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Recommendations for U.S. Engagement to Address Migration from and Displacement within the Northern Triangle of Central America 2019

Addressing the migration crisis from the Northern Triangle countries of Central America (NTCA, encompassing El Salvador, Guatemala, and Honduras) requires strategies to protect the rights of migrants and refugees at our border and in the region and to strengthen rights-based foreign policies to respond to the root causes of this displacement.

All countries in the region, including the United States, have a responsibility to provide individuals seeking protection with due process, family unity, and access to asylum. Important protections enshrined in U.S. law regarding asylum processing at the border, access to asylum and due process must not be reversed or weakened. Practices such as turning potential refugees and migrants back to Mexico, separating families and deporting parents without their children, and denying individuals access to a credible fear interview or to full and fair due process violate U.S. and international law, increase vulnerability, and do nothing to deter future forced migration. Before migrants are repatriated, they must have full access to due process in the United States. Repatriating individuals in need of international protection will put them at risk, render reintegration programs ineffective, and force them to flee their homes again. This also applies to individuals who have long resided in the United States who are now at risk for removal, such as the over 300,000 Temporary Protected Status (TPS) beneficiaries with origins in Central America. For them, being forcibly returned to their countries of origin could mean exposure to danger and significant risks to their livelihoods and assets. Deporting large numbers of TPS beneficiaries, who sustain their families with remittances, also undercuts economic stability in Honduras and El Salvador.

U.S. policies to address the root causes of displacement and forced migration from the Northern Triangle countries of Central America must also be consistent with international human rights norms. U.S. policies and assistance should be focused on reducing poverty and violence and combating corruption and strengthening human rights and the rule of law in the region. It must not go towards supporting human rights violators, increasing militarization, or exacerbating the existing push factors. The United States should help not only by providing well-targeted assistance programs, but also by using principled diplomacy and enforcing conditions on aid to spur improvements in protecting human rights and addressing corruption.

U.S. engagement should be guided by an understanding of the different conditions in each of the three countries. It should promote and model transparency and accountability, and actively

involve and consult with a diverse group of civil society actors in the design and implementation of aid initiatives. The U.S. State Department, U.S. Agency for International Development, and the Inter-American Foundation are currently providing some positive assistance programs for sustainable rural development, violence prevention, institution-building, and strengthening justice systems in the region. However, these challenges require longer-term and sustainable approaches. Donor strategies in the region should build upon evidence-based models and bring the most effective programming to scale. Decision-makers should avoid top-down and infrastructure-heavy approaches supported in the past, and all assistance should include clear metrics and specific indicators that can be used to evaluate whether progress is being made on rights-based citizen security, social inclusion, decent work, women and youth employment, poverty reduction, strengthening human rights protections, and combating corruption. In addition, aid strategies must be accompanied by consistent, principled diplomacy to protect human rights and combat corruption.

The following are civil society recommendations touching on core aspects of U.S. assistance, policy, and diplomacy to address Northern Triangle displacement and migration in the region. Alianza Americas, Central American Resource Center (CARECEN) DC, Evangelical Lutheran Church in America, Advocacy Office, Kids in Need of Defense (KIND), Latin America Working Group Education Fund (LAWGEF), Office of Justice and Ecology at the Jesuit Conference of Canada and the United States, Oxfam, Washington Office on Latin America (WOLA) contributed to the drafting of the document.

This document was also reviewed by representatives of civil society organizations, practitioners, and academia from Mexico and Central America.¹

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¹ Marlon Hernández Anzora, consultant, El Salvador; Juan José Hurtado Paz y Paz, Asociación Pop Noj, Guatemala; Sindy Hernández Bonilla, Universidad Rafael Landívar, Guatemala; Iduvina Hernández, human rights defender and journalist, Guatemala; Salva LaCruz, Centro de Derechos Humanos Fray Matías de Cordova, Mexico; Celia Madrano, Fundación Cristosal, El Salvador; Aracely Martínez, Universidad del Valle de Guatemala, Guatemala; Indyra Mendoza, Red Lésbica Cattracha, Honduras; Claudia Samayoa, human rights defender, Guatemala; and Ursula Roldán, Universidad Landívar, Guatemala.

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Address Factors that Compel Forced Migration from the Northern Triangle of Central America

Endemic violence compounded by a lack of opportunities and institutions too weak and corrupt to guarantee the fundamental rights of the citizenry are among the main factors driving Central Americans to leave their homes and communities. Until Central American governments, with the engagement of civil society organizations on the ground and support from international donors, address the needs of citizens to live in safe and sustainable communities, tackle corruption, and invest in strengthening public institutions, children and families will continue to flee their communities. International donors can help not only by providing well-targeted, long-term assistance programs, but also by encouraging governments to increase transparency and accountability over budgets and programs. Perhaps most importantly, donors should use strong diplomacy and enforce conditions on aid to spur improvements by Central American governments in protecting human rights and addressing corruption.

Support Effective Violence Reduction Strategies

Support community-based violence prevention strategies

- **Expand community-based programs to reduce youth crime and violence.** Substantially increase support for evidenced-based, community-level violence prevention programs, particularly for efforts that build local, multi-stakeholder community councils; for training and support for civil society organizations involved in community-based prevention programs with at-risk and gang-involved youth; and to develop training programs, education projects and/or exchanges to improve expertise on violence prevention at the governmental and nongovernmental levels. Mechanisms should be put in place to ensure that U.S. assistance is coordinated with other donors to prevent duplication and maximize impact at the local, state and national levels.
- **Focus resources and technical assistance on the successful reinsertion of youth and children seeking to leave gangs allowing them** to successfully leave the influence of gangs and criminal groups, reconcile with their communities and families, confront the trauma they endured, and become productive and working members of society. Job and vocational training should be linked to economic sectors and activities with decent and sustainable employment opportunities. Establish and expand private sector reinsertion programs and tertiary prevention programs that prepare inmates for release and support newly released inmates to obtain employment and reintegrate into a

productive life. 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. Reinsertion should occur within a community and familiar context for the individual, including with programs integrated into their neighborhoods. Ensure that U.S.-funded humanitarian agencies can implement programs to rehabilitate former gang members without running afoul of restrictions on contact with gangs placed on the terrorist list.

- **Encourage investments in comprehensive early childhood development** which has shown to yield significant benefits in the long-term for both healthy development and violence prevention. Family support programs in early childhood should help ensure that children grow up in violence-free homes and with proper care (health, education, psychosocial, etc.). Non-violence should be taught from the outset, and this requires support to parenting programs and family support through a functioning child protection system. Implement public education to de-normalize violence against women and girls and LGBTI persons, including as part of curriculum in primary and secondary schools, and through public and community-based campaigns.
- **Support well-trained, well-resourced, and accountable child protection systems.** Existing systems in all three countries to prevent and protect children against violence, abuse, exploitation, and neglect are inadequate and require greater funding and adequately trained staff. They must also be decentralized in order to have national reach and operational capacity. Resources should be dedicated to increasing the use of home-based placements such as family or foster care, rather than institutionalization, and ensuring that all shelters for children, whether government or privately run, meet safety and child welfare standards.
- **Support safe shelter for victims of internal displacement and ensure their rights to education, basic services, property, and livelihoods, including specific resources and assistance for shelters for girls and women and LGBTI victims of violence and to access assets left behind.** Legislative frameworks should exist to provide Internally displaced persons (IDPs) with durable solutions including implementing integral, well-funded national systems that track and address the needs of those displaced and provide them with shelter. Governments should work with international organizations to reform existing policies, programs, and build the capacities of authorities to ensure efficient responses to IDPs as an important subgroup of victims of violence.
- **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, for example, 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.

Address sexual and gender-based violence

- **Expand states' and localities' capacity to respond to violence against women and girls and impunity for sexual and gender-based violence.** Interfamilial violence and impunity for these crimes is a serious problem in the region. These high rates of impunity are the result of gender biases and discrimination within the justice system, combined with a lack of resources and training necessary to effectively investigate and prosecute cases. Violence prevention efforts must confront the widespread normalization and acceptance of violence against women and girls and LGBTI persons in the home, street, school, and workplace.
 - Expand public education and awareness-raising campaigns to de-normalize sexual and gender-based violence in primary and secondary schools and communities.
 - Dedicate additional 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. Resources must also be dedicated to the development of appropriate health and psychosocial assistance to survivors with a differentiated approach for lesbians and trans-women.
 - Improve official record keeping by governments to provide accurate statistics on the levels of sexual and gender-based crime, including crimes against LGBTI persons, and the resolution of cases.
 - Address the involvement and complicity of authorities, including police and military, in sexual and gender-based violence, including crimes against LGBTI persons, through violence prevention efforts, and the investigation and prosecution of those responsible.
 - 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 and trans-women.
- **Increase resources and technical assistance for shelters for girls and women victims of gang violence.** Programming should focus on preventing sexual and gender-based violence by gangs. A lack of emergency shelters leaves women and girls fleeing sexual and gender-based violence with few options for seeking safety within their countries. The few shelters that do exist have limited capacity and lack the ability to offer protection to women and girls fleeing forced sexual encounters with gang members or sexual servitude to gangs, a swiftly expanding phenomenon. A network of shelters with both 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.
- **Address violence against LGBTI people.** LGBTI people face high rates of discrimination and violence in Guatemala, El Salvador, and Honduras, and thousands have left their countries fleeing persecution based on gender identity and/or sexual orientation. The United States should encourage efforts by the governments of the

region to develop functional legal protections for LGBTI individuals and invest in prevention, investigation, and prosecution of crimes against LGBTI people. Governments should also address bias and discrimination against LGBTI individuals within the police, legal systems, and state institutions and undertake proactive efforts toward increasing awareness of and respect for the rights of LGBTI individuals through public education. The U.S. government should urge investigation and prosecution of violence and abuse of LGBTI individuals by police forces, a serious and widespread problem. USAID should continue to support LGBTI organizations defending their rights. Assistance should also be made available to LGBTI individuals fleeing violence related to gender identity and sexual orientation, including safe and appropriate shelter options.

Encourage an end to militarized public security & address abuses committed by security forces

Without significant reform of the police and public security forces in the region, U.S. support will not be effective in addressing and indeed can intensify the serious crises in citizen security.

Therefore, the United States should:

- **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. In many cases a systematic purge of personnel will be necessary. Where there is political will, support institutional reforms to improve civilian police capacity and capabilities to prevent violence and investigate crimes while enhancing community relations. Among the reforms would be setting appropriate standards for recruits and promotions. The United States should support efforts to bolster internal and external control mechanisms (internal affairs units, inspector generals, etc.) and effective vetting processes; support creation or expansion of systems to receive and process complaints against police officers; and support the strengthening of police investigation techniques while enhancing recruitment and training. Clear and appropriate indicators should be put in place to measure progress in enhancing police capacity and capabilities. Efforts should be oriented toward strengthening the civilian policing capacity overall and improving community relations, rather than targeting resources to specialized vetted units and other programs that have little impact on improving broader law enforcement institutions.
- **Provide no assistance for a military role in policing.** The three governments have invested in continuing or expanding the participation of the military in policing functions, which has led to human rights abuses and has diverted efforts from enhancing police capacity to investigate crimes and protect communities. The U.S. government should not fund military forces involved in policing or joint military-police law enforcement activities and should instead actively encourage the three governments to withdraw the military from policing. An important step to this end would be the naming of civilians to high-level

positions leading government agencies on security such as ministries of defense, security and the national police.

- **Specifically address torture and extrajudicial executions allegedly committed by police, military, former security force officials and/or other** actors against suspected gang members or youth in gang-controlled areas. This includes not only urging investigations and prosecutions of suspected perpetrators but also discouraging the development of “green lights” for security forces to commit abuses, whether by statements by high-level public officials, incentives and promotions for abusive officers, or police directives or penal code provisions that shield officials from investigation.
- **Urge governments to end impunity for security force abuses against human rights defenders, journalists, trade unionists, and environmental activists, indigenous and Afro-descendant local leaders.** Such abuses are a particularly serious issue in Honduras, where security forces have used excessive and even lethal force against peaceful protesters with no accountability to date for those responsible, and in Guatemala, where communities resisting the imposition of large-scale development projects are subject to increasing militarization. Security forces and ex-security forces are playing a role 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.
- **Include and enforce conditions on investigating and prosecuting members of security forces,** protecting human rights defenders and on withdrawing the military from policing. Conditions such as the FY18 State, Foreign Operations appropriations law conditions on aid to the central governments of Honduras, Guatemala, and El Salvador are indeed helpful, but they must be more rigorously enforced. Fully enforce the Leahy Law regarding vetting of recipients of any U.S. security force training.
- **Encourage governments to pursue balanced citizen security strategies** that focus on violence prevention and strengthening the rule of law, rather than “mano dura” strategies.

Reframe Development and Poverty Reduction Strategies

The convergence of crises in the Northern Triangle show that a substantial re-think is essential to adjust past development approaches. In addition, continual monitoring and evaluation on the effectiveness of programming can help inform future investments. U.S. trade and investment policies should be reviewed 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 must be a central pillar of assistance programs.

- **Support the expansion of small-scale farming and small and medium scale farmers’ access to markets.** Poverty is heavily concentrated in rural areas in the Northern Triangle, particularly among indigenous populations. Small-scale family farming is central to rural livelihoods and investing in sustainable agriculture is critical to reduce poverty and increase resilience to extreme climate events. It has also been shown to help reduce high levels of hunger and malnutrition, factors that also influence out-

migration. Strengthening small- and medium-scale farmers' as well as cooperatives' access to markets, technologies and participation in value chains, and expansion of rural extension services, have also demonstrated impact for rural poverty reduction. Resilient rural communities, with strong domestic markets, are the basis for job growth and effective local institutions.

- **Support labor rights enforcement and freedom of association for agro-industrial workers.** Export-oriented agriculture continues as a mainstay economic generator. Where active, agricultural worker unions ensure compliance not only with basic labor rights, but with contractual benefits that allow workers to define what decent work looks like for themselves, and enforce it through bi and tripartite engagement with employers and governments. Yet due to their very successes, agricultural unions are among the most targeted for repression, harassment, refusals by employers or labor ministries to recognize their legal status, and violence. Global brands and the local employers who produce for them are not disappearing – but work on industrial plantations need not equal exploitation. Strong support from the U.S. for freedom of association and an insistence that counterpart governments enforce their own labor laws is critical to allowing agricultural worker rights activists the space to improve their own working conditions, livelihoods, and communities.
- **Strengthen development strategies that address the specific needs of women and girls.** Poverty disproportionately impacts women, who often face discrimination and limited access to land or education and employment opportunities. In many cases, women's economic dependence limits their ability to leave situations of domestic violence or to protect their children from abuse within the home. Further, the 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. In light of these specific vulnerabilities, there is a need for development strategies that prioritize women's economic independence and increase access to education, skills training programs, scholarships, access to credit, and well-paid and stable employment.
- **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. Particular emphasis should be paid on child and maternal health. Health facilities should be decentralized and accessible to all.
- **Prioritize employment and educational opportunities, particularly 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, including their technologies, expand effective job training and employment opportunities programs for youth, and support development of small businesses, which are important for employment generation. In tandem with these programs, funding must be invested in providing youth and communities that have suffered high indices of violence with trauma-informed care and resources.

- **Respect and protect the right of indigenous communities to free, prior and informed consent, regular consultations, guarantee the mitigation of environmental impacts, and protect labor rights protection in implementation of projects.** These provisions should be embedded in direct project financing. The projects should include a dialogue with communities on local development models and priorities. The United States should guarantee policy coherence across all trade and investment policies with Central America to ensure strong labor protection provisions; mechanisms to verify compliance with international and national labor laws and standards; and swift and effective mechanisms to present and resolve grievances. Existing CAFTA and NAFTA complaints could, in the future, guide necessary reforms. The U.S. should maximize its leverage as a trade partner to insist in substantive, not merely cosmetic compliance with remediation roadmaps under these trade complaints. U.S. corporations benefiting from trade and investment policies should be required to comply with international and national labor rights laws and standards, pay living wages to workers, and demonstrate responsible purchasing practices, including clear, sustainable contracts with local suppliers; fair, negotiated prices; and responsible retrenchment programs.
- **USAID should establish a regular process of consultation with Central American civil society organizations** to elicit recommendations and provide updates regarding its strategies and programming regarding rural development, violence prevention, and other issues, based on previous consultations. 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, faith, women's, LGBTI rights organizations, and trade unions. USAID has taken some steps to increase transparency but should continue to make its Central America programming more transparent.

Address systematic impunity, corruption & weak institutions

- **Continue to provide financial and political support to international and national efforts to combat corruption and impunity in the region.** Curbing impunity and corruption is key to increasing economic growth and reducing poverty. **The International Commission against Impunity in Guatemala (CICIG)**, has been instrumental in the fight against corruption and organized crime in Guatemala—strengthening the investigative and prosecutorial capacity of the Public Prosecutor's Office, providing support for much-needed reforms, and equipping the country with modern crime-fighting techniques. The commission has helped launch numerous high-profile cases, prosecuting powerful criminal networks deeply embedded in the state. The Guatemalan President's decision to terminate its mandate is a blow to anti-corruption efforts in Guatemala and must be met with a strong response from the international community. **The Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH)**, though differently structured and with a distinct role than the CICIG, is also beginning to have some success in revealing widespread webs of corruption through breakthrough investigations alongside the Public Prosecutor's Office. Both the MACCIH and CICIG, as well as any potential future initiatives in El Salvador

require ongoing U.S. and international financial aid and unwavering diplomatic support in order to withstand government attempts to obstruct and weaken their work and their mandate.

- **Promote fiscal policy and taxation reform to strengthen governments' financial solvency to address social needs and promote economic development.** The United States should encourage countries in the region to strengthen legislation in each of the countries increasing direct taxes on financial transactions, property, personal wealth and income, inheritance, and corporate and capital gains in order to reduce over-reliance on value added tax which disproportionately hurts the poor. Tax avoidance and evasion, which costs Latin American governments more than \$320 billion a year, approximately 6.3 percent of GDP, should be ended by closing loopholes and tax havens. The Central American governments should prioritize public investment in inclusive growth over tax incentives for foreign investors. They should also review all tax incentives using a cost-benefit analysis to determine the impact they have on government revenue and social spending and eliminate those that contribute to growing inequalities and/or reduce the ability of the government to generate sufficient revenue for necessary social programs. They should increase transparency and effectiveness of tax collection and spending through active citizen participation in tax reform processes and government spending oversight.
- **Support transparent and independent processes for the selection of prosecutors and judges.** The United States should encourage governments in the region to ensure that selection processes for key judicial positions are conducted in a transparent and objective manner, and in accordance with international standards. The election processes must require that candidates are impartially evaluated and selected based on merit, their strong legal and professional qualifications, and their commitment to the rule of law, not on proximity to politicians or government officials. At the same time, the processes should allow for the active participation of civil society.
- **Strengthen judicial independence, transparency, and accountability.** The United States should provide clear benchmarks for improvements tied to its funding for strengthening the justice sector, including support for criminal analysis units within the Public Prosecutors' offices in all three countries. Governments should strengthen investigative capacity of specialized prosecutors including those investigating homicides, extortion, organized crime, and sexual and gender-based violence, as well as providing support for improving access to justice. Courts should have improved case management systems. Adequate indicators should be put in place to measure progress in reducing violence and strengthening criminal justice institutions.
- **Provide support and assistance to crime victims and to witness protection systems.** Mechanisms for offering protection, safety, and shelter for crime victims, including providing for the personal security of witnesses to crimes committed by organized criminal enterprises and police, must be enhanced throughout the region. In some cases, victims and witnesses of violence by gangs and other organized criminal groups cannot remain safely within their countries, due to the power and reach of these groups. Long-term support should also be provided for the development of effective

witness protection programs. These programs should have the capacity to protect the family members of victims and witnesses and provide protection beyond the conclusion of the legal process when necessary. It is important to eradicate the practice of using witnesses to prosecute reprisals or to pressure against political opponents. Investing in such mechanisms will allow witnesses and crime victims to participate in justice processes while staying in their countries of origin.

- **Support the Office of the High Commissioner for Human Rights (OHCHR) in Guatemala and Honduras with funding** to address broad human rights concerns, including reporting and analyzing abuses allegedly committed by public forces. Support the representation of this office in El Salvador. These offices are an important point of reference to strengthen the rule of law in both countries, including ending impunity in attacks on human rights defenders and community leaders.
- **Strengthen the protection of human rights defenders, journalists and social communicators, including indigenous, Afro-descendant, women, LGBTI, and environmental and union activists.** Strengthen the government protection mechanisms to protect human rights defenders by funding and encouraging governments to ensure their longer-term sustainability. However, these mechanisms are inadequate by themselves. Most importantly, the international community must encourage progress in investigating and prosecuting attacks and threats against human rights defenders, including the intellectual authors of such crimes. The U.S. government should press the governments to suspend, investigate, and prosecute state actors implicated in attacks or threats against human rights defenders and to end false prosecutions of human rights defenders. Strong diplomacy is needed to press the Honduran and Guatemalan governments in particular to ensure their actions and public statements do not place defenders in jeopardy. Partnerships with civil society should be expanded to ensure emergency evacuation and safe shelter for defenders in urgent need of protection.
- **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.

Support Access to Protection for Migrants and Refugees in the Region

The United States should not pressure countries in the region to deter migrants who may be in need of protection. Nor should the United States abandon its own responsibility to offer individuals access to asylum at its borders, whether through a “safe third country” agreement with Mexico, or through guidelines—tacit or explicit—instructing asylum officers to deny access or returning asylum seekers back to Mexico. Denying an individual the ability to claim asylum because they have had traveled through other countries prior to reaching the United States would violate both U.S. law and treaty obligations. An individual has the right to seek asylum in the country they deem safe. Practices such as turning potential refugees and migrants back to Mexico, separating families and deporting parents without their children, and denying individuals

access to a credible fear interview or to full and fair due process violate U.S. and international law, increase vulnerability, and do nothing to deter future forced migration. Repatriating individuals in need of international protection will put them at risk, render reintegration programs ineffective, and force people to flee their homes again.

Strengthen Mexico's Refugee System

The United States should not pursue a safe third country agreement or any other type of agreement, funding or "Remain in Mexico" policy with Mexico. Instead, it should continue to provide assistance to international organizations such as the UN High Commissioner for Refugees (UNHCR) to support Mexico's refugee agency (COMAR by its Spanish acronym) and civil society organizations, in order to strengthen Mexico's capacity to process asylum claims of all who decide to seek asylum in Mexico. Particular attention should go to vulnerable populations such as children, youth, women, and LGBTI individuals.

U.S. assistance should encourage the following improvements within Mexico's asylum system and migration enforcement agencies:

- 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, and ensure their best interests are evaluated and their protection needs assessed. Detention of migrant children, or other deprivation of their liberties, should be avoided at all times, regardless of whether or not they are unaccompanied.
- Alternatives to detention should be sought for all migrants. The Mexican authorities must set aside the necessary funds to strengthen and expand existing pilot programs for alternatives to detention and avoid the separation of migrant families.
- Mexican authorities should expand and strengthen training to the National Migration Institute (INM) to improve screening to identify and respond to asylum seekers and trafficking victims.
- COMAR should collaborate with international organizations and civil society organizations to expand and strengthen legal access for asylum seekers, inform migrants of their right to seek asylum, and provide safety to asylum seekers awaiting the results of their cases.

Address Border Security with Respect for Migrant Rights

Mexican law and migration enforcement agencies continue to perpetrate grave rights violations, which raises serious concerns about U.S. assistance for border security at Mexico's southern border and in Mexico's interior. Migrants in transit are frequently victims of kidnapping, extortion, robbery, sexual assault, and other crimes at the hands of criminal organizations, and often, Mexican security forces and migration agents acting in collusion with them.

Given these concerns, the following points should be incorporated into any U.S. assistance directed at border security along Mexico's southern border and migration enforcement in the interior:

- Funding or other assistance must not go to corrupt agencies or those with a record of violating human rights with impunity. Outside of the context of very serious reform efforts, this will make the problem worse, not better.
- Collusion between law enforcement and organized crime continues to be a problem. There is no point, for instance, in providing sophisticated scanning equipment if organized crime syndicates can induce security-force personnel to abstain from using it at key moments. Therefore, border security assistance should not include any lethal weapons or equipment, or domestic intelligence-collection capacities that could be misused.
- Any border security assistance must be 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 INM, and Customs. These efforts may include support for internal affairs units, witness and whistleblower protection, vetting, and support for civil society groups performing outside oversight.
- Both governments should 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 U.S. Customs and Border Protection (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 or not an individual can qualify for asylum. Information sharing between INM and CBP on the backgrounds of individuals should not be utilized 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 in migrant detention centers in Mexico should be made transparent.
- Technical assistance should be provided to the Mexican government on investigating and prosecuting transnational crimes against migrants and searching for disappeared migrants.

Avoid Deterrence of Individuals Seeking Protection

The United States should not support governments in the region in deterring individuals from seeking protection. 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. Returning individuals who are at risk of persecution will further increase the growing problem of internal displacement in Honduras, El Salvador, and Guatemala, forcing these individuals to flee again.

U.S. personnel training, cooperating, and/or supplying funding and equipment for migration authorities of Central American and Mexican government should ensure that:

- Migrants have access to civil society organizations' support, including health, social, psychological and legal services, and access to medical care, mental health care, and emergency contraception for victims of sexual and gender-based violence.
- Migrants have access to seek international protection with the appropriate authorities should they request it, and to access transparent and accessible channels to report crimes suffered, including especially sexual and gender-based violence perpetrated by organized crime and governmental authorities.

Build Safe and Comprehensive Repatriation and Reintegration Programs

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. 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.

Repatriation

- **CBP officials do not have jurisdiction to decide whether an individual has a credible fear of persecution and must refer those expressing fear to the credible fear interview process.** Separated deported parents have reported not being referred for credible fear interviews despite expressing their fear of persecution upon return to their country of origin. These individuals were told by CBP that they had no choice but to be deported. CBP officials urgently need to be monitored to ensure compliance with U.S. immigration law and their own jurisdiction, and to ensure that they refer individuals expressing fear of persecution to a credible fear interview.
- **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.
- **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 reintegration expertise play a key role in providing services to migrants at repatriation

centers and beyond. While governments have the responsibility to coordinate services for returned migrants, civil society organizations can provide needed expertise, knowledge of, and trust in the home communities of migrants and follow up to specific cases. 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 Triangle 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.
- **Children to be repatriated should be accompanied by a family member when possible, or otherwise by an individual with child welfare experience (i.e. an ORR caseworker), not an ICE officer.** The integration of parents and children should be allowed without risk of loss of citizenship of their children. Parents should receive consular assistance from 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 in their best interests. 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 during this difficult time. Parents who were separated 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.** Currently 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—including whether they are permitted to use the bathroom on flights. 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).
- **Monitoring and verification of the well-being of rejected asylum seekers is necessary to ensure that people subject to forced repatriation from the U.S. and**

Mexico have not been erroneously denied access to protection. Working with civil society in countries of origin and Northern Triangle governments, the United States, and Mexico should commit to deploying mechanisms to evaluate the efficacy of their protection screenings and adjudications to ensure that serious harm has not befallen repatriated individuals who were denied humanitarian relief. The United States and Mexico should work with UNHCR and other international organizations to design a humanitarian evacuation scheme for emergency situations in which a person in need of international protection has been returned to danger.

- **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. 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. The governments of Honduras and El Salvador, in particular, have implemented brutal policies against suspected gang members. 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, communication with the family member of the deceased migrant should be 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. 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.

Reintegration

Below is a list of components to be considered for inclusion in any safe repatriation and reintegration program. 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 programs 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. 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. 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. 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 should be considered as an alternative to institutionalization.

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

- **Ensure that funding to address reintegration programs 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 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.** 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. Additionally, programming must address the barriers that girls face to accessing education and employment, including discrimination within the home and broader community.
- **Support localized and culturally appropriate reintegration support services.** Reintegration services should be offered in native languages and with knowledge and access to local culture and traditions, especially in Guatemala, but also throughout the Northern Triangle.
- **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, in order to ensure that children do not get returned to exploitative or abusive circumstances.
- **Social workers with expertise in child welfare are essential to determine** what catalyzed the migration, and the creation of 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 stay in their country of origin and not attempt to re-migrate.
- **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.

Enable Refugee Resettlement

The U.S. government should strengthen access to asylum and expand protection across the region in order to maximize the positive impact of U.S. asylum, resettlement, and temporary protection for this population. Refugee resettlement in the region should be instituted not as a replacement for ensuring access to asylum at the U.S.-Mexico border, but rather in addition to it.

Central American Minors (CAM) Program

The U.S. must develop or restore a humanitarian strategy for at-risk Central Americans. It must include in-country processing or third-country processing for resettlement. The Central American Minors resettlement program (CAM-AOR), an in-country processing program for children in the region, was an important component of the overall regional child protection strategy. The U.S. slowed operations of the program in fall 2017 and essentially terminated the CAM program in January 2018, by stopping interviews with thousands of applications still pending. Given the ongoing protection needs in the NTCA, an in-country processing program for minors should be reinstated that:

- **Re-opens and processes** all previously-pending CAM cases that were closed when the program was terminated are reopened in an expedited manner.
- **Allows the individuals who had entered the U.S.** through humanitarian parole to adjust their status.
- **Takes into account** the very complex nature of violence and persecution in the context of the Northern Triangle in the determination of a person's refugee status.
- **Prioritizes the safety and protection of applicants and their families during application interviews** and processing and recognizes the inherent safety risks that require continued vigilance and ongoing safeguards against persecutors.
- **Ensures interview and assessment techniques are sufficiently adapted to include a gender and child sensitive lens**, within the particular context of Central America.
- **Allows eligible parents in the United States to reunite with qualifying children and certain adults in the United States** and ensure these individuals are admitted to the United States as refugees through the refugee resettlement process or as parolees through humanitarian parole.

Third Country Refugee Resettlement

The U.S. must recommit to a U.S. refugee program that accepts individuals who, under international legal standards and best practices, qualify for international protection under the 1951 Refugee Definition—including those persecuted by gangs and other non-state actors for reasons of their membership in a particular social group or other protected grounds. In order to recommit to a refugee resettlement program in the region, the following components should be considered:

- **Partnerships with national NGOs in Honduras, El Salvador, and Guatemala** (including those at repatriation centers) with expertise working with IDPs, at-risk families, LGBTI individuals, children, SGBV survivors, and communities at risk of displacement to identify and refer individuals who may be in the most urgent need of resettlement. Funding should be made 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 U.S. resettlement.
- **Support for UNHCR's work to ensure appropriate registration and Refugee Status Determination (RSD)** procedures in Mexico, Belize, Nicaragua, Costa Rica, and

Panama, while simultaneously identifying individuals whose needs would best be served through the use of resettlement.

- **Individuals and families who are evacuated to a third country for resettlement processing should be processed swiftly to ensure short stays in third countries.**

Refugee processing is a slow and cumbersome process. In-country resettlement applicants in immediate danger are jeopardized as they transit to interviews or wait for decisions. Arrangements for safe houses and emergency transit centers can help to ameliorate these risks.

- **Swift processing and short stays are necessary not only for safety reasons, but also because of livelihoods, children's education, and other considerations.**

Refugees transiting these countries temporarily likely will not have the authorization to work, access education, and enjoy other rights that refugees maintain in an asylum country. Without the ability to exercise these rights, stays must be reduced to the minimum time necessary for processing and to complete security & medical checks. Adequate resources must also therefore be deployed.
