



**COMMEMORATIVE PROCESS OF THE 30th ANNIVERSARY
OF THE CARTAGENA DECLARATION ON REFUGEES
“CARTAGENA +30”**

**MESOAMÉRICA Sub-regional Consultation
“International Protection Challenges and Opportunities
for a New Strategic Framework for Regional Cooperation”
Managua, July 10-11, 2014**

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

I. Introduction

The third sub-regional consultation of the commemorative process of 30th anniversary of the Cartagena Declaration on Refugees of 1984 (“Cartagena Declaration”) was held in the city of Managua, Nicaragua, on July 10 and 11, 2014.

The Governments of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, and Panamá attended the sub-regional consultation, organized by the Government of Nicaragua and UNHCR and sponsored by SICA. Representatives of the Governments of Brazil, Cuba, Spain, and United States of America and the European Union attended as observers. The following international organizations were also present: UNFPA, OCHA, WFP, UNDP, UNICEF, IOM, SICA, ECHO, ICRC, IFRC, the Inter-American Court of Human Rights, the Central American Court of Justice and the Technical Secretariat of the Regional Conference on Migration (CRM). Also participated in this event the Attorneys for Human Rights of El Salvador, Guatemala and Nicaragua; the National Commissioner for human rights in Honduras; the Norwegian Refugee Council, and representatives of civil society organizations from the Mesoamerican region, including the Academia.

The Deputy Minister for Foreign Affairs of Nicaragua, Mr. Orlando Gómez; Ms. Janet Lim, UNHCR Assistant High Commissioner for Operations, and Mr. Werner Vargas, Executive Director of SICA, inaugurated the event. In their opening remarks they referred to the long journey made by Central America from the Cartagena Declaration to date, highlighting the important contribution of the Mesoamerican region to the development of International Refugee Law, and the new challenges facing the region. They highlighted the forced displacement generated by the violence of transnational criminal groups that is causing the exit of thousands of men, women and unaccompanied minors. They also reiterated the willingness and need to strengthen regional cooperation and joint work between all Governments, SICA, UNHCR and other international organizations and civil society.

During the two days of the consultation, participants discussed new trends of regional migration, including forced displacement generated by transnational organized crime. Recognizing Mesoamerica as a regional protection space, they also addressed the challenges

of international protection of refugees and stateless persons, as well as the possible protection responses towards cross-border movements generated by climate change.

The sub-regional consultation approved a document prepared by the Rapporteurship, which, together with the notes of the Technical Secretariat, the presentations of the panelists and the reference documentation shared with the participants, has served as the basis for the preparation of this document that summarizes the main conclusions and recommendations. The described background of this sub-regional consultation can be found on the website of the *Cartagena+30* process: www.acnur.org/cartagena30.

The following conclusions and recommendations of the Mesoamerican sub-regional consultation will serve as an input for the formulation and adoption of a Declaration and a regional Plan of Action for the period 2015-2024.

Protection progress and challenges in Mesoamerica

As part of the discussion on the achievements and progress made in the implementation of the Mexico Plan of Action to Strengthen International Protection of Refugees in Latin America in 2004 (“Mexico Plan of Action”), it was reiterated the important contribution made by the Mesoamerican region through the implementation of pragmatic and innovative responses to meet the international protection needs and the new challenges posed by the forced displacement of people in need of protection. Following up on this line of action, participants were called to make practical proposals on this consultation, always keeping in mind the human person as the main focus of attention.

Changes in the global context that have influenced an increase in people in need of international protection were raised in the first panel. It was highlighted that despite the advances in the development of specific legal frameworks and the strengthening of existing ones, in the ten years since the adoption of the Mexico Plan of Action there are new challenges to attend to. Among them, the forced displacement generated by transnational organized crime and its impact on the most vulnerable groups, such as women, unaccompanied children and adolescents. To cope with this new regional challenge, it was recommended to keep in mind the principles of responsibility sharing and regional solidarity, highlighting the importance of applying a differentiated protection approach and the need for synergies and close cooperation between State authorities, civil society and international organizations.

It was recommended that the new Plan of Action to be adopted in Brazil should have a shared regional vision; more financial resources; mechanisms of tripartite follow-up; the active participation of government authorities, UNHCR and other relevant international bodies and civil society; a proper balance between humanitarian needs and legitimate security considerations to prevent abuses of the asylum system; provide for the exchange of experiences among the CONAREs within the institutional framework of SICA, and the establishment of linkages with other regional *fora*, such as the RCM and MERCOSUR.

II. New trends of forced displacement in Mesoamerica and protection challenges

The sub-regional consultation highlighted the plural causality of regional migration, which involves different factors, such as economic considerations and family reunification, as well as increasing violence and insecurity. These last two causes mainly correspond to the action of transnational organized crime.

The Governments of El Salvador and Honduras reported on national policy and institutional frameworks to respond to forced displacement and shared their experiences in the context of their implementation.

It was confirmed that the actions of transnational organized crime in Mesoamerica generate forced displacement in some instances, which is characterized by its atomization and invisibility. The delegation of Brazil recommended not to generalize this phenomenon for the whole continent, suggesting that the particular circumstances observed in the Mesoamerican region should be noted, and referred to in the geographical framework in which evolves. The delegation of Brazil also expressed its willingness to consider cases of refugees affected by this situation as possible beneficiaries of the solidarity resettlement programme.

Due to the new trends of forced displacement within the region, the sub-regional consultation found an increase in the number of applications for refugee status, as well as an increase in the recognition of this condition in several countries of the continent. It was also highlighted with concern, an increase in the number of pending applications for refugee status in various countries.

The sub-regional consultation made the following recommendations to address this phenomenon within a framework of close regional cooperation:

1. Highlight the fact that displacement caused by organized crime in Mesoamerica is a complex problem that must be addressed with a focus on human rights, responsibility sharing and solidarity. Regardless of whether people move within their countries or across international borders and recognize that, in the latter case, it can lead to the recognition of refugee status.
2. Confront the causes generating forced displacement in the region with the cooperation of States, civil society and international organizations, within a framework of responsibility sharing.
3. Develop an early warning system for displacement within SICA.
4. In the framework of the cooperation agreement signed between SICA and UNHCR, consider the creation of an Observatory of human rights for the migrant population subjected to forced displacement, with the active participation of civil society and Academia and the support and supervision of the Human Rights Ombudsmen at regional level. The aim would be to implement a common system of collection and analysis of quantitative and qualitative information on the phenomenon, which will facilitate the formulation of public policies and regional coordination and cooperation.
5. Develop a comprehensive regional policy for addressing forced displacement and provide assistance to victims with the support of international cooperation, without prejudice to the adoption of immediate national responses.
6. Prepare a harmonized registration Protocol to measure the levels of forced displacement and information for the displaced population.
7. Strengthen the work of existing networks within the States, international organizations and civil society to address the issue of forced displacement, focusing on border

monitoring, with the participation of national institutions for the promotion and protection of human rights.

8. Consider the establishment of a regional mechanism of humanitarian evacuation to third countries, defining the criteria for their beneficiaries and the modalities of cooperation.
9. Strengthen national judicial systems and other national protection mechanisms, such as victims and witnesses protection programs.
10. Influence the authorities of the host countries of migrants or people who need asylum or international protection as refugees and a regional visa, in order to ease and streamline response mechanisms to applications originated by situations of violence.
11. Take into account UNHCR's guidance notes for refugee applications filed by victims of gangs or *maras*.
12. Promote a permanent regional forum of commissions of refugee status determination for the exchange of good practices within the framework of SICA and find its connection with the Regional Conference on Migration (RCM), the Central American Court of Justice and other similar forums in Latin America.
13. Include the networks of civil society within SICA's Consultative Committee framework.

III. International protection considerations in the treatment of mixed movements

The sub-regional consultation reiterated the need to recognize the changes within the dynamics of regional migration, where mixed migratory movements —including economic migrants— continue to happen, as well as people fleeing violence and insecurity, mainly affecting children, adolescents and women.

However, it was found that the answer to migratory movements continues to emphasize security and not the protection needs. It was mentioned that to maintain the institution of asylum and to ensure the protection of refugees, it is necessary that States have differentiated mechanisms to identify needs and to provide protection to those who require it, including among others the regularization of migration.

Within the recommendations formulated by the sub-regional consultation addressing mixed migratory movements, highlight the following:

1. Promote the national implementation of the *Regional guidelines for the preliminary identification of profiles, and referral mechanisms of migrant populations in conditions of vulnerability*, bearing in mind the differentiated protection responses.
2. Reiterate the commitment of States to ensure access to asylum procedures and to apply the refugee definitions recognized in their internal regulations.
3. Strengthen quality and differentiated procedures for refugee status determination that take into account the particular needs of protection and respect for due process guarantees.

4. In border areas, promote a better understanding of people's right to apply for international protection and of migration officials on the national mechanisms for refugee status determination, for the purpose of ensuring the implementation of protection safeguards, such as: *non-refoulement*, *non-penalization* for irregular entry, the right to seek and receive asylum and non-discrimination.
5. Recognize the important work of both in assistance and protection that civil society performs at migrant shelters and to promote the cooperation of UNHCR and other international organizations to strengthen and increase, especially in the border areas and transit, these networks of shelters, and encourage better care for migrants, asylum seekers and refugees.
6. Seek alternatives to administrative detention and eliminate such measure for asylum seekers and refugees.
7. Prohibit the administrative detention of migrant, asylum-seekers, refugee children and adolescents.
8. Recognize the importance of the regulation of complementary protection and humanitarian visas by the States based on their internal rules, considering a possible harmonization of criteria within the Central American Commission of Migration Directors (OCAM), and without prejudice to protection which is granted to whoever requires international protection as a refugee.
9. Conduct information campaigns in countries of origin, transit and destination on the rights of persons and the risks on the migratory routes.

IV. Specific protection needs due to the new trends of displacement in the region: unaccompanied children and adolescents

The regional consultation emphasized the humanitarian crisis caused by the increase in the presence of unaccompanied boys, girls and adolescents in the regional migration, among them, victims of forced displacement by violence and insecurity. They also reiterated that any consideration in this matter should be governed by the principle of the best interest of the child, considering children as subjects of rights, where the logic that prevails is one of care and protection.

The importance of incorporating specific provisions on the basis of gender, age and diversity in the normative frameworks was emphasized, as well as the need to strengthen preventive actions, aimed at promoting family and community roots, institutional strengthening mechanisms and operating procedures by which protection is provided to groups in situations of vulnerability.

Based on the identified challenges, the sub-regional consultation made the following recommendations:

1. Highlight the interest within the RCM to create a comprehensive regional mechanism (*ad hoc* working group) to meet the protection needs of children, adolescents, migrants and refugees, and to complement the "*Regional guidelines for the preliminary identification of profiles and referral mechanisms of migrant populations in conditions of vulnerability*," the "*Regional guidelines for the care of unaccompanied migrant children, and adolescents in case of repatriation*," and the "*Regional guidelines for*

special protection in cases of repatriation of children and adolescent victims of human trafficking.”

2. Redouble efforts and cooperation of all the concerned institutions to develop and implement national assistance mechanisms with the highest protection standards, including an approach to age, gender, diversity and the best interests of the child, and to include the areas of prevention, protection and solutions.
3. Respond to the humanitarian crisis of unaccompanied boys, girls and adolescents, bearing in mind the experience shared by Guatemala, through improvements in detection and preliminary assessment on the U.S.-Mexico border, the strengthening of the training of border officials to identify protection needs and the implementation of community alternatives to administrative detention; all this on the basis of the best interest of the child.
4. Address the fundamental causes of this irregular regional migration, through the strengthening of national and regional systems for the protection of children and adolescents; the implementation of mechanisms for the identification, protection and durable solutions; the strengthening of consular protection; the improvement of the reception conditions and of procedures to determine the best interest of the child, and the access to asylum systems for those who are in need of international protection as refugees.
5. Provide more human and financial resources to national institutions responsible for the protection of children and adolescents, as well as for the commissions for the determination to promote that they act in accordance with the high standards of human rights prevailing in Latin America.
6. Improve the implementation of prevention measures in the communities of origin, bearing in mind vulnerability factors of minors, ensuring access to education and working to decrease school drop out rates, as well as gaining a better knowledge of the phenomenon of internal forced displacement (primary prevention).
7. Strengthen monitoring by human rights institutions and relevant State bodies, in collaboration with civil society and international organizations, on the situation of returned or deported children and adolescents and those reunited with their families, for the purpose of improving their safety, security and their general care, thus avoiding when possible, their re-victimization and a new cycle of forced displacement.

Mesoamerica as a space for regional protection

The sub-regional consultation underlined the importance of maintaining and strengthening Mesoamerica as a space of protection for refugees, stateless persons and other persons in need of international protection. As part of the discussions on the effective access and strengthening of national procedures for refugee status determination, comprehensive strategies for durable solutions, progress in the actions of prevention of statelessness and protection of stateless persons, and the impact of climate change and natural disasters in the cross-border displacement, the participants highlighted regional good practices and the existing gaps to be addressed in the Brazil Plan of Action, the applicable standards in Mesoamerica and the better use of the regional forums for their dissemination and promotion.

V. Effective access and strengthening of national procedures for refugee status determination and the exchange of good practices

The sub-regional consultation discussed different modalities to strengthen national procedures for refugee status determination, such as the initiative of quality management (known as QAI, *quality assurance initiative*), implemented in Mexico, Costa Rica and Panama; the support to the Technical Secretariats; bilateral cooperation or South-South programs. The work of civil society was recognized in the provision of advice and legal representation of applicants and refugees, their participation as members of some of the national commissions for refugees (as it is the case of Nicaragua) was noted. The importance of including training of civil servants in the teaching of international refugee law as it is done in Guatemala to the agents of the national police was also stressed.

Participants highlighted the importance of adopting a progressive interpretation of the refugee definition of the 1951 Convention and its 1967 Protocol, and of incorporating in national legislations and implementing the regional expanded definition recommended by the Cartagena Declaration in those countries which have not done so. With regards to the regional refugee definition, it was recognized that it is necessary to provide guidelines to the States and civil society organizations for their correct application.

The standards developed by the Inter-American Court of human rights on the principle of *non-refoulement*, the scope and content of the right of asylum and its links with the international protection of refugees, as well as the incorporation of the standards of due process guarantees in the refugee status determination procedures were also shared with the participants.

As part of the due process guarantees developed by the Inter-American Court of Human Rights to be respected in any and all procedures for refugee status determination, the following were highlighted: 1) the exercise of the right to seek and receive asylum, which presupposes that the applicant will be heard in a predetermined and objective procedure; 2) the right to legal representation and advice; (3) the right to be informed about the procedure; 4) the right to contact UNHCR; 5) the right to be heard, and thus the need for an individual interview of the applicant; 6) the State obligation to adopt a reasoned and objective decision, within the time limits established by law and by an authority competent and duly identified; 7) the obligation to respect the principle of confidentiality of the applicant and the application; and 8) the entitlement of the applicant to be notified of the decision to be adopted, including a remedy with suspended effect (appeal or review) until the competent authority adopts a final decision.

Additionally, in the case of children and adolescent asylum seekers and refugees, the Court indicated that the guarantees provided for in article 19 of the American Convention on Human Rights have to be applied and, in particular, the right to participate, to be heard and the best interest of the child.

To respond to the major challenges for the strengthening of procedures for refugee status determination in the region, the sub-regional consultation made the following recommendations:

1. Strengthen national commissions for refugee status determination.
2. Ensure respect for due process guarantees and access to justice, including free legal representation and the use of interpreters when required.

3. Consider the possibility of no deadlines to formulate requests for refugee status recognition.
4. Establish and comply with reasonable timetables to resolve requests for refugee status recognition and to consider, as a good practice, the implementation of positive administrative silence, as is done in Nicaragua.
5. Incorporate the standards of due process developed by the Inter-American Court of Human Rights, including the need to adopt reasoned decisions, and the application of the principle of good faith and the benefit of the doubt.
6. Consider assistance and legal representation services through agreements with public and private universities, other instances of civil societies and lawyers' bar associations to carry out respectively internships and professional practices.
7. Eliminate the procedures of pre-admissibility in those countries where they exist.
8. Consider the benefits of replicating in other countries of the Mesoamerican region the methodology of the initiative of quality management (QAI) that has been implemented in Mexico, Costa Rica and Panama.
9. Move towards a regional harmonization of procedures, rules and standards for the protection of refugees.
10. Generate and strengthen mechanisms and protection networks of civil society organizations at a regional level in order to exchange best practices, share information, contribute to the representation of cases and ensure respect for the human rights standards for the protection of refugees.

VI. Comprehensive strategy for durable solutions emphasizing local integration

Different initiatives to promote refugees local integration were shared, such as the need for public policies that promote this durable solution (i.e. Living the Integration in Costa Rica programme); the active participation of public and private sectors in generating employment for refugees (i.e. in Costa Rica, through the social responsibility of enterprises); access to productive projects and technical training, for both refugees and beneficiaries of complementary protection (i.e. in Mexico); specific agreements to guarantee access to university education for refugees through grants (i.e. Cuba and Brazil); the promotion of the change of migratory status of refugees from temporary residents to permanent residents, as well as programmes of regularization of migrants (i.e., Panama), and the facilitation of naturalization through fast, accessible and low-cost processes.

The sub-regional consultation underlined the importance that these initiatives be implemented and shared with the refugee population, considering the special vulnerability of children, adolescents and women.

In terms of local integration, the most important challenges are effective access to sources of employment and the validation of diplomas obtained abroad. It was also mentioned the importance of awareness-raising campaigns that promote diversity and equality between nationals and foreigners, and of the migration regularization programmes to respond to the

needs of other migrants and thus safeguard the integrity of the asylum system and refugee protection.

In terms of durable solutions with an emphasis on local integration, the sub-regional consultation participants recommended the following:

1. Reiterate the importance of public policies that promote local integration of refugees and migrants in host countries.
2. Seek synergies with the public and private sectors and international cooperation for the implementation of public policies.
3. Facilitate local integration and access to livelihoods of applicants and refugees in the region, through the granting of work permits to asylum-seekers, as it is done in different Latin American countries.
4. Omit any reference to their legal status in the personal documentation given to asylum-seekers and refugees.
5. Implement vocational and professional training programs for refugees.
6. Promote microcredit schemes and seed capital, projects for livelihood, grants and State social programs for refugees.
7. Facilitate refugee access to bank credits.
8. Promote the recognition of refugees' personal documentation and travel documents by the national banking system.
9. Facilitate access to housing, health and education for asylum-seekers and refugees.
10. Promote the issuance of fast and free documentation to asylum seekers and refugees.

VII. Progress in the prevention of statelessness and protection of stateless persons in Mesoamerica

The sub-regional consultation took note that there are between 10 and 12 million stateless people worldwide, and the Mesoamerican region is no exception to this problem, as long as there are still situations that give rise to this humanitarian problem. It was noted with satisfaction that, in recent years, various countries in the region have acceded to the Convention Relating to the Status of Stateless Persons of 1954 ("1954 Convention") and the Convention on the Reduction of Statelessness of 1961 ("1961 Convention"). Several countries shared their progress in this regard. On the issue of protection of stateless persons, they shared the experience of Mexico in the establishment of a procedure for the stateless status determination, granting permanent residency and providing access to naturalization, which constitutes good practice for the region.

Participants were reminded that the great challenge of statelessness in the region is its eradication, because it is a problem that affects children particularly, for which they must carry out both measures of prevention, protection and resolution of existing cases. In this regard, there is still the need to regulate procedures for stateless status determination of persons and the harmonization of domestic legislation of States to prevent statelessness.

The regulation of *ius sanguinis* and *ius solis* does not resolve all the situations that may give rise to statelessness in the Americas.

For the purposes of eradicating statelessness it is recommended to focus on prevention, protection and resolution. In relation to prevention, they recommended the accession to the 1961 Convention, as a central instrument to prevent statelessness. They also recommended reviewing and, if necessary, adapting nationality regulations to address vacuums and gaps. It was also stressed the need to improve civil registration systems in order to ensure the immediate birth registration and the documentation.

Regarding protection they recommended acceding to the 1954 Convention and the adoption of regulatory frameworks for protection, including the establishment of national mechanisms for stateless status determination.

Regarding the resolution of existing cases, they recommended adopting measures aimed at the restoration of the nationality of those persons who were deprived of it, or had renounced or lost it without acquiring another nationality. Likewise, it was stressed that persons recognized as stateless have facilities for their naturalization, and the confirmation of the nationality of those persons whose nationality is undetermined.

Representatives of civil society also recommended providing documentation to prevent statelessness, developing protocols to deal with situations of trans-border movements; that recognized stateless persons be granted permanent residence; to incorporate the standards developed by the Inter-American Court of Human Rights in the area of nationality, as well as combating racism, xenophobia and discrimination that may affect stateless persons or at risk of statelessness. In addition, civil society urged the States to participate actively in UNHCR's campaign to eradicate statelessness in the next 10 years.

VIII. Climate change, natural disasters and cross-border movement

In the last segment of the consultation the Nansen initiative was presented as a consultative global process led by the States, which seeks to offer a response to the existing legal vacuum in order to provide protection to persons who are displaced as a result of climate change and natural disasters, since they cannot be recognized as refugees under international law. The main conclusions of the Government consultation, which took place in December 2013, in San José, Costa Rica within the scope of this Initiative, were also shared.

In Latin America, there are examples of cross-border movement caused by natural disasters or climate change and practical responses taken by the States to provide protection. Thus, within the scope of the RCM, States recommended developing guidelines for granting temporary protection or humanitarian visas to people affected by the cross-border movement, for which a regional workshop will be held. The humanitarian visas granted by the Government of Brazil to people of Haitian nationality who have arrived to their territory was recognized as a good regional practice.

It was highlighted that different countries from the region have shown solidarity with people who have been forced to move as a result of natural disasters, and that there are various efforts displayed by countries in prevention and risk analysis, mainly by the civil protection authorities. The delegation of Mexico mentioned that during the regional consultation of the Nansen initiative, held in San José, Costa Rica, there was wide agreement that it is not necessary to create new legal figures to assist the displaced beyond the borders due to

climate change and natural disasters, even though they agreed to strengthen existing prevention cooperation schemes for coordination and mitigation.

Finally, the participants expressed their gratitude to the Government and the people of Nicaragua for the warm welcome and their willingness to co-sponsor this sub-regional consultation.

Managua, July 11, 2014