



Memo: Impacts of U.S. and Mexican migration enforcement on migrant and refugee rights in Mexico

September 2021

Current U.S. and Mexican migration enforcement policies violate migrant and refugee rights in contravention of commitments both governments have made to protect migrants and refugees and their responsibilities under domestic and international law to respect people’s right to seek protection.

While the Biden Administration’s proposed “Collaborative Migration Management Strategy” (CMMS) aims to promote “safe, orderly and humane migration,” the current violations of migrant and refugee rights in Mexico, supported and fueled by U.S. policies, demonstrate an enforcement-centric approach, not a focus on expanding access to protection in Mexico and the region, one of the priorities in the CMMS. Far from deterring migration, current U.S. and Mexican enforcement policies are exacerbating the situation of people fleeing their home countries by returning them to danger, denying them the right to seek refuge, and fueling a vicious cycle in which they have no choice but to migrate again, often following dangerous, clandestine routes. Recent human rights violations committed by Mexican migration enforcement and security forces also highlight a broader, concerning pattern of impunity and abuse within these institutions.

The following is a summary of migrant and refugee rights violations in Mexico documented by civil society organizations and journalists from August 2021 through the present. Human rights violations include the denial of the right to seek protection by U.S. and Mexican governments from the U.S.-Mexico border through arrival in Guatemala via Title 42 and Mexican government expulsions from within Mexico; violation of non-refoulement; excessive use of force and attacks against human rights defenders and journalists by Mexican migration and law enforcement and security forces; family separation and abuses of migrant children; and the systematic detention, deportation and expulsion of asylum seekers and refugees with documents authorizing their status in Mexico.

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1. U.S. Title 42 expulsion flights to southern Mexico fueling chain refoulement

The Title 42 CDC border order that was implemented by the Trump Administration in March 2020 and most recently renewed by the Biden Administration on August 2nd represents a continuous violation of the right to seek asylum, as it leads to the expulsion of people arriving at the U.S.-Mexico border without access to the U.S. asylum system. **This situation has now been greatly aggravated as the United States began expulsion flights of Hondurans, Guatemalans, Salvadorans, some Nicaraguans, and other nationalities, to southern Mexico on Aug. 5th.** Civil society organizations have documented the arrival of at least 35 flights between Aug. 5th and Aug. 31st to two cities in southern Mexico: Villahermosa, state of Tabasco (19 flights) and Tapachula, state of Chiapas (16 flights) with flights happening virtually every weekday.ⁱⁱ The vast majority of these flights departed from McAllen, Texas.ⁱⁱⁱ

Violation of human rights from arrival to Mexico's southern border to Guatemala

Organizations and journalists have documented how people flown to southern Mexico on these Title 42 flights from the U.S.-Mexico border are taken from the airports to locations along the Mexico-Guatemala border. **At no point throughout this process, from their expulsion at the U.S.-Mexico border to their expulsion into Guatemala, do people have any chance to request asylum with U.S. or Mexican authorities or to have any contact with civil society or international organizations.** There is no formal registration of people expelled upon their arrival to the airports in southern Mexico. They are taken directly off the planes, placed onto National Migration Institute (INM) buses and driven to points along the border with Guatemala while being escorted by the Mexican National Guard. In the case of the flights to Tapachula, the buses make their way to El Carmen, and in the case of the flights to Villahermosa, the buses reach El Ceibo. Both are remote and dangerous areas prone to organized crime and where there are few to no civil society organizations present. It has been difficult for organizations to document the impact of Title 42 expulsions arriving in El Carmen, Guatemala due to the lack of organizations present there. Only a few organizations from Tapachula have been able to make it to El Carmen to document the arrival of INM buses. They noted the presence of organized crime there as an additional challenge in their documentation of this area.^{iv} Organizations with staff in El Ceibo have also reported security incidents and a high presence of organized crime. Organizations have documented the arrival of buses as late as 9pm both to El Ceibo and El Carmen.^v People on these buses have included adults, families, and children, including very young children. Once people are taken off the buses at the Mexican border processing stations or the foot of pedestrian bridges, they are surrounded by INM and National Guard agents and forced to cross into Guatemala. Organizations report that they are actively blocked from approaching migrants on the Mexican side of the Mexico-Guatemala border by INM and National Guard agents.^{vi}

People are left to fend for themselves upon arriving in Guatemalan territory and reported feeling desperate and having to figure out how to travel to their next destination without any means.^{vii} The Guatemalan Migration Institute received over 6,000 people at El Ceibo from January through Sept. 12th, including Guatemalans, Hondurans, Salvadorans, Nicaraguans, as well as migrants from the Dominican Republic, Belize, Venezuela, Colombia, Haiti, Senegal and even one U.S. citizen.^{viii} From Aug. 22nd-Aug. 29th alone, 2,061 people were registered as being expelled to El Ceibo, including 54 children.^{ix} The only migrant shelter in El Ceibo, Guatemala, which has a capacity for 30 people, has been overwhelmed due to these expulsions, receiving as many as 100 people per day.^x In August, the Guatemalan government stated that it had not received notification from the Mexican or U.S. governments regarding individuals being expelled into its territory.^{xi}

Continued expulsions to Guatemala following intergovernmental meetings

On Sept. 2, 2021, after meetings between the Guatemalan, Mexican, and U.S. governments, the Guatemalan Migration Institute announced that the Mexican government would leave Guatemalans in

a different border town, Tecún Umán, and that it would bus Central Americans directly to the borders of each country.^{xiii} They also stated that expulsions to El Ceibo would continue for another thirty days through September. As a part of these talks, the Guatemalan foreign minister stated that Guatemala would receive Guatemalans by air and Hondurans by land, only at the El Ceibo border point.^{xiii} From there, the Guatemalan government would work with the Mexican government to return Hondurans by bus to Corinto, Honduras.^{xiv} The U.S. government announced that it would return Guatemalans by air to the Guatemala City airport.^{xv} According to civil society documentation, there has been one flight each weekday of Title 42 expulsions to Guatemala City from the U.S.-Mexico border since Sept. 2nd.^{xvi}

It remains unclear what practice the U.S. and Mexican governments will follow with Title 42 expulsions in the longer term. Following Sept. 2nd, civil society organizations documented the arrival of INM buses from the Villahermosa airport to the El Ceibo border point with individuals mixed together on the same bus from the U.S.-Mexico border and from the interior of Mexico, including Guatemalans, Hondurans, Nicaraguans and Salvadorans.^{xvii} Many adults and families reported not knowing where they had been taken and one woman even mentioned she had been told she was going to Houston only to find herself in Guatemala.^{xviii} People were forced off the buses to cross by foot into Guatemala and once in Guatemala placed on other INM buses. It was unclear why INM buses were directing operations in Guatemala. The destination of the buses was presumed to be Corinto, Honduras, but it was not confirmed.

Since the Title 42 expulsion flights started, organizations have reported a complete lack of precautions being taken for the pandemic. It is unclear if individuals are tested for COVID-19 prior to boarding expulsion flights at the U.S.-Mexico border or upon their arrival in southern Mexico or Guatemala, raising the possibility that the virus is being spread through these expulsion flights. The few staff of organizations in El Ceibo have reported feeling ill and testing positive for COVID-19. Shelters in southern Mexico are limiting the entry of new migrants or are in the process of closing due to the pandemic, which will place migrants in an even more precarious situation.^{xix}

The UN Refugee Agency and three other UN agencies expressed concern with this practice of expulsions to southern Mexico under Title 42 as they increase the risk of chain refoulement, through pushbacks by successive countries, of vulnerable people in danger.^{xx} The clearest example is the case of any Central Americans with asylum claims who are returned directly to their country of feared persecution through this chain of expulsion, or refoulement. Other people seeking protection are physically prevented from making asylum claims and exposed to further danger either in Guatemala or on whatever routes they must take from the areas in which they are abandoned. **The lack of transparency by the U.S. and Mexican governments around the Title 42 expulsion flights is fueling not only cases of chain refoulement but also resulting in uncertainty as to where the U.S. and Mexican government are sending people with protection needs.**

2. Mexican government violation of migrant and refugee rights

Expulsions from Mexico's interior

Mexican organizations have also identified flights arriving in southern Mexico from Mexico's interior. These flights carry people who have been expelled from the United States to northern Mexico as well as people detained within Mexico. For example, Mexican organizations documented one of these flight routes as beginning with individuals expelled from the United States being detained by the INM in Nogales, Sonora, Mexico.^{xxi} From there, land transfers were made to Hermosillo, Sonora, and then people were transported by air to Tapachula, Chiapas.^{xxii} Other routes are unclear.

Detention and deportation of asylum seekers and refugees

There are also deportation flights operated by Mexico from Mexico to Honduras, Guatemala and El Salvador. From May 1st until Aug. 31st, there were 64 likely deportations by plane from Mexico, primarily from Reynosa and Monterrey to Honduras (40), Guatemala (21), and El Salvador (3).^{xxiii}

Recent attempts by migrants in Chiapas to relocate further north^{xxiv} follow days of migrants protesting excessive delays in the processing of asylum requests with Mexico’s refugee agency (COMAR) in Tapachula, and the increasing detention and expulsion of individuals with authorization to remain in Mexico, such as asylum seekers and refugees.^{xxv} Asylum seekers from Haiti, Central America, Venezuela and other countries reported waiting anywhere from three months to two years for responses to their asylum applications, though COMAR is supposed to issue a response within 45 business days. Conditions in Tapachula are inhumane: asylum seekers lack access to shelter, food, and employment. Currently, individuals are receiving appointments with COMAR for asylum claims as late as January and February 2022.^{xxvi} This situation is reflective of Mexico’s overburdened asylum system which through August 2021 has received over 77,000 asylum applications, already surpassing its record total from 2019.^{xxvii} 55,000 of those applications were received in COMAR’s Tapachula office. Approximately 19,000 of these were from Haitians.^{xxviii}

Organizations have documented INM agents denying people’s request to seek asylum at locations within Mexico’s interior, along the Mexico-Guatemala border, and within cities like Tapachula and Villahermosa.^{xxix} While the denial of the right to seek asylum by INM agents is not a new practice, it is particularly concerning now given the uptick in the Mexican government’s expulsions and deportations of migrants from the interior and the border. Organizations received testimonies from individuals who had been denied the right to seek asylum within Mexico’s detention centers including being laughed at, prohibited phone calls, and told it is no longer possible to request asylum in Mexico.^{xxx} Many were then later expelled to Guatemala. Other migrants reported having documents authorizing their asylum process or refugee status confiscated and destroyed by INM agents before being expelled into Guatemala.^{xxxi} Organizations documented the illegal detention and deportation of individuals with documentation authorizing their stay in Mexico, confirming refugee status, or visas and paperwork from the COMAR indicating the start of their asylum process.^{xxxii}

Excessive use of force and other human rights violations committed against large groups of migrants by Mexican migration enforcement and security forces

Starting on August 28, 2021, at least 5 large groups of hundreds of migrants – mainly Haitians, as well as Central Americans, Cubans, and Venezuelans – departed Tapachula, Chiapas, seeking to arrive at places outside of the state of Chiapas where they could find employment opportunities and resources to live a dignified life.

Migrants traveling in these groups have systematically been met with violence and excessive use of force. The INM, National Guard, and Mexican army are using anti-riot gear and vehicles to intercept these migrant groups, disperse them, and detain their members, which include families, young children, pregnant women, as well as many individuals – such as refugees – who, according to the law, are allowed to leave the state of Chiapas.^{xxxiii} Civil society organizations have documented inhumane enforcement operations where migrants are insulted,^{xxxiv} dragged,^{xxxv} beaten^{xxxvi} – including with anti-riot shields and canes – and chased^{xxxvii} for hours.

Civil society organizations have also received testimonies from individuals in the large mobilizations stating that they had been expelled following detention in Mexico, some even with documents authorizing their status in Mexico. Some had crossed back into Tapachula and after finding a difficult situation there, joined the mobilizations. Haitian migrants in the mobilizations were among the migrants who had been expelled from Mexico’s interior into Guatemala or who had been

protesting conditions in Tapachula.^{xxxviii} Following the latest operation on Sunday, Sept. 5th, many individuals detained in the mobilizations were expelled via different points along the Mexico-Guatemala border.^{xxxix} Raids and operations by INM and National Guard agents within Tapachula and along the highways from Tapachula have continued in the days following the mobilizations, and agents continue to stop migrants even with documents authorizing their status in Mexico. Under Mexican law, asylum seekers must remain in the Mexican state where they sought asylum until their claim is resolved, and yet despite asylum seekers remaining in the Mexican state of Chiapas where they began their asylum claim, they were still detained by INM and the National Guard.^{xi}

Family separation and abuses against migrant children

These operations have resulted in injuries, trauma, and arbitrary detentions of children.^{xli} UNICEF has expressed concern about the situation of children and youth traveling in southern Mexico, reporting situations of family separation, dehydration, and lack of services available for them.^{xlii} **The INM is reportedly detaining children and teenagers and separating families as a coercion strategy and has expelled migrants detained during these enforcement operations to Guatemala without following any legal procedures.**^{xliii}

Intimidation of human rights defenders and journalists

Mexican authorities have also harassed and intimidated journalists^{xliv} and human rights defenders documenting these abuses and providing humanitarian assistance to migrants.^{xlv}

Three United Nations agencies manifested their concern over the excessive force used against migrants and reports of intimidation of human rights defenders and reminded the Mexican government to respect the human rights of migrants and asylum seekers.^{xlvi} Although two INM agents were fired for their actions towards migrants during these mobilizations,^{xlvii} authorities have not announced investigations into other allegations of abuse. Civil society organizations have long noted how the INM operates without transparency or accountability and have expressed similar concerns about the National Guard which was established in 2019.^{xlviii} On September 7th, President Lopez Obrador backed Mexico's migration enforcement agencies during his morning press conference^{xlix} a clear indication that Mexico will continue to disregard the right to seek asylum and focus on "stopping all migration" – a stated goal of the army at Mexico's southern border¹ despite this not falling under its mandate and despite the systematic violation of human rights.

3. Impacts of rights violations on migration patterns to the United States

The cumulative result of the practices mentioned above is that U.S. and Mexican authorities are seeking not only to expel and block migration to the United States but are essentially externalizing the U.S. border to southern Mexico and seeking to obstruct movement within Mexican territory, even of people with valid migration documents in Mexico.

These policies will not have a positive or sustainable impact on migration management in the region, including on arrivals to the U.S.-Mexico border. Past cycles of crackdowns and border externalization dating from at least 2014 show that, despite cyclical dips in the number of migrant arrivals, people fleeing their countries will not be convinced to turn back and stay at home by such policies. Forcibly displaced migrants will largely be forced to seek alternative routes to their destinations, disproportionately making use of clandestine routes and/or turning to smugglers, which also leaves them exposed to violent criminals who prey on them.^{li} These policies will send a clear message to migrants and asylum seekers that Mexico is an unwelcoming country whose authorities must be avoided at all costs, obstructing Mexico's potential to play an active role in regional protection and migration management.

It is unrealistic to think that people desperately seeking to escape or to save their children's lives from contexts of persecution, corruption, climate change, or extreme poverty can be physically beaten back and trapped in a small area of Mexico's southern border indefinitely.

Even without analyzing the human rights impacts of this approach, it does not offer solutions to the immediate needs of this population, ranging from physical protection to access to work. Testimonies collected by civil society organizations have demonstrated that individuals expelled in remote areas will cross borders again and attempt to seek safety and a dignified life wherever possible.

Adequately addressing these migration patterns requires recognizing the right to seek asylum, so that asylum seekers can present themselves to authorities and receive a decision the first time they request protection, rather than having to make multiple trips and crossing attempts.

Second, many people who may not fall within the traditional definition of an asylee (persecution based on a set number of grounds) nonetheless find themselves forced to migrate in practice. In the face of this reality, offering the asylum system in Mexico as the only path to a regular migration status is inefficient as a matter of asylum policy and insufficient as an integral migration management strategy. As civil society organizations have advocated in Mexico, other paths to a status that allows migrants to work are needed, as well as permission for migrants to relocate away from Mexico's southern border.^{lii} Failing to recognize and address these immediate needs, regardless of positive actions to address the longer-term root causes of migration, will fail to stem a growing humanitarian crisis in southern Mexico and the rest of the region.

4. Recommendations to the U.S. Government

- Comply with the federal court's preliminary injunction halting the implementation of Title 42 for families in *Huisha-Huisha v. Mayorkas* and rescind the CDC Title 42 order entirely, immediately halting unlawful expulsions at the border, lateral expulsion flights, and expulsion flights to southern Mexico, Guatemala, Haiti, or any other country.
- Avoid any reinstatement of the Remain in Mexico (MPP) policy and instead issue a new termination memo and continue processing individuals previously subjected to MPP into the United States.
- Restore access to asylum and orderly and humane processing of people at ports of entry, avoiding metering or other forms of "queue management."
- Halt the recently reimplemented expedited removal process at the border and subsequent removal flights of families. Expedited removal at the border lacks transparency, access to legal orientations and appropriate interpretation services, due process, judicial review, and relies on often poorly performed fear assessment by individual CBP Officers.
- Refrain from pressuring the governments of Mexico and other countries in the region to deter migration and entering into agreements with them to deny people the right to seek asylum, including via expulsions to southern Mexico or their home country, and instead work with those governments to implement humanitarian processing of refugees, including from their home countries via the Central America Minors (CAM) program and Protection Transfer Agreement (PTA), and uphold the right of individuals to seek protection under international law where they feel safe.
- Encourage Mexican authorities to dialogue with international and civil society organizations to find humanitarian solutions and protection mechanisms for the processing of asylum seekers and migrants entering Mexico that do not violate Mexican asylum and migration law, and that include alternatives to detention, regularization mechanisms, and facilitating asylum seekers' relocation to other states within Mexico while their cases are being processed.

- Support international bodies and civil society organizations in their work to increase access to asylum in Mexico (including by building the capacity of migrant shelters, expanding access to legal assistance for asylum claims, and providing asylum seekers with temporary cash assistance during the processing of their claims). Priority areas of cooperation, directly or through international bodies, should include: expanding COMAR staff capacity to reduce the current backlog and expedite processing times; ensuring COMAR presence at border points of entry and airports; training COMAR asylum officers in best practices for interviewing applicants - including children, women, families, and LGBTQI+ populations - and processing applications; fostering language access initiatives for non-Spanish-speaking applicants, including for Haitians and Indigenous applicants; providing anti-Blackness bias and discrimination training to COMAR and INM officials; training INM officials on effective screening for protection concerns for the migrants it detains; facilitating alternatives to detention; and expanding relocation and integration initiatives that bring asylum seekers from Mexico's southern border to safer cities that offer better employment options.
- Support Mexico's child protection entities such as the National System on Child Protection (SIPINNA), the National Child Welfare Agency (SNDIF), and federal and local child protection offices (*procuradurías de protección*) to ensure that the rights of migrant children are protected and best interest determinations are carried out so as to guarantee meaningful protection.
- Encourage Mexican authorities to make meaningful enforcement reforms, remove barriers to asylum access, and allocate sufficient funding for its asylum system. U.S. support should move towards increasing accountability and curtailing corruption within Mexico's National Migration Institute as well as withdrawing the participation of the National Guard in immigration enforcement within Mexico. As long as the National Guard is primarily military in nature, there should be no U.S. support for the force in the form of funding, training or equipment.
- Encourage Mexican authorities to investigate and prosecute human rights violations committed by security forces, law enforcement, and INM agents against migrants, human rights defenders, and journalists, including during the mobilizations in August 2021. Refrain from providing U.S. support in the form of training, funding, or equipment to rights-violating entities.

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