

Serve Your People

A Roadmap for Transforming Relations between the United States & the Northern Countries of Central America

JULY 2020

The U.S. government's policy from 2017 through 2020 towards the northern countries of Central America (El Salvador, Guatemala, and Honduras) had one near-exclusive focus: stopping migration.¹ The strategy was not just punitive, but counterproductive—even withholding over \$500 million in assistance appropriated by Congress to address the root causes of migration. With its myopic focus on migration, the Trump Administration turned a blind eye to drivers of the exodus from these countries, including inequality, poverty, pervasive violence, corruption, climate change, discrimination against indigenous peoples and Afro-descendants, violence against women and LGBTQ+ persons, and state repression. Governments and legislatures took advantage of this narrow and counterproductive U.S. focus by removing obstacles to their own corruption and scaling up abuses against their citizens.

During this time, the U.S. government eviscerated access to international protection for refugees and asylum seekers. From restricting access to asylum at the U.S.-Mexico border with a range of executive actions and illegal practices, to reducing eligibility for asylum by reversing decades of legal precedents, to extending U.S. border enforcement further south by entering into migration and border security agreements with Mexican and Central American governments, the Trump Administration violated the right to seek international protection under U.S. law and international refugee law.

¹ We are using the term “northern countries of Central America” to refer to El Salvador, Guatemala, and Honduras exclusively.

The COVID-19 pandemic further exposed the short-sightedness and cruelty of U.S. policy towards Latin America and the Caribbean. U.S. aid to address the pandemic was limited and slow to arrive, U.S. contributions to the Pan American Health Organization were temporarily withheld over a dispute regarding Cuban medical brigades, and personal protective equipment was meted out for political favors. The administration indefinitely suspended the right to seek asylum and protections for unaccompanied children under a Centers for Disease Prevention and Control order couched as a response to the COVID-19 pandemic. Hundreds of deportation flights took thousands of women, men, and children, some already exposed to COVID-19, back to countries with fragile health systems.

U.S. policy towards the northern countries of Central America is in urgent need of dramatic transformation.

To start, the right to seek asylum must be fully restored and migrant and immigrant rights protected. This document provides a roadmap to restoring and improving access to asylum and protection of migrant rights. In addition, a new administration should restore protections for Temporary Protected Status (TPS) and Deferred Action for Childhood Arrivals (DACA) beneficiaries, many of whom are from the northern countries of Central America, until the U.S. Congress passes a pathway to citizenship for them. Not doing so would mean that hundreds of thousands of Honduran and Salvadoran TPS beneficiaries and Dreamers could be at risk for deporta-



tion, with profoundly [negative consequences](#) for their families in the United States and the economies of their home countries.

But the need for change goes far beyond revoking the immense damage to international protections for refugees, asylum seekers, migrants, and immigrants. Nor is it sufficient to restore aid programs the Trump Administration withheld. The changes must go deeper than reversing these recent negative actions.

The United States should adopt a new vision that encourages Central American governments to serve and protect their people, with equity and justice. Diplomacy should go back to the drawing board, **recognizing that the United States should support not corrupt government officials or abusive security forces but agents for positive transformation in each society—including the activists organizing for change.** With civil society voices heard, aid and trade programs for Central America should be fully redesigned to encourage inclusive, sustainable economies. This vision must also encompass the U.S. and Central American societies working together to address the urgent challenge of climate change and to protect the environment.

A new vision for U.S. immigration policies affecting asylum seekers, immigrants, and migrants must be humane, inclusive, and just. An overhaul of the current system is needed to revert away from enforcement-centric responses, and to instead turn to people-centered and humanitarian models as well as community-based alternatives to detention.

The U.S. government's message to the governments of northern countries of Central America should no longer be: Prevent your people from fleeing. Nor should the answer be: The United States will provide some aid to fix your problems. Rather, the message must be: Protect the rights and well-being of all your citizens so that they can make the choice to stay. And the United States' message to the citizens working to build more democratic, inclusive and just societies should be: We stand with you.

A new policy towards the northern countries of Central America would:

Stand with Civil Society Forces for Change & Urge Governments to Serve Their People

1. Start with principled diplomacy against corruption and for human rights and the rule of law
2. Provide aid to protect human rights; enhance transparency and government accountability; prevent violence, including sexual and gender-based violence, and strengthen the rule of law
3. Encourage economic strategies that reduce poverty and build equitable development
4. Provide aid and adopt policies to address the COVID-19 pandemic
5. Address the impact of climate change

Restore and Advance Access to Protection for Migrants & Refugees at Our Border & throughout Mexico and Central America

1. Rescind anti-asylum policies and advance access to protection at the border
2. Support expanded access to protection in Mexico
3. Ensure expanded protection for refugees and migrants in Central America
4. Build safe and comprehensive repatriation and reintegration programs

Stand with Civil Society Forces for Change & Urge the Governments of the Northern Countries of Central America to Serve Their People

1. Start with Principled Diplomacy for the Rule of Law

Aid cannot fix nations ruled by governments that steal from and abuse the rights of their citizens. Aid to corrupt governments pours water through a sieve, and support for abusive government institutions and security forces can put the U.S. stamp of approval on gross violations of human rights. The solution starts with the right kind of diplomacy.

Strong and principled diplomacy is needed to end rampant corruption that has captured the Honduran and Guatemalan states and strongly affects El Salvador. The same diplomacy is needed to urge these governments to protect the rights of, not abuse, their citizens; to stand with human rights defenders, civil society activists, and journalists; and to reverse the trend towards authoritarian leadership in all three countries, including the recent disturbing trends in El Salvador. Indeed, the U.S. government must demonstrate through its words and actions that it stands not with corrupt governments but with the citizens who are seeking to build more democratic, just, and inclusive societies.

A. Stand with human rights defenders, civil society activists, and journalists

- ✓ The U.S. government—from the President and Secretary of State to the ambassador and embassy staff—should visibly demonstrate that the United States stands with human rights defenders and journalists. These defenders include but are not limited to environmental activists, indigenous and Afro-descendant community leaders, anti-corruption activists, union organizers, faith leaders,

women's rights advocates, and LGBTQ+ activists. Over 15 percent of human rights defenders killed worldwide in 2019, according to [Frontline Defenders](#), were from the northern countries of Central America. “Standing with” defenders can take many forms, such as visiting their offices, attending trials, funding civil society projects, posting on social media, and making public statements—but this support must be unambiguous, constant, and visible.²

- ✓ The State Department and embassies should urge governments to protect human rights defenders and journalists by: ensuring well-resourced specialized investigative units to effectively investigate and prosecute threats and attacks against them; strengthening and/or creating protection mechanisms; strengthening and increasing resources to human rights ombudsman's offices; suspending, investigating, and prosecuting security force members engaged in attacks against defenders and journalists; ending efforts to limit the rights of nongovernmental organizations and media; ending specious prosecutions of human rights defenders and journalists; and sanctioning officials who defame and threaten activists.
- ✓ The State Department and embassies should insist upon respect for the right to protest, urge development of protocols for handling protests, and press for effective investigations and prosecutions of excessive use of force against protesters.
- ✓ The U.S. embassies and USAID missions in each country must regularly meet and consult with a broader range of civil society organizations, including those critical of their governments.

² For examples of how U.S. embassies can protect human rights defenders, including environmental and land rights defenders, see Latin America Working Group Education Fund, “Suggested Actions for U.S. Embassy Human Rights Officers to Protect Environmental and Land Rights Defenders,” April 2020, <https://www.lawg.org/wp-content/uploads/Suggested-actions-for-U.S.-human-rights-officers-to-protect-environmental-and-land-rights-defenders-final-1.pdf>, and Earthrights International, *The Case for a Stronger U.S. Policy on Human Rights Defenders*, June 2020, https://earthrights.org/wp-content/uploads/EarthRights-Embassy-Report_June2020.pdf.

B. Make addressing corruption a top priority for U.S. policy

- ✓ The U.S. government should start by consistently informing Central American governments that addressing corruption is a pre-condition for assistance to government agencies. Corruption should be a major focus of all bilateral discussions. The U.S. government should insist that governments: have well-functioning and resourced investigative units and independent courts effectively investigating and prosecuting corruption, especially by top-level government and security officials and key actors of economic elites; cooperate with international anti-corruption and human rights initiatives; and support campaign finance reform, transparency, access to information, respect for press freedom, and other clean government measures to address corruption. This should be a pre-condition for assistance to government agencies and a major focus of all bilateral discussions.
- ✓ The U.S. government should vigorously enforce sanctions on corrupt officials and private individuals such as per the Global Magnitsky Act so that the pressure is felt by corrupt individuals as well as institutions.
- ✓ The State Department should actively enforce the conditions in State, Foreign Operations law that insist that governments advance in addressing corruption, protecting human rights and human rights defenders, ensuring accountability for security force violations, withdrawing the military from policing, and strengthening the rule of law. This includes withholding certification and holding up 50 percent of aid to the central government as circumstances warrant. (Such withholding does not apply to activities to combat corruption and impunity, address gender-based violence, humanitarian assistance and food security programs.)

C. Encourage progress in strengthening the rule of law

- ✓ The U.S. government should support transparent and independent processes for the selection of

prosecutors, judges and key high-level oversight positions such as national ombudsmen. The United States should encourage governments to ensure that selection processes for judicial positions are conducted in a transparent and objective manner, in accordance with international standards. Election processes must require that candidates are evaluated and selected based on merit, their legal and professional qualifications, and their commitment to the rule of law, not on proximity to politicians. The processes should allow for the active participation of civil society.

- ✓ The United States should press for accountability and transparency in the justice sector. It should provide benchmarks for improvements in reducing impunity which are tied to funding for the justice sector. It should encourage governments to strengthen investigative capacity of specialized prosecutors investigating homicides, extortion, organized crime, corruption, human rights crimes, and sexual and gender-based violence.

D. Restore diplomacy and aid that promotes women's rights and LGBTQ+ rights

- ✓ The State Department and USAID should support LGBTQ+ and women's rights through visible, vigorous diplomacy and full, separate treatment of these issues in the annual human rights reports as well as through strategic aid programs. Important signals of respect for LGBTQ+ and women's rights were eliminated or weakened during the Trump Administration. This included reducing the sections addressing these issues in the annual human rights report, including eliminating coverage of women's reproductive rights; ending some aid projects that protect LGBTQ+ rights; and downplaying visible signs of support for LGBTQ+ persons.
- ✓ Hate speech and anti-LGBTQ+ narratives, including by media, politicians, and religious leaders, should be documented in the annual human rights reports, and the U.S. diplomats should speak out against hate speech and acts of discrimination.

The State Department and embassies must once again demonstrate visible signs of U.S. support for LGBTQ+ rights.

E. Insist on citizen security strategies that respect human rights

- ✓ The U.S. government should encourage Central American governments to pursue balanced citizen security strategies that focus on violence prevention through social programs and improving justice systems and respect for human rights and the rule of law, rather than “mano dura” strategies. The United States should press for withdrawal of military from policing—a persistent problem in the region.
- ✓ The United States should not be providing military assistance, training, and equipment to the northern countries of Central America, and the controversy over policing in the United States reveals the United States is not well placed to provide appropriate police training. However, if aid, training, and equipment is provided, the State and Defense Departments should fully enforce the Leahy Law regarding vetting of recipients of any U.S. security force training. But the U.S. government needs to go farther than this: it must suspend all security force training where the political will to end abuses is lacking—for example, currently in Honduras—until significant commitment to respect human rights and end corruption is demonstrated.
- ✓ The State and Defense Departments and Southern Command should focus attention on two persistent problems with security forces from northern Central America:
 - extrajudicial executions and torture allegedly committed by police and military and former security officials against suspected gang members or youth in gang-controlled areas (particularly in El Salvador). This includes not only urging investigations and prosecutions and strengthening internal controls but also discouraging “green lights” for security forces to commit abuses, whether through public

officials’ statements, incentives and promotions for abusive officers, or police directives or penal code provisions that shield officials from investigation.

- security force abuses against human rights defenders, journalists, trade unionists, environmental activists, LGBTQ+ and women’s rights activists, and indigenous and Afro-descendant community leaders. Such abuses are a serious issue in Honduras, where security forces have used excessive and even lethal force against protesters with little accountability, and in Guatemala, where communities resisting the imposition of large-scale development projects are subject to increasing militarization. Current and former security forces act as security for companies carrying out controversial mining, palm, dam and other projects in Central America and abuses against activists protecting their communities and the environment are growing.

2. Provide Well-Designed Aid & Encourage Government Programs to Protect Human Rights; Encourage Government Transparency & Accountability; & Prevent Violence, including Sexual & Gender-based Violence

When assistance is paired with strong diplomacy, well-designed aid programs can be helpful in building capacity to prevent violence, protect human rights, and enhance transparency and government accountability. They must be sustainable and in the long-term, transferred to government and civil society within the countries. The humanitarian assistance that was abruptly withheld by the Trump Administration over migration issues should be restored and used for its original purposes. **The United States should provide targeted assistance to the programs listed below, but also encourage national and local governments to invest in these institutions and strategies.**

Development aid packages designed with civil society participation are more likely to successfully address societal problems. USAID should establish a regular consultation process with Central American civil society organizations to elicit input and recommendations and provide updates regarding its strategies and programming on development, violence prevention, and other issues. These consultations should not be limited to USAID grantees and should include a full range of civil society groups including human rights, indigenous, Afro-descendant, environmental, humanitarian relief, faith, labor rights, disability rights, youth, women's rights, and LGBTQ+ organizations.³ USAID has taken steps to increase transparency but should continue to make its Central America programming more transparent.

A. Support community-based violence prevention strategies

The United States should provide assistance for and encourage governments to expand community-based programs to reduce crime and violence, particularly as it affects youth. These “violence prevention” programs we recommend are social programs, not security assistance. U.S. assistance should be coordinated with other donors to maximize impact. **The U.S. government should:**

- ✓ **Focus resources and technical assistance on the successful reinsertion of youth and children seeking to leave gangs,** allowing them to reconcile with their communities and families, heal the trauma they endured, and become productive members of society. Job and vocational training should be linked to sustainable employment opportunities. Private sector reinsertion programs and tertiary prevention programs that prepare inmates for release and help newly released inmates obtain employment should be expanded. Programs should recognize that “reinsertion” must overcome multiple problems faced by youth who have never been fully embraced and “inserted” in society in the first place. The U.S. government should ensure that U.S.-funded humanitarian agencies can

³ The well-established and positive USAID Colombia human rights consultation is a model that provides a starting point.

implement programs to rehabilitate former gang members without running afoul of restrictions on contact with gangs placed on the terrorist list.

- ✓ **Provide substantial resources directed at violence prevention programs in communities and schools,** including, for example, afterschool programs for elementary-age children and teens, family counseling programs, and programs that build local, multi-stakeholder community councils and provide training and support for civil society organizations involved in community-based prevention programs with at-risk and gang-involved youth.
- ✓ **Prioritize employment and educational opportunities for youth.** Youth with few viable opportunities to study or work are particularly at-risk of gang recruitment and irregular migration. Greater, targeted resources are necessary to improve educational systems, improve the quality of government workforce development institutions, expand effective job training and employment programs for youth and ensure that job training programs connect to the workforce, and support development of small businesses. Job training programs for youth must take into account needs and opportunities for youth in rural as well as urban areas. The U.S. government should encourage regional governments to expand investment in education to increase the availability of schools, improve educational systems, ensure enough teachers, books, and school supplies, and ensure transportation so children can attend secondary schools.
- ✓ **Support well-trained, well-resourced, and accountable child protection systems.** Systems in all three countries to protect children against violence, exploitation, and neglect are inadequate. Systems strengthening should focus on family preservation measures, increasing personnel and training to work with children affected by trauma and strengthening departmental and municipal offices to ensure ability to reach children outside of capital cities. Out-of-home placement facilities should be decentralized, to facilitate family reunification and to maintain the child's connections

with their communities and culture, and should be differentiated for children who are in need of care and custody, and children who are in conflict with the law and may pose a risk to other children. Resources should increase the use of home or community-based placements such as family or foster care and ensure that all shelters for children, whether government or privately run, meet safety and child welfare standards, including through regular monitoring of shelters.

- ✓ **Encourage investments in early childhood development.** Family support programs in early childhood should help ensure that children grow up in violence-free homes with access to health, education, and psycho-social services.
- ✓ **Support safe shelter for victims of internal displacement,** including designated shelters for girls and women and LGBTQ+ survivors of violence. Encourage efforts to ensure their rights to education, basic services, property, culture, and livelihoods. Legislative frameworks should be strengthened to provide internally displaced persons (IDPs) with durable solutions including integral, well-funded national systems that track and address the needs of those displaced, including shelter. Governments should work with international organizations to reform existing policies, programs, and build the capacities of authorities to ensure efficient responses to IDPs.
- ✓ **Encourage programs and criminal justice reforms that permit alternatives to prison for young offenders where possible.** The large-scale jailing for gang-related offenses that has taken place in El Salvador and Honduras has overcrowded prisons and tended to consolidate gang behaviors and structures rather than allow offenders to find a path to a more constructive life.
- ✓ **Do not oppose unconditionally and apriori any efforts of national or local governments to dialogue with gangs,** as these efforts may be necessary and when carried out with transparency and with input from victims of gang violence can have a role in reducing violence.

B. Address sexual and gender-based violence

The U.S. government should help to expand the capacity of national and local governments and civil society to respond to violence against women, girls, and boys and end impunity for sexual and gender-based violence. Gender-based violence, including intrafamilial violence, sexual violence, and femicide, is pervasive in the region. High rates of impunity for these crimes are the result of systematic discrimination and gender inequality at all levels of government. This lack of accountability has further normalized gender-based violence. Violence prevention efforts must confront the widespread acceptance of violence against women, girls, boys, and LGBTQ+ persons in the home, street, school, and workplace. **The U.S. government should:**

- ✓ **Dedicate resources to improve states' and localities' capacity to investigate and prosecute cases of intra-familial violence, sexual violence, and femicide,** including the improvement of crime scene investigation and the development of forensic evidence capabilities as well as increased resources dedicated to issuing and enforcing protective orders for survivors of violence. Train individuals within law enforcement, hospitals, and courts in non-discrimination practices and in appropriate procedures for handling sexual and gender-based violence cases, with a differentiated approach for lesbians, trans-women, and children.
- ✓ **Encourage governments to improve record-keeping to provide accurate, disaggregated data on sexual and gender-based crime,** including crimes against LGBTQ+ persons, and the resolution of cases.
- ✓ **Urge governments to address the involvement and complicity of authorities, including police and military, in sexual and gender-based violence,** including crimes against LGBTQ+ persons, through the investigation and prosecution of those responsible.
- ✓ **Advocate for the enforcement of child protection laws,** to reduce violence and impunity and secure

a pathway to protection for women, girls, and boys fleeing violence.

- ✓ **Fund expanded prevention programming and public education and awareness-raising campaigns to de-normalize sexual and gender-based violence** in primary and secondary schools and communities. Gender-based violence prevention should be woven into public school curriculum. Programming should include economic empowerment of girls to increase their opportunities and provide pathways to economic independence as a violence prevention measure. It should also engage boy in violence prevention and developing healthy masculinities.
- ✓ **Invest funding in healthy masculinity programming.** In a region with sky-high rates of violence against women, girls, and LGBTQ+ persons, growing incidence of teen pregnancy, and some of the world's deadliest cities, USAID and State Department should increase funding opportunities for locally-designed programs that engage men and boys in violence prevention with educational campaigns and workshops that aim to change attitude—from the ground up—regarding what it means to “be a man,” while challenging *machismo* as the widespread and principle form of sexism, misogyny, and patriarchy in Central America. USAID and U.S. missions should engage with local civil society organizations to encourage healthy masculinity programming as a key component for the creation and implementation of policies, laws and regulations that protect women and encourage gender equality in Central America.
- ✓ **Increase resources and technical assistance for shelters and alternative housing options for women and children fleeing gender-based violence, including gang-based violence.** A lack of emergency shelters leaves women and children fleeing sexual and gender-based violence including forced sexual encounters with gang members with few options for seeking safety within their countries. A network of shelters with staff and facilities equipped to handle acute security needs of women

and girls fleeing violence should be developed in partnership with civil society and international organizations in all three countries.

- ✓ **Encourage governments to address violence against LGBTQ+ people and increase funds to programs to do so.** LGBTQ+ people face high rates of discrimination and violence in all three countries, forcing thousands to flee their countries due to persecution based on sexual orientation and gender identity. The United States should encourage efforts to develop functional legal protections for LGBTQ+ individuals and invest in prevention, investigation, and prosecution of crimes against them—including violence against LGBTQ+ individuals by police forces, a widespread problem. USAID should increase support to LGBTQ+ organizations advancing their rights. Assistance should be made available to LGBTQ+ individuals fleeing violence related to sexual orientation and gender identity, including safe and appropriate shelter options.
- ✓ **Encourage governments to ratify the International Labor Organization Convention 190 on Eliminating Violence and Harassment in the World of Work.** Convention 190, a globally binding labor standard, passed with overwhelming support (439 for, 7 against, 30 abstentions) in June 2019. Yet three of the seven “no” votes came from the employer representatives of El Salvador, Guatemala, and Costa Rica; and abstentions included the Salvadoran government and the employer representative for Honduras. Later that summer, the federation of chambers of commerce from Central America held a joint summit to announce their opposition to C190, despite their countries' high levels of gender-based violence as well as anti-union violence and discrimination. Gender-based violence and harassment at work erodes women's agency and democratic voice and hinders their efforts to achieve equal pay, equal access to employment opportunities, and improved working and living standards. It silences workers who are targeted and those who might speak up against it, repressing freedom of association.

C. Encourage rights-respecting security

Without significant reform of civilian police forces and public security approaches in the region, U.S. support will not be effective in addressing and indeed can intensify the serious crises in citizen security. As mentioned earlier, the United States should not be providing aid, equipment, and training to Central American militaries, and the controversy over policing in the United States today reveals the United States is not well placed to provide police training. If police training is provided, however, **these caveats should be followed (in addition to the recommendations in section 1E):**

- ✓ **Provide police reform training and assistance only where evidence shows governments are fully committed to implement a strategic plan to professionalize the police, raise human rights standards, and rapidly phase out any militarized policing.** Authorities must demonstrate that they are taking significant steps to investigate police corruption and remove and prosecute high-level officials implicated in gross human rights violations and/or criminal activities. A systematic purge of personnel will likely be necessary as well as plans to reform or bolster internal mechanisms to ensure that police officers adhere to high standards of behavior in their work and help prevent inappropriate practices, abuse of power and corruption. Governments must also demonstrate that they have a clearly defined plan to phase out the military from policing functions.
- ✓ **Focus assistance on internal and external controls and other reforms.** Where there is political will, support institutional reforms to improve civilian police capacity to prevent violence and investigate crimes while enhancing community relations. Among the reforms should be: setting standards for recruits and promotions; bolstering internal and external control mechanisms (internal affairs units, inspector generals, etc.) and effective vetting processes; strengthening systems to receive and process complaints against police officers; and improving police investigation techniques. Clear indicators should be put in place to measure prog-

ress in enhancing police capacity. Efforts should be oriented toward strengthening civilian policing capacity overall and improving community relations, rather than targeting resources to specialized vetted units that have little impact on broader law enforcement institutions.

- ✓ **Provide no assistance for a military role in policing.** The three governments are continuing or expanding the participation of the military in policing, which has led to abuses and diverted efforts from enhancing police capacity to investigate crimes and protect communities. Too often the U.S. government position has been to accept a military role in policing as a short-term solution, but that short-term solution has extended for decades. The U.S. government should not fund military forces involved in policing or joint military-police law enforcement activities and should firmly urge governments to withdraw the military from policing. The U.S. government should encourage the naming of civilians to leading positions at government security agencies such as ministries of defense, security, and the national police.
- ✓ **Focus U.S. efforts on the community-based violence prevention** efforts mentioned in section 2A.

D. Address systemic impunity, corruption, and weak rule of law

The justice sector in all three countries is weak, vulnerable to penetration by organized crime and political interests, under-resourced and insufficiently independent. The international community should provide technical support but that support must be strategically calibrated, and continually evaluated and readjusted to ensure that it is effective. Aid must be paired with the diplomacy regarding selection of judges and prosecutors described in section 1C. Protecting human rights defenders and journalists is an essential element to strengthen the rule of law. **The U.S. government should:**

- ✓ **Provide technical and diplomatic support for the special prosecutors' units set up in Guatemala (FECI) and Honduras (UFERCO) to investigate corruption.** Urge the governments and Attorneys General to ensure that these units have the re-

sources and independence necessary to advance corruption cases, including the cases involving high-level officials and legislators begun under CICIG/MACCIH or which emerge. Protection for these prosecutors and other personnel is essential, as is protection for the former national staff of CICIG and MACCIH.

- ✓ **Provide technical support for and encourage governments to strengthen criminal analysis and investigative capacity of specialized prosecutors** investigating homicides, extortion, organized crime, corruption, and sexual and gender-based violence.
- ✓ **Provide support for and encourage governments to fully fund and respect the independence of ombudsman's offices.** Citizens seeking redress for abuses by officials turn to ombudsman's offices, but these offices often lack independence, adequate budgets, and sufficiently staffed regional offices. Their recommendations need greater weight and follow up by national and local governments.
- ✓ **Support the UN High Commissioner for Human Rights (OHCHR) offices in Honduras and Guatemala with funding and diplomatic support.** These offices provide vital guidance and monitoring on the severe human rights situation in these countries. The U.S. government should strongly urge renewals of their mandates, maintaining the capacity of these offices to issue public annual reports and statements as well as providing technical assistance and should also provide support to the representative of OHCHR in El Salvador. U.S. embassies should reinforce recommendations made by the UN offices in their diplomacy with governments.
- ✓ **Urge progress in investigating and prosecuting attacks and threats against human rights defenders, including the intellectual authors of such crimes.** Prosecutors should investigate patterns in these attacks rather than viewing each in isolation. The U.S. government should press the governments to suspend, investigate, and prosecute state actors implicated in attacks or threats against defenders and to end false prosecutions of hu-

man rights defenders. Strong diplomacy is needed to press governments to ensure their actions and public statements do not place defenders, journalists, or opposition politicians in jeopardy.

- ✓ **Strengthen government protection mechanisms for human rights defenders, journalists and social communicators, including indigenous, Afro-descendant, women, LGBTQ+, and environmental and union activists,** by funding these mechanisms and urging governments to ensure their sustainability. Recommend that these mechanisms be guided by advisory bodies with journalist and defender representatives and for protective measures to be designed with the input of beneficiaries. The U.S. government can increase funding to programs to ensure emergency evacuation and safe shelter for defenders in urgent need of protection.
- ✓ **Provide support to witness protection systems.** Mechanisms offering protection, safety, and shelter for crime victims must be enhanced. In some cases, victims and witnesses of violence by gangs, organized criminal groups, or police cannot remain safely within their countries. Support should be provided to develop effective witness protection programs that have the capacity to protect the family members of victims and witnesses and provide protection beyond the conclusion of the legal process when necessary.
- ✓ **Strengthen civil society oversight capacity.** Provide funding to enhance civil society organizations' capacity to effectively monitor, oversee, and hold public security and justice systems accountable.

3. Encourage Economic Strategies that Reduce Poverty & Build Inclusive Societies

The severe crises in the northern countries of Central America show that a significant overhaul of development and poverty reduction strategies is needed to spur inclusive economies, increase wages, and combat the impact of climate change. U.S. trade and investment policies should be reviewed and reshaped to ensure that they do

not undermine country initiatives intended to strengthen domestic markets, improve food security, and generate employment. The rights of communities in determining development plans and respect for core labor rights must be a central pillar of all assistance programs. **The U.S. government should:**

A. Encourage governments to pursue, and ensure U.S. aid and trade policies support, equitable development strategies

- ✓ **Focus on small-scale farmers, including their access to markets.** Poverty is heavily concentrated in rural areas, particularly among indigenous populations. Small-scale family farming is central to rural livelihoods and investing in sustainable agriculture is critical to reduce poverty, reduce high levels of hunger and malnutrition, and increase resilience to extreme climate events. Strengthening the access of small- and medium-scale farmers as well as cooperatives to markets, technologies, and participation in value chains, and expansion of rural extension services, have demonstrated impact for rural poverty reduction. Resilient rural communities, with strong domestic markets, are the basis for job growth and inclusive economies. Supporting small-scale farming and rural communities should be a larger emphasis of U.S. aid programs. The Inter-American Foundation should play a central role in delivering aid programs for small farmers and rural communities given its extensive track record in addressing challenges facing rural communities in the region. U.S. aid to small farmers should learn from and explore scaling-up innovative grassroots models and approaches to development aid.
- ✓ **Insist on freedom of association, labor rights, and an end to anti-union violence.** Trade unions are the most effective tools for economic equality and safe workplaces. In countries with weak rule of law and high levels of corruption, trade unions are often working people's most immediate access point to participate in democracy. In countries where multinational corporations are often more powerful than national governments and labor

justice systems are under-resourced, collective bargaining agreements allow for grassroots oversight, dialogue, and remedy of labor rights violations. Close to 150 trade unionists have been murdered in Guatemala and Honduras, and thousands of incidents of anti-union violence have been registered in both countries. Guatemala and Honduras consistently rank among the worst countries in the world to be a worker. When workers who dare to stand up against wage theft, forced labor, sexual harassment, or unsafe conditions are harassed, threatened, kidnapped, or killed, it serves as a visceral lesson to workers to accept systematic labor abuses. Citizens in the northern countries of Central America cannot enjoy fair economies or family-sustaining wages and benefits if the organizations capable of channeling working peoples' demands to employers and governments are repressed. U.S. attention to these issues should include the situation of union activists in the public sector, such as teachers and healthcare workers.

- ✓ **Redesign trade arrangements to support small farmers and protect labor rights and the environment.** Trade policies under DR-CAFTA benefit national and transnational capital, and large exporters and importers, with little benefit for small producers, workers, and consumers. The United States should guarantee policy coherence across all trade and investment policies with Central America to ensure strong labor rights protection provisions; mechanisms to verify compliance with international and national labor laws and standards; and swift and effective mechanisms to present and resolve grievances. The decimation of the Guatemalan labor movement during the 12 years of the CAFTA labor complaint ending in a favorable ruling for Guatemala is an illustrative example—not a single union that came forward to denounce labor rights noncompliance was left standing at the end of the process. The intensifying labor and human rights violations at plantations and factories currently monitored as part of the Honduras complaint are equally alarming. In both countries anti-union violence and assassinations continue to increase with no trade-related consequences. Existing CAFTA and NAFTA complaints

could, in the future, guide necessary reforms. The U.S. government should maximize its leverage as a trade partner to insist in substantive, not merely cosmetic, compliance with remediation roadmaps under these trade complaints.

- ✓ **Strengthen development strategies that build gender equality and empower women.** Poverty disproportionately impacts women, who face discrimination and limited access to land or education and employment opportunities. Women's economic dependence often restricts their ability to leave situations of domestic violence or to protect their children from abuse within the home. Employment opportunities most frequently open to women, including domestic work, factory work, and work within the informal sector, are low-paying, insecure, and leave them vulnerable to workplace abuses and violence. There is a need for development strategies that prioritize women's economic independence and increase access to education, skills training, scholarships, credit, and well-paid, stable employment. Collective bargaining agreements are one of the most effective tools to close the gender wage gap and ensuring freedom of association and trade union rights is critical to advancing women's economic empowerment. For example, apparel work does not need to equal exploitation. In Honduras, where 25,000 workers in the sector have collective bargaining coverage, more and more men have entered the sector as women-led union organizing and bargaining have created opportunities for decent work in the maquilas.
- ✓ **Respect and protect the right of indigenous communities to free, prior and informed consent, guarantee the mitigation of environmental impacts, and ensure labor rights protection in implementation of projects.** The U.S. government should encourage Central American governments to respect these rights, insist that multilateral lending institutions embed these provisions in project financing and adhere to them through robust accountability mechanisms, and ensure all U.S. bilateral aid programs do the same. Projects should

include consultation with affected communities on local development models and priorities.

- ✓ **Ensure that U.S. agencies or institutions, including the Development Finance Corporation, that provide funding, aid programs, or investment implement robust, transparent mechanisms** for conducting due diligence during both the consideration and implementation of projects in Central America **to ensure all projects comply with human rights, core labor, and environmental standards and deliver on their intended benefits, with meaningful consultation and input from affected communities** at the earliest stages of project development and throughout the life of project and public disclosure of all relevant project information, including information on subcontractors and other supply chain actors. Through its voice and vote in international financial institutions, including the Inter-American Development Bank, the United States should urge the same transparency and focus in their Central America loans and programs.

B. Encourage governments to implement fiscal reforms to build inclusive economies

U.S. development assistance can help, but it is at best a temporary fix. Improved fiscal policies are essential for Central American governments to sustainably tackle social and economic challenges.

Although there have been modest economic and social advances in northern Central America in recent decades, unjust fiscal policies contribute to the region's inequality. While the United Nations states that a minimum tax rate of 20 percent is required to achieve the Sustainable Development Goals, Central America has one of the lowest tax burdens in Latin America, with Honduras at 18 percent, El Salvador at 16 percent, and Guatemala at 13 percent. The imbalanced fiscal systems have done little to equitably distribute wealth and opportunities, resulting in deepening inequality. In order to reverse this trend, it is necessary to promote progressive fiscal reforms that eliminate privileges and exonerations, combat tax eva-

sion, and revise income taxes on individuals and corporations. **The U.S. government should:**

- ✓ **Encourage governments to increase direct taxes on financial transactions, property, personal wealth and income, inheritance, and corporate and capital gains.** The northern Central American governments rely heavily on indirect taxes through value added tax, which applies taxes to consumers without regard to their level of income. This means the poor proportionately pay the most, yet they receive much less in social services.
- ✓ **Urge the governments to prioritize public investment in inclusive growth over tax incentives for foreign investors.** Investment policies and tax incentives must not be given at the expense of country initiatives intended to strengthen domestic markets, create jobs, and improve food security. Studies by ECLAC and ICEFI show that tax incentives are not effective for attracting foreign direct investment, increasing employment or reducing inequality. Currently, the fiscal burden on multinational businesses in the region is half that of national businesses due to tax concessions, and foreign investors are required by DR-CAFTA to be treated as national investors.
- ✓ **Urge governments to end tax avoidance and evasion through closing loopholes and tax havens.** In El Salvador, investment in tax havens has multiplied 18 times in the last 15 years, growing twice as fast as the national economy. An aggressive action plan is needed to make tax laws coherent throughout the region, together with a strategy to combat the use of tax havens, for example by applying sanctions against companies and individuals who use tax havens to reduce the amount of taxes they pay.
- ✓ **Urge governments to increase transparency and effectiveness of tax collection and spending through active citizen participation** in tax reform processes and government spending oversight. Support capacity-building and protection of local independent media and civil society organizations that report on public spending and tax issues.

4. Provide Aid & Adopt Policies to Address the COVID-19 Pandemic

The United States must adopt policies and provide aid to help the northern countries of Central America, like other countries across the Americas, address the impact of the COVID-19 pandemic and be more resilient in dealing with such health risks in the future. Independent oversight of such funds must be built into any aid programs.

- ✓ **Guarantee funding for the Pan American Health Organization (PAHO) to strengthen Latin American and Caribbean health systems and address the pandemic.** For over a century, PAHO has strengthened national health systems in the hemisphere by expanding national laboratory capacity, trained tens of thousands of health professionals, established renowned regional disease surveillance systems, and played a decisive role in eliminating debilitating diseases including smallpox, polio, and measles. Today, PAHO is playing a critical role helping the governments of the Americas respond to the COVID-19 crisis. The United States must pay its fair share of regular contributions as well as special appeals by PAHO to address the pandemic to ensure a globally coordinated response.
- ✓ **Increase funding to address the “hunger pandemic” and lack of access to clean water and sanitation.** With the COVID-19 restrictions in many countries, food insecurity is skyrocketing. The U.S. Congress should provide funding for emergency food assistance, cash transfers, and basic food staples as well as for strengthening rural development programs focused on building food security with small-scale farmers. Funding should also be directed to improving access to clean water and sanitation to prevent the spread of the disease. It is vital to monitor emergency food programs to ensure that they reach poor and disenfranchised communities, cover rural areas, and are distributed fairly, not targeted to political supporters.
- ✓ **Improve access to health services and potable water for poor and isolated populations.** Health interventions at the household and community

levels are crucial for increasing life expectancies and decreasing malnutrition. Emphasis should be paid to child and maternal health. Health facilities should be decentralized and accessible to all. Graft from national health systems should be investigated, prosecuted, and remedied. Health worker unions act as whistleblowers to safeguard public health, yet health unions in Guatemala, Honduras, and El Salvador have all faced threats, criminalization, and violence when advocating for public health investment, transparency, and worker protections. Governments must ensure they can organize and advocate free from intimidation, repression, reprisals, and violence.

- ✓ **Ensure COVID-19 responses do not leave working people more vulnerable to business profiteering or abandoned by the state.** The COVID-19 pandemic has laid bare systematic inequalities and failures of the state, highlighting for example the absence of any national programs for unemployment insurance. Now is the time to encourage governments to build up systems to protect workers before the next crisis. Workers in export sectors like apparel and agriculture highlight that multinational brands must also be held responsible for their place in the regional economies. Workers do not enjoy company profits when times are good and should not be made expendable to cover business losses during the pandemic. Economic aid for domestic workers and informal economy workers, who make up nearly three quarters of the workforce, is crucial for ensuring community survival. The U.S. government should encourage businesses based in and that export to the United States to act responsibly and respond to the needs of the workers who make their business possible. Prioritizing worker safety and hazard pay for essential workers, prohibiting operation of essential or exempted businesses which fail to adhere to safety protocols, treating COVID-19 related illnesses as workplace injuries eligible for benefits, supporting family farms as a contribution to confront hunger, and ensuring humane access to food and medicines must be part of every government response.

- ✓ **Denounce government actions that use the excuse of the pandemic to take authoritarian or repressive actions.** In all three countries, government security agencies have enforced pandemic restrictions with brutality or measures that endanger rather than protect public health. The U.S. embassies in each country must denounce such abuses when they take place and support the efforts of civil society organizations to do so.
- ✓ **Support the organizing efforts of disenfranchised groups especially affected by COVID-19** so that their voices are heard and their needs addressed. Groups especially affected include indigenous communities, older people, informal workers including street vendors and domestic workers, renters, and prisoners.

5. Address the Impact of Climate Change & Help Build Resilience in the Face of Climate Change

According to the Economic Commission for Latin America and the Caribbean, Central America is one of the regions of the world “most exposed to the climate phenomenon.” Given the region’s location between two continents and the Pacific and Atlantic oceans, it is repeatedly affected by drought, intense rains, flooding, high temperatures, and hurricanes. Within the region, Honduras and Guatemala consistently rank among the highest rated countries [at risk](#) to the adverse impacts of climate change. The growing climate crisis is exacerbating socio-economic vulnerabilities and will increasingly affect Central America’s economic progress. The World Bank estimates that the number of people displaced by the climate crisis in Central America could rise to 2.1 million by 2050.

Urgent action by the U.S. government domestically to mitigate climate change and reduce carbon emissions to avoid the most catastrophic scenarios. But even in a best-case scenario, at-risk communities in Central America face the immediate need to adapt to changes already taking place.

In the “Dry Corridor,” a nearly six-year drought has affected over 2.5 million people who are currently

at risk for severe food insecurity. Suffering from the consequences of climate change and climate variability, individuals and families are forced to leave their homes and their countries. In addition to the drought, the Dry Corridor region across El Salvador, Guatemala, and Honduras has been impacted by the coffee rust crisis, which together have had adverse effects on both food security and livelihood loss, leading to [documented](#) high malnutrition rates.

In Guatemala, for example, 78 percent of the corn and bean harvest was lost in 2019, affecting at least 250,000 people and increasing child malnutrition to 69 percent. Cultural and social norms increase the vulnerability of women to climate shocks and increases the burden on women who are responsible for growing food and collecting water. Forced migration here is largely the result of climate change, climate variability, resulting natural disasters and reduced coffee crop cultivation. Nearly [60 percent](#) of Guatemalan migrants from the Dry Corridor cited climate change as a driver for their migration. The survival strategies of Central Americans affected by climate change include migration.

To address climate change and its impact upon rural and urban Central America, the U.S. government should [invest](#) in climate adaptation and community resilience in both rural and urban areas, while also safeguarding the dignity and human rights of people on the move because of climate change. **The U.S. government should:**

- ✓ **Increase funding to help the poorest and most vulnerable rural and urban communities in Central America organize, advocate and adapt to the escalating impact of the climate crisis.** Specifically increase funding for effective environmental sustainability and development programming in the Dry Corridor, where a majority of communities work in the agricultural sector, and in large and medium-sized poorly planned cities.
- ✓ **Urge governments to invest in mitigation and adaptation strategies that are sustainable, inclusive, and integrated with actions to reduce poverty.** In Central America over half of the population live in poverty and acute poverty is concentrated in rural areas that are also affected by climate change. Poverty and climate change are in-

tricately linked and must be addressed together in order for any development assistance or program to be effective.

- ✓ **Urge steps to ensure access to adequate land as an adaptive strategy to climate change and mitigation against livelihood loss** since crop innovation rewards farmers with larger plots of land who can rotate crops and try new crops without fear of failure and the threat of subsistence farming. Innovation is a function of how much land farmers have to try new ideas.
- ✓ **Ensure that indigenous rights as well as Afro-descendant rights are safeguarded and promoted in environmental sustainability and development programming.** The population in the Guatemalan highlands is mostly indigenous and agrarian, where conflict over land rights and lack of access to land are long entrenched issues linked to poverty and discrimination, while both indigenous and Garifuna communities in Honduras are affected by land conflicts and systemic discrimination. These issues persist throughout the other Central America countries in the Dry Corridor ravaged by the impacts of climate change.
- ✓ **Incorporate in strategies for climate change adaptation the reality the expansion of biofuels and dams have pushed poor communities from their lands and led to violence,** particularly in Honduras and Guatemala. Renewable energies must not come at the cost of the well-being of disenfranchised Central Americans.
- ✓ **Work with governments to design comprehensive strategies to manage water resources with civil society participation.** Central American countries face water scarcity due to climate change and unregulated water management. In El Salvador, 90 percent of the surface water is contaminated and if not regulated in the public interest, is estimated to run out by the end of the century. Water management must not be left to the market but include the participation of civil society organizations and communities along with local and national governments.

- ✓ **Prioritize in development assistance investing in drought-resistant crops using heirloom seeds to help small and medium producers increase food security.** Drought-resistant crops require less water and can contribute to the prevention of soil erosion due to root systems. The use of heirloom seeds rather than imported seeds for basic crops such as corn and beans can lead to crops that are more resilient and produce greater yields.
- ✓ **Encourage governments to enforce existing legislation and work with civil society organizations and communities to develop comprehensive risk management strategies to respond to climate-change disasters.** Helping civil society organizations and communities prepare for and respond to natural and climate change disasters has been shown to be more effective in saving lives, especially for vulnerable populations, and for communities to be able to rebuild.
- ✓ **Ensure that development assistance coordinates with governments and civil society organizations to recuperate soils and protect water basins.** Maximizing the use of ecologically friendly inputs reduces contamination and erosion and protects water resources.
- ✓ **Insist that national and local governments protect environmental, indigenous, and land rights defenders with special focus on women.** Environmental, indigenous, and land rights activists play a leading role in spurring governments and societies to address the impact of climate change. Yet these leaders are disproportionately impacted and at growing risk of violence. As the UN Special Rapporteur on Human Rights Defenders, Michel Forst, [noted](#), “Protecting environmental human rights defenders is crucial to the protection of the environment and the human rights that depend on it.”

Restore & Advance Access to Protection for Migrants & Refugees at Our Border & throughout Mexico & Central America

A growing refugee crisis from Guatemala, Honduras, and El Salvador affects not only the United States but also neighboring countries such as Mexico, Panama, Belize, and Costa Rica. According to the UN Refugee Agency (UNHCR), there were over 400,000 refugees and asylum-seekers from Honduras, El Salvador, and Guatemala at the end of 2019, with asylum claims from these countries increasing by about [600 percent](#) between 2014 and 2019. Smaller, yet still serious crises have also impacted the region—at least [90,000](#) Nicaraguans have been forced to migrate to neighboring countries since April 2018.

Developing new U.S. migration policies to respond to migrants and refugees at the U.S.-Mexico border and throughout the region must start with an acknowledgment of this growing refugee crisis and a recognition that access to international protection in the United States has been eviscerated under the Trump Administration. From closing off access to asylum at the U.S.-Mexico border with a range of unlawful executive actions and practices, to reducing eligibility for asylum by reversing decades of legal precedents, to extending the U.S. border further south by entering into migration and border security agreements with Mexican and Central American governments, the administration has violated the right to seek international protection under U.S. law and international refugee law. Most recently the Trump Administration has utilized the COVID-19 pandemic to indefinitely suspend the right to seek asylum and protections for unaccompanied children under the Trafficking Victims Protection Reauthorization Act (TVPRA) and a Centers for Disease Control and Prevention (CDC) order, violating its responsibility under domestic and international law and expelling tens of thousands of individuals to Mexico or their home countries since the end of March 2020. It has also continued to detain and deport migrants across Latin America and the Caribbean amidst a global pandemic and despite outbreaks in immigration detention facilities, exporting COVID-19 to the region and returning migrants to instability and danger.

The harms these policies have inflicted extend far beyond asylum seekers and refugees and also include border communities and immigrant communities residing in the United States such as beneficiaries of Temporary Protected Status (TPS) and Deferred Action for Childhood Arrivals (DACA), or the Dreamers.

A new vision for immigration policies affecting asylum seekers, refugees, and immigrant communities in the United States must be humane, inclusive, and just. This means not reverting to a militarized border, increased deportations, or expanded use of family-based detention as done in the past. An overhaul of the current system is needed to end the criminalization of all migrants, revert away from enforcement-centric responses, and instead turn to people-centered and humanitarian models as well as community-based alternatives to detention. Immigrant communities should be seen for their contributions to their communities and as permanent members of our societies, not as individuals who are forced to live in the shadows because of their status. Accountability and oversight for migration enforcement agencies such as ICE and CBP should also be a key component of a new immigration vision to ensure that true reform comes from the top of these agencies. Since these areas go beyond the scope of this document, this section will focus solely on policies impacting asylum seekers and migrants at the border.

Tens of thousands of migrants from Mexico, Guatemala, Honduras, and El Salvador, but also from other countries, have been denied access to protection and forcibly returned to danger. These individuals and their families should have access to renewed opportunities to make their claim to asylum in the United States, should they still seek it. A new administration must immediately rescind many of these anti-asylum policies within its first days in office and restore and advance access to protection for migrants and refugees at our border and throughout the region.

Beyond this, actions should be focused on strengthening asylum processing and reception capacities with countries in the region, restoring and expanding refugee resettlement and in-country processing out of Central America, and building countries' capacities to reintegrate deported migrants. U.S. migration policy towards the

region should have the goal of restoring U.S. leadership in global refugee resettlement. However, these actions should never be seen as alternatives to U.S. obligations to receive refugees and asylum seekers at the U.S.-Mexico border. Rather they must be complementary. Restoring access to asylum should also work in tandem with the launching of a more serious and sustained initiative, through diplomacy and aid, to encourage governments to address the root causes of forced migration, as described in the first part of these recommendations.

1. Rescind Anti-Asylum Policies & Advance Access to Protection at the Border

The following are priority actions that must be taken within the first days of the new administration to begin restoring access to protections for migrants and refugees at the U.S.-Mexico border and throughout the region.

- ✓ Rescind the Centers for Disease Control and Prevention (CDC) Interim Final Rule (IFR) and accompanying order. Under an [order](#) issued by the CDC in March, the United States has expelled tens of thousands of people arriving at the border without any process to Mexico or their home countries, including asylum-seekers and unaccompanied children, in violation of U.S. legal obligations, and placing asylum seekers and unaccompanied children at grave risk of harm, without giving them any access to due process. If the interim final rule (42 U.S.C. §§ 265, 268) and accompanying order are still in place at the time that the new administration comes into office, both should be rescinded immediately. Under domestic and international law, the U.S. is obligated to provide access to an asylum process to people seeking safety at the border. Expulsions also violate protections for unaccompanied children passed by a bipartisan Congress in the TVPRA that are meant to safeguard children from human trafficking, exploitation, and return to persecution. Public health experts have determined that asylum seekers and unaccompanied children can be safely processed at the border and have characterized the CDC order as creating a “false choice” between health and access to

protection. A new administration should take the following actions with regards to this policy:

- Allow individuals who were denied protection, including unaccompanied children, because they were expelled to seek asylum again through a meaningful process.
 - Rescind all existing DHS memoranda and implementing policy guidance related to CDC IFR and order.
 - Reopen cases of those ordered removed in absentia.
- ✓ **Rescind the Migrant Protection Protocols (MPP)/ Remain in Mexico.** Throughout the course of its year and a half of implementation, the so-called Migrant Protection Protocols (MPP)/ Remain in Mexico have resulted in over 65,000 individuals, including pregnant women, LGBTQ+ individuals, and children, waiting in Mexico in dangerous conditions and without access to basic services such as housing, sanitation, employment and medical care. An estimated [five percent](#) obtained access to counsel while waiting in Mexico. [Thousands](#) have suffered human rights violations, such as sexual and gender-based violence, kidnapping, torture, extortion, family separation, and death. The program has no meaningful procedures in place to identify and protect people who are at risk in Mexico. Tent facilities were set up in September 2019 by DHS and DOJ in Brownsville and Laredo, Texas with judges videoconferencing into courtrooms to hear asylum cases, presenting serious due process violations. An [agreement](#) between the Mexican and U.S. governments in June 2019 expanded the implementation of MPP to a total of seven ports of entry along the U.S.-Mexico border. The Ninth Circuit Court temporarily blocked the implementation of MPP in 2019 and then again in March 2020 thanks to the Innovation Law Lab. v. McAleenan lawsuit. The Ninth Circuit Court’s February 2020 [ruling](#) cites the policy’s inconsistency with the Immigration and Nationality Act (INA), U.S.C. § 1225(b), and states that it lacks non-refoulement protections. However, the administra-

tion sought a stay of the policy and in March 2020, the Supreme Court granted it, which has led to the continuous implementation of the policy since then. **A new administration should take the following actions with regards to this policy:**

- Rescind all existing DHS memoranda and implementing policy guidance related to MPP.
- Close tent facilities/ “tent courts” established under MPP and refer open cases in those areas to the geographically closest immigration courts.
- Allow individuals denied protections or whose case expired due to relocation to appeal their decision or seek asylum again in the United States. The administration should reopen cases of those ordered removed in absentia.

✓ **End Metering by Customs and Border Protection (CBP) Officials.** Since early 2018, CBP has been denying migrants access to the United States by turning those away arriving at U.S. ports of entry along the U.S.-Mexico border. Through the practice of “metering,” CBP has systematically blocked those seeking protection at ports of entry, oftentimes posting agents mid-bridge to turn away migrants and sometimes working in collusion with Mexican authorities to limit and obstruct access to ports. Instead of being allowed to present themselves at a port of entry and be processed, individuals have had to place their names on ad-hoc and unofficial waitlists often managed by migrants themselves to receive a number to be called to enter the United States. CBP has claimed that this action is justified by lack of capacity in their processing facilities but there has been no transparency in making actual holding capacity at ports public. Estimates put the number of individuals impacted by metering at over [14,000](#). **A new administration should:**

- Allow asylum seekers to access ports of entry without delay.
- Rescind all existing DHS memoranda and implementing guidance related to metering.

- Process individuals currently on waitlists and allow individuals access to asylum should they request it.
- End all encouragement for Mexican migration enforcement agents to unlawfully prevent migrants from presenting themselves at a U.S. port of entry.

✓ **Rescind Prompt Asylum Claim Review (PACR) / Humanitarian Asylum Review Process (HARP).** As of the end of 2019, DHS began to implement PACR and HARP to individuals seeking asylum at the U.S.-Mexico border. Under PACR, individuals from countries other than Mexico, and under HARP, individuals from Mexico, are banned access to lawyers from temporary CBP processing facilities where they are held for longer than the maximum of 72 hours before being rushed through an inadequate asylum screening process ending in expedited removal. **A new administration should:**

- Rescind all existing DHS memoranda and implementing guidance related to PACR/HARP.
- Allow individuals denied protections under PACR/HARP to appeal their decision or seek asylum again in the United States through a meaningful process.

✓ **Rescind the Asylum Ban 1.0 and Asylum Ban 2.0/ Transit Ban.** The Trump Administration has implemented several executive actions to restrict access to asylum. Among them, asylum ban 1.0, issued in November 2018 (8 CFR Part 208), banned access to asylum to anyone seeking protection in between ports of entry, but was later suspended by federal courts in December 2018. In addition, in July 2019, the administration issued a transit ban, also known as asylum ban 2.0 (84 FR 33829), banning all individuals who have traveled through another country first to reach the United States from applying for asylum, impacting practically all asylum seekers except Mexicans. Two federal courts ruled against this policy in mid-2020, one of which halted the implementation of the policy. However, the decision could still be reversed if

the government appeals. **A new administration should:**

- Rescind all two of interim final rules (IFR) implementing these asylum bans, as well as existing DHS memoranda and implementing guidance related to the IFRs.
- Allow individuals denied protections due to any of these bans to appeal their decision or to seek asylum again in the United States.

✓ **Rescind the Asylum Cooperative Agreements (ACAs) with Guatemala, Honduras, and El Salvador.** DHS and DOJ adopted an interim final rule in November 2019 (84 FR 63994) to provide for the implementation of Asylum Cooperative Agreements (“ACAs”) that the United States enters into with countries other than Canada. To date, the United States has entered into bilateral ACAs with Guatemala, Honduras, and El Salvador. Although DHS refers to the agreements with Guatemala, Honduras, and El Salvador as ACAs, the agreements propose actions in line with “safe third country” agreements. None of these three countries meet the requirements for a safe third country agreement under section 208(a)(2)(A) of the Immigration and Nationality Act, including the requirements that a person may only be removed to a country that offers “access to full and fair procedures” for determining an asylum claim and “in which [their] life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.” Guatemala, Honduras, and El Salvador are far from safe, have weak asylum systems, and lack the institutional capacity to protect individuals. As such, these agreements violate U.S. law. These agreements also violate international law by returning individuals to locations where they may face persecution. The limited mechanism for individuals to challenge being sent to these countries falls far short of international or longstanding U.S. standards and does nothing to protect people from being sent to a country where they are at risk of persecution. Since the Guatemala ACA began implementation in November 2019, hundreds of Honduran and Salvadoran asylum seekers have

been returned to Guatemala, mostly women and children, in concerning conditions, including not informing them where they are being transferred, misleading them on the process to seek asylum in the United States—in some cases telling them that they were being sent to Guatemala as part of their U.S. asylum claim—and denying them access to counsel in custody prior to their transfer to Central America. Asylum seekers sent to Guatemala under the ACA almost universally returned to their country of origin because they did not feel safe in Guatemala. **A new administration should:**

- Rescind the IFR implementing the ACAs, and all existing DHS memoranda and implementing guidance related to them.
- Allow individuals denied protections due to the ACAs to appeal their decision or seek asylum again in the United States.

✓ **Restore access to asylum at the U.S.-Mexico border.** Upon rescinding the aforementioned policies, a new administration should immediately restore access to asylum and advance meaningful processing of asylum seekers at the U.S.-Mexico border. **This would entail a series of actions under the Department of Homeland Security, starting with, but not limited to:**

- Having CBP process asylum seekers whether they enter at ports of entry or are apprehended in between ports and ensuring access to a credible fear (CFI) interview with a USCIS asylum officer. CBP agents are not asylum experts and should not be conducting CFI interviews.
- Ensure that CBP works with public health and medical experts to provide access to medical care and screening for individuals in their custody, following the guidance of public health officials.
- Holding CBP accountable to adhere to standards of care for migrants in their temporary processing facilities, including restricting custody to no longer than 72 hours, ensuring family unity, liaising with medical and child welfare professionals for the treatment of unac-

companied children and adults, and ensuring access to relevant country of origin consular notification for migrants.

- In cases of unaccompanied children, CBP must transfer all unaccompanied children from non-contiguous countries to the Office of Refugee Resettlement (ORR) within 72 hours, and should carefully screen Mexican unaccompanied children to ensure that those who fear persecution, are at risk of human trafficking, or are too young to make an independent determination to return to Mexico, are transferred to ORR under TVPRA. Independent child welfare professionals should be the ones to screen unaccompanied children. DHS should hire licensed child welfare professionals to oversee the care and screening of all children in CBP custody and facilities. A recent federal funding law directed the agency to hire child welfare professionals at all points along the Southwest border. DHS must comply with this directive.
- Restoring border repatriation agreements with the Mexican government specifying hours and procedures pertaining to the deportation of Mexican migrants including children that avoids placing them in greater harm upon return.

✓ **Reverse DOJ rulings restricting access to asylum.**

The Attorneys General (Barr and Sessions) under the Trump Administration have also taken measures to restrict the eligibility of certain populations for asylum by issuing rulings in specific cases such as Matter of A-B and Matter of L-E-A. These reduced the eligibility of victims of sexual and gender-based violence and gang violence and also stated that persecution based on an individual's membership in a family group no longer qualifies the applicant for asylum. A new administration should ensure that the new attorney general issues rulings reversing these within their first days of taking office.

- ✓ **Rescind regulations restricting access to asylum or protections for asylum seekers.** The Trump Administration has threatened to implement sev-

eral asylum regulations that would severely restrict access to asylum and deny protections to asylum seekers. While several of them have been posted on the federal register and are undergoing reviews of public comments received, there is a risk that they may be implemented before a new administration takes office. Should any of these harmful regulations move forward, a new administration should immediately rescind them.

2. Support Expanded Access to Protection in Mexico

A new administration should take a completely different approach to its relationship with Mexico on border, migration, and refugee issues. Efforts should not be focused on pressuring the Mexican government, via economic or diplomatic threats, to increase migration enforcement or implement safe third country agreements. It also should not unilaterally impose policies at the U.S.-Mexico border. Instead, a new approach should start with respect for the country and its citizens and should recognize Mexico as a partner and ally with which the United States shares a border. The State Department should focus its cooperation and diplomacy on strengthening Mexico's capacity to process and receive asylum seekers, with a particular focus on ensuring access to asylum for children, families, and LGBTQ+ individuals and addressing corruption and accountability for abuses within Mexico's migration enforcement agencies.

A. U.S. diplomacy and assistance to strengthen Mexico's asylum and refugee system should:

- ✓ **Support international organizations such as the UNHCR's work in Mexico** to: increase information on how to access asylum in Mexico; build the capacity of migrant shelters including family and child-friendly spaces; provide asylum seekers with temporary cash assistance during the processing of their asylum application; provide staff secondments to increase the numbers of staff and geographic coverage of Mexico's National Commission for Refugee Assistance (COMAR); train COMAR asylum officers in best practices for interviewing

applicants including children and families, and processing applications; facilitate alternatives to detention, and expand relocation and integration initiatives that bring asylum seekers from southern to northern Mexico and offer them employment opportunities.

- ✓ **Encourage the Mexican government to increase its own resources to COMAR** to increase and professionalize its staff. COMAR has only seen minimal budget increases in the last four years despite a quadrupling of applications.
- ✓ **Encourage the Mexican government to strengthen the capacity of its child welfare agency (DIF) to provide protection and assistance to unaccompanied migrant children.** The Mexican agency responsible for child welfare (DIF by its Spanish acronym), must accept that unaccompanied children from Central America fall within its mandate, accept custody of them, ensure their best interests are evaluated and their protection needs assessed, and based on those assessments ensure access to necessary forms of protection and support, consistent with Mexico's law on children's rights. Detention of migrant children in immigrant detention centers is against Mexican law and should be avoided at all times, regardless of whether or not they are unaccompanied. DIF should work with civil society organizations in Mexico to develop family- and community-based alternatives to closed-door shelters for unaccompanied migrant children. The capacity of the Child Protection Authorities (*Procuraduría de Protección de Niñas, Niños y Adolescentes*) responsible for providing legal representation of unaccompanied children and ensuring their rights are protected, must also be strengthened; this requires increased resources to state and local offices of the Child Protection Authorities.
- ✓ **Explore the processing in Mexico and subsequent transfer of unaccompanied children to the United States.** Unaccompanied children apprehended in Mexico are oftentimes making their way to the United States to seek protection there or reunite with family members there. Parallel to

in-country processing programs, a new administration should explore the possibility of processing of unaccompanied children from Central America or elsewhere in Mexico for refugee or parole status in the United States, via collaboration with the U.S. Embassy, civil society, and international organizations for their identification and transfer, to avoid their apprehension in Mexico and risks to them in the rest of their journey to the U.S.-Mexico border. The U.S. government should respect best interest determinations issued by Mexican Child Welfare or Child Protection Authorities and should coordinate the safe transfer of unaccompanied children in Mexican government custody to the U.S. following a determination by DIF or Child Protection Authorities that it is in the child's best interests to seek protection in the United States.

B. U.S. diplomacy and assistance to address corruption and accountability for abuses within Mexico's migration enforcement agencies should:

- ✓ **Encourage the withdrawal of Mexico's National Guard from migration enforcement responsibilities.** U.S. pressure spurred the deployment of this federal security force, the National Guard, to Mexico's southern and northern borders for immigration enforcement tasks without adequate training and oversight. A new administration should move away from this approach, and as long as the National Guard is a military-led and primarily military-staffed security force, instead of a civilian force as it was originally designed to be, the United States should not provide funding or training to it.
- ✓ **Encourage Mexican authorities to provide training to the National Migration Institute (INM) to improve screening to identify trafficking victims and asylum seekers and provide them with access to pursue their claims with COMAR outside of detention facilities.** Ensure that any U.S. assistance provided to INM includes training to improve this screening and agents' ability to detect vulnerable individuals.

- ✓ **Encourage Mexican authorities to fund, implement, and expand alternatives to detention (ATD) programs for all migrants.** Multiple sources have evidenced extremely poor conditions in INM migrant detention facilities in Mexico. Every effort should be made to implement alternatives to detention whereby all migrants are transferred from detention facilities to willing and able migrant shelters until there is a resolution of their immigration claim. Family unity should be ensured in the process. Mexican law prohibits the detention of all migrant children, including those traveling with family members, yet in practice this is almost never followed.
- ✓ **Ensure that any U.S. border security assistance is redirected away from the militarization of borders and towards professionalization, accountability, and combating corruption** within entities charged or assisting with border and migration enforcement, including federal and state police forces, the National Guard, the INM, and Customs. These efforts may include support for internal affairs units, human rights trainings, witness and whistleblower protection, vetting, and support for civil society groups performing outside oversight.
- ✓ **Ensure that U.S. funding or other assistance does not go to agencies with a record of corruption or of violating human rights with impunity.** There is no point in providing sophisticated scanning equipment if organized crime syndicates can induce security-force personnel to abstain from using it at key moments. Therefore, the U.S. government should refrain from training any INM agents implicated in human rights violations and withhold assistance until cases are effectively investigated and prosecuted.
- ✓ **Provide full transparency about the role of U.S. law enforcement officials in training or collaborating with INM officials** in activities pertaining to, but not limited to, the apprehension and detention of migrants. Collaboration between CBP and INM, if it is continuing, should not focus on deterring migrants from seeking asylum in Mexico or at the U.S.-Mexico border. It is not the responsibility of either of these agencies to assess whether an in-

dividual can qualify for asylum. Information sharing between INM and CBP on the backgrounds of individuals should not be used to prevent the individual from seeking asylum or to separate families. The details and objectives of cooperation between U.S. and Mexican migration agencies, if continuing, regarding the presence of CBP or ICE in migrant detention centers in Mexico should be made transparent.

- ✓ **Offer technical assistance to the Mexican government on investigating and prosecuting transnational crimes against migrants** and searching for disappeared migrants. In many cases, U.S.-based family members of migrants who are kidnapped in Mexico are extorted to pay ransom to secure their release, which is a U.S. federal crime. Cross-border collaboration on the prosecution of these cases, would be important. The U.S. government should continue support for the Mexican government's efforts to search for and identify the disappeared, which includes hundreds of cases of missing migrants in Mexico.

3. Ensure Expanded Protection for Refugees & Migrants in Central America

Improved and expanded refugee resettlement in the region must supplement, not supplant current efforts or U.S. obligations to provide protections to asylum seekers at the U.S.-Mexico border. The U.S. government should lead a strategy to bring some refugees from the region to safety through safe and orderly routes. The United States should resettle significant numbers in a timely manner and recognize the claims of refugees from Central American countries with an acceptance rate commensurate with the gravity of their protection needs. Central American countries apart from the northern countries also have a crucial role to play in receiving and processing refugees or migrants, including extra-continental migrants. It is likely that these countries will continue receiving an increased flow of migrants in the region. U.S. policy implemented via the State Department towards countries such as Belize, Costa Rica, and Panama should focus on expanding options for refugee resettlement.

ment, re-establishing improved in-country processing for vulnerable populations such as migrant children so that individuals have an opportunity to seek protection closer to home, supporting international organizations to strengthen asylum and integration capacities, strengthening and expanding reintegration initiatives for deported migrants, and avoiding the deterrence of individuals seeking protection via bilateral agreements, funding and cooperation. Any temporary worker programs implemented with Central American countries should also not replace pathways to protection, but rather complement them. **The U.S. government should:**

A. Encourage and fund efforts to expand refugee resettlement options for individuals from the northern countries of Central America

✓ **Rescind anti-refugee policies that have dismantled the U.S. resettlement program by 80 percent.** The Trump Administration has made countless policy and operational decisions that have dismantled the U.S. Refugee Admissions Program (USRAP). The administration set refugee admissions goals of 45,000 in FY 2018, 30,000 in FY 2019, and 18,000 in FY 2020, each a new historic low. The administration also ended UNHCR referrals to the USRAP, which accounts for the majority of refugee referrals. It also abandoned the practice of allocating refugee resettlement slots according to geographical regions based on need. Instead, its FY 2020 target set rigid categories that deny the plight of the majority of the world's refugees. Beginning in March 2020, refugee resettlement has been paused completely (with few exceptions for particularly vulnerable individuals) due to the pandemic. The U.S. should immediately:

- Rescind the Muslim, refugee, and asylum bans: Presidential Proclamations 9645 and 9822 and Executive Orders 13769, 13780, and 13815.
- Rebuild refugee resettlement by increasing the FY 2021 admissions goal to 100,000 and increasing to a goal of 275,000 refugee admis-

sions in FY 2025, with congressional consultation in accordance with U.S. law. The annual refugee admissions goal must be based on vulnerability, allocating resettlement slots according to regional needs.

- Restore and improve refugee processing, including by immediately accepting resettlement referrals from the U.N. High Commissioner for Refugees (UNHCR) and rebuilding the U.S. processing infrastructure.
- ✓ **Expand and improve the capacity of the Protection Transfer Arrangement (PTA) to resettle individuals and families from Guatemala, Honduras, and El Salvador in immediate danger.** The only mechanism for individuals in Central America to apply for refugee status is the Protection Transfer Arrangement (PTA), in operation since 2016. As of mid-2019, [over 350](#) refugees from Guatemala, Honduras, and El Salvador have been resettled to the United States of America, Australia, Canada, and Uruguay. [600 more cases](#) have been submitted and are in process. The PTA functions through collaboration between civil society organizations and the UNHCR in Guatemala, Honduras, and El Salvador to identify families and individuals in need of immediate protection and then transfers them, with the support of the International Organization for Migration (IOM), temporarily to Costa Rica before eventual resettlement. The PTA has the potential to provide critical life-saving protection and resettlement of refugees, though the PTA to the United States has ground to a near halt, leaving those in need of protection no option but to flee. The PTA program is imperfect but can be life-saving for individuals exposed to extreme risks in their country of origin. However, in order to be more effective, the program should be improved in the following ways:
 - Commit to a modest increase in existing funding to the UNHCR to facilitate the expansion and improvements within the program.
 - Expand the number of Central American refugees admitted via the PTA.

- Make funding available to ensure that national NGOs receive training and funding support from UNHCR to build institutional capacity and know-how to establish referral systems, conduct risk-assessment, and apply resettlement criteria so that cases that are referred are viable for resettlement in the United States or elsewhere. Partnering civil society organizations should not be limited to the capitals of Guatemala, Honduras, and El Salvador, and have expertise working with IDPs, at-risk families, LGBTQ+ individuals, children, SGBV survivors, and communities at risk of displacement.
 - Process individuals and families evacuated to Costa Rica or another third country for resettlement processing swiftly to ensure the shortest stay in third countries. Resources should be expanded in third transit countries to increase the number of individuals able to wait there and for swift processing, in order to improve the safety, health, and long-term outcomes of refugees being resettled. Explore other transit countries beyond Costa Rica to cut costs and staff, reduce delays and diversify options to match need.
 - Use diplomacy to encourage other countries in the hemisphere to resettle Central American refugees. The U.S. government must commit to processing refugees from Central America, and accepting resettlement from the PTA. U.S. leadership is a key to encouraging other countries to engage in resettlement. The pool of resettlement countries should be expanded beyond Brazil, Australia, Uruguay, and Canada.
- ✓ **Support the work of international organizations to increase processing and integration capacities of asylum seekers and refugees in Belize, Costa Rica, and Panama.** U.S. support should go towards strengthening the work of the UNHCR and civil society organizations in areas such as facilitating information on how to access asylum in these countries; guaranteeing access to social assistance programs including cash assistance; strengthening existing asylum systems to be more efficient and responsive and to develop capacity to appropriately

handle claims and needs of vulnerable populations such as unaccompanied children, survivors of gender-based violence, and LGBTQ+ asylum seekers among others; supporting initiatives to access livelihoods and economic inclusion such as technical and vocational skills-building courses and access to employment for asylum seekers and refugees; capacity building for government authorities to standardize governmental migration & refugee policies; awareness raising campaigns to combat xenophobia, and facilitating host communities' capacities for integration.

A. Reestablish and expand the Central America Minors Program

The State Department and DHS should reestablish and expand the Central America Minors Program (CAM) with improvements as an in-country processing mechanism for Central American migrant children and their families to be resettled in the United States. The Central America Minors program began under the Obama Administration in January 2015 and was terminated by the Trump Administration in January 2018. Though imperfect, it provided protection to over 3,000 at-risk Salvadoran, Honduran, and Guatemalan children and their derivative family members, by allowing them to reunify with parents in the United States through in-country refugee and parole processing. When the program was terminated there were still an estimated 7,000 children from these three countries who had applied and were awaiting an interview. The program should be re-established and expanded with the following improvements:

- ✓ Dedicate sufficient resources to re-establish and maintain the program in the longer-term. Resources should be allocated carefully to complete the identification, screening and in-country waiting process much more quickly than the over a year that it took to process cases previously. Emergency cases flagged for expedited processing should be decided in less than one week (with safe shelter provided and/or evacuation as required).
- ✓ Broaden eligibility criteria in order to ensure a safe alternative for children who may otherwise be forced to take the dangerous journey to the United States. The CAM program tied eligibility to

apply for protection to the availability of a qualifying relative (a parent or stepparent with certain immigration status) in the United States. The criteria should be broadened to provide protection to children at risk and in need of international protection, regardless of the presence of a parent or stepparent with a particular immigration status in the United States. In some cases children may be eligible for resettlement through the PTA along with their family, but in cases where this is not viable because the child does not have family or family protection, children from the northern Central American countries should be eligible for resettlement as unaccompanied refugee minors. Upon arrival in the United States, unaccompanied refugee minors (URM) would and should be eligible for URM foster care and benefits.

- ✓ Use current ORR case-management processes to replace the DNA testing requirement of qualifying parents and relatives. Youth in ORR custody are sent to homes after case managers have verified that the homes are that of relatives and not traffickers or other individuals who would do the children harm. Home studies and post-release services can also be expanded as necessary. ORR should also ensure that all CAM parolees are eligible for case management services, just as CAM refugees are, and have opportunities to adjust to lawful permanent residency and be reunited with other family members.
- ✓ Implement risk-assessment protocols to ensure a systematic approach to protect applicants to the maximum extent possible. The option of evacuating certain high-risk children to the United States by issuing humanitarian parole on an emergency/ expedited basis should be considered, if the best interests of the child point to this option. Also, pre-screening and admissions interviews conducted in-country should not only take place in capital cities; rather, circuit rides should occur in several locations throughout the countries to ensure that children are not exposed to additional risk of traveling long distances and/or traversing dangerous areas of their country.

- ✓ Adapt interview and assessment techniques to ensure they include a gender and child sensitive lens, within the particular context of Central America. Children with pending claims who have suffered harm or fear suffering harm should be found eligible for protection. The status of being a child or youth (under age 23), who is a national of El Salvador, Guatemala, or Honduras, and the fact of having endured or fearing harm should be enough to satisfy the refugee definition based on existing country conditions. Children found not to be refugees by USCIS should continue to be considered for Humanitarian Parole.
- ✓ To ensure the most favorable outcomes for children, DHS should provide child protection advocates and qualified attorneys to accompany children and youth throughout the process including during their interviews with the RSC and DHS.
- ✓ Children granted Humanitarian Parole should be given access to Reception and Placement (R&P) and other refugee services and benefits to ensure that arriving children and their parents are supported with timely school enrollment, health and psycho-social care, and post-arrival monitoring and support within their family structure. Children reunifying with parents after a long period of separation may face adjustments within the new family dynamic that can lead to family breakdown (especially in the case of adolescents). Post-arrival home visits, which are required for refugee children reunifying through resettlement but not provided for parolees, are critical to ensure that integration within the family unit is successful.

B. Ensure that temporary worker programs do not replace pathways to protection

Ensure that any temporary agricultural (H2-A) and non-agricultural worker (H2-B) programs implemented via the State Department and U.S. Department of Labor (DOL) with Central American countries are reformed to address the structural flaws and gaps in protection that have led to extensive abuse and exploitation of guest-workers. There is ample evidence that the seasonal H2-A

and H2-B visa programs, as currently structured, have been rife with abuse and have been poorly regulated in the United States and the countries of origin of guest-workers. Under U.S. law, both programs tie visa holders to a specific employer. This prevents workers from seeking another employer if they are denied the wages promised, if they experience substandard labor conditions or are abused in other ways by their employer. Moreover, workers often are required to pay recruitment fees to get jobs in the H2-A and H2-B visa programs; such fees often lead to debt bondage. Without improved protections, these guestworker initiatives will likely channel migrants into poorly regulated programs that are rife with abuse, then return them directly back to the same conditions in their home countries.

C. Avoid deterrence of individuals seeking protection

The United States must prioritize the needs of individuals fleeing dangerous circumstances and should not pressure governments in any form, including via economic sanctions, or enter into agreements to deter migration flows. The U.S. government should not enter into bilateral agreements nor fund heightened border security and migration enforcement measures. To the degree that people fleeing persecution are being subject to arrests because of encouragement, training, funding, and in-kind equipment donations from the U.S. government, this constitutes refoulement by proxy, and is a violation of international law norms and U.S. legal obligations. **In addition, the U.S. government should:**

- ✓ **Ensure that existing bio-metric data-sharing and migration enforcement agreements with Central American governments do not prevent individuals from seeking asylum within these countries or at the U.S.-Mexico border.** Governments should provide full transparency about the role of U.S. law enforcement officials in training or collaborating with Central American migration, law enforcement or security officials in activities pertaining to, but not limited to, the apprehension and detention of migrants in Central America. Cooperating or entering into agreements with corrupt or rights-violating armed forces, law, and migration enforcement agencies does nothing

to resolve migration flows, and only drives individuals to clandestine and unsafe routes. Some of these agreements also may violate the CA-4 agreement between Central American countries which allows the freedom of movement between Guatemala, Honduras, El Salvador, and Nicaragua. Collaboration between CBP, ICE, and these Central American agencies should not focus on deterring migrants from seeking asylum throughout the Central American region or preventing the freedom of movement of those seeking protection. It is not the responsibility of ICE or CBP to assess whether an individual can qualify for asylum. Information, including bio-metric data-sharing, gathered between Central American enforcement agencies, and ICE and CBP on the backgrounds of individuals should not be utilized to prevent the individual from seeking asylum or to separate families at the U.S.-Mexico border.

4. Build Safe & Comprehensive Repatriation & Reintegration Programs

For as long as there is a public health emergency, deportations should be halted. There can be no safe and comprehensive repatriation and reintegration for migrants amidst a global pandemic. Given that the United States reached the peak of its COVID-19 cases and deaths prior to countries in Latin America, deportations should be halted until there is demonstrated evidence of diminished cases and community transmission in Guatemala, Honduras and El Salvador. During this time, individuals with final orders of removal should instead be released safely under orders of supervision into the community and allowed to shelter in place with their families and friends.

Once the conditions have been met for safe repatriation and there is no longer the risk of transmission of the virus during deportation, and for individuals for whom it is safe to return to their country of origin, U.S. assistance and policies can play an important role in ensuring safe repatriation and sustainable reintegration. A comprehensive approach to reintegration is one that focuses on individual needs, coordination and support

within local communities and extensive capacity building across the region—for both government and civil society. This assistance should focus beyond infrastructure and maintenance of reception centers where migrants are returned. While important, these reception centers are not equipped to provide longer-term protection or reintegration services to ensure that individuals can stay in their home communities, should they want to and be able to do so safely.

In order for repatriation and reintegration programs to be safe, successful, and consistent with international and domestic law, the following components must be present in State Department and DHS programming and protocols.

A. The U.S. government should follow these guidelines for repatriation:

- ✓ **All individuals being repatriated must have been adequately screened for international protection concerns and provided adequate access to due process, including legal representation and a fair hearing or proceeding.** If the United States fails to ensure a full and fair adjudication of these individuals' cases, we can expect a significant percentage of them will be forced to flee again, putting them in serious danger, further fueling the smuggling industry, compromising the overall efficacy of the program, and failing to strategically use limited resources.
- ✓ **Unaccompanied children should not be returned to countries of origin when repatriation is contrary to their best interests, consistent with U.S. law calling on the government to ensure safe repatriation of unaccompanied children.** Repatriation and reintegration must recognize a range of circumstances affecting children and should be designed to (1) identify children who should not be repatriated due to safety concerns or when otherwise not in the best interests of the child, (2) serve those who can be returned to countries of origin through comprehensive, individualized services, and (3) address the range of needs of children and youth at risk of forced irregular migra-

tion and remigration. Programs should address the root causes of migration, as well as the trauma that results from migration, detention, separation and repatriation. Services should focus on strengthening the family unit, education, skills building and creation of opportunities—including for parents, youth empowerment, access to medical and mental health services, and case management set children and families up for success.

- ✓ **Repatriation and reintegration of migrants should be a partnership between government and civil society organizations. However, government institutions should not solely refer cases to civil society organizations since this abdicates the responsibility of the State in protecting the rights of its citizens, including those repatriated.** Civil society organizations with psychosocial, medical, and family and community reintegration expertise play a key role in providing services to migrants at repatriation centers and beyond. Governments have the responsibility to coordinate services for returned migrants to ensure that repatriations observe human rights and are safe, orderly and humane and have a comprehensive reintegration strategy. However, civil society organizations can provide needed expertise, knowledge of, and trust in the home communities of migrants, follow up on specific cases, and play an important monitoring role. Governments should partner with civil society organizations with expertise in children's rights and welfare to provide specialized reintegration services to returning migrant children. The absence of a government-civil society partnership creates gaps in services and follow up to migrants that puts them at risk and wastes resources.
- ✓ **Repatriation of Central American migrants from Mexico to the Northern Central American countries should adhere to established inter-governmental guidelines detailing protocols, timetables, and departure and arrival points for the process.** The transportation process should always be done under dignified conditions, including avoiding nighttime repatriation flights. The rights of all migrants being repatriated should be respected, and all migrants should have access to

basic services throughout the repatriation process, especially of vulnerable populations such as children. The decision to repatriate a child must be subject to a best interest determination and protection screening.

✓ **Children should be repatriated with a summary of their time in government custody in the United States.**

Children who spend a prolonged amount of time in ORR custody (anything beyond the current average), should be provided with a written discharge summary, in the primary language of the country to which they are returning, to include basic information pertaining to their health, education and well-being while in custody, any medical or mental health diagnosis, treatment, and recommendations for further treatment, as well as progress notes and safety plans. Mechanisms to safeguard the child's privacy and confidentiality, while ensuring continuity of care once in their country of origin are necessary. This information is fundamental for government or civil society case managers to engage and plan appropriately for the child's successful reintegration.

✓ **Children to be repatriated should be accompanied by a family member when possible, or otherwise by an individual who speaks the child's language, with child welfare experience (i.e. an ORR caseworker), not an ICE officer.**

Parents should receive consular assistance from their government's consulate in the United States throughout these procedures. The best interest of the child should be respected so that the child can be with their parents while their legal situation in the United States is resolved. Children should never be separated from a parent unless separation is necessary to protect them from immediate harm. Children being repatriated who have been separated from a close family member at apprehension time should be permitted to return with those family members—when such family members will be repatriated as well. Unaccompanied children often experience significant anxiety, fear, and sadness at the time of repatriation and should be accompanied by an individual trained in child welfare to support them. Parents who were sepa-

rated from their child and who have been deported back to their country of origin should be offered immediate parole to return to the United States to either accompany a child returning to the country of origin, accompany a child seeking asylum, or themselves seek asylum since many of the deported parents were not given fair access to the asylum process.

✓ **DHS must provide all migrants being repatriated with clear information regarding repatriation and their rights throughout the process.**

Children repatriated by the United States receive little to no information about the repatriation process and experience significant fear and anxiety about return as a result. Children are also not informed about their rights during the process or what they can expect. DHS should immediately remedy this situation by providing migrants with an orientation before they depart the United States about their return (e.g., what to expect during travel back to the home country, what to expect on arrival at the airport in the home country, the documentation their family will need, and the support services that will be available upon their return).

✓ **Information-sharing between the United States and El Salvador, Guatemala, or Honduras on individuals returned with dangerous backgrounds should be applied with caution, particularly regarding youth or individuals who were former gang members and may be returning to situations of risk after having attempted to flee the gang.**

If not applied with caution, this approach could also criminalize deported migrants without serious criminal backgrounds, particularly young men and unaccompanied children, and expose them to greater harm by both organized criminal actors and law enforcement. U.S. government allegations of gang involvement have been overly broad, in some cases identifying individuals as potential gang members based on nothing more than relationships, clothing, tattoos, or where they live. Information-sharing policies could lead to arrest, targeting, and extreme violence against these individuals.

- ✓ **The U.S. government must immediately inform consulate offices when their citizen is in U.S. government custody** unless it puts the individual at risk. It is both the right and responsibility of foreign governments to know the location and needs of its citizens as well as advocate for their rights. This knowledge can play a significant role in ensuring that citizens have access to proper information and a more comprehensive repatriation process.

Repatriation of deceased migrants:

- ✓ With respect to migrants who died in the United States, including while crossing the U.S.-Mexico border or in immigration detention centers, the governments of the countries of origins should ensure that communication with the family member of the deceased migrant is handled in a respectful manner and decisions regarding the treatment of the remains should take into consideration the wishes of the family in their appropriate language.
- ✓ In the cases that the remains are identified, the body of the deceased migrant should be repatriated according to protocols that consider the wishes and traditions of the family ensuring decent treatment of the remains and access to information between the United States and consular authorities of Central America or Mexico. The governments of the countries of origin should also cover the costs of the repatriation of remains. In the case of unidentified remains, information should be included to the extent possible in forensic data banks on deceased migrants with the participation of family members, civil society organizations that accompany them and independent experts.

B. The U.S. government should encourage and provide funding only for safe and comprehensive reintegration in Central America

Below is a list of components to be considered for inclusion in any safe repatriation and reintegration program implemented by the State Department or DHS. They are best provided by a network of coordinated NGOs,

through a process which includes other stakeholders, including the U.S., Mexican, Honduran, Guatemalan, and Salvadoran governments. Governments' assistance should not be limited to reception centers and family reunification at the time of the individual's arrival to the home country. Rather they need to be comprehensive and longer-term in focus. Significant resources must be committed to develop and expand existing services for repatriated children and their families. The United States should ensure these are met in the northern countries of Central America in any programming and encourage governments to meet these criteria. These services should be implemented alongside measures to address the needs of the population at risk of migrating as studies have shown that interventions directed only at returnees can re-stimulate underlying tensions in communities.

Initial services upon arrival in country of origin:

- ✓ **Civil society presence at government run reception centers is critical** to both identifying repatriated individuals with protection needs and monitoring reception centers. Governments should always allow access to such civil society and international organizations to monitor conditions inside and identify protection concerns of those returned. Victims of human trafficking and of persecution or torture are particularly vulnerable following repatriation and may be especially hesitant to identify themselves to or seek help from government officials. When civil society organizations have had staff presence in reception centers, however, individuals with protection needs have been able to approach them for assistance. Security at these centers is also crucial to protect children and staff in the shelters from violence and coercion.
- ✓ **Options in addition to reunification with immediate family and institutionalization are needed for returning children.** Short-term shelters, run by NGOs, should be available for children whose family members cannot pick them up immediately but who will be reunified with them relatively quickly (e.g., within 48 hours). Funding for transportation of the child's family member from the community of origin to the reception center and for the transportation of the child and his/her

family member back to the community of origin (if determined to be safe), should be provided by the government. In the event that families are from very remote places and cannot return to their home on the same day after picking up their child, it should be the state that provides temporary shelter for the family. When reunification with immediate family is not possible or is not the child's best interests, extended family should be considered as opposed to institutionalization. Multiple transfers of unaccompanied children should be avoided. When immediate and extended family are not available to care for the child, or would not be in the child's best interests, foster family care or other community-based care options should be considered as an alternative to institutionalization. An improved child protection system that allows for options beyond institutionalization of children needing protection together with children in conflict with the law is necessary in the longer term.

Services once children and individuals are back in their communities of origin:

- ✓ **Ensure that funding to address reintegration needs is invested in direct services for returned individuals** and in community development solutions that address the root of larger systemic issues. For example, equal access to education, accelerated schooling for older children to complete grade school or secondary school, economic development and vocational training opportunities, accessible health services, and effective programs for youth that encourage leadership and help create a supportive network for youth.
- ✓ **Specialized protection screening and reintegration programming is necessary to meet the needs of girls, LGBTQ+ children and youth, and children with disabilities.** Proper screening by the governments of the both returning and receiving country is necessary to ensure that children are not returned to situations of gender-based and sexual abuse in their homes or communities. Reintegration programming must provide psychosocial support to children who have witnessed or experienced sexual or gender-based violence. Programming must address the barriers that girls face to

accessing education and employment, including discrimination within the home and broader community. LGBTQ+ children and youth frequently experience violence and discrimination both in their communities of origin and during their migrant journeys. Following robust screening for protection needs to determine if safe repatriation is possible, LGBTQ+ children and youth should have access to specialized reintegration services that address their psychosocial needs.

- ✓ **Support localized and culturally appropriate reintegration support services.** Reintegration services should be offered in the primary language spoken by returning migrants and communities and with knowledge and access to local culture and traditions, especially in Guatemala, but also in El Salvador and Honduras.
- ✓ **Physical and mental health care services are needed, potentially through a referral process** to the existing system, although dedicated mental health workers are likely to be needed given the extremely high level of trauma within the population.
- ✓ **Family reunification services are required, including a home visit if there is any concern** about the safety of the child upon return. The best interests of the child must be prioritized over swift family reunification to ensure that children do not get returned to exploitative or abusive circumstances.
- ✓ **Social workers with expertise in child welfare are essential both prior to departure from the United States, and once back in the country of origin.** Social workers are critical in the pre-departure phase to determine what catalyzed the migration, ensure a child welfare lens throughout the pre-departure and repatriation phase, and to determine needs of the child and family upon return. Child welfare experts in the country of origin should work with the pre-departure social worker to create an individualized plan to address and mitigate underlying risk factors identified (e.g. stay with extended family members, medical and psychological care for those who have been abused, and relocation of families threatened by gangs).

- ✓ **School (re)enrollment, and/or skills training** should be offered to help provide children with the kind of opportunities that will help them that will help them thrive in their country of origin.
- ✓ **Tracking is necessary to assess effectiveness and to capture best practices.** Relevant ministries in country should develop a shared, integrated database of repatriated children.
- ✓ **Monitoring and verification of the well-being of repatriated children over the longer term** is essential to ensure that in-country child welfare mechanisms are functioning and that U.S. protection screenings and adjudications are functioning effectively to correctly identify and protect persecuted, trafficked, neglected, abandoned, and abused children.