**Submission to the UN Special Rapporteur on the human rights of migrants**

*Forthcoming report to Human Rights Council –*

*Human rights violations at international borders: trends, prevention and accountability*

**Inputs from DRC & MMC Latin America and the Caribbean**

Numerous measures affecting access to territory and international protection have been documented in Latin America and the Caribbean in recent months. Below is a brief summary with respect to two different migratory flows in the region: the situation of those fleeing Venezuela and that of northward movements through Central America and Mexico. Information is based on field activities carried out in Peru, Colombia, Venezuela, Guatemala and Mexico.

Venezuela Situation

The closure of the land borders between Venezuela and **Colombia** continued until October 2021 without stemming the entry of significant numbers of Venezuelans into Colombia. In May, the Colombian government began to implement the [Temporary Protection Status for Venezuelan Migrants](https://www.cancilleria.gov.co/estatuto-temporal-proteccion-migrantes-venezolanos) which has been criticized for undermining the right to refugee protection among eligible Venezuelan nationals despite offering the possibility to regularize migratory status in Colombia and facilitating their access to rights, such as [health](https://www.minsalud.gov.co/Normatividad_Nuevo/Resoluci%C3%B3n%20No.%201178%20de%202021.pdf) and work. The adoption in February 2022 of [regulations](https://www.diariooficial.interior.gob.cl/publicaciones/2022/02/12/43177/01/2086865.pdf) to **Chile**’s [2021 Migration Law](https://www.chileatiende.gob.cl/fichas/91505-nueva-ley-de-migraciones) prompted its entry into force, raising concerns about expedited deportation procedures and widespread detention authority.

Some positive measures can be highlighted. Through executive action, **Peru** adopted guidelines in June 2021 for the issuance and extension of the [humanitarian migratory status](https://www.gob.pe/institucion/rree/normas-legales/2007440-0207-2021-re) for asylum-seekers and those entitled to complementary protection, [benefiting large numbers](https://www.r4v.info/es/solicitudes) of Venezuelans who have requested recognition of refugee status in the country (Peru has received the largest number of Venezuelan asylum applications). This form of migratory regularization permits asylum-seekers to receive documentation, although it does not guarantee subsequent recognition of refugee status. Moreover, as of February 2022, Peru [began to re-open its land borders](https://cdn.www.gob.pe/uploads/document/file/2825995/Decreto%20Supremo%20N%C2%B0015-2022-PCM.pdf) with neighboring countries Bolivia and Ecuador. Still, land borders between Peru and Chile remain closed as the latter has [declared a State of Emergency](https://www.gob.cl/noticias/presidente-pinera-da-inicio-a-estado-de-excepcion-en-la-zona-norte-estamos-usando-todos-los-instrumentos-que-la-ley-nos-otorga-para-poder-poner-orden-en-nuestra-casa/) and subsequently militarized parts of its northern region. These new dynamics combined with Chile’s new migratory law increase exposure to [the risk of refoulement, human trafficking, and xenophobia](https://www.rfi.fr/es/programas/noticias-de-am%C3%A9rica/20220215-se-agudiza-la-crisis-migratoria-en-chile-mientras-entra-en-vigor-la-nueva-ley-de-migraci%C3%B3n) in the Peru-Chile-Bolivia border region.

In August, [migration authorities announced](https://t.co/OFWTcZB4oJ) that they would adjust requirements to accommodate Venezuelans who face difficulties obtaining documents from their countries of origin. In August, **Brazil** extended the application of [simplified asylum process for Venezuelan asylum seekers](https://help.unhcr.org/brazil/es/solicitando-la-condicion-de-refugiado-residente-o-la-naturalizacion/condicion-de-refugiado-processo-simplificado-para-personas-venezoelanas/) through the end of December.

Central America and Mexico

Increased militarization throughout 2021 has impeded access to territory and onward movements, as evidenced in harsh responses to collective movements known as caravans as well as the proliferation of check points where migrants report frequent abuses of authority. Arbitrary detention in **Mexico** continues to be used against irregular entrants and asylum-seekers alike, sometimes leading to refoulement. Multiple formal restrictions have made it difficult for individuals to regularly transit through the region. Mexico introduced visa requirements for Ecuadorian ([August 2021](https://dof.gob.mx/nota_detalle.php?codigo=5640345&fecha=06/01/2022)), Brazilian ([December 2021](https://www.gob.mx/sre/prensa/gobierno-de-mexico-suspende-temporalmente-el-acuerdo-de-exencion-de-visas-para-nacionales-brasilenos?state=published)) and Venezuelan nationals ([January 2022](https://dof.gob.mx/nota_detalle.php?codigo=5640345&fecha=06/01/2022)), thus complicating safe and regular entry to the territory. Additionally, [repeated changes](https://reliefweb.int/report/mexico/challenges-refugee-protection-and-nonrefoulement-tapachula-mexico-due-process-analysis) in 2021 to asylum procedures along the southern border prevented many from obtaining necessary international protection. **Guatemala** maintained requirements for negative Covid-19 test results, which effectively impede those from neighboring Honduras, El Salvador and Nicaragua from enjoying Central American transit privileges and encourage irregular movements.

Many of the control measures in the region are promoted by the **United States** in an attempt to prevent migrants from accessing its territory. While the U.S. applies the safe third country concept through bilateral agreements (currently only with Canada), in recent years it has advanced in frameworks to classify Honduras, El Salvador and Guatemala as safe third countries as a way to impede access to international protection in the U.S. While a change in government at the beginning of 2021 led to the [suspension of these agreements,](https://www.state.gov/suspending-and-terminating-the-asylum-cooperative-agreements-with-the-governments-el-salvador-guatemala-and-honduras/) the permissive legal framework governing the safe third country concept would allow for it to be easily invoked to deny meaningful protection. Separately, U.S. domestic legislation (Section 235 of the Immigration and Nationality Act) contemplates the return of individuals who arrive by land from contiguous territories to those respective territories until immigration proceedings have been carried out. Under this authority, the Migrant Protection Protocols (MPP) – initially adopted in early 2019 before being suspended in January 2021 and subsequently reinitiated in [December 2021](https://www.dhs.gov/publication/court-ordered-reimplementation-mpp-policy-guidance) – require those who request asylum at the U.S. border to remain in Mexico while they await their hearings and the resolution of their claims. While the MPP is facially neutral with respect the nationality, it is currently applied only to individuals who are not amenable to automatic expulsion from the U.S. under the public health authority Title 42 – initially invoked in March 2020 and still in effect -. Title 42 is currently applied to individuals that can either be returned to their countries of origin or those that Mexico has agreed to accept in its territory. This notably includes nationals of Guatemala, Honduras and El Salvador, among others, leading to their automatic expulsion from the U.S. to Mexico, even in the event that they attempt to seek asylum in the U.S. Field activities confirm that the U.S. has used flights to expel individuals to southern Mexico so as to prevent attempts at re-entry or laterally, to other border crossing points, in order to interrupt contact with smugglers. In this context, MPP has been applied to individuals [not amenable to Title 42](https://www.dhs.gov/sites/default/files/2022-02/22_0215_plcy_mpp_cohort_report_feb2022.pdf), including Nicaraguans, Venezuelans and Cubans. With respect to Mexican nationals attempting to flee Mexico into the United States, the lack of an asylum-seeker exception to Title 42 leads to their automatic expulsion to Mexico.

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