

ASYLUM IN MESOAMERICA

ACCESSING INTERNATIONAL PROTECTION IN MEXICO AND GUATEMALA

Civil wars, climate change, gang violence, and other socio-economic factors render the United States a critical destination for migrants seeking international protection in the Americas. The U.S. government, however, has prioritized policies aimed at preventing migrants from crossing its borders through externalized migration control measures that force migrants to stay and/or seek asylum in transit states. Asylum in Mesoamerica provides a detailed reporting of the asylum systems in Mexico and Guatemala, and in doing so offers a concrete accounting of the consequences of the United States' migration deterrence policies. The project commenced during the Trump Administration, and its relevance and the urgency of protection-seekers having access to international legal protections continues in the current Administration. The Biden Administration's recent announcement reinstating the Migration Protection Protocols, or the "Remain in Mexico" program, is a poignant example of this relevance and urgency.¹ So, too, are the statistics: In 2021, the Mexican government has received a record number of 108,195 asylum applications.² Asylum applications also have increased exponentially in Guatemala during the last two years,³ and the United Nations High Commissioner for Refugees estimates that since the beginning of August 2021, over 20,000 migrants have been expelled to Guatemala.⁴

Asylum in Mesoamerica is a dynamic resource investigating the practical availability of international protections for asylum-seekers in Mexico and Guatemala. Notably, it analyzes the legal and operational frameworks that pose challenges for migrants to seek asylum, including barriers to access and day-to-day experiences of individuals within these systems. The contextual background detailed in this Report demonstrates significant limitations of the asylum adjudication system in Mexico and Guatemala, signaling the extreme vulnerability of protection-seekers in both countries.

The United States' migration deterrence policies have created greater vulnerabilities for asylum-seekers forced to apply for protection in Guatemala and Mexico. The Biden Administration can play an active role in encouraging the Guatemalan and Mexican government to respect the rights of migrants and protection-seekers. To strengthen the asylum systems in Mexico and Guatemala, the governments should:

¹Courtney Subramanian, Biden, Mexico Reach Agreement to Restart Trump-Era 'Remain in Mexico' Program, USA Today (Dec. 2, 2021), <https://www.usatoday.com/story/news/politics/2021/12/02/biden-restart-trump-era-remain-mexico-program/8835940002/>.

²María Julia Castañeda, México alcanza un nuevo máximo histórico de solicitudes de asilo: más de 100.000 hasta octubre, El País, (Nov. 4, 2021), <https://elpais.com/mexico/2021-11-03/mexico-alcanza-un-nuevo-maximo-historico-de-solicitudes-de-asilo-mas-de-100000-hasta-octubre.html>

³La Prensa Gráfica, Se incrementan solicitudes de refugio en Guatemala, https://www.laprensagrafica.com/se_incrementan_solicitudes_de_refugio_de_nicaragueenses_en_guatemala-vf20210630mp4.html (last visited Nov. 23, 2021).

⁴UNHCR, Guatemala: Fact Sheet September 2021, (Nov. 3, 2021), <https://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Guatemala%20Fact%20sheet%20September%202021.pdf>.

- Abolish automatic detention and create alternatives to detention. Any use of detention that persists should be subject to periodic review and appropriate judicial oversight. Alternatives to detention must consider the best interests of children and family units.
- Provide training to immigration authorities about the rights of migrants and protection-seekers. Authorities must cease using detention as a way to discourage protection-seekers from applying for asylum and adhere to the principle of non-refoulement.
- Provide information to all protection-seekers on their right to seek asylum and the asylum procedures to guarantee adequate access to the asylum process and remove barriers to submitting applications, including incredibly short deadlines. In addition, provide financial and technical support to the Mexican Commission for Refugees (COMAR) and Guatemala's National Commission for Refugees (CONARE) to expand its presence and improve its capacity to adequately interview protection-seekers.
- Guarantee access to identity documents to protection-seekers to allow them to work in similar conditions as nationals. Also, create and enable access to housing and food programs for protection-seekers.
- Strengthen the access to justice mechanism for those migrants and protection-seekers who are victims of severe violations of their human rights.