

November 17, 2021

President of the United States Joseph Biden
President of Mexico Andrés Manuel López Obrador
Prime Minister of Canada Justin Trudeau

cc

U.S. Secretary of State Antony Blinken
Mexican Minister of Foreign Affairs Marcelo Ebrard
Canadian Minister of Foreign Affairs Mélanie Joly

Dear President Biden, President López Obrador, and Prime Minister Trudeau:

We, the 71 undersigned organizations committed to the rights of asylum seekers and migrants, are writing ahead of the North American Leaders' Summit (NALS) to urge your administrations to center human rights and humanitarian protection in your discussions regarding a regional vision for migration. The summit provides an opportune forum for the three countries to work together to expand opportunities to access international protection and create alternative pathways to protection in the region without barring or restricting the right to seek asylum at borders and ports of entry. These efforts should complement strategies to address the root causes of regional migration, which should include a focus on advancing human rights and addressing corruption, as well as providing targeted assistance to local civil society organizations focusing on the needs of youth and children, women, LGBTQ+ individuals, Afro-descendent and indigenous populations, and people impacted by climate change.

Our organizations are gravely concerned that, despite the stated commitments of your administrations to safe, humane, and orderly migration management that upholds respect for human rights, the United States and Mexico's recent immigration policies and practices illustrate a cruel, ineffective, and unlawful deterrence-based approach that flouts and subverts international refugee and human rights law. Following in President Trump's footsteps, the Biden administration continues to misuse the public health authority under Title 42 of the U.S. Code to unlawfully block people seeking protection at ports of entry and expel people back to danger in Mexico and their countries of origin, instead of allowing them to access protection in the United States. [Human rights researchers have tracked](#) at least [7,647](#) reports of kidnappings and other brutal attacks against people blocked or expelled under Title 42 since the start of the Biden administration. Over the past few months, the United States has used [several hundred expulsion flights](#) to send tens of thousands of individuals to [southern Mexico](#), Central America, and [Haiti](#) without their having the opportunity to seek protection, in violation of domestic and international law. In some cases, expulsions forcibly [sent](#) men, women, and children to dangerous and unstable situations in countries they are not from or have not been in for years. Some 8,500 people have been expelled to Haiti alone in over 80 flights since late September, the vast majority of them under Title 42. Additionally, recent cases of abuse and misconduct by U.S. Border Patrol agents, as well as by [Mexican migration enforcement](#) and [security officials](#), who have also repeatedly been accused of [complicity](#) and tolerance of [kidnappings and attacks](#)

against migrants, highlight the urgent need to address institutional racism and corruption and to demilitarize migration enforcement tasks in the region.

In short, while the administrations have [expressed recognition](#) of the need to protect migrants' human rights and safety, this legal obligation is not yet being met. With respect to Haitians, a supposedly [human rights oriented approach](#) has failed to incorporate the right to seek asylum or remedies for victims of mistreatment. This short-sighted approach, which conflates foreign policy/humanitarian assistance with refugee protections, is common throughout the region. It is particularly disappointing coming from the United States, given the impact of its decades-old foreign intervention in Haiti that has fostered the [root causes](#) of migration from that country.

[Collaborating](#) to protect migrants would be vastly more effective in addressing migration challenges than misguided deterrence measures that return people to harm. Despite mass expulsions and heightened enforcement, individuals will continue to flee violence, political instability, and natural disasters that have been compounded by the impact of the COVID-19 pandemic. As the International Organization for Migration (IOM) has recognized, for example, Haitians forcibly returned to a country in the midst of a security and humanitarian crisis immediately begin to plan "[where to go next](#)." Increased levels of migrant and refugee populations on the move, including of people from the northern countries of Central America, Haiti, Cuba, and Venezuela, as well as extracontinental migrants, present challenges for governments, civil society, and international organizations, but they can and should be addressed by a comprehensive and collaborative protection framework.

This framework must begin by ensuring access to seek asylum at and within national borders, in accordance with national and international law. To do this, the Biden administration must rescind Title 42 and restore access to asylum at the U.S. southern border, including at ports of entry. The United States and Mexican governments should also take all necessary steps to prevent the reinstatement of the so-called "Migrant Protection Protocols" (MPP), also known as the "Remain in Mexico" policy. There is no way to make MPP safe, humane, or lawful, and as Secretary of Homeland Security Alejandro Mayorkas rightfully acknowledged, "there are inherent problems with the program that no amount of resources can sufficiently fix." In addition, the United States and Mexican governments should focus on strengthening refugee protection and refrain from negotiating a "[safe third country](#)" or similar agreement requiring individuals to first seek refuge in Mexico before applying for protection in the United States. Not only would such a counterproductive agreement [fail](#) to meet applicable legal requirements, but it would be doomed to fail to keep individuals seeking protection safe.

Crucial actions to ensure respect for migrants' rights in Mexico include strengthening the asylum system and fostering alternative pathways. Significant barriers to seeking protection must be addressed and increased resources must be made available for Mexico's refugee agency (COMAR), which has faced understaffing and resourcing for far too long, in the face of unprecedented growth in [asylum applications](#). In Mexico, asylum seekers must currently remain in the state where they request protection for the duration of their asylum process, trapping the vast majority in the southern Mexico border city of Tapachula—without regard to the [inadequacy](#)

of the Mexican asylum process for [some populations](#), [the lack of provision for their basic needs](#) while waiting, or their family ties elsewhere. For the Haitian population in particular, these challenges are further compounded by pervasive [anti-Black racism](#). More attention should be paid to the facilitation of refugee integration, labor, and alternative regularization pathways for migrants and refugees in Mexico. Policies should include increased access to work and humanitarian visas through Mexican consulates in Central America, allowing asylum seekers to wait for their applications in safer parts of Mexico, and expedited temporary humanitarian status that allows them to work and access health services and education during the asylum application process. Furthermore, Mexico and other countries in the region should scale up durable solutions for internally displaced persons (IDPs), provide individualized screenings for all migrants at risk of return as a key protection against *refoulement*, and urgently provide Haitians and other migrants access, without discrimination, to the full complement of systems of protection in line with the 1984 Cartagena Declaration.

Regional protection pathways must also be established in other countries while allowing migrants and refugees to seek protection where they feel secure. More must be done by the United States and Canada to increase the number of refugee admissions from Latin America and the Caribbean region, which has [one of the lowest admission levels](#) of any region in the world. While we applaud the Biden administration's steps to reinstate and expand eligibility for the Central American Minors (CAM) program and the Protection Transfer Arrangement (PTA) for individuals from the northern countries of Central America, there are currently no other mechanisms for people to seek protection in the United States from their home or a transit country in the region. There are no pathways to protection in the United States for Haitians from third countries; it is crucial that pathways from Haiti that exist now only on paper—such as the [Haitian Family Reunification Parole Program](#)—become immediate realities for Haitians to come to the United States. The U.S. and Canadian temporary worker programs for individuals in Mexico, countries in northern Central America, and the [recent inclusion of Haitians in the U.S. guest labor program](#) may also alleviate the economic necessities of some people; in all cases, however, recruitment and labor fraud and exploitation must urgently be addressed. Other complementary pathways, especially to education for young people, should be considered for Central Americans and Haitians.

Finally, a regional vision must also address the increasing challenges of climate displacement, ensuring that individuals are not returned to unsafe conditions. We urge all three governments to act swiftly to use [existing legal mechanisms](#) to offer protection to displaced individuals and create new pathways for those individuals and families forced to flee due to the growing impacts of climate change.

We encourage you to provide true regional leadership by demonstrating that the commitment to uphold human rights applies to states' own conduct at home, as well as their recommendations for other countries.

Our organizations appreciate your consideration and welcome the opportunity to engage with your administrations regarding a comprehensive and collaborative regional vision that respects

the rights of migrants and refugees and that promotes access to protection and alternative pathways to migration.

Sincerely,

Sincerely,

Al Otro Lado

Aldea - The People's Justice Center

American Friends Service Committee

Arizona Justice For Our Neighbors

Asociación Pop No'j

Asylum Access

Asylum Access Mexico

Border Kindness

Border Organizing Project

Bridges Faith Initiative

Casa del Migrante en Tijuana, A.C.

Center for Democracy in the Americas

Center for Gender & Refugee Studies

Church World Service

Columbia Law School Immigrants' Rights Clinic

"Como nacido entre nosotros"

Espacio Migrante

Faith in Action

Florence Immigrant & Refugee Rights Project

Freedom Network USA

Global Justice Clinic, Washington Square Legal Services

Guatemala Human Rights Commission

Haitian Bridge Alliance

Hope Border Institute

Human Rights First

Immigrant Defenders Law Center

International Mayan League

International Refugee Assistance Project (IRAP)

International Tribunal of Conscience of Peoples in Movement, Mexico City

JPIC FAMILIA FRANCISCANA GUATEMALA

Justice Action Center

Kids in Need of Defense (KIND)

Mississippi Center for Justice

National Immigrant Justice Center

National Immigration Law Center

National Lawyers Guild Mesoamerica Subcommittee

National Network for Immigrant and Refugee Rights

NETWORK Lobby for Catholic Social Justice

Peace Brigades International-Canada

Peace Brigades International-USA

Programa de Asuntos Migratorios Universidad Iberoamericana Ciudad de México

Quixote Center

RAICES

Refugee Action Network

Refugees International

SIN FRONTERAS IAP

Tahirih Justice Center

Transgender Law Center

Unitarian Universalist Service Committee

United African Organization

United Stateless

Vicentinos en La Frontera/Diáspora

Witness at the Border

Women's Refugee Commission