



JESUITS



WOLA



GUATEMALA HUMAN RIGHTS COMMISSION



LATIN AMERICA WORKING GROUP



WOMEN'S REFUGEE COMMISSION

## RECOMMENDATIONS FOR US GOVERNMENT ACTION: Smart responses to increased migration from Central America<sup>1</sup>

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### Reducing impunity and violence; strengthening the rule of law

- **Provide resources and technical assistance for shelters for girls and women victims of violence** and strengthen and expand States' and localities' capacity to respond to and sanction violence against women and girls. Honduras, Guatemala and El Salvador struggle with endemic levels of intra-familial violence and have grappled with a sharp and disproportionate increase in the murder rate of women and girls. Additional programming is needed to improve investigation and prosecution of femicide and sexual violence. In Honduras, only one shelter is currently functioning; the two other shelters in the country have compromised security mechanisms. For women and girls fleeing forced sexual encounters with gangs, a swiftly expanding phenomenon in Honduras, none of the shelters in-country are sufficiently secure to offer protection. In Guatemala, approximately 61% of victims of sex crimes reported between 2007 and 2011 were 17 or younger. Gender discrimination, lack of resources, and lack of training – for law enforcement, hospitals, and courts – result in neglect of cases, improper collection of evidence, lack of investigation, and extremely high rates of impunity for perpetrators.
- **Provide support and assistance to crime victim and 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. Investing in such mechanisms will allow witnesses and crime victims to participate in justice processes while staying in their countries of origin.
- **Invest in community-based comprehensive youth violence prevention strategies.** Programs like the Paso y Paso social education program in San Pedro Sula, Honduras and the Puente Belice Program in Guatemala are being pioneered in cities struggling with some of the highest levels of violence in the world. In Los Angeles, California and Santa Tecla, El Salvador such programs have yielded verifiable reductions in youth violence and victimization. Evaluations show declines in homicides and gang crimes in Los Angeles over four years, and Santa Tecla, which started its program in 2003, has a 40% lower homicide rate than other surrounding communities.
- **Continue to strictly condition assistance to police and military in Honduras, Guatemala and Mexico on compliance with basic human rights standards** and use these human rights conditions to leverage gains in combatting corruption and impunity, while enhancing accountability and transparency at the national and local levels. Provide support to strengthen internal and external controls and oversight of security forces.
- **Do not support “mano dura” policies that place youth at risk without effectively reducing violence.** Do not provide assistance to police institutions in the absence of demonstrated political will for reform. Decline assistance for the use of military in civilian policing activities; encourage governments to withdraw the military from policing. Given high levels of corruption and abuse within police and military forces in the region, and acts of sexual violence committed by members of the security forces, the United States must ensure that funding for law enforcement and military does not in any way exacerbate human rights concerns. Instead, focus on strengthening judicial independence, the capacity of prosecutors to independently investigate police and military abuses, and the ability of civil society to hold government actors accountable for corruption and abuse.

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<sup>1</sup> For more information, contact Mary Small, Jesuit Refugee Service/USA, [msmall@jesuits.org](mailto:msmall@jesuits.org) or Shaina Aber, Jesuit Conference, [saber@jesuits.org](mailto:saber@jesuits.org).

- **Ensure that future assistance to the National Institute of Migration (INM) in Mexico prioritizes support for institutional reforms**, including formalization of recruitment standards, thorough training of new recruits, and the development and implementation of a robust mechanism for supervision and internal and external control mechanisms to combat corruption and strengthen accountability within the institution.
- **Provide resources for successful reinsertion and reentry of ex-offenders** allowing children and youth opportunities to successfully leave the influence of organized crime and become productive and working members of their communities.

### Supporting sustainable economic development

- **Expand successful migrant reintegration programs** to help stabilize communities and prevent unnecessary repeat migration.
- **Invest substantially and over a sustained period in job training and job creation programs targeted at urban youth**, particularly from areas of high violence, including access to credit and technical assistance. This can increase employment and income, reduce the pull of violent gangs, and reduce incentives for migration.
- **Invest substantially and over a sustained period in small-scale agriculture**, including marketing and technical assistance, to improve the ability of rural communities to provide livelihoods for their citizens.
- **Evaluate all US-funded development projects for migration impact** to ensure that US programming does not unintentionally undermine social cohesion, family structure or existing livelihoods, thus catalyzing migration.

### Strengthening the regional protection system for children and migrants

- **Support well-trained, well-resourced and accountable child protection systems** in El Salvador, Guatemala, Honduras and Mexico. Several months ago, the Honduran child welfare agency (IHNFA) was dissolved amidst allegations of waste, fraud, and abuse. While new leadership was recently appointed the new agency (DINAF) is not yet operational, and it is still unclear what its authority, mandate or capacity will be. In all four countries, it is critical to have accountable and adequately staffed and resourced child protection systems to protect children at risk of violence and abuse. The Mexican agency responsible for family welfare (DIF by its initials in Spanish) must accept that unaccompanied children from Central America also fall within its mandate, and accept custody of them.
- **Increase financial support for the UN High Commissioner for Refugees (UNHCR) in the region** as it seeks to assess the magnitude of internal displacement and assist countries of origin in the prevention, protection and assistance of internally displaced persons. Resource UNHCR's participation in the Intergovernmental Displacement Commission in Honduras, which has been meeting since late 2013 to study internal displacement in Honduras, and is now working to operationalize a basic action plan. Support the expansion of UNHCR's presence in Mexico.
- **Support UNHCR in establishing refugee resettlement and anti-trafficking processing** in Central American and Mexico for people fleeing persecution in their home countries, including a strong capacity to conduct "best interest determinations" for unaccompanied refugee minors. This, as well as other options detailed in the NGO Ten Point Plan,<sup>2</sup> would facilitate the orderly arrival of people who qualify for refugee status or for protection from human trafficking.
- **Work with other international donors to open an office of the United Nations High Commissioner for Human Rights in Honduras**, as requested by the Honduran government. This will support Honduras in better protecting the rights of people at risk of migrating, decreasing endemic corruption, and addressing widespread impunity.
- **Strengthen the asylum, humanitarian visa and anti-trafficking systems in Mexico.** Within Mexico, this will involve expanding the number of offices and personnel of the Mexican Commission for Aid to Refugees (COMAR) within Mexico's Ministry of the Interior and providing greater clarity about what constitutes a legitimate claim to prevent arbitrary denial of humanitarian visas to migrant crime victims. It will also require additional oversight to ensure that the National Institute of Migration (INM) promptly refers asylum cases to COMAR, that asylum-seekers

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<sup>2</sup> For more information about the NGO Ten Point Plan, contact Lavinia Limon ([llimon@uscriddc.org](mailto:llimon@uscriddc.org)) at the U.S. Committee for Refugees and Immigrants.

are not detained unnecessarily, that screenings take place in appropriate settings, and that INM agents do not dissuade asylum-seekers from pursuing their claims by threatening them with extended detention. **Encourage additional trafficking and asylum screening training** for Federal Police and INM officials in Mexico.

### Responding to a humanitarian situation in the US

- **Develop and enforce humane standards for all short-term CBP holding facilities.** In light of documented cases of migrants, including children, being denied adequate food, water and medical care and experiencing verbal, physical and sexual abuse while in CBP holding facilities, it is clear that enforceable standards are needed, and that external observers must have access to the facilities in order to monitor compliance.
- **Improve oversight of the asylum and trafficking screening processes.** Ensure that all apprehended individuals are asked if they fear return to their country of origin, and are referred for a credible fear interview if they respond in the affirmative.
- **Evaluate and update understandings of “particular social group” and agent of persecution in light of modern day realities** facing targeted individuals fleeing fragile states where organized criminal groups exercise social, political and economic control. **Some of the most effective persecutors in Central America increasingly penetrate the political arena and often wield more power than state entities.** Outmoded legal interpretations requiring a group to be socially visible and excluding as persecutors those with economic motivations fail to account for the reach and power of transnational organized crime as well as the very real international protection needs of those fleeing targeted violence. This risks sending refugees back to certain torture and/or death.
- **Use alternatives to detention for all children and families** when full release is not possible. Do not return to large scale family detention in prison-like facilities as these facilities have been shown to be damaging to child development and the maintenance of family structure.
- **Provide legal representation to all children and in-person Legal Orientation Programs (LOP) to all apprehended migrants.** At a minimum, all children should receive an individual, child-friendly and trauma-informed screening by a qualified legal advocate. Giving people correct information through strong LOP can help prevent the development of any inaccurate rumors about current policy and practice. Ensure interpretation is provided as needed in all court proceedings and LOP.
- **Increase funding for the Executive Office of Immigration Review (EOIR)** to reduce significant backlogs in immigration court. For years, funding for EOIR has failed to keep pace with increases in immigration enforcement, creating a backlog of 366,000 cases and an average wait time of more than 570 days. In the absence of legal representation, many potential asylum-seekers do not understand that a deportation process has been initiated against them. Unless additional resources are made available to address the backlog, many of them will have missed the one year filing deadline to apply for asylum by the time their court date arrives.
- However, in addressing the backlog, **the US must still conduct individualized determinations for those seeking humanitarian relief.** These cases must be adjudicated before an immigration judge and determinations should not be made over phone or via video conference. Furthermore, in light of elevated risks of trafficking, existing protocols—especially those in the Trafficking Victims Protection Reauthorization Act—for children from Honduras, Guatemala and El Salvador should be maintained.
- **Monitor the safety and well-being of the unaccompanied children that have been returned to their home countries.** Thousands of unaccompanied children will be evaluated to determine if they have a legitimate claim to remain in the United States as a form protection from the abuse and violence they confronted in their home countries. Many of these children have fled gang recruitment, human trafficking death threats or, in the case of many girls, demands that they be ‘gang girlfriends’ or other forms of sexual exploitation. The U.S. should provide adequate funding to non-governmental and faith-based organizations that can monitor whether or not our protection evaluations are functioning effectively and ensure unaccompanied children are not assassinated, extra-judicially executed, forcibly recruited into gangs, sexually exploited or subjected to other forms of victimization.