and respond to displacement in the context of disasters and climate change in the Pacific?¹¹ The World Humanitarian Summit will conclude in Istanbul on 23 - 24 May 2016.

II. Africa & the Middle East

A. Regional

1. 2006 African Union Migration Policy Framework for Africa

The Framework “serves to provide the necessary guidelines and principles to assist governments and RECs in the formulation of their own national and regional migration policies as well as, their implementation in accordance with their own priorities and resources.”¹² The Framework states that environmental degradation and poverty are a “significant root causes of mass migration and forced displacement in Africa.”¹³

The Framework also recommends that States “draw up reliable policies for the protection of the environment in order to avoid natural disasters, the encroachment of the desert and soil degradation which are major sources of displacement of people from their natural environment.”¹⁴ Furthermore the Framework calls for States and regional economic communities (including SADC and COMESA) to “incorporate environmental considerations in the formulation of national and regional migration management policies to better address environment related causes of migratory movements.”¹⁵

8 Ibid. Para.35.

9 Ibid, Goal 1.5.

10 See, for example, the World Humanitarian Summit, *Final Report: Regional Consultation for the Pacific*, Auckland, 30 June-2 July 2015 pp.24-27 at <http://tinyurl.com/nrz3qog>.

11 World Humanitarian Summit, *Online Consultation Summary Report Pacific Region* (10 June 2015) at <http://tinyurl.com/nw3jzrf>.

12 African Union, *The Migration Policy Framework for Africa*, EX.CL/276(IX), Executive Council Ninth Ordinary Session, Banjul, Gambia (25-26 June 2006) p.1 at http://sa.au.int/en/sites/default/files/au_migration_policy_framework_africa.pdf.

13 Ibid. p.1.

14 Ibid. p.35.

15 Ibid. p.37.

2. 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

The Kampala Convention, which came into force in December 2012 following ratification by 15 countries, obliges States party to the Convention to “protect and assist persons who have been internally displaced due to natural hazards or human made disasters, including climate change.”¹⁶ The Kampala Convention is the world’s first legally binding regional instrument that includes disaster displaced persons.¹⁷

3. Fifth African Regional Platform and Third Ministerial Meeting for Disaster Risk Reduction

Held in May 2014, delegates from across Africa agreed that:

Disasters are not constrained by administrative boundaries and require trans-boundary policies and programmes. Population movements induced by disasters (fast- and slow-onset) and long-term violent conflicts call for cross-border cooperation.¹⁸

Delegates also agreed to work on adopting this policy at the national and international level.

4. Joint AU-EU Tripoli Declaration on Migration and Development

The Tripoli Declaration acknowledges that migration is of benefit to both Africa and the EU and that finding solutions to the challenge of migration are best found in joint cooperation. The Declaration also acknowledges that “meeting the concerns and interests of countries of origin, transit and destination alike, as well as the migrants themselves is an essential part of migration.”¹⁹ The Tripoli Declaration recognizes “environmental factors” as a “fundamental cause” of migration in Africa.²⁰

5. Arab States Convention on Regulating the Status of Refugees in the Arab Countries

The definition of a refugee includes those fleeing “because of natural disasters or grave events resulting in major disruption of public order in the whole country or any part thereof.”²¹ However, while the Convention was adopted in 1994 by the League of Arab States, it has not been ratified by any Member States.

B. Sub-Regional and Bilateral

1. 2006 Great Lakes IDP Protocol

The 2006 Protocol on the Protection and Assistance to Internally Displaced Persons (Great Lakes Protocol) applies the UN Guiding Principles on Internal Displacement’s description of internally displaced persons, which includes displacement caused by “natural or human-made disasters.”²² Recalling article 58 of the Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes, the Preamble commits to “respect and use the Guiding Principles on Internal Displacement [...], harmonize all the relevant pieces of legislation and define a national and regional framework for the monitoring and follow-up of the standards contained therein and which relate to the access and protection of disaster victims ...”

16 African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (Kampala Convention) p.8.

17 IDMC, *The Kampala Convention Two Years On: Time to Turn Theory into Practice* (8 December 2014) at <http://www.internal-displacement.org/assets/publications/2014/201412-af-kampala-convention-brief-en.pdf>.

18 Fifth African Regional Platform and Third Ministerial Meeting for Disaster Risk Reduction, *Summary Statement: Africa’s Contribution to the Post-2015 Framework for Disaster Risk Reduction* (2014) p.3. at http://www.preventionweb.net/files/37530_5afrpsummarystatementen16mayfinal.pdf.

19 African Union and European Union, *Joint Africa-EU Declaration on Migration and Development* Tripoli 22-23 November 2006 p.3 at http://www.regionalmms.org/fileadmin/content/sector_publications/Joint_Africa-EU_Declaration_on_Migration_and_Development.pdf.

20 Ibid. p.2.

21 Article 1, *Arab Convention on Regulating Status of Refugees in the Arab Countries* adopted by the League of Arab States (1994).

22 International Conference on the Great Lakes, *Protocol on the Protection and Assistance to Internally Displaced Persons* (2006).

Article 3 Responsibility for Protecting Internally Displaced Persons of the Protocol specifically addresses disaster displacement:

Article 3.2: Member States shall, to the extent possible, mitigate the consequences of displacement caused by natural disasters and natural causes

Article 3.5: Member States shall establish and designate organs of Government responsible for disaster emergency preparedness, coordinating protection and assistance to internally displaced persons, as well as the focal structures responsible for cooperating with international agencies and civil society [...]

2. East African Community Climate Change Policy (EACCCP)

In 2009, the East African Community adopted the East African Community Climate Change Policy (EACCCP). The EACCCP notes that adapting to the adverse impacts of climate change is of paramount importance for the region and a priority for the EAC Member States is to support regional Disaster Risk Reduction policies. The EACCCP makes direct reference to “rising sea levels leading to displacement of people and disruption of both terrestrial and marine ecosystems.”²³

The EACCCP also recognizes the importance of addressing adaptation needs in various sectors that affect the sustainable livelihood of EAC citizens, including the need to “promote sustainable utilization of natural resources, promotion of alternative livelihoods, minimization of migration, internal and cross-border conflicts, and displacement of the populations.”²⁴

3. East African Community Disaster Risk Reduction and Management Strategy

The 2011 East African Community Disaster Risk Reduction and Management Strategy (2012-2016) acknowledges the “new phenomenon” of “climate refugees,” noting that natural hazards associated with climate change are “causing mass global migration and border conflicts.”²⁵ It also identifies an example of cross-border movement from Burundi in the context of drought. The document does not include any specific actions to address this phenomenon, and later acknowledges as a weakness the “limited memorandums or treaties for cross-border issues related to DRRM.”²⁶

4. IGAD Draft Protocol on the Free Movement of Persons

In 2012, representatives of Intergovernmental Authority on Development (IGAD) Member States met to discuss a Draft Protocol on the Free Movement of Persons. In the Terms of Reference for the development of the Draft Protocol, the IGAD Secretariat noted that any protocol on migration must take into account a “situation where people are forced by circumstances such as natural disasters.....to settle somewhere else.”²⁷

23 East African Community, *EAC Climate Change Policy* (May 2010) p.1 at http://www.eac.int/environment/index.php?option=com_docman&task=doc_download&gid=128&Itemid=106.

24 Ibid. p.6.

25 East African Community, *Disaster Risk Reduction and Management Strategy (2012-2016)* p.20 at [http://www.preventionweb.net/files/EAC_DRRMS\(2012-2016\)version_1.4\[1\].pdf](http://www.preventionweb.net/files/EAC_DRRMS(2012-2016)version_1.4[1].pdf).

26 Ibid. p.46.

27 IGAD Secretariat, *Draft Terms of Reference (ToRs) for Consultancy to Develop the Protocol on Free Movement of Persons in the IGAD Region* p.5 at http://igad.int/attachments/299_Terms_of_Reference_to_Develop_the_Protocol%5B1%5D.doc.

5. SADC Climate Change Policy Paper

The Programme on Climate Change Adaptation and Mitigation in the Eastern and Southern Africa Region²⁸ is a tripartite program launched by the EAC, COMESA and SADC. The SADC Climate Change Policy Paper, intended to feed into the tripartite programme, is one of very few policy documents at the national or regional level in Southern Africa that expressly mentions the effects of natural hazards, disasters and climate change on migration and displacement. The Policy Paper notes,

The impact of global warming and climate change on the SADC region already contributes to inside-country migration. With more crop failure associated with recurrence of droughts, more and more people, especially the subsistence farmers abandon their land and migrate into towns and cities to seek alternative income generating opportunities.²⁹

The Policy Paper further states that climate change “is expected to exacerbate the environmentally induced migration patterns.”³⁰

6. Northern Corridor Integration Projects Initiative

Within the Northern Corridor Integration Projects Initiative, the Governments of Kenya, Rwanda, South Sudan and Uganda are discussing disaster risk reduction, management and crisis response, including cross-border population movements.³¹

III. Americas

A. Regional

1. International Humanitarian Assistance Mechanisms (MIAH)

The International Humanitarian Assistance Mechanisms (MIAH) include member States from across the Latin America and the Caribbean. During the November 2013 MIAH VI meeting held in Jamaica, participating States agreed in the 2013-2014 Action Plan to:

Provide follow up to the consultative process led by States to generate a consensus on the Protection Agenda that will examine the needs of cross-border displaced persons due to disasters and the adverse effects of climate change.

The issue of cross-border disaster-displacement and follow up on the work of the Nansen Initiative is also included in the 2015 MIAH VII Action Plan (as of September 2015 not finalized) developed in Guatemala in May 2015.

B. Sub-Regional

1. Community of Latin American and Caribbean States (CELAC)

In the CELAC Plan of Action 2014, Heads of State and other government representatives agreed upon a set of actions that included, under the heading “International Humanitarian Assistance in Case of Disaster Situations”:

Follow-up the conclusions and recommendations of the Second Regional Inquiry the Nansen Initiative, held in San Jose, Costa Rica, and directed by the States to generate a consensus on the agenda for the protection and needs of cross-border displaced persons due to the disasters and the

28 COMESA, EAC & SADC, *Programme on Climate Change Adaptation and Mitigation in the Eastern and Southern Africa (COMESA-EAC-SADC) Region* (2011) at http://www.sadc.int/files/9613/5293/3510/COMESA-EAC-SADC_Climate_Change_Programme_2011.pdf.

29 David Lesolle, *SADC Policy Paper on Climate Change: Assessing the Policy Options for SADC Members*, SADC Secretariat (2012) p.4. at http://www.sadc.int/files/9113/6724/7724/SADC_Policy_Paper_Climate_Change_EN_1.pdf.

30 Ibid. p.4.

31 Northern Corridor Integration Projects, ‘Mutual Peace and Security Cooperation’ at <http://www.nciprojects.org/project/mutual-peace-and-security-cooperation>.

adverse effects of climate change, as well as provide the support required for future reference in the Caribbean.³²

2. CEPREDENAC: Regional Plan for Disaster Risk Reduction (2014-2019)

The Coordination Center for the Prevention of Natural Disasters in Central America (CEPREDENAC) has developed a Regional Plan for Disaster Risk Reduction (2014-2019), which is a planning document to support the implementation of SICA's 2010 Central American Policy on Comprehensive Disaster Risk Management (Política Centroamericana de Gestión Integral de Riesgo de Desastres - PCGIR). The plan includes the following:

Promote mechanisms to ensure international protection to migrants in situations of disasters to address their needs, including access to humanitarian assistance, protection and visibility in the records and statistics; the right to information and to communication with relatives, taking into consideration existing international conventions.³³

3. The Central American Regional Strategy on Climate Change

The Regional Strategy on Climate Change (RSCC) aims to harmonize regional processes, and complement national and local mitigation and adaption initiatives.³⁴ 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.³⁵

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.”³⁶ Immigration issues are also addressed within the RSCC within the context of the development of a Regional Strategy on Security and Climate Change.

4. Regional Conference on Migration (RCM) or “Puebla Process”

In 1999 the annual meeting of the Regional Conference on Migration, 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.³⁷

In February 2015, the RCM held the “Regional Workshop on Temporary Protection Status and/or Humanitarian Visas in Situations of Disaster” in San José, Costa Rica. The workshop participants agreed that a Guide on Effective Practice should be drafted for presentation and consideration at an upcoming RCM Vice-Ministerial meeting.

32 CELAC, *CELAC Plan of Action 2014*, II CUMBRE Doc.3.2, English, 28-29 January 2014 p. 15 at http://celac.cubaminrex.cu/sites/default/files/ficheros/celac_plan_of_action_2014.pdf.

33 CEPREDENAC, *Regional Plan for Disaster Risk Reduction (2014-2019)* p.23.

34 CCAD/SICA, *Regional Strategy on Climate Change*, Executive Document (November 2010) p.8 at <http://www.uncsd2012.org/content/documents/regionalstrategyelsalvador.pdf>.

35 Ibid. p.40.

36 Ibid. p.50.

37 Regional Conference on Migration, *Joint Communiqué: IV Regional Conference*, San Salvador, El Salvador (1999) p.1 at <https://www.iom.int/jahia/webdav/shared/shared/mainsite/microsites/rcps/puebla-process/EN-1999-JOINT-COMMUNIQUE-San-Salvador.pdf>.

5. Brazil Declaration and Plan of Action

On 2-3 December 2014, ministers from Latin American countries, civil society and intergovernmental organizations met at the Cartagena +30 Conference in Brasilia to celebrate the 30th anniversary of the 1984 Cartagena Declaration on Refugees. At the close of the meeting, 28 countries and three territories of Latin American and the Caribbean adopted the Brazil Declaration and Plan of Action. The Declaration states,

The challenges posed by climate change and natural disasters, as well as by the displacement across borders that these phenomena may cause in the region, and recognize the need to conduct studies and give more attention to this matter, including by UNHCR.³⁸

The Declaration further states,

In light of the new challenges posed by climate change and natural disasters, as well as by displacement of persons across borders that these phenomena may generate, UNHCR is requested to prepare a study on the subject with the aim of supporting the adoption of appropriate national and regional measures, tools and guidelines, including response strategies for countries in the region, contingency plans, integrated responses for disaster risk management and humanitarian visa programmes, within the framework of its mandate.³⁹

IV. Asia

A. Sub-Regional and Bilateral

1. Colombo Process Dhaka Declaration

Participants at the Fourth Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin in Asia (The Colombo Process) in April 2011 agreed upon the Dhaka Declaration, which raises the issue of migrants' rights during disasters, and also considers the relationship between human mobility and environmental changes.

Recommendation three of the Dhaka Declaration reads:

1. To develop appropriate policy and institutional response capacity to mitigate the impact of emergency situations on migrant workers, including ensuring their safety, security and well-being as well as early evacuation, repatriation, compensation and opportunities to return to their jobs;
2. To further explore the possible nexus between environmental degradation and climate change on one hand and human mobility on the other, and its likely implications on labour migration.

2. ASEAN Intergovernmental Commission of Human Rights (AICHR)

The ASEAN Intergovernmental Commission of Human Rights' (AICHR) 2010-2015 work plan included migration as a thematic issue. Notably, a national workshop in Myanmar hosted by AICHR addressed the topic of "Human Rights, Environment and Climate Change" from 13-15 September 2014.

Outcomes of the conference included: 1) acknowledging the clear connection between human rights and environmental sustainability/climate change; 2) the importance of adopting a human rights based approach to environment policy making; and 3) discussion on the next steps to streamline human rights and the environment into other ASEAN Community pillars.⁴⁰

38 *Brazil Declaration and Plan of Action*, Brasilia (3 December 2014) p.8 at <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2014/9865>.

39 Ibid. p.18.

40 AICHR, "AICHR Workshop on Human Rights, Environment and climate change" (18 September 2014) at <http://aichr.org/news/aichr-workshop-on-human-rights-environment-and-climate-change/>.

3. Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC)

BIMSTEC, comprising Bangladesh, Bhutan, India, Nepal, and Sri Lanka, as well as Myanmar and Thailand, has a noted focus on Disaster Management.⁴¹ At the Third BIMSTEC Summit, held in Myanmar 4 March 2014, it was reported that the Bangladesh Prime Minister Sheikh Hasina “asked BIMSTEC countries to take a ‘unified’ stand and seriously consider the adverse impact of climate change keeping in mind global assessments that indicate an increase in the frequency and intensity of natural disasters in the region.”⁴² The Bangladesh Prime Minister also specifically highlighted the implications of climate change on human mobility, warning that “a rise in one degree Celsius due to global warming would submerge a fifth of Bangladesh, forcing 30 million people to become ‘climate migrants’.”⁴³

4. Regional Conference on Refugee Protection and International Migration: Almaty Process

The Almaty Process is a regional consultative process in Central Asia that intends to promote sustained dialogue and exchange of information on “migration issues and refugee protection challenges” in an enumerated list that includes “Migration and Climate Change.”⁴⁴ At the first meeting in March 2011, Participating States at the Regional Conference on Refugee Protection and International Migration held in Almaty, Kazakhstan adopted the non-binding Almaty Declaration. The first paragraph acknowledges that among the many motivations that may prompt people to move:

Environmental degradation can be in certain circumstances an additional factor which may impact the movement of people. Irrespective of their underlying causes, such population movements can give rise to protection and assistance needs, particularly if they take place in an irregular manner.⁴⁵

5. June 9, 1964 Protocol between the PRC Ministry of Public Security and the DPRK Social Safety Ministry for Mutual Cooperation in Safeguarding National Security and Social Order in Border Areas

A bilateral agreement between the People’s Republic of China and the Democratic People’s Republic of Korea includes provisions to respond to cross-border disaster-displacement.

Article 1

Both sides will cooperate in defending [each] country, community properties, civilian lives and civilian properties in the border areas between China and Korea. 1. Both sides will actively cooperate to prevent fires, typhoons, floods, labor incidents and other incidents. Civilians who are forced to enter the other side’s territory as a result of a disaster should be assisted.

Article 4

Those who do not hold legal documents or have used a crossing point not specified in the documents will be treated as illegal border crossers. However, those who were forced to cross the border as a result of a disaster will not be treated as illegal border crossers.⁴⁶

41 Government of India Ministry of External Affairs, *Brief on BIMSTEC* p.2 at http://www.mea.gov.in/Portal/ForeignRelation/BIMSTEC_Brief_February_2014.pdf.

42 Nay Pyitaw, ‘Bangladesh asks BIMSTEC to take ‘unified’ stand on climate change,’ *The Hindu* (4 March 2014) at <http://www.thehindu.com/news/international/south-asia/bangladesh-asks-bimstec-to-take-unified-stand-on-climate-change/article5749267.ece>.

43 Ibid.

44 IOM, *Almaty Process* at <https://www.iom.int/almaty-process>.

45 *Almaty Declaration*, Adopted by Participating States at the Regional Conference on Refugee Protection and International Migration, Almaty, Kazakhstan, 16 March 2011 Paragraph 1 at <http://www.unhcr.org/4ddfb7cd6.pdf>.

46 *Protocol between the PRC Ministry of Public Security and the DPRK Social Safety Ministry for Mutual Cooperation in Safeguarding National Security and Social Order in Border Areas*,” June 09, 1964, History and Public Policy Program Digital Archive, PRC Foreign Ministry Archives, No. 106-01434-04.P59-72. Obtained for NKIDP by Shen Zhihua and translated for NKIDP by Jeffrey Wang at <http://digitalarchive.wilsoncenter.org/document/115328.pdf?v=605f70a96ae43feb375c8853a2584544>.

V. Europe

A. Regional

1. OSCE Self-Assessment Tool for Nations to Increase Preparedness for Cross-Border Implications of Crises

The OSCE Self-Assessment Tool for Nations to Increase Preparedness for Cross-Border Implications of Crises was developed by the OSCE Secretariat to help “facilitate a speedy and effective response to humanitarian emergencies.”⁴⁷ It includes self-assessment questions regarding preparedness for “externally displaced persons resulting from natural disasters” for both crisis affected and neighbouring countries. In particular, it poses the following questions, among others, for crisis affected countries:

1. Have the appropriate authorities undertaken an assessment to determine which populations are at risk of displacement by natural hazards and to identify individuals that may need special assistance to move?
2. Have the appropriate authorities consulted with potential receiving States to discuss contingency planning in the event of cross-border displacement?
3. Within the country, is a system in place to facilitate the return of the displaced, including accepting identity documents that may have been issued abroad in the absence of national documentation?⁴⁸

The Self-Assessment Tool also poses the following questions, among others, for neighbouring countries:

1. Are clear criteria and procedures in place to identify people who are displaced as a consequence natural disasters, industrial accidents and crises and thus in need of protection and assistance in your country?
2. In the absence of such provisions: are arrangements in place to ensure that such people can access your territory in safety and not be rejected at the border, such as by granting a right to stay on an ad hoc basis? [...]
3. Is it ensured that such people are not returned to areas where their life, limb or health would be in danger, or in situations where adequate protection and assistance are absent or cannot be accessed by them in their country of origin? [...]
4. Are border-related agencies and other relevant authorities aware of their duties and trained to identify and assist such persons?⁴⁹

VI. Oceania

A. Regional

1. Niue Declaration on Climate Change

In the 2008 Niue Declaration on Climate Change, participants to the Pacific Islands Forum Smaller Island States (SIS) Leaders’ Summit committed to further developing Pacific approaches to combating climate change, protect their own regional environment and gather support from the international community. Potential disaster displacement is implicitly addressed the Declaration’s acknowledgment of “the importance of retaining the Pacific’s social and cultural identity, and the desire of the Pacific peoples to continue to live in their own countries, where possible.”⁵⁰

47 OSCE Secretariat, *Self-Assessment Tool for Nations to Increase Preparedness for Cross-Border Implications of Crises* (2013) p.1. at <http://www.osce.org/borders/104490?download=true>.

48 Ibid. pp.12-13.

49 Ibid. pp.26-28.

50 Pacific Islands Forum, *Niue Declaration on Climate Change* (2008) at www.pacificdisaster.net/pdnadmin/data/documents/9458.html.

2. Majuro Pacific Islands Forum Communique

The outcome statement from the 44th Pacific Islands Forum Meeting in Majuro, which took place in September 2013 stated:

Leaders noted the Prime Minister of the Cook Islands' briefing on, and agreed to monitor, the Nansen Initiative...⁵¹

3. Draft Strategy for Climate and Disaster Resilient Development in the Pacific

The draft Strategy for Climate and Disaster Resilient Development in the Pacific calls on States to apply a human rights based approach when recognizing that “[b]oth rapid- and slow-onset events can result in displacement of affected people and communities, as a result of land degradation and loss, and of serious declines in water and food security, health and educational opportunities.”⁵² In particular, it identifies the following potential actions:

Integrate human mobility aspects into climate change adaptation and disaster risk management plans and strategies, including strengthening the capacity of governments and administrations to protect individuals and communities that are vulnerable to climate change displacement and migration, through targeted national policies and actions, including labour migration policies.⁵³

Support increasing the protection of individuals and communities most vulnerable to climate change displacement and migration through targeted national and regional policies and regional labour migration schemes.

Strengthen research-based understanding of the underlying drivers and determinants of climate and disaster risk, and of the consequences and risk management options, including climate change induced migration.⁵⁴

Finalization of this draft strategy is still under consideration by the Pacific Islands Forum.

4. Pacific Immigration Directors' Conference (PIDC)

Fifteen member States and representatives of observer organizations met for the 18th Pacific Immigration Directors' Conference in Apia, Samoa from 28-30 July 2015. During a workshop on 'Looking Forward, What Are the Key Issues and Challenges Facing Pacific Island Immigration Agencies and the Region More Generally,' the PIDC noted, inter alia, the specific issue of “displacements of persons as a result of climate change.” The PIDC tasked the Secretariat to “review the workshop's findings and present recommendations to the 1st Management Board meeting post-conference for further consideration.”⁵⁵

5. Suva Declaration on Climate Change

The leaders of the Pacific Islands Development Forum met during the Pacific Islands Development Forum Third annual summit in Suva, Fiji from 2-4 September 2015 and adopted the Suva Declaration on climate change. The Declaration acknowledged the threat of climate change and the “irreversible loss and damage to our people, societies, livelihoods and natural environments; creating existential threats to our

51 Forty-Fourth Pacific Islands Forum, *Forum Communique*, Majuro, Republic of the Marshall Islands 3-5 September 2013 p.9 at www.forumsec.org/resources/uploads/attachments/documents/2013_Forum_Communique_Final.pdf.

52 *Draft Strategy for Climate and Disaster Resilient Development in the Pacific*, Version 16, 23 February 2015, p. 6.

53 Ibid. p.33.

54 *supra* note 52, p.35.

55 Pacific Immigration Director's Conference, Apia Samoa 28030 July 2015, *Summary of Resolution and Decisions*, Agenda Item 24 pp.7-8.

very survival and other violations of human rights to entire Pacific Small Island Developing States.”⁵⁶

Among the action points, paragraph 7 specifically acknowledges the link between displacement and climate change:

Highlight that irreversible loss and damage caused by climate change goes beyond adaptation and is already a reality for PSIDS if there is inadequate migration action, and that climate change is already resulting in forced displacement of island populations and the loss of land and territorial integrity and further highlight that such loss and damage results in breaches of social and economic rights.⁵⁷

6. CANCC Inaugural High Level Dialogue on Climate Change Induced Migration and Displacement

Member States of the Coalition of Low Lying Atoll Nations on Climate Change (CANCC) in partnership with Monaco and international organizations met for the inaugural High Level Dialogue on Climate Change Induced Migration and Displacement (CANCC Dialogue) in Ambo, Kiribati from 8-12 October 2015. The CANCC Dialogue Outcome Document recognizes that the impacts of climate change “are severely impacting our people and our way of life today and will impact more significantly in the future posing major existential challenges and threats to our people and their survival as distinct people and cultures.”⁵⁸ Outcomes of the CANCC Dialogue also emphasized that while CANCC Member States are at the “frontline” of adverse impacts of climate change, “millions of people in other areas in the Pacific and worldwide are facing the same fate if nothing is done urgently.”⁵⁹ In particular the Outcome Document identified the following:

1. A concern over the lack of effective international responses to climate change particularly as CANCC is cognizant of “peoples’ extreme vulnerability to the inevitable climate-induced disasters which are growing frequency and intensity over time and raising the potential of mass migration.”⁶⁰
2. That “relocation is a response of last resort, but when it happens, a planned and dignified relocation for our people is supported.”⁶¹
3. The need to draw attention to the fact that climate change is resulting in increased rural to urban migration and international labour migration.⁶²
4. A concern over the lack of any “international legal framework that recognizes the plight and protects the rights of climate displaced populations and their sovereignty.”⁶³
5. The critical need for governments and world leaders to protect the most vulnerable people affected by climate change through the establishment of a climate change displacement coordination facility as part of any internationally binding loss and damage mechanism arising out of the UNFCCC Paris COP21 climate change summit in December 2015.⁶⁴
6. The need for “the development of an action plan to assist our nations respond and address the urgent challenges emanating from cross border displacement of people in the context of disasters and climate change.”

56 Pacific Islands Development Forum Secretariat, *Suva Declaration on Climate Change* (4 September 2015) p.1 at <http://pacificidf.org/wp-content/uploads/2013/06/PACIFIC-ISLAND-DEVELOPMENT-FORUM-SUVA-DECLARATION-ON-CLIMATE-CHANGE.v2.pdf>.

57 Ibid. p.2.

58 Paragraph 2 CANCC Climate Change Induced Migration and Displacement Outcome Document, Ambo, Tarawa (10 October 2015)

59 Ibid para.3.

60 Ibid para.4.

61 Ibid para. 5.

62 Ibid para. 6.

63 Ibid para. 10

64 Ibid para. 12(g)



Typhoon Haiyan survivor Minda Kalinewan and her daughters are seen inside their newly constructed house in the village of Tinabanan in Central Philippines.

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A close-up photograph of a woman with dark skin and curly hair, looking directly at the camera. She is positioned behind a wooden frame, with her arms visible in the foreground, resting on a horizontal wooden beam. The background is dark and out of focus.

ANNEX IV
PROTECTION
AGENDA REGIONAL
CONSULTATION
CONCLUSIONS

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SUMMARY OF CONCLUSIONS PACIFIC REGIONAL CONSULTATION

Human Mobility, Natural Disasters and Climate Change in the Pacific

21-24 May 2013

Raratonga, Cook Islands

Participants from 10 Pacific countries, other countries, as well as representatives from regional and international organizations, civil society, and academia, met in Raratonga from 21 to 24 May 2013 for a consultation on “Human Mobility, Natural Disasters and Climate Change in the Pacific.” They welcomed the Nansen Initiative. This Initiative is a state-led, bottom-up consultative process intended to build consensus on a protection agenda addressing the needs of people displaced across international borders in the context of natural disasters, as well as the effects of climate change.

Participants reaffirmed the 2008 Niue Declaration on Climate Change, in which Pacific Leaders emphasise “the importance of retaining the Pacific’s social and cultural identity, and the desire of the Pacific peoples to continue to live in their own countries, where possible.” The participants stressed that having to leave one’s own country is the least preferred option. Participants expressed concern that cross-border relocation may negatively impact on nationhood, control over land and sea territory, sovereignty, culture and livelihoods.

Participants stressed the importance of climate change mitigation and adaption measures to prevent displacement and avoid the need for relocation. Planning within the region for population movement must be seen as complementary to these efforts.

Participants expressed concern that effects of climate change and recurrent natural disasters in the Pacific region increasingly trigger population movements. Cyclones, flooding, landslides, tsunamis, earthquakes or volcanic eruptions cause the displacement of communities. Already, coastal erosion and the salinisation of fresh water sources and agricultural land associated with sea level rise prompt people to move to safer places or even make the planned relocation of whole villages necessary. In this context, the identification of suitable land to relocate communities at risk of exposure to natural disasters, or whose land has been rendered uninhabitable, is a particular challenge.

Participants noted the long history of mobility in the Pacific region and the support provided to people through existing clan and kinship networks. Participants also acknowledged the history of solidarity between Pacific Island countries in assisting each other in the wake of natural disasters, as well as the humanitarian and development assistance provided from within the region and beyond. Participants were impressed by the fact that many communities show a high level of resilience in the face of environmental degradation linked to climate change and natural disasters. They also welcomed the important role played by faith-based organizations and traditional support systems.

Participants also noted that voluntary migration abroad, while still mainly economic in character, in some Pacific countries is increasingly associated with environmental degradation linked to climate change and natural disasters. As a consequence of sea level rise, acidification and more extreme weather patterns, voluntary migration, planned relocation and forced displacement are expected to rise significantly in the next decades and beyond. While such population movements primarily take place within the borders of

Pacific countries, some are already cross-border in nature. In this regard, participants recognized that some Pacific people affected by natural disasters and environmental degradation may freely migrate to states with which their country of origin has special ties. This avenue is not readily available for citizens of all Pacific Island countries whose territory will be particularly affected by the consequences of climate change and whose populations are at a heightened risk of having to move abroad.

While recognizing the need to strengthen mitigation and adaptation efforts, which, if effective, would allow people to stay in their homes, participants agreed that in the context of natural disasters and climate change these developments require action and resource mobilization to be taken at community, national, regional and international levels. Such actions include:

1. At the community level to

- Strengthen the resilience of communities through risk assessments, disaster preparedness measures, disaster risk reduction measures, and development interventions.
- Prepare, through consultation, education, and awareness raising, at-risk communities as well as potential host communities for the prospect of population movements, and what this entails.
- Ensure that in the context of planned relocation and displacement:
 - affected communities are informed, consulted and able to participate actively in relevant decisions and their implementation;
 - basic services, adequate housing, and access to livelihoods without discrimination are available for relocated people in the receiving community;
 - adequate mechanisms and/or safeguards are in place to prevent and solve conflicts over land and resources due to factors such as cultural diversity or population growth.

2. At the national level to

- Integrate voluntary migration, forced displacement, and planned relocation within national laws and policies, such as National Adaptation Plans, Joint National Action Plans, and National Disaster Management Plans.
- Continue to strengthen and deepen education, training and upskilling of Pacific Islanders, including through qualification and accreditation alignment, so that they can migrate with dignity if they choose to do so.
- Strengthen national capacities to identify and address the assistance and protection needs of particularly vulnerable persons among those affected by natural disasters and climate change.
- Take measures such as land audits, demarcation of uncontested boundaries and community land mapping to facilitate the identification of land when people need to be temporarily or permanently moved, within their own country or abroad.
- Encourage review of existing citizenship laws to ensure that they allow for dual nationality as a measure to help safeguard the cultural identity of those who move abroad. This helps to sustain ties to countries of origin and allows for the possibility of circular migration where appropriate.
- Encourage review, as part of regional processes, of existing admission and immigration policies:
 - to allow people affected by natural disasters and climate change to voluntarily migrate to another country in order to avoid displacement at a later stage, and to promote community resilience, e.g., through remittances and skills development;
 - to introduce mechanisms for temporary or permanent protection for people displaced from another country in the aftermath of a natural disaster.
- Ensure the full respect of the human rights of people admitted in the context of voluntary migration, forced displacement and planned relocation.
- Ratify and implement relevant international human rights instruments.

3. At the regional level to

- Continue the regional dialogue on voluntary migration, forced displacement and planned relocation.
- Integrate consideration of voluntary migration, forced displacement, and planned relocation within ongoing regional processes, such as the Pacific Plan Review and the revision of other relevant regional frameworks.
- Develop appropriate normative frameworks to address the protection needs of displaced or relocated populations, including temporary protection schemes or template agreements, which take into account lessons from past experience and incorporate existing good practices from the Pacific Island countries.
- Encourage regional agencies and national governments to continue to identify gaps in knowledge and collect relevant data.

4. At the international level to

- Ensure that the Pacific region maintains a strong voice in international fora, while also respecting and reflecting the diversity in the region.
- Ensure that donor priorities are better aligned with regional and national priorities.
- Encourage discussions regarding resources being made available within the framework of existing or new international financial mechanisms to cover costs and investments related to displacement and planned relocation, and to compensate for loss of community ties, land, and cultural assets.
- Encourage states and relevant international organizations to develop appropriate normative frameworks to address the protection needs of displaced or relocated populations.



SUMMARY OF CONCLUSIONS

CENTRAL AMERICA REGIONAL CONSULTATION

Disasters and Cross-Border Displacement in Central America: Emerging Needs, New Responses

2-4 December 2013

San José, Costa Rica

More than 100 Participants from Central American countries, Mexico, Colombia, Haiti and the Dominican Republic, representatives from the Nansen Initiative, as well as representatives from regional and international organizations, civil society, and research institutions, met in San Jose, Costa Rica from 2-4 December 2013 for the second Nansen Initiative Consultation on “Disasters and Cross-Border Displacement in Central America: Emerging Needs, New Responses.” The majority of participants recognized cross-border displacement in the context of disasters as a very important issue for the region. They welcomed the Nansen Initiative, which is a state-led, bottom-up consultative process intended to build consensus on a protection agenda addressing the needs of people displaced across international borders in the context of natural disasters, as well as the effects of climate change.

Participants recognized the existence of national and regional comprehensive disaster risk management policies and mechanisms that have been developed in response to the many natural hazards in the region, which include hurricanes, flooding, landslides, tsunamis, earthquakes, drought, and volcanic eruptions. At the same time, they highlighted that disasters have prompted millions of people to flee not only internally, but also across international borders within Central America and the surrounding region, recalling in particular the experiences of Hurricane Fifi in 1974, Hurricane Mitch in 1998, and the 2010 earthquake in Haiti.

Participants recognized that climate change is increasingly affecting the region, for example through the increased frequency and intensity of hydro-meteorological storms, and reduced accumulated precipitation in the Dry Corridor. Coastal erosion, flooding, and the salinization of fresh water sources and agricultural land associated with sea level rise have also prompted some communities, including indigenous communities, to plan for the relocation of their villages to higher ground.

Participants recalled that the Regional Climate Change Policy specifically addresses the need to develop national strategies related to “the evacuation, temporary and permanent relocation and immigration of populations most affected by increased and reoccurring extreme climate.” Participants noted that people use migration as a last resort to ensure livelihoods.

Participants expressed that, while most of the displaced remain within their own countries where they are protected by national legislation, there are certain legal gaps for the protection of those displaced across borders, and these need to be addressed as an increasingly relevant issue. States need to prepare for the arrival of people displaced by disasters and the challenges of cross-border humanitarian assistance.

Participants stressed the role of comprehensive disaster risk management measures to prevent, mitigate and respond to cross-border displacement. At the regional level, participants reiterated the importance of regional coordination within the context of the Central American Integration System

(*Sistema de Integración Centroamericana- SICA*) and, in particular, identified the Coordination Centre for the Prevention of Natural Disasters in Central America (*Centro de Coordinación para la Prevención de los Desastres Naturales en América Central - CEPREDENAC*) and the Central American Policy on Comprehensive Disaster Risk Management (*Política Centroamericana de Gestión Integral de Riesgo de Desastres - PCGIR*) as an important tool for reducing vulnerability and enhancing the resilience of communities in areas at risk of natural hazards.

Participants acknowledged the region's historical experience in providing protection and assistance to displaced persons in disaster situations. Participants expressed concern about the challenges of identifying disaster-displaced persons within the context of larger mixed migration flows within and through the region. They were concerned about the particular risks of gender based violence, generalized violence, organized crime, illicit trafficking of migrants, and trafficking of persons that exacerbate existing vulnerabilities of people, in particular women, girls and boys displaced across borders in the context of disasters. They also identified the challenge of protecting property and livelihoods. Participants stressed the particular needs of indigenous peoples and ethnic minorities. Participants also expressed concern about the protection needs of migrants caught up in disaster situations.

Participants identified the Central American Commission of Migration Directors (*Comisión Centroamericana de Directores de Migración – OCAM*), the Regional Conference on Migration (*Conferencia Regional sobre Migración - RCM*) and the Cartagena +30 process as relevant regional fora for continuing the regional dialogue on the protection needs of people displaced across borders by disasters, and the adverse impact of climate change.

Participants highlighted the importance of finding durable solutions for the displaced that allow them to rebuild their lives and end displacement. Return to and reintegration in their place of origin is the preferred solution; and when this is not feasible, reintegration in another location within their own country. However, permanent admission and integration in the country of refuge should not be excluded, in particular when in the aftermath of a disaster the country of origin is unable to reintegrate those who left, or when displacement has become protracted. Finding durable solutions remains a challenge, particularly due to insufficient funding, lack of information, and weak coordination and cooperation between relevant stakeholders. Participants also emphasized the need to respect the rights of affected people, families and communities, to participate and be informed about decisions that are important for them.

Participants recognized that, while in some countries international agreements and existing national laws provide certain protection for persons displaced across international borders in the context of natural disasters, such as by granting temporary protection status, complementary protection, or humanitarian visas, these measures are often based on an *ad hoc* response. There is still a legal gap regarding the protection and assistance needs of persons displaced across borders. Participants highlighted the fact that sustainable return to the country of origin and other integrated durable solutions ending the displacement remain a challenge.

Participants agreed that preparedness and response to disaster-induced cross-border displacement requires coordinated action to be taken at community, national, regional and international levels. They identified five areas where action is needed:

I. Disaster Risk Management: Prevention of and Preparedness for Displacement

- Incorporate internal and cross-border disaster-induced displacement scenarios within instruments like National Disaster Risk Management Policies and National Systems for Civil Protection, as well as in the Central American Policy on Comprehensive Disaster Risk Management (PCGIR), the Central American Regional Mechanism for Mutual Assistance and Coordination (*Mecanismo Regional de Ayuda Mutua ante Desastres - MecReg*), the International Humanitarian Assistance Mechanisms (*Mecanismos de Asistencia Humanitaria Internacional - MIAH*) and the revision of the Hyogo Framework for Action.
- Harmonize relevant definitions and concepts at the regional level regarding comprehensive disaster

risk management and displacement.

- Promote the integration of activities aimed at strengthening the resilience of communities at risk of displacement in development plans and actions, against the various risks particularly in the context of climate change, to protect water catchment areas and to recover hydrographic basins and vulnerable coastal areas.
- Create a methodology for developing participatory assessments on the sociocultural aspects of communities displaced across borders.
- Develop bi-national and regional contingency plans that identify risk scenarios and formulate comprehensive disaster risk management actions to reduce vulnerability and strengthen capacity to respond to cross-border displacement.

II. Migration and Border Management in Disaster Contexts

- Promote and harmonize the use of humanitarian visas for the admission of persons displaced by disasters.
- Develop criteria for identifying persons eligible to receive humanitarian visas.
- Protect the human rights of people moving across borders against return to their country of origin as long as their lives, personal integrity and health are at risk.
- Explore possibilities to ensure that beneficiaries of humanitarian visas have access to comprehensive and durable solutions when their visas expire.
- Consider protections measures for all migrants when their countries of origin are faced with emergency situations caused by disasters.

Recommend the development of guidelines that are applicable in the region within the context of the Regional Conference on Migration's (RCM) work.

III. Protection during Cross-Border Displacement in Disaster Contexts

- Ensure in disaster situations, respect for the human rights of persons displaced across borders, especially the right to personal integrity, family unity, food, health, shelter or adequate housing, access to education and respect for their culture and language.
- Strengthen effective measures in responding to disasters to protect women, boys and girls, against violence, including gender-based violence, as well as people with specific needs and vulnerabilities during displacement, such as older persons and persons with disabilities.
- Include the specific needs, cultural rights, and social rights of displaced indigenous communities and ethnic minorities in public policy and disaster and emergencies response plans.
- Create bi-national mechanisms to ensure the protection of livelihoods and property of persons displaced across borders.
- Ensure all migrants have access to humanitarian assistance and protection in disaster situations, as well as consular services from their country of origin.
- Take steps to ensure that people affected by a disaster are consulted, informed and actively participate in the planning and delivery of humanitarian assistance, as well as planning for finding comprehensive and durable solutions.
- Develop strategies for integrating the human rights of persons displaced across borders within policies, plans, protocols and programs at the local, national and regional levels.
- Strengthen training, awareness raising and capacity-building on the protection of people displaced across borders within disaster risk management, in accordance with local, national, regional mandates and competencies, both institutionally and multi-sectorally.

IV. Durable Solutions for Cross-Border Displacement in Disaster Contexts

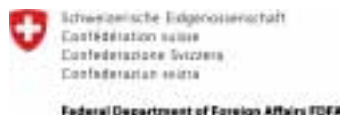
- Ensure that displaced persons across borders have access to adequate information that will allow them to make a voluntary decision, based upon the available options for comprehensive and durable solutions, particularly return.
- Ensure a comprehensive approach to finding durable solutions that takes into account measures regarding adequate housing, reestablishment of livelihoods, access to basic services and the need for affected populations to participate in the planning and implementation of such measures.
- Strengthen the country of origin's effort to seek comprehensive and durable solutions, with the participation and commitment of development actors and the development sector as a whole from the initial stages, with a focus on including comprehensive risk management and climate change adaptation in local, national and regional development plans.
- Improve the coordination of inter-governmental mechanisms to implement integrated and durable solutions, especially for return, building upon the bi-national actions and practices that currently exist.

V. International Coordination and Cooperation for Cross-Border Displacement in Disaster Contexts

- Incorporate the issue of cross-border displacement within the context of comprehensive risk management and in the guidelines and procedures of the Central American Regional Mechanism for Mutual Assistance and Coordination (MecReg), including regional manuals and protocols for humanitarian assistance management and administration.
- Ensure efficient coordination between affected countries, humanitarian agencies, and development agencies in planning and response efforts, based on the principles of the United Nations Humanitarian Reform and the Transformative Agenda, such as leadership, transparency, accountability and predictability.
- Explore opportunities for accessing existing and new financial mechanisms at regional and international levels for comprehensive disaster risk management, cross-border displacement and finding integrated and lasting solutions.
- Establish bi-national mechanisms and protocols for the recovery and replacement of cross-border displaced persons' personal identification documents that were lost, damaged or left behind.
- Promote that the Conclusions of the Nansen Initiative Regional Consultation are raised within relevant regional and international processes, including in particular:
 - The Central American Commission of Migration Directors (OCAM), the Regional Conference on Migration (CRM), the Cartagena 30 + process, the Global Forum on Migration and Development, among others.
 - International Humanitarian Assistance Mechanism (MIAH).
 - Regional Risk Reduction Plan (PRRD) and the IV Meeting of the Regional Platform for Disaster Risk Reduction in the Americas.
 - Regional Climate Change Policy and the Summit of the United Nations Framework Convention on Climate Change (COP20).
 - Regional Communications Platform of CEPREDENAC.
 - Agenda for the sustainable development goals for people and planet.

The participants expressed their appreciation to the Government of Costa Rica for its generosity in hosting the Second Regional Consultation of the Nansen Initiative and for its willingness to take the results to relevant regional and international forum. They invited interested and relevant parties to follow up on the results of the Consultation and expressed the hope that these efforts will help to better manage cross-border movements of people in the context of disasters, including the effects of climate change, but also to alleviate the plight and suffering of affected persons, and ensure the respect and full realization of their rights.

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RESUMEN DE CONCLUSIONES CONSULTA REGIONAL CENTROAMERICANA

Desastres y desplazamiento transfronterizo en América Central: Necesidades emergentes, nuevas respuestas

2-4 de diciembre de 2013

San José, Costa Rica

Más de 100 participantes de países de América Central, México, Colombia, Haití y República Dominicana, representantes de la Iniciativa Nansen, así como representantes de organizaciones regionales e internacionales, sociedad civil y entidades académicas, reunidas en San José, Costa Rica, los días 2, 3 y 4 diciembre de 2013, participaron en la segunda Consulta Regional de la Iniciativa Nansen sobre “Desastres y Desplazamiento Transfronterizo En América Central: Necesidades Emergentes, Nuevas Respuestas”. La mayoría de los participantes reconocieron el desplazamiento transfronterizo en el contexto de desastres como un tema de mayor importancia para la región. Dieron la bienvenida a la Iniciativa Nansen, la cual es un proceso consultivo liderado por los Estados de “abajo hacia arriba”¹ para generar un consenso respecto a una agenda de protección que aborde las necesidades de las personas desplazadas a través de fronteras internacionales en el contexto de eventos que causan desastres, así como los efectos del cambio climático.

Los participantes reconocieron el desarrollo y la existencia de políticas y mecanismos que se han desarrollado en respuesta a las amenazas en la región que incluyen huracanes, inundaciones, deslizamientos, tsunamis, terremotos, sequías y erupciones volcánicas. Al mismo tiempo subrayaron que los desastres han llevado a millones de personas a desplazarse no solamente internamente, sino a través de las fronteras internacionales dentro de América Central y fuera de la región, recordando en particular las experiencias del huracán Fifi en 1974, el huracán Mitch en 1998 y el terremoto de 2010 en Haití.

Los participantes reconocieron que el cambio climático cada vez tiene una mayor afectación en la región, por ejemplo a través del aumento de la frecuencia e intensidad de los fenómenos hidrometeorológicos, así como la reducción de la precipitación acumulada en el Corredor Seco. La erosión costera, las inundaciones y la salinización de las fuentes de agua dulce y de tierras agrícolas asociados con el aumento del nivel del mar también han llevado a algunas comunidades, incluidas las comunidades indígenas, a planificar la reubicación de sus pueblos a tierras más altas.

Los participantes recordaron que la Política Regional de Cambio Climático se refiere específicamente a la necesidad de desarrollar estrategias nacionales relacionadas con “la evacuación, reubicación temporal y permanente y la inmigración de las poblaciones más afectadas por el aumento y recurrente del clima extremo”. Los participantes señalaron que las poblaciones recurren a la migración como última opción para garantizar los medios de subsistencia.

1 Con base en el documento constitutivo de la Iniciativa Nansen, “de abajo hacia arriba” es un proceso establecido para la generación de un consenso global desarrollado con base en cinco escalones que tiene como primer nivel la ejecución de consultas regionales para luego avanzar hacia arriba con el segundo escalón que es la base del conocimiento consolidada, tercero diálogo global, cuarto agenda de protección y finalmente el más alto escalón que es la difusión y el seguimiento.

Los participantes manifestaron que, si bien la mayor parte de los desplazados permanecen dentro de sus propios países, donde están protegidos por su legislación nacional, sin embargo existen algunos vacíos legales en la protección de las personas desplazadas más allá de las fronteras y requieren ser abordados como un tema cada vez más relevante. Los Estados deberían prepararse para la llegada de las personas desplazadas por los desastres y los retos de la asistencia humanitaria transfronteriza.

Los participantes destacaron las medidas de gestión integral del riesgo de desastres para prevenir, mitigar y responder al desplazamiento transfronterizo. A nivel regional, los participantes reiteraron la importancia de la coordinación regional en el marco del Sistema de Integración Centroamericana (SICA) y, en particular, identificaron el Centro de Coordinación para la Prevención de los Desastres Naturales en América Central (CEPREDENAC), y la Política Centroamericana de Gestión Integral de Riesgo de Desastres (PCGIR), como un importante instrumento para la reducción de la vulnerabilidad y el aumento de la resiliencia de las comunidades en zonas de riesgo.

Los participantes recalcaron la experiencia histórica de la región para brindar protección y asistencia a las personas desplazadas en situaciones de desastres. Los participantes expresaron su preocupación por los desafíos de identificar a las personas desplazadas por el desastre en el contexto de grandes flujos migratorios dentro y a través de la región. Se preocuparon por los riesgos particulares de la violencia basada en género, la violencia generalizada, la delincuencia organizada, tráfico ilícito de migrantes y Trata de personas que agudizan las vulnerabilidades existentes de las personas, en particular las mujeres, niñas y niños desplazadas a través de fronteras en el contexto de desastres. Identificaron también el desafío de proteger la propiedad y medios de vida. Subrayaron las necesidades particulares de los pueblos indígenas y las minorías étnicas. Los participantes también expresaron su preocupación por las necesidades de protección de los migrantes atrapados en situaciones de desastre.

Los participantes identificaron a la Comisión Centroamericana de Directores de Migración (OCAM), la Conferencia Regional sobre Migración (CRM) y el proceso de Cartagena 30+ como espacios regionales pertinentes para continuar el diálogo regional sobre las necesidades de protección para personas desplazadas por desastres y el impacto adverso del cambio climático a través de las fronteras.

Los participantes resaltaron la importancia de encontrar soluciones duraderas para los desplazados que les permita reconstruir sus proyectos de vida y concluir con el desplazamiento. El retorno y la reintegración a su lugar de origen son las soluciones deseables; y cuando esto no sea posible en otro lugar dentro de su propio país. Sin embargo, su permanencia e integración en el país de acogida no deben ser excluidas, en particular cuando el país de origen no está en condiciones de garantizar su retorno después de un desastre, reintegrar a los que se fueron, o cuando el desplazamiento ha sido prolongado. La búsqueda de soluciones integrales y duraderas sigue siendo un reto, sobre todo debido a la falta de recursos, información, la poca coordinación y cooperación entre entidades relevantes. Los participantes también destacaron la necesidad de asegurar el respeto de los derechos de las personas afectadas, sus familias y las comunidades en participar, estar informados y consultados sobre las decisiones que les competen.

Los participantes reconocieron que, si bien en algunos países los acuerdos internacionales y las leyes nacionales existentes proporcionan cierta protección a la población desplazada a través de las fronteras internacionales en el contexto de los desastres, tal como medidas de protección temporal, protección complementaria y visas humanitarias, aún existen respuestas *ad hoc*. Todavía existe un vacío jurídico frente a las necesidades de protección y asistencia para personas desplazadas a través de las fronteras. Los participantes destacaron el hecho de que el retorno sostenible al país de origen así como otras soluciones integrales y duraderas para concluir el desplazamiento continúa siendo un reto.

Los participantes acordaron que la preparación y la respuesta a los desplazamientos transfronterizos inducidos por desastres requieren una acción coordinada que deben tomarse a nivel comunitario, nacional, regional e internacional. Se identificaron cinco áreas de acción:

I. Gestión Integral de Riesgo, Prevención y preparación para el desplazamiento

- Incorporar posibles escenarios de desplazamiento por desastres a nivel interno y transfronterizo e incluyendo instrumentos como Políticas Nacionales de Gestión del Riesgo y Sistemas de Protección Civil de cada país, así como la Política Centroamericana de Gestión Integral del Riesgo –PCGIR-, el Mecanismo Regional de Ayuda Mutua ante Desastres (MecReg), así como el Mecanismo Internacional de Ayuda Humanitaria (MIAH) y el Marco de Acción de Hyogo.
- Armonizar definiciones y conceptos relevantes a nivel regional en materia de gestión integral del riesgo y desplazamiento.
- Promover la integración de actividades dirigidas a fortalecer la resiliencia de comunidades en riesgo de desplazamiento en planes y acciones de desarrollo, ante las distintas amenazas y en particular en el contexto de cambio climático, para proteger las zonas de recarga hídrica y recuperar las cuencas hidrográficas y zonas costeras vulnerables.
- Generar una metodología para la elaboración de un diagnóstico participativo que contenga los aspectos socio-culturales en comunidades cuando se ubican desplazados transfronterizos.
- Elaborar planes de contingencia binacionales y regionales que permitan identificar los escenarios de riesgo y así formular acciones de gestión del riesgo para disminuir la vulnerabilidad y fortalecer la capacidad de responder al desplazamiento transfronterizo.

II. Migración y gestión fronteriza en contextos de desastres.

- Promover y armonizar el uso de visas humanitarias para la admisión de personas desplazadas por desastres.
- Desarrollar criterios para la identificación de personas elegibles para recibir visas humanitarias.
- Proteger los derechos humanos de las personas que se desplazan a través de fronteras ante la devolución a su país de origen mientras sus vidas, integridad personal y salud estén en riesgo.
- Explorar posibilidades para asegurar que los beneficiarios de visas humanitarias tengan acceso a soluciones integrales y duraderas cuando sus visas expiran.
- Considerar medidas de protección para todas las personas migrantes cuando sus países de origen enfrenten situaciones de emergencias a causa de desastres.
- Recomendar el desarrollo de lineamientos que sean aplicables en la región en el marco de los trabajos de la Conferencia Regional sobre Migración (CRM).

III. Protección durante desplazamiento transfronterizo en situaciones de desastres

- Asegurar en situaciones de desastres, el respeto de los derechos humanos de las personas desplazadas a través de las fronteras, especialmente el derecho a la integridad personal, unidad familiar, alimentación, salud, albergue o vivienda adecuadas, acceso a educación y respeto a su cultura e idioma.
- Fortalecer medidas efectivas en la atención de los desastres para proteger mujeres, niños y niñas contra la violencia, incluida la violencia basada en género, así como las personas con necesidades y vulnerabilidades particulares durante el desplazamiento, tales como adultos mayores y personas con discapacidad.
- Incorporar en políticas públicas y en planes de atención de desastres y emergencias, las necesidades particulares, derechos culturales y sociales de comunidades indígenas y minorías étnicas desplazadas.
- Crear mecanismos a nivel binacional para asegurar la protección de los medios de vida de personas desplazadas a través de fronteras.
- Asegurar el acceso a la asistencia humanitaria y protección de todas las personas migrantes en situaciones de desastres, así como a servicios consulares de su país de origen.

- Tomar medidas para asegurar que las poblaciones afectadas por un desastre sean consultadas, informadas y participen activamente en la planeación y entrega de la ayuda humanitaria, así como en la planeación de soluciones integrales y duraderas.
- Desarrollar estrategias para la integración de derechos humanos de personas desplazadas a través de fronteras en políticas, planes, protocolos y programas a nivel local, nacional y regional.
- Fortalecer actividades de formación, sensibilización y capacitación sobre protección a personas desplazadas a través de fronteras en la gestión integral de riesgo, de conformidad con los mandatos y competencias locales, nacionales, regionales, así como interinstitucional e intersectorialmente.

IV. Soluciones duraderas para desplazamiento transfronterizo en situaciones de desastres.

- Asegurar que las personas desplazadas a través de las fronteras cuenten con la información adecuada que facilite la toma de una decisión voluntaria, sobre las diferentes opciones disponibles de soluciones integrales y duraderas, en particular el retorno.
- Asegurar un abordaje de las soluciones integrales y duraderas que tome en cuenta provisiones de vivienda adecuada, restablecimiento de medios de vida, acceso a servicios básicos así como la necesidad de participación de las poblaciones afectadas en el planeamiento e implementación de tales actividades.
- Fortalecer que el país de origen busque soluciones integrales y duraderas, con la participación y el compromiso de actores y sectores del desarrollo desde las etapas iniciales, con un enfoque de gestión integral del riesgo y adaptación al cambio climático en los planes de desarrollo local, nacional y regional. ~~≠~~
- Mejorar la coordinación de los mecanismos inter gubernamentales para implementar soluciones integrales y duraderas, en particular para el retorno, tomando como base las acciones y prácticas binacionales que actualmente existen.

V. Coordinación Internacional y Cooperación para desplazamientos transfronterizo en contextos de desastre

- Incorporar la temática de los desplazamientos transfronterizos en el contexto de la gestión integral del riesgo y los lineamientos y procedimientos del Mecanismo Regional de Ayuda Mutua Ante Desastres (MecReg), incluidos Manuales y protocolos regionales para la gestión y administración de la asistencia humanitaria.
- Asegurar la coordinación eficiente entre países afectados y agencias humanitarias y de desarrollo en el abordaje de la planeación y respuesta, con base en los principios de la Reforma Humanitaria de las Naciones Unidas y la Agenda Transformativa, tales como liderazgo, transparencia, rendición de cuentas y predictibilidad.
- Explorar oportunidades para el acceso a mecanismos financieros existentes o nuevos a nivel regional e internacional para la gestión integral del riesgo y el desplazamiento transfronterizo y soluciones integrales y duraderas.
- Establecer mecanismos y protocolos binacionales para la recuperación y reemplazo de documentos de identificación personal perdidos, dañados o extraviados de personas desplazadas a través de fronteras.
- Promover que las conclusiones de la Consulta Regional de la Iniciativa Nansen sean llevadas a procesos regionales e internacionales pertinentes, en particular:
 - La Comisión Centroamericana de Directores de Migración (OCAM), la Conferencia Regional sobre Migración (CRM), el proceso de Cartagena 30+, el Foro Mundial sobre Migración y Desarrollo, entre otros.
 - Mecanismo Internacional de Asistencia Humanitaria (MIAH).
 - Plan Regional de Reducción de Riesgos (PRRD) y la reunión de la IV Plataforma Regional para la

Reducción del Riesgo de Desastres en Las Américas.

- Política Regional de Cambio Climático, Cumbre de la Convención Marco de las Naciones Unidas para el Cambio Climático (COP20).
- Plataforma Regional de Comunicación de CEPREDENAC.
- Agenda de los Objetivos de Desarrollo Sustentable para la gente y el planeta.

Los participantes expresaron su agradecimiento al Gobierno de Costa Rica por su generosidad al acoger la segunda consulta de la Iniciativa Nansen y por su disposición a llevar estos resultados a los foros regionales e internacionales pertinentes. Invitaron a partes interesadas y pertinentes para el seguimiento de los resultados de esta consulta y expresaron su esperanza de que estos esfuerzos contribuyan a gestionar mejor los movimientos transfronterizos de personas en el contexto de los desastres, incluidos los efectos del cambio climático, sino también aliviar la difícil situación y el sufrimiento de las personas afectadas y garantizar el respeto y la plena realización de sus derechos.

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SUMMARY OF CONCLUSIONS GREATER HORN OF AFRICA REGIONAL CONSULTATION

Natural Hazards, Climate Change, and Cross-Border Displacement in the Greater Horn of Africa: Protecting People on the Move

21-23 May 2014

Nairobi, Kenya

More than 70 participants representing governments of six countries from the Greater Horn of Africa Region,² Tanzania and Yemen, representatives from the Nansen Initiative and its chairmanship, as well as representatives from regional and international organizations, UN Agencies, civil society and research institutions, met in Nairobi, Kenya from 21-23 May 2014 for the third Nansen Initiative Regional Consultation on “Natural Hazards, Climate Change, and Cross-Border Displacement in the Greater Horn of Africa: Protecting people on the move,” which was held at the Boma Nairobi hotel. The participants expressed their thanks and appreciation to the Government of the Republic of Kenya for hosting this important consultation.

The participants welcomed and commended the Nansen Initiative, which is a state-led, bottom-up consultative process intended to build consensus on a protection agenda addressing the needs of people displaced³ across borders in the context of disasters and the effects of climate change. The overall objective of the Greater Horn of Africa Regional Consultation was to identify specific challenges that the region faces related to natural hazard related disasters and cross-border displacement and to develop practical, policy and programmatic outcomes in response to these challenges.

Participants recognized that the Greater Horn of Africa is not only affected by conflict and terrorism but is also vulnerable to the effects of climate change. They noted that the increased frequency and intensity of weather events, primarily droughts, floods, and tropical cyclones, are expected to lead to increased water stress, higher temperatures, desertification, decreased agricultural production, increased human and livestock diseases, livestock loss, and famine while sinking ground water levels and sea level rise cause salinization of land and water source and may pose threats to sea-side settlements. Consequently, they recognized that the number of displaced people is likely to increase, with climate change also exacerbating the potential for conflict associated with weakened resilience to natural hazards and competition over scarce resources such as water and grazing areas.

Participants acknowledged that large-scale disasters within the region have already prompted millions of people to flee internally and across porous international borders, recalling in particular the experiences of the 2009-2012 drought crisis that prompted hundreds of thousands of people to seek refuge across international borders within the region and beyond. They also noted the example of the 2002 volcanic eruption outside Goma, Democratic Republic of the Congo that prompted thousands of people to flee across the border into Rwanda and Uganda, as well as the situation of pastoralists crossing borders in

2 The Governments of Djibouti, Ethiopia, Kenya, Somalia, South Sudan, and Uganda were represented.

3 In this document, the term “displacement” refers to situations where people are forced to leave their homes or places of habitual residence. The term “migration” is used to refer to movements that are *predominantly* voluntary.

search of water and pastures for their animals. Participants highlighted that such movements are multi-causal and occur within a complex environment impacted by poverty, food insecurity, conflict, cattle rustling, generalized violence, and governance challenges to varying degrees.

Participants recalled the Greater Horn of Africa's decades of experience, generosity and hospitality in providing protection, assistance and durable solutions to millions of refugees, as well as protecting and assisting internally displaced persons in both conflict and disaster contexts. The importance and relevance of national law and its implementation within all phases of the response was stressed, and they highlighted the readiness of countries in the region to admit and host people and communities affected by disasters who are forced to seek protection and assistance abroad. Participants recognized the contribution of host communities, and the sustained humanitarian and development assistance provided from within the region and beyond.

Participants stressed the importance and the need for early warning and response mechanisms, and preparedness as essential for building resilience and preventing displacement particularly in areas exposed to droughts and floods, but also landslides, tsunamis, and tropical cyclones. They identified the importance of activities that span the humanitarian and development response through integrated programming, and supported regional strategies that bring together strategies and plans addressing disaster risk reduction, humanitarian assistance, pastoralism, peacebuilding, development, and food security, such as the Intergovernmental Authority on Development's (IGAD) 2013 Drought Disaster Resilience and Sustainability Initiative (IDDRSI). Participants highlighted the need to specifically address human mobility in such strategies and plans.

Participants recalled that human mobility is a common feature in the Greater Horn of Africa region. They highlighted the traditional practice of pastoralists who move internally and across international borders to access water, grazing land and markets as method to adapt to environmental stress, noting that community-based mechanisms can play an important role in mitigating potential conflict with host communities. They recognized the challenge of balancing pastoralists' mobility and lifestyle with environmental conservation, population growth, and state security considerations.

Participants identified migration as a potentially positive form of adaptation to environmental degradation, while noting at the same time the negative impacts of irregular migration on countries of transit and destination as well as the numerous protection risks faced by migrants when they use perilous routes and are exposed to smuggling, human trafficking, extortion and violence while moving within the region or to the Middle East, Southern Africa, Europe and beyond.

Participants took note of the relationship between internal displacement and cross-border displacement, emphasizing the importance of implementing relevant existing regional and national legal frameworks, such as the African Union's 2009 Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and the 2006 Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons (Great Lakes IDP Protocol), as an essential element for preventing cross-border displacement.

Participants recognized that those displaced across borders in the context of disasters should be admitted and provided with protection and assistance. They acknowledged that such people are particularly in need of food, shelter, education and health services; security and protection against exploitation; as well as access to and restoration of their livelihoods. Participants noted that the 1969 African Union Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 AU Refugee Convention) has been applied in situations where the drivers of displacement included conflict and disasters, namely the 2009-2012 Horn of Africa drought crisis. They noted that the notion of "events seriously disturbing public order," as enshrined in the Convention's wider definition of who is a refugee, covers situations where the lives of those affected are threatened by the disaster and protection and assistance are unavailable in areas of origin as a consequence of conflict. However, they expressed concern that the scope of the 1969 AU Refugee Convention may not extend to people displaced across borders in situations where elements of conflict and violence are absent.

Participants emphasized that, to the extent possible, humanitarian assistance provided during displacement should be linked to self-reliance and livelihood development programming. Participants also identified the need to integrate host communities' needs within all stages of assistance to displaced persons.

Participants also emphasized the importance of finding durable solutions for displaced persons to allow them to rebuild their lives, regain their livelihoods and thus end displacement. They mentioned the existence of appropriate normative frameworks and strategies; measures to enhance security, including human security; as well as the availability of livelihoods and development oriented recovery activities as necessary elements to achieve such solutions.

Participants agreed that prevention, preparedness, and responses to cross-border displacement in the context of disasters require action to be taken at community, national, regional and international levels, while paying special attention to the needs of women, youth and children. They identified five areas where action is needed:

I. Preventing and Mitigating the Impact of Displacement through Resilience Building and Disaster Risk Reduction Measures

1. Recognize that preventing and mitigating the impact of all forms of displacement in disaster contexts is a development issue that should be addressed within national development plans to strengthen the resilience of communities in areas at risk of displacement as well as in areas likely to host displaced people, through measures such as investing in infrastructure, livelihoods, education, and health care.
2. Integrate human mobility and the needs of communities affected by displacement, including host communities, into regional and national disaster risk reduction strategies and adaptation plans, ensuring that they are aligned with each other at all levels.
3. Consider programs that increase the resilience of pastoralist communities, such as livestock insurance, access to credit and funds, mobile schools, mobile health services, the development of industries for pastoral products, and support for alternative and diversified livelihoods.
4. Take appropriate action to implement paragraphs 7 and 8 of the Summary Statement of the 5th African Regional Platform and the Third Ministerial meeting for disaster risk reduction, which calls for cross-border cooperation for population movements including those induced by disasters (sudden- and slow-onset). Anticipate cross-border movements and plan for the provision of assistance to those arriving through strengthening and developing cross-border data collection, early warning mechanisms, and contingency and preparedness plans that draw on information from multiple countries and incorporate traditional community-based knowledge and practices.
5. Recommend to carry out disaster risk management in accordance with existing relevant legal frameworks such as the Kampala Convention and the African Charter on Human and Peoples Rights.

II. Cross-Border Movement of Pastoralists

1. Acknowledge the value of and allow the traditional practice of pastoralists to move internally and across international borders to access water, pastures and regional markets as a method to adapt to drought.
2. Map pastoralist corridors at the national and regional level, facilitate border crossing, and recognize and strengthen pastoralist cross-border systems, in close consultation with governments and pastoralists on both sides of the border, to facilitate movement in times of environmental stress.
3. Reconcile regional cross-border security needs, and other key issues such as the proliferation of small arms and light weapons, cattle rustling and human as well as livestock health, with pastoralists' livelihood needs, including cross-border mobility for access to water and pasture, within relevant regional and national policies. Support structures and processes at the governmental and community level to prevent, mediate, arbitrate, and mitigate inter-community conflicts.
4. Support mechanisms facilitating agreement on the use of land by arriving pastoralists, provide for livelihood support services, and include development projects for host communities to facilitate pastoralists' movement and prevent and reduce conflict with host communities.
5. Encourage using the 2010 AU Policy Framework for Pastoralism in Africa, supporting its domestic

implementation as well as the harmonization of laws and policies addressing the mobility of pastoralists, recognizing that many pastoralists lack documents allowing them to cross borders.

6. Consider including the concept of migration as adaptation and the displacement of pastoralists across international borders within the draft IGAD Transhumance Protocol currently under development.
7. Develop a regional approach to ecosystem management and conservation that addresses shared resources taking into account the impact of population movement, through measures such as cross-border assessments and sharing information between countries.

III. Migration as Adaptation to Environmental Impacts Linked to Climate Change

1. Acknowledge the potential of helping families and communities adapt to environmental stress if some of their members are allowed to migrate abroad, send back remittances, and return with newly acquired skills to their areas of origin.
2. Give priority to allowing people affected by environmental stress to move in a regular manner and in safety and dignity, with full respect of their rights.
3. Promote migration opportunities for people affected by environmental degradation and climate change, such as facilitating seasonal migration. Provide, when needed, necessary skills training and education to prepare such people, including pastoralists, to find employment and diversified livelihood opportunities abroad.
4. Encourage the inclusion of migration as a form of adaptation to climate change within the protocol on the free movement of persons currently being developed by IGAD.
5. Develop new and improve existing data collection tools and analysis on human mobility in the context of environmental degradation and climate change, and develop criteria to differentiate voluntary and non-voluntary movements in such contexts.

IV. Protecting People Displaced across International Borders in the Context of Disasters

1. Recognize that people displaced across borders in the context of disasters, including drought, should be admitted when their lives or health are at risk, and they have no access to protection and assistance in their country of origin and government capacity to respond is overwhelmed.
2. Address the protection needs of such people, in particular regarding food, shelter, education and health services in accordance with relevant international standards such as the SPHERE Standards and the 2005 International Health Regulations; security and protection against exploitation; as well as access to and restoration of their livelihoods. Also recognize and address the specific needs of host communities.
3. Consider applying the 1969 AU Refugee Convention's expanded definition of a refugee that includes persons fleeing "events seriously disturbing public order" (Art. 1, para. 2) in situations where disasters are compounded by conflict and violence.
4. Engage with the African Court and Commission on Human and Peoples' Rights regarding a potential interpretation of the clause "events seriously disturbing public order" in disaster contexts without other factors of conflict or persecution, and encourage the African Union to discuss and seek consensus from Member States on the applicability of this clause to such disaster contexts.
5. Consider the development and use of temporary protection measures in disaster contexts where cross-border displaced people are not recognized under the AU Refugee Convention but still in need of international protection and assistance, building upon existing laws, policies, and practices in the region and UNHCR's Guidelines on Temporary Protection or Stay Arrangements.
6. Support the ratification and full implementation of legal instruments addressing internal displacement, in particular the 2009 Kampala Convention and the 2006 Great Lakes IDP Protocol, in order to avoid situations where people displaced within their own countries in the context of disasters are forced to seek protection and assistance abroad.
7. Interpret the provisions on freedom of movement (Art. 7-12) within the 2009 East African Community (EAC) Protocol on the Establishment of the East African Community Common Market, and the 2012

EAC One Stop Border Post Act in way that facilitates admission during disasters, and consider whether the draft free movement protocol within IGAD should permit entry in disaster contexts when people may lack the necessary travel documents.

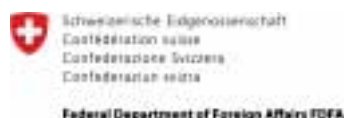
8. Ensure a comprehensive approach to finding durable solutions for displaced persons, in particular voluntary return to their place of origin, that includes measures to restore livelihoods and access to basic services, and ensures consultation and participation of affected communities, including those receiving the returnees. Develop criteria to determine when safe and dignified return is possible.

V. International Coordination and Cooperation for Cross-Border Displacement in Disaster Contexts

1. Establish and strengthen coordination and response mechanisms to address cross-border population movements in the context of climate change and disasters in all areas addressed in these conclusions, without prejudice to the sovereignty and security of the host states and the obligation of those admitted to respect the law of the land.
2. Ensure that donor priorities are better aligned with regional and national priorities and realities regarding activities addressing the needs of displaced people in the context of disasters including climate change.
3. Explore opportunities for accessing existing and new financial mechanisms at the regional and international levels to build resilience in disaster-prone areas, respond to cross-border population movements, and find durable solutions to displacement.
4. Promote the Conclusions of the Nansen Initiative Greater Horn of Africa Regional Consultation in relevant fora, in particular:
 - A. UN Framework Convention on Climate Change negotiations
 - B. 2016 World Humanitarian Summit
 - C. Post-2015 framework for disaster risk reduction
 - D. AU Climate Change Strategy
 - E. IGAD Drought Disaster Resilience and Sustainability Initiative
 - F. IGAD Regional Consultation Process on Migration
 - G. EAC Disaster Risk Reduction and Management Strategy
 - H. EAC Climate Change Policy.

The participants expressed their appreciation to the Government of the Republic of Kenya for its generosity in hosting the third Nansen Initiative Regional Consultation and for its willingness to take the results to relevant regional and international fora. They invited interested and relevant parties to follow up on the results of the Consultation and expressed the hope that these efforts will help to better manage cross-border movements of people in the context of disasters and the effects of climate change, but also to alleviate the plight and suffering of affected persons, and ensure the respect and full realization of their rights.

The Nansen Initiative Regional Consultation in the Greater Horn of Africa Region is supported by the generous contributions of:





ATENEO DE MANILA
UNIVERSITY

SUMMARY OF CONCLUSIONS

SOUTHEAST ASIA REGIONAL CONSULTATION

Human Mobility in the Context of Disasters and Climate Change in Southeast Asia

15-17 October 2015

Manila, Philippines

More than 100 participants representing governments of nine countries from Southeast Asia, including Brunei, Cambodia, Indonesia, Lao PDR, Myanmar, the Philippines, Thailand, Timor-Leste, and Viet Nam, as well as representatives from Australia, Germany, Haiti, Japan, the Nansen Initiative and its Chairmanship, and representatives from regional and international organizations, UN Agencies, civil society and research institutions, met in Manila, Philippines from 15-17 October 2014 for the fourth Nansen Initiative Regional Consultation under the theme “Human Mobility in the Context of Disasters and Climate Change in Southeast Asia.” The participants expressed their appreciation to the Government of the Philippines for hosting and the Chairmanship of the Nansen Initiative for supporting this important consultation.

The participants welcomed the Nansen Initiative, which is a state-led,⁴ bottom-up consultative process intended to contribute towards the development of a protection agenda addressing the needs of people displaced across borders in the context of sudden and slow-onset disasters and the effects of climate change. The overall objectives of the Nansen Initiative Southeast Asian Regional Consultation were to identify specific challenges and opportunities that the region faces related to disasters, climate change, and human mobility⁵ and to develop practical, policy and programmatic recommendations on how to address these challenges at national, regional and international levels. These Conclusions will be submitted to the Nansen Initiative Global Consultation that will take place in Geneva in October 2015, and within relevant regional and international fora.

Participants recognized that Southeast Asia is one of the world’s most vulnerable regions to natural hazards, including typhoons, earthquakes, tsunamis, storm surges, volcanos, floods, droughts, forest fires, and landslides. They acknowledged that given the region’s high exposure, Southeast Asia is also increasingly facing the negative impact of climate change through rising sea levels, ocean acidification, increasing salinity, coastal erosion, land degradation, and the increased frequency and intensity of hydro-metrological disasters that threaten human settlements, infrastructure, natural resources and associated livelihoods.

Participants acknowledged that Southeast Asia is one of the regions most affected by displacement in the context of sudden-onset disasters, with approximately 7.14 million people forced to flee and leave

4 The Nansen Initiative Steering Group includes Australia, Bangladesh, Costa Rica, Germany, Kenya, Mexico, Norway, the Philippines, and Switzerland.

5 In this document, human mobility includes displacement, migration and planned relocation or resettlement. The term “displacement” refers to situations where people are forced to leave their homes or places of habitual residence. The term “migration” is used to refer to movements that are *predominantly* voluntary. “Planned relocation,” in some countries called “resettlement,” refers to an organized movement, normally of a community, which can be voluntary or involuntary.

their homes in 2013 alone.⁶ They recalled the devastating experience of the 2013 Typhoon Haiyan/Yolanda, which displaced 918,261 families in the Philippines,⁷ posing continuing challenges for finding durable solutions, and the 7.2 Bohol earthquake that struck the Philippines exactly one year ago on 15 October 2013, displacing some 365,000 people. Other examples presented include the 2010 eruption of Indonesia's Mount Merapi volcano, which forced the evacuation of 365,000 people from their homes, the super Typhoon Ketsana that hit Cambodia in 2009 forcing the evacuation of close to 6,000 households, and the 2008 Cyclone Nargis in Myanmar that displaced approximately 800,000 people. Finally participants highlighted the unprecedented 2004 Indian Ocean Earthquake and Tsunami that displaced over 500,000 people in Indonesia alone.

Participants highlighted existing and envisaged legal frameworks relevant to the protection of internally displaced persons in disaster contexts, citing regional and national legal frameworks to protect fundamental rights, to address disaster management and climate change adaptation, as well as international human rights standards such as the Guiding Principles on Internal Displacement. However, participants expressed concern that the impacts of climate change combined with rapidly growing, densely populated urban areas, and pre-existing vulnerabilities linked to social inequalities and poverty are likely to increase displacement and migration in the future, including across international borders. They noted that while cross-border displacement is rare in Southeast Asia, inadequate national responses to internal displacement and weak recovery efforts may trigger secondary movements across borders.

Participants noted the magnitude of migration in Southeast Asia with some of the states belonging to the biggest countries of origin world-wide and others being among the most important destinations for migrants.⁸ They acknowledged that natural hazards such as recurring floods, sea-level rise and droughts have huge negative impacts on livelihoods, health and human life, and thereby are increasingly becoming factors influencing decisions of individuals and families to migrate abroad. Participants further acknowledged the presence of larger Southeast Asian migrant communities in other regions, and the need to provide for their protection accordingly. However, participants stated that managed properly, migration could be a positive climate change adaptation measure that could help to create livelihood opportunities and support economic development, and thus reduce future displacement.

Participants recognized that natural hazards have led many governments in the region to relocate communities to safer areas, recalling the relocation of populations affected by the extensive annual flooding in the Mekong Delta, and planned relocation processes in other parts of Southeast Asia after sudden-onset disasters when areas are deemed unsafe for continued habitation. While identifying the potential to increase vulnerable communities' resilience and security, participants acknowledged the challenges of ensuring adequate livelihood opportunities and social support in relocation processes, emphasizing the importance of inclusive and participatory approaches that include consulting and engaging communities especially at the local level in the planning and implementation process, as well as the need for transparency and financial accountability.

Participants identified the central role of existing national disaster risk reduction plans and strategies, climate change adaptation strategies, and development plans to mitigate and reduce displacement, as well as regional and international processes, such as the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), the ASEAN Climate Change Initiative, and the Hyogo Framework for Action.

Participants expressed concern about the protection challenges facing displaced persons in disaster contexts, identifying challenges such as lost or destroyed documentation, separated families, physical security concerns in crowded evacuation centers, the exacerbation of pre-existing vulnerabilities, the need for psychosocial support, and protracted displacement pending finding a durable solution. They mentioned the heightened risk for women and children in particular to fall victim to human trafficking

6 IDMC, *Global Estimates 2014: People displaced by disasters* (Geneva 2014).

7 National Disaster Risk Reduction & Management Council (NDRRMC), Government of the Philippines.

8 Graeme Hugo, "The Future of Migration Policies in the Asia-Pacific Region," IOM (2010).

and smuggling after disasters. Participants also noted that there is no legal mechanism within Southeast Asia that assures the admission of people potentially displaced across international borders in the context of disasters, and highlighted the lack of international guidelines on the obligations of States when environmentally displaced persons cross international borders.

Participants emphasized the need for recovery, rehabilitation, and reconstruction processes to begin as soon as possible after a disaster, noting the importance of ensuring community consultation at all stages of the process. They recognized the challenges of building back better, both safer and faster, to strengthen the resilience of disaster prone communities in the face of future disasters, and to restart and provide support for the development of diversified livelihood opportunities as quickly as possible to support self-reliance.

Participants expressed concern about the specific protection concerns that arise for migrants residing in or transiting through a country when a disaster strikes, such as accessing humanitarian assistance, receiving consular services, negotiating a release from employment, facilitating departure and safe passage even in an irregular situation, and support for repatriation, noting in particular the risks for undocumented migrants. They identified existing relevant mechanisms and frameworks to respond to such migrants abroad, including national government offices to support migrants abroad, bilateral agreements, the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration), the Regional Consultative Process on Overseas Employment and Contractual Labor for Countries of Origin in Asia (Colombo Process) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Participants recognized that comprehensive data collection and analysis is needed to inform relevant national and regional laws and policies on displacement, migration and planned relocation in the context of disasters and climate change in Southeast Asia.

Participants acknowledged that prevention, preparedness, and responses to human mobility in the context of disasters and the adverse effects of climate change require action to be taken at community, national, regional and international levels. They identified six areas where action is needed:

I. Disaster Risk Management and Climate Change Adaptation

1. Develop and institutionalize community-based and traditional disaster risk mapping tools and methodologies to identify populations most exposed to natural hazards and at a high risk of displacement, including groups particularly at risk such as children, women, older persons and persons with disabilities.
2. Integrate mapping of disaster-related displacement risks with climate change risk scenarios and projections to inform national and regional disaster preparedness and contingency planning, disaster risk reduction, climate change adaptation, planned relocation plans, and development plans.
3. Establish early warning information systems, clearly describing the hazard, the populations most at risk of displacement, and evacuation corridors and sites. Distribute such information in ways that affected communities can easily understand.
4. Increase general awareness on the importance of climate change adaptation and disaster risk reduction, enhance local capacity in this regard, and encourage local communities to make their own plans with the support of local and national authorities, civil society and the private sector.
5. Mainstream disaster risk reduction and climate change adaptation strategies, including with regard to the prevention of displacement, the facilitation of migration as adaptation, and planned relocation processes, into national and local social, economic and development sectors and plans in order to strengthen resilience.
6. Build upon and strengthen the implementation of the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) and the ASEAN Climate Change Initiative (ACCI) with particular regard to human mobility.

7. Encourage governments in the region to develop common messaging on the inclusion of displacement and planned relocation issues within the post-2015 disaster risk reduction framework.
8. Recognize the relevance of migration as a strategy for individuals and households to adapt to the challenges of climate change and slow- as well as sudden-onset disasters, and the need to train and prepare potential migrants so that they can participate in regional and global labour markets in safety and dignity.

II. Planned relocation

1. Prioritize policies and programs that build resilience to natural hazards and allow people to adapt to the adverse effects of climate change. Consider planned relocation only in cases where such measures are insufficient to protect them.
2. Develop guidelines, building upon global guidelines such as those used by development banks, but adapted to the local context and supported by strong public policies at national and local levels, to make planned relocation effective and sustainable.
3. Increase general knowledge on and understanding of disaster risks and the opportunities for vulnerable communities created by planned relocation.
4. In the event that permanent relocation becomes necessary:
 - A. Implement such measures in full respect for the rights of affected people, including host communities, taking into account the potential of planned relocation to achieve development goals;
 - B. Engage communities in consultation, planning, implementation and evaluation of such measures, taking into account community ties, cultural values, traditions and psychological attachments to their original place of residence;
 - C. Ensure the provision of livelihoods, including safe and adequate access to productive land, markets and credit;
 - D. Ensure the provision of adequate housing and secure land tenure, infrastructure, public spaces, education, health and other relevant services;
 - E. Ensure that relocation sites do not expose relocated people to disaster risks and provide for measures protecting them in the event of future disasters.

III. Internal Displacement in the Context of Disasters and the Adverse Effects of Climate Change

1. Acknowledge that people displaced within their own countries, and in particular women and children, sick and wounded persons or persons with disabilities, may need not only humanitarian assistance but may also face specific protection risks linked to the type of the natural hazard and the involuntary nature of the movement.
2. Develop, at the national level, clear policy guidance to protect internally displaced people, and consider adopting national legislation on internal displacement.
3. Strengthen the institutional capacity of local and national authorities to enhance support for internally displaced persons.
4. During the emergency phase:
 - A. Provide for safe evacuation where possible;
 - B. Consult internally displaced people in humanitarian needs assessments;
 - C. Mobilize displaced communities to monitor respect for the rights of their members;
 - D. Consider using thematic clusters to implement the disaster response in a coordinated manner, drawing on the leadership of relevant government entities, and the respective strengths of humanitarian agencies, civil society and the private sector.

5. Ensure the smooth transition from the emergency to the rehabilitation, recovery and reconstruction phase allowing internally displaced persons to find durable solutions ending their displacement, in particular by
 - A. Considering the use of thematic clusters led by government entities to coordinate relevant development actors;
 - B. Consulting with internally displaced persons and mobilizing them to participate in rehabilitation, recovery and reconstruction activities;
 - C. Working with and through local governments to ensure that the local context, traditions and cultural sensitivities are taken into account;
 - D. Emphasizing the reestablishment of livelihoods and basic services, as well as housing and infrastructure.

IV. Cross-Border Displacement in the Context of Disasters and the Adverse Effects of Climate Change

1. Encourage the admission, on a temporary basis, of displaced persons in need of assistance and protection abroad when their lives or health are at risk, until return becomes possible;
2. Examine the possibility of developing temporary protection mechanisms at bilateral, sub-regional or regional levels.
3. Consider including cross-border displacement scenarios within AADMER contingency planning exercises.

V. Protecting Migrants Abroad in Disaster Contexts

1. Building upon the Cebu Declaration, ASEAN Member States should affirm the basic humanitarian principles for all migrant workers affected by disasters, regardless of their status, and develop bilateral or regional standard operating procedures for addressing the needs of migrants abroad in disaster contexts.
2. Sending countries of migrants affected by disasters in a receiving country should develop public policies on assisting and protecting such persons, and in particular the means to locate persons abroad, facilitating access to consular services, and providing support for safe return.
3. Receiving countries when affected by disasters should provide access to emergency assistance for migrants regardless of their status, allow for and facilitate voluntary departure, and ensure safe passage.
4. Receiving countries are encouraged to temporarily refrain from deporting migrants from countries seriously affected by disasters.
5. Consider the creation of an ASEAN migrant relief network at the regional level to help raise resources and finance relief efforts in disaster situations.
6. Countries are encouraged to ratify relevant international instruments or conventions to protect migrants such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

VI. Data Collection and Scientific Knowledge

1. Enhance data collection and scientific knowledge regarding the causes, dynamics, and effects of human mobility in the context of slow- and sudden-onset disasters and the adverse effects of climate change to improve disaster risk analysis, humanitarian response, rehabilitation, recovery and reconstruction plans, and development planning.
2. Develop a better understanding of the differential gender impacts of climate change and disasters.
3. Promote modelling and analysis of climate change and human mobility for individual countries.
4. Ensure systematic dissemination of data and knowledge with decision makers at local, national and regional levels, and encourage information exchange among countries.

5. Dedicate resources to mobilize local expertise and strengthen research capacities in the region, drawing upon regional and international support.

The Nansen Initiative Regional Consultation in Southeast Asia is supported by the generous contributions of:





GOVERNMENT OF THE PEOPLE'S REPUBLIC OF
BANGLADESH



SUMMARY OF CONCLUSIONS

SOUTH ASIA REGIONAL CONSULTATION

Climate Change, Disasters, and Human Mobility in South Asia and the Indian Ocean

3-5 April 2015

Khulna, Bangladesh

More than 90 participants representing governments of ten countries from South Asia and the Indian Ocean region, including Afghanistan, Bangladesh, Bhutan, Madagascar, Maldives, Mauritius, Nepal, and Sri Lanka;⁹ as well as representatives from the Nansen Initiative, including its Chairmanship, Steering Group, and Group of Friends; and representatives from regional and international organizations, UN Agencies, civil society organizations and research institutions, met in Khulna, Bangladesh from 3-5 April 2015 for the fifth Nansen Initiative Regional Consultation under the theme “Climate Change, Disasters and Human Mobility in South Asia and the Indian Ocean.” The participants expressed their appreciation to the Government of Bangladesh for hosting and the Chairmanship of the Nansen Initiative and IOM Bangladesh for supporting this important consultation. They particularly appreciated the opportunity to experience first-hand the challenges faced by victims of disasters and climate change living in Dacop Sutarkhali Union, Bangladesh, and recognized their plight.

The participants welcomed the Nansen Initiative, which is a state-led,¹⁰ bottom-up consultative process intended to build consensus on a protection agenda that addresses the needs of people displaced across borders in the context of sudden and slow-onset disasters and the effects of climate change. These conclusions from the South Asia and Indian Ocean Regional Consultation, along with those from other regional consultations, will be submitted to the Nansen Initiative Global Consultation that will take place in Geneva in October 2015, and shared within relevant regional and international fora, including the UNFCCC negotiations and the World Humanitarian Summit.

Participants recognized that South Asia and the Indian Ocean region is exposed to a wide array of natural hazards with the potential to trigger human mobility, including sudden-onset hazards (e.g. tropical cyclones, flash floods, earthquakes, tsunamis, landslides, avalanches and glacial lake outburst floods), as well as slow-onset ones (e.g. sea level rise, desertification, droughts, riverbank erosion). Participants emphasized that climate change is already a reality for States in the regions, and expressed concern that, given countries' high exposure and current adaptive capacity, they will increasingly face the adverse effects of climate change, such as rising sea levels, salt water intrusion, coastal erosion, glacial melting, drought, and variable intensity and frequency of rainfall patterns and monsoon seasons. Participants recognized that disasters have no regard for national borders, and so emphasized the importance of bilateral, regional and international cooperation in addressing related human mobility challenges. At the same time, the participants noted that despite the similar problems in the region, their magnitude and nature are country specific due to their different geographical conditions and specificities.

Noting the multi-causal nature of displacement, participants expressed concern that the impacts of climate change combined with rapidly growing, densely populated urban areas, population growth, and

⁹ The Governments of the Sultanate of Oman and Pakistan participated as observers.

¹⁰ The Nansen Initiative Steering Group includes Australia, Bangladesh, Costa Rica, Germany, Kenya, Mexico, Norway, the Philippines, and Switzerland.

pre-existing vulnerabilities linked to social inequalities and poverty are likely to increase displacement and migration in the future, including across international borders. They highlighted that such effects threaten affected persons' full enjoyment of human rights, including by damaging housing and infrastructure, restricting resource availability, and negatively impacting livelihoods and food security, especially for small, agrarian, and marginalized households in low-lying and mountain areas. Participants stressed the particular consequences of climate change and natural hazards on Small Island Developing States, such as coastal erosion, coral bleaching, and salt water intrusion, and recognized that most of the related displacement is likely to be internal. Participants also expressed concern that such impacts may cause substantial economic losses and erase decades of development advances.

Participants acknowledged natural hazards have resulted in significant displacement in South Asia and the Indian Ocean region, with an estimated 46 million people displaced by sudden-onset disasters in South Asia between 2008 and 2013. For example, participants recalled the devastating 2004 Indian Ocean Earthquake and Tsunami that killed tens of thousands of people and displaced well over one million people in Sri Lanka, India, and the Maldives. Participants also highlighted the 2007 and 2009 cyclones Sidr and Aila, which displaced hundreds of thousands of people in Bangladesh, the 2005 earthquake in northern Pakistan, and the prolonged drought of 1997-2004 in Afghanistan. They also recalled the 2014 landslide and river block in Sindhupalchok, Nepal, and the 2015 landslide in Ab-barik District, Badakhshan Province, Afghanistan. The participants recalled that the vast majority of displacement and migration in South Asia and the Indian Ocean region has been internal. However, cross-border movements have been reported in the wake of both slow and sudden-onset disasters in some of the South Asian countries.

Participants recognized the importance of national and regional disaster risk reduction and climate change adaptation strategies, including through the SAARC Environment and Disaster Management Centre and the SAARC Agriculture Centre, as key elements for building capacities, enhancing regional collaboration and mitigating and reducing displacement risks. Participants also recognized the multiple opportunities to address displacement, migration and planned relocation with disaster risk reduction processes following the adoption of the Sendai Framework for Disaster Risk Reduction: 2015-2030, and as part of the 2015 UNFCCC climate change negotiations and the post-2015 development agenda. They emphasized that States have the primary responsibility to develop climate resilience and prevent and reduce disaster risk, and that bilateral, regional and international cooperation can play an important role in providing sustainable support to complement national action and in addressing transboundary risk, including internal and cross-border displacement. Participants also highlighted the common but differentiated responsibilities and the respective capabilities of States for responding to climate change and its adverse impacts, including the implications of climate change on human mobility and the importance of accessing mitigation and adaptation financing to address such challenges.

Participants noted protection challenges facing displaced persons in disaster contexts, including lost housing and infrastructure, livelihoods, and the psychological impact of disasters thereof. They noted that disasters exacerbate preexisting vulnerabilities, particularly for women, children, older persons and disabled persons, and the potential risk of human trafficking and smuggling after disasters. Participants highlighted that States have the primary responsibility to provide protection and assistance to displaced persons in disaster contexts, noting that States in the region already respond to the needs of internally displaced persons and have made substantial progress in their capacity to do so in the past ten years. They also recognized the critical role that the international community, civil society, the private sector, and other actors have been playing in responding to the protection and assistance needs of displaced persons. Participants also identified national legal frameworks and policies, international human rights law, UN Conventions and Declarations as essential for protecting displaced persons' rights. They also took note of the Guiding Principles on Internal Displacement. However, participants highlighted the challenge of identifying such displaced persons, particularly in the context of climate change impacts, the lack of an international framework addressing cross-border disaster-related displacement, and the lack of or weakness of international institutional arrangements and mandates on the issue.

Participants recognized that the availability of economically active population in South Asia has led to its emergence as an important source of international migrants to the Middle East, North America and Europe, and also within the regions. They noted that while many migrants move voluntarily to access education, employment opportunities, the negative impacts of natural hazards and environmental degradation on livelihoods, health and human life have also led South Asian people to migrate both within the region and beyond. Participants acknowledged that managed properly, migration can be a positive climate change adaptation measure that creates livelihood opportunities, supports economic development, supports disaster response through remittances, and thus reduces future displacement. However, participants expressed concern that the poorest and most vulnerable communities often lack adequate support to make migration a positive adaptation strategy.

Participants recognized that natural hazards have led some governments in the region to relocate communities for reasons of safety or because land was lost or became uninhabitable. For instance in the Maldives in the aftermath of the 2004 Indian Ocean Tsunami as well as the mountainous areas of Nepal and Afghanistan. Participants noted the challenges of identifying appropriate land, ensuring adequate livelihood opportunities and providing social and infrastructure support in relocation processes, emphasizing the importance of inclusive, voluntary and participatory approaches that consult and engage local communities in the planning and implementation process.

Participants observed that knowledge, data and analysis on the nexus between climate change, disasters, and human mobility in South Asia and the Indian Ocean region are growing but still insufficient to fully inform relevant policy making and governance at all levels.

Participants acknowledged that prevention, preparedness, and responses to human mobility in the context of disasters and the adverse effects of climate change require action to be taken at community, sub-national, national, regional and international levels.

Participants recommended linking the Nansen Initiative consultative process with the United Nations. They further identified five areas where inclusive and comprehensive action is needed:

I. Disaster Risk Reduction and Climate Change Adaptation

1. Build on the Sendai Framework on Disaster Risk Reduction 2015-2030 to integrate displacement, migration and planned relocation within national and regional disaster risk reduction plans and strategies. In particular, encourage the SAARC processes and regional centres to appropriately integrate all aspects of the Sendai Framework, including human mobility, into its programmes and activities.
2. Include displacement, migration as adaptation, and planned relocation within national, sub-regional, regional and global development plans/initiatives, disaster risk reduction (DRR) and climate change adaptation strategies to strengthen resilience.
3. Include disaster risk reduction (DRR) and climate change adaptation and mitigation strategies at all levels, particularly as they relate to displacement, migration as adaptation, and planned relocation, within national, sub-regional, regional and global development plans/initiatives to strengthen resilience.
4. Enhance understanding of the dynamics of vulnerability and consequent mobility of people within the DRR and climate change adaptation and mitigation plans, including disaster-related displacement and migration and related poverty.
5. Utilize participatory planning within DRR and climate change adaptation and mitigation processes to promote resilient communities.
6. Build capacities of relevant authorities and institutions at all levels, including through awareness raising and training, on the integration of human mobility in DRR, climate change adaptation, and development planning, emphasizing the importance of information, consultation, and participation of affected communities.
7. Consider the development of regional climate change adaptation and mitigation programmes, as

appropriate, and building upon national and international programmes and initiatives, including by taking into account the need for integrated river basin management.

8. Establish, share and strengthen monitoring and early warning information regarding disasters, including through the use of mapping and geospatial technology, at national, sub-regional and regional levels. This would be important to continuously assess vulnerabilities of people and communities, and also their risk of displacement.
9. Increase per capita investment in DRR as compared to funding for disaster response, and facilitate access to climate change adaptation and mitigation and disaster risk reduction funding and technical assistance, in particular for Small Island Developing States and LDCs.

II. Protection of Displaced Persons in Context of Disasters and the Adverse Effects of Climate Change

1. Recognize that disaster displaced persons, and in particular women, children, older persons, and persons with disabilities, need protection and assistance during the emergency relief phase, as well as ongoing support during the recovery and reconstruction phase, such as through the provision of adequate infrastructure and social services. Ensure the smooth transition from the emergency to the rehabilitation, recovery and reconstruction by enhancing cooperation between humanitarian and development actors.
2. Ensure that disaster displaced persons, or those at risk of displacement in disaster-prone areas, are provided with information about their rights and opportunities for genuine consultation and participation throughout all stages of disaster planning and response processes, particularly at the community level.
3. Develop national policies and standard operating procedures, adapted to the national context, that address the protection needs of internally displaced persons, and which provide simple, practical guidance regarding prevention, preparedness, evacuation, response, and finding durable solutions in a variety of disaster contexts.
4. Acknowledge that in situations of cross-border disaster-displacement, such people have specific protection needs and should, in a humanitarian spirit, receive admission, stay on temporary basis, social protection, and shelter, which are linked to finding durable solutions.
5. Consider the development of bilateral and regional arrangements, as appropriate, within existing regional frameworks, on cross-border disaster-displacement, emphasizing the humanitarian nature of such arrangements, to agree upon practical mechanisms regarding the admission, stay, and durable solutions, particularly in the context of sudden-onset disasters.
6. Integrate disaster and climate-related human mobility into relevant global processes, i.e. the UNFCCC negotiations, the Post-2015 Development Agenda, and the World Humanitarian Summit process.
7. Recognize the importance of support by the United Nations and relevant international organizations, where appropriate, in terms of legal and policy development and the operational response to disaster displacement.
8. Strengthen the institutional and technical capacity, and provide adequate resources, to provide protection and assistance for disaster displaced persons at all levels.
9. Prepare for the specific human mobility scenarios facing Small Island Developing States and climate vulnerable countries in the context of disasters and climate change, including challenges related to legal status, identity and culture.

III. Migration as Adaptation

1. Recognize that internal and cross-border migration may be a way for people affected by disasters and the adverse effects of climate change to avoid or adjust to deteriorating environmental conditions that could otherwise result in a humanitarian crisis and displacement in the future.
2. Facilitate migration of disaster and climate change affected people by engaging directly with local populations and vulnerable, affected communities to support safe and orderly migration that benefits all, in particular by providing pre- and post-departure training and support.

3. Develop policies at all levels on migration as a form of adaptation to climate change and disasters, recognizing that the poorest and most vulnerable may need additional assistance to make migration a positive adaptation strategy.
4. Consider the development arrangements at various levels, as appropriate, on migration as a potential adaptation measure, emphasizing the humanitarian nature of such arrangements, which include practical mechanisms regarding travel, admission and stay.
5. Recognize the multi-faceted links between migration and development, and support migrants and their families through financial literacy and related measures, skills development, and other measures to increase their resilience and reduce disaster risks.
6. Collaborate and cooperate among Member States on safe, orderly and responsible management of labour migration from South Asia, as agreed in the Declaration of the 18th SAARC Summit.
7. Encourage the ratification of relevant international instruments or conventions to protect migrants such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

IV. Planned Relocation

1. Consider timely planned relocation as a measure of last resort where other disaster risk reduction and climate change adaptation and mitigation measures are insufficient to protect people from natural hazards, and encourage the development of national and local relocation policies and mechanisms.
2. Ensure that planned relocation processes include engagement and awareness raising with affected communities regarding planning and implementation, taking into account cultural ties and attachment to land.
3. Ensure that such process include adequate provision of livelihood opportunities, housing, secure land tenure, basic and social services, and infrastructure, and are sensitive to local contexts.

V. Data Collection and Scientific Knowledge

1. Enhance data collection on disaster-related human mobility, and expand upon current research and knowledge to improve understanding on the relationship between climate change, disasters, and human mobility, including respective displacement risks, to inform relevant policies.
2. Create and build upon existing regional and international information sharing mechanisms on disaster risk and weather forecasting among States to support early warning mechanisms at all levels.
3. Encourage exchange of information, dialogue and learning on relevant new scientific techniques and innovations, particularly related to agriculture, livelihoods, health and education.
4. Provide relevant authorities at all levels with enhanced information and understanding of mechanisms and related access to international financial institutions supporting disaster risk reduction, disaster response and humanitarian assistance, and climate change adaptation and mitigation measures.

The Nansen Initiative Regional Consultation is supported by the generous contributions of:



THE NANSEN INITIATIVE

DISASTER-INDUCED CROSS-BORDER DISPLACEMENT

