



Human Rights at International Borders: The Need for an International Human Rights Monitoring Mechanism

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Introduction

There is a clear need for a Human Rights Council-mandated international human rights monitoring mechanism at international borders: The widespread militarization, criminalization, securitization and externalization of migration governance creates and exacerbates situations of vulnerability for migrants, including by preventing people from moving across borders in safety and dignity. Human rights violations at international borders are widespread and systematic, fed by a climate of impunity. Human rights monitoring at borders is frequently non-existent and often fragmented, weakening prevention and accountability for human rights violations and abuses.

International borders are not zones of exclusion or exception for human rights obligations. Yet in the absence of robust independent human rights monitoring, borders – particularly remote or securitized areas – risk being unchallenged gaps for human rights protection. Member States have repeatedly stated their intent to save lives in migration. Given that transparency and accountability reduce the risk of human rights violations and abuses, an independent international monitoring mechanism would be a valuable tool to contribute to saving lives and ensuring human rights are respected, protected and fulfilled.

Independent national actors with localized understanding and expertise may be best placed to undertake human rights monitoring. Some of these functions are carried out by National Human Rights Institutions (with A status, in accordance with the Paris Principles), National Preventive Mechanisms, and local, national and regional NGOs. However, these mechanisms often lack adequate resources, are unable to achieve universal coverage and, in some cases, face criminalization and suppression of their work. An international monitoring mechanism would complement and reinforce existing human rights protection capacity at the local, national and regional level and fill gaps where mechanisms are non-existent or not effective.

Role of an Independent Monitoring Mechanism at Borders in Prevention of Human Rights Violations and Abuses

Human rights monitoring can assess whether border governance policy and practices are compliant with international human rights law and standards. By **providing an analysis of gaps between international law and standards and practice**, effective human rights monitoring informs recommendations and guides action to ensure accountability and prevent future violations and abuses.

The visibility monitoring can bring to spaces that are closed or inaccessible and to which journalists and civil society have been denied access is valuable in reversing concealment and contributing to public awareness. From being unnoticed, unreported and hidden, effective human rights monitoring at borders documents and brings attention to human rights violations with the aim of **enabling access to justice** for individuals and policy change. Importantly, the provision of verified information can be used in legal proceedings against human rights violations at borders. Further, it can **fuel both policy**

advocacy and policy change, while increasing public awareness and pressure about human rights violations at borders. These important contributions to transparency make independent human rights monitoring a **valuable component of political oversight and judicial control**.

Role of an Independent International Monitoring Mechanism at Borders in Accountability of Human Rights Violations and Abuses

Responding to gaps in access to justice, including a lack of independent investigations in many incidents, an international independent monitoring mechanism would **facilitate accountability by documenting and reporting on violations, evidencing systematic violations and enabling access to justice**. The establishment of a monitoring mechanism would contribute to accountability, access to justice, reparation and guarantees of non-repetition for people experiencing torture, disappearances, loss of life and other human rights violations.

By establishing the facts and circumstances that may amount to violations of international law, including international human rights law and, where possible, to identifying those responsible for the purpose of holding perpetrators accountable, an independent monitoring mechanism would contribute to legal accountability. Importantly, monitoring visits should include dialogue with Member States on findings and recommendations. Further, a **route-based approach to monitoring visits would allow a mechanism to identify the accountability of multiple States relevant to that migration route**.

KEY PRINCIPLES FOR AN INTERNATIONAL INDEPENDENT MONITORING MECHANISM AT BORDERS

1. INDEPENDENCE

- ✚ **Operational autonomy** – ability to act on own initiative.
- ✚ **Freedom from institutional interference** by authorities and/or private actors responsible for migration governance and border management.
- ✚ **Financial autonomy** – properly equipped with appropriate financial means and staff.

2. CLARITY AND BREADTH OF MANDATE

- ✚ Ability to **carry out unannounced visits** and be **granted unimpeded access** to places, people, records and files.
- ✚ Ability to be present as an **independent observer** during the full range of border governance operations and speak directly to witnesses and alleged victims.
- ✚ **Investigations into all human rights violations**, regardless of perpetrator.
- ✚ Mandate to **cover all international borders and zones** where they are enforced including through a **route-based approach** to monitoring visits.
- ✚ **Consultation** with States directly affected individuals and communities, and other stakeholders with an intersectional approach.
- ✚ **Multidisciplinary approach** through the inclusion of lawyers, health professionals, psychologists, forensic experts, child protection specialists and interpreters/cultural mediators in the monitoring team.

KEY PRINCIPLES FOR AN INTERNATIONAL INDEPENDENT MONITORING MECHANISM AT BORDERS

3. COMPLEMENTARITY

- ✚ **Complement and reinforce existing human rights protection** capacity at the local, national and regional level, avoid duplication and sidelining any existing independent human rights monitoring with the same scope.
- ✚ **Utilization of existing recommendations** on human rights monitoring at borders, and prevention of deaths and disappearances in transit (*see below for some examples*).

4. MEANINGFUL MIGRANT PARTICIPATION

- ✚ Centre migrants' expertise and experience in the work and design of the mechanism, taking into account how migrants' intersecting identities lead to diverse lived experiences which affect their participation in monitoring activities.
- ✚ Enable broad participation of as many migrants as possible, ideally by offering various ways of participating.

Suggested Structure and Functions of an International Monitoring Mechanism – Operationalizing the Principles

Composition: 3-5 independent experts who represent a diversity of backgrounds, including lawyers, health professionals, child protection specialists, forensic experts and psychologists.

Activities:

- Monitoring, investigating and documenting human rights violations in transit and across international borders, including through:
 - a) **route-based investigations**, based on country visits to relevant States and engagement with all relevant actors, and;
 - b) investigations of specific incidents to establish the facts and circumstances that may amount to human rights violations and, where possible, to identify those responsible and;
 - c) holistic policy analysis to identify policies that create or exacerbate risk of human rights violations.
- **Regularly reporting publicly** on its investigations (including findings, challenges, risk factors), including to the Human Rights Council.
- Consulting **directly affected individuals** and their family members and communities.
- **Consulting widely with all relevant stakeholders**, in particular existing independent human rights monitors.
- **Consulting with all States and engaging in dialogue with States relevant to route-based investigations.**

- Making **recommendations to strengthen prevention**, including change to policies and practices that create or exacerbate the risk of deaths, enforced disappearances, torture and other grave human rights violations in transit.
- Making **recommendations on the concrete steps needed to ensure access to justice, accountability and redress** for human rights violations in transit and across international borders.
- **Monitoring the implementation of recommendations on ending impunity** for human rights violations in transit and at international borders.
- **Close collaborating** with relevant special procedure mandate holders, treaty bodies and regional human rights mechanisms, **with a view to avoid duplication**.

EXISTING GUIDANCE ON NATIONAL MONITORING MECHANISMS

- [OHCHR Manual on Human Rights Monitoring](#)
- [UNHCR's Stakeholders' Manual for Establishing a Border Monitoring Mechanism](#)
- [EUFRA's Guide on National Independent Mechanisms](#)
- [OHCHR and UNHCR's Joint Consultation on Independent National Monitoring Mechanisms proposed in the EU Pact on Migration and Asylum](#)
- [European Network of National Human Rights Institutions \(ENNHRI\). Opinion on Independent Human Rights Monitoring Mechanisms at Borders under the EU Pact on Migration and Asylum](#)
- [ENNHRI. Protecting human rights of migrants at the borders - Evidence and work of European NHRIs](#)

EXISTING RECOMMENDATION ON HUMAN RIGHTS MONITORING AT BORDERS

- [Committee on Enforced Disappearances' General Comment no. 1 on enforced disappearances in the context of migration;](#)
- [Report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration;](#)
- [Report of the SG on the GCM, A/79/590 \(2024\), Annex I;](#)
- [ICRC's Guidelines on Coordination and Information-Exchange Mechanisms for the Search for Missing Migrants;](#)
- [ICRC's Guiding Principles on Interaction with Families of Missing Migrants;](#)
- QUNO's reference tool, [Foundations for Implementation](#).