NGO Statement on the Americas
Agenda item 3(a)iii

Dear Chair,

This statement has been drafted in consultation with, and is delivered on behalf of, a wide range of NGOs and aims to reflect the diversity of views within the NGO community.

To start with a reference to the Refugee Compact and the recent regional Conference organized in Brazil, we commend the adoption of the “100 points of Brasilia”. This document renews the commitments made by States in Latin America and the Caribbean to strengthen high protection standards for people in situation of displacement and statelessness.

Now looking at more specific aspects across the region:

Argentina

We welcome the Argentinian government’s initiatives, such as the creation of a Specialized Commission under the General Ombudsman in 2012 with the mandate to provide free legal assistance in all steps of the RSD procedure. It makes Argentina a model for guaranteeing the right to free legal representation.

However, we note that the Act 70/2017 modifying the Argentinian National Law 25871, violates basic principles of international protection, such as non-refoulement and due process. In order to contain migration flows, recent hardline security measures have also been taken. They contradict with the progress made towards the non-criminalization of irregular entry and the elimination the exceptionality of detention, both leading to expulsion procedures which put people in need of international protection at great risk.

Brazil

NGOs commend the new Law on Migration of 2017, which differentiates between refugee status and residential or migratory status, allowing refugees to maintain their status under international protection when obtaining an immigration status that allows them access their rights.
NGOs also welcome the implementation of an electronic record management system (SEI\textsuperscript{1} system) by the National Refugee Committees (CONARE\textsuperscript{2}). However, we note that some electronic registers do not yield reliable, updated and disaggregated data and asylum seekers cannot access their own information.

NGOs also raise deep concern about the Flight Reservation requirement to obtain a travel document, as it is in contradiction with Article 28 of the 1951 Geneva Convention.

**Canada**

NGOs appreciate the Canadian government on having a welcoming policy allowing 300,000 new permanent residents including refugees. The overall immigration level for 2017 remains above the levels in recent years\textsuperscript{3}.

However, the persistence of the Safe Third Country agreement with the U.S. contradicts Canada’s approach, as it requires asylum seekers to request refugee status recognition in the first safe country they reach.

NGOs also lament the issuing of Eritreans refugees’ work permits with errors, leaving them unable to obtain an employment until they receive a corrected permit.

**Chile**

NGOs commend the implementation of the "Chile Reconoce", a program allowing access to Chilean nationality for people registered between 1995 and 2014 under a non-citizen status and children born to foreign parents. However, we would welcome institutions specialized in legal assistance or medical services for the benefit of refugees.

**Colombia**

We applaud the ratification of the Peace Agreement by the Colombian Government with the FARC. However, the persisting violence that generates internal and external forced displacements is of great concern. We therefore call on all States to provide international protection to Colombian seeking safety.

We are also concerned about the lack of comprehensive and timely refugee status determination process. Currently, asylum seekers are not allowed to carry out economic activities, which leaves them vulnerable and unable to become self-sufficient. The Colombian government has not recognized Venezuelan refugees under the RSD process and has interrupted the issuance of the Border Mobility Card (TMF), demonstrating a lack of political will to recognize the expanded refugee definition established in the Cartagena Declaration. The increase of rigorous border controls and military presence at the Colombian-Venezuelan border since early 2018 is not only ineffective, but also dangerous as it increases the risk of human rights violations.

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\textsuperscript{1} Sistematización de los procesos de gestión de la Cooperación Sur-Sur en Agencia Brasileña de Cooperación del Ministerio de Relaciones Exteriores (systematization management processes of South-South Cooperation in Brazilian Cooperation Agency of the Ministry of Foreign Affairs)

\textsuperscript{2} Comisión Nacional para los Refugiados (National Committee for the Refugees)

\textsuperscript{3} the average annual level 2000-2015 was 250,000
While Special Permissions of Residence (PEP⁴) have been established, this status is only valid for 2 years and for people admitted before 2 February 2018, which represents 69,000 of the 550,000 Venezuelan people residing in the country.

As the number of people seeking international protection increases, deportations and expulsions are being performed progressively, affecting mainly Cuban, Haitian and Venezuelan groups. Additionally, the lack of practical implementation of the Executive Decree 780 in public institutions prevents asylum seekers from accessing health services.

Human rights of refugees and migrants must be guaranteed, respected and protected through the migratory regularization mechanisms and the provision of identification documents that are free of charge and similar to national identification cards.

**Costa Rica**

We commend Costa Rica’s commitment to enhance the quality of asylum and expect this to be reinforced through the National CRRF plan, by establishing efficient asylum claim processes, issuing temporary IDs to asylum seekers, which enables immediate access to public social programs, and applying the extended refugee status definition.

Indeed, through MINARE, Costa Rica recognizes individuals in need of international protection that fall outside of the scope of the 1951 Refugee Convention and ensures that the principle of *non-refoulement* also applies to them. However, Costa Rica has not yet adopted a special migration status on humanitarian grounds as per Section 12, Article 94 of the General Law on Migration, and the Immigration Authorities lack understanding of international protection standards.

We also note some difficulties such as associated to the remaining high cost of refugee documentation.

**Ecuador**

Unclear requirements and procedures of migratory regularization processes in the Human Mobility Law are concerning, as they cause a legal insecurity for people. Likewise, the absence of clear mechanisms to correct the irregular migratory status and complementary protection mechanisms need to be resolved in order to avoid the exposure to various forms of human rights violations. Comprehensive, specialized and decent social services must be accessible and designed for refugees’ needs, through trained and specialized government personnel.

On the other hand, NGOs welcome the Human Mobility Roundtables and the issuance of identity cards for refugees identical to national IDs. This promotes integration, works against discrimination, and tackle issues related to gender, education and livelihoods. NGOs encourage the Ecuadorian Government to replicate this type of actions for further positive result.

**El Salvador**

NGOs condemn the Salvadoran government’s silence on the recognition of internal and cross border forced displacement, despite actions taken by the Supreme Court related to current displacement crises. Comprehensive state-led programs and services for displaced people displaced due to violence are non-existent.

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⁴ Permiso Especial de Permanencia (Special Permission of Residence)
On another note, NGOs support the Salvadoran government’s adherence to the 1954 Convention relating to the Status of Stateless Persons and encourage the implementation of initiatives in the short, medium and long term in order to meet the needs of the stateless population.

**Honduras**

NGOs commend the recognition of forced displacement provoked by violence in Decree PCM 053-2013, which allowed the creation of the Interagency Commission for the Protection of People Displaced by Violence. In this perspective, NGOs suggest the implementation of a systematic process for registering displaced people in order to apply effective policies and legislation.

**Mexico**

We raise concern about the Mexican Commission for Refugee Assistance (COMAR⁵) decision to suspend deadlines for issuing decisions on refugee applications, leaving 5000 people in uncertainty. COMAR’s practices contradict the principle of impartiality by not providing the criteria used to recognize or deny protection status, use and produce inaccurate information sources related to the country of origin, and linking any type of tattoo with organized crime.

Additionally, the lack of knowledge and training of public border authorities regarding the process for refugee status recognition is of NGOs’ concern. This gap contradicts Brazil Plan of Action standards, as people in need of international protection cannot access reliable information to take decisions.

Initiatives taken by Mexico City should be adapted and implemented on the national level, such as the "Law on Interculturality, Assistance to Migrants, and Human Mobility in the Federal District", adopted in 2011 by Mexico City, as well as the agreement signed in 2017 with UNHCR⁶ to facilitate refugees’ access to social programs. Those initiatives could provide holistic protection and integration for refugees across the country.

**Panama**

The asylum seekers’ situation is of great concern. Due to lack of legal representation, they have difficulty being notified of decisions related to their case. This means that some may continue being detained indefinitely without the possibility of an appeal, violating their right to due process.

The new visa requirement for Venezuelan people as of October 1st, 2017 exacerbates the lack of protection mechanisms and prohibits transit without a visa. Given Panama’s specific geographical location, this prevents many people in need of international protection from finding safe passage to a place where they can receive protection.

Though in the country Panama’s National Commission for the Protection of Refugees allows psychologists to be present at the eligibility interview if the applicant has been a victim of gender-based violence. NGOs support this good practice. Likewise, we welcome the good practice of the Commission to interview minors with a psychologist’s supervision when the Commission has determined that children can provide crucial information to a case. These measures help the interviewer to draw the relevant facts of the interview, while providing specialized services to the applicant.

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⁵ Comisión Nacional para los Refugiados (Mexican Commission for Aid to Refugees)
⁶ United Nations High Commissioner for Refugees.
Peru

In Peru, NGOs commend the extension of the Temporary Residence Permit granted to Venezuelans until June 30\textsuperscript{th}, 2019. However, the government needs to find longer term solutions for those in need of international protection.

Also, in the mid-term, we note that asylum seekers’ provisional documentation is not recognized by the health system, which prevents asylum seekers from accessing to basic rights, leaving them in a state of vulnerability.

Trinidad and Tobago

Legislation to protect refugees is lacking. Asylum-seekers are vulnerable to \textit{refoulement} at ports of entry and face discrimination if they do not speak Spanish. There are high rates of sexual and gender-based violence, arbitrary detention, harsh penalization for illegal entry, lengthy delays in the issuance of supervision order and lack of access to legal representation including for judicial matters and the asylum request.

Confiscating asylum seekers’ passports in order to launch the asylum process is of common practice. In addition, the document granted to asylum seekers (the order of supervision) denies asylum-seekers’ basic rights, such as the right to access work, education and social services, as well as family reunification. Asylum seekers are therefore left in a tremendous state of vulnerability in a country with a high cost of living and limited livelihoods opportunities.

We recommend that resources be made available to Trinidad and Tobago and other small island Caribbean states struggling with growing numbers of persons in need of international protection.

United States of America

The Supreme Court decision to deny court hearings to immigrants, including those with permanent legal status and asylum seekers, being detained or deported, is extremely worrying. It violates the Due Process and equal protection clauses.

Additionally, the removal of the Temporary Protected Status (TPS) for Nicaraguans, Haitians and Salvadoreans prevents people in need of international protection from accessing safety.

The reduction of the number of resettled refugees in desperate need of a safe third country is of great concern. The United States has capped the number of refugees it will receive annually to 45,000, reducing the 110,000-limit that the previous administration had set.

We regret attempts to implement travel bans which particularly affect resettlement programs. The most recent ban intended to restrict the entry of people from 11 countries, mainly countries from where resettled refugees came from.

Uruguay

NGOs note two progresses with regard protection practices in the country. First is the issuing identity cards similar to national ID cards, as it allows refugees to access microcredit programs and financial services. The second progress related to the prohibition deportation or legal actions without proper representation or guidance for unaccompanied children.

Venezuela
The current humanitarian crisis is forcing citizens to move to other countries in the region under vulnerable conditions. We urge the government to alleviate shortages of medicines, medical treatments and food. High fees required for the naturalization process inhibit many refugees and vulnerable migrants from accessing the opportunity to become citizens due to their weak economic situation.

Yet, NGOs note two positive developments, namely the draft of the new Organic Law for Protection of Children and Adolescents and the government’s adhesion to the 1954 Convention relating to the Status of Stateless Persons. While the first one reflects adherence to the Convention on the Rights of the Child and will benefit migrant children once the final version adopted, the second one should be accompanied by measures protecting population living under this condition.

All governments must guarantee a humanitarian response to this situation through their RSD procedures, complementary protection and regularization mechanisms under a human rights-based approach.