

## **Civil Society Organizations Denounce DHS Border Externalization in Guatemala, Call for Immediate Investigation**

**October 22, 2020.-** The undersigned civil society organizations denounce the Department of Homeland Security's (DHS) border externalization operations in Guatemala as documented by a new Senate Foreign Relations Committee (SFRC) Democratic Staff report, [\*DHS Run Amok? A Reckless Overseas Operation, Violations and Lies\*](#). We call for an immediate, comprehensive investigation into this operation by the State Department and DHS inspectors general.

The Senate report, commissioned by SFRC Ranking Member Robert Menendez (D-NJ), documents how DHS violated an interagency agreement with the State Department and misused State Department funding to serve as an un-deputized migration enforcement police in Guatemala. In January 2020, as a migrant caravan had crossed into Guatemala from Honduras, DHS rented unmarked passenger vans in Guatemala to return Honduran migrants, including women and children, back to the border with Honduras. The report states that DHS personnel, including Customs and Border Protection (CBP) agents, operated recklessly, without safety and human rights safeguards for the migrants, and failed to provide them with any information on the process or their right to seek international protection. Disturbingly, DHS was unable to confirm the numbers of migrants transported, whether any children were unaccompanied, or whether families were separated in the process. In responding to subsequent SFRC oversight questions, DHS initially provided false information to the State Department denying the operation and misuse of funds, causing the State Department inadvertently to pass along false information to Congress.

As civil society organizations that defend the rights of migrants, refugees, and asylum seekers in the United States, and throughout Mexico and the northern countries of Central America (Guatemala, Honduras, and El Salvador), we condemn this latest incident as one more example of how DHS has overstepped its mandate in Central America, and acted with complete disregard for U.S. and international law. DHS' actions place the lives of women, men, and children in danger, not only in the United States but in the region. This operation is also one more example of DHS overreach into foreign policy and usurpation of the State Department's foreign policy mandate, in which DHS promotes migration deterrence as its sole policy towards the region.

We have long raised concern with the presence of DHS personnel, including Immigration and Customs Enforcement (ICE) and CBP agents, in training, advising, and mentoring law and migration enforcement authorities in Mexico and Central America under State Department International Narcotics and Law Enforcement (INL) programming. Our concern stems from these agencies' record of violating the rights of asylum seekers and migrants, and the lack of transparency with which they carry out their operations.<sup>1</sup> This incident demonstrates the extent to which DHS operations in foreign countries can run afoul when DHS is empowered and left unchecked as it has been under the Trump Administration—violating the U.S. government's own interagency oversight and funding guidelines. Indeed, the Trump Administration has expanded the number of border security agreements with the governments of Guatemala, Honduras, and El Salvador on information-sharing of biometric data and the deployment of ICE

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<sup>1</sup> See for example June 2019 NGO Statement: <https://www.lawg.org/wp-content/uploads/Civil-Society-Organizations-Express-Deep-Concern-to-U.S.-Efforts-to-Externalize-Border-Enforcement-to-Guatemala-6.13.19-updated.pdf> and WOLA Analysis, June 2019, <https://www.wola.org/analysis/80-homeland-security-agents-to-guatemala-weve-seen-this-before-it-doesnt-work/>

and CBP agents to the region.<sup>2</sup> This incident makes clear that DHS interprets these agreements and their presence in the region as moving the U.S. border further south and as permission to conduct border policing on foreign soil.

The Senate report's account of DHS forcibly returning potential asylum seekers and refugees to Honduras is also one more example of the policies that the department has undertaken to deny asylum seekers their right to seek international protection and to separate families. In the last year, DHS has expanded anti-asylum measures, such as the so-called Migrant Protection Protocols (MPP) or Remain in Mexico policy, and negotiated Asylum Cooperative Agreements (ACAs) with the governments of Guatemala, Honduras, and El Salvador. These agreements have denied access to asylum in the United States to thousands and have already, or aim to, return individuals and families to countries they are not even from, and to countries where they face significant institutional challenges to find safety and full asylum proceedings.

The inability of DHS to confirm whether families were separated in the process of placing women, children, and men in separate vans, whether any children were unaccompanied, or whether there was any effort to reunify families possibly separated during this operation in Guatemala echoes the Trump Administration's authorization and implementation of a family separation policy, conducted with a complete lack of tracking, or documentation to screen, identify or in any way account for the safety of children. It also reflects the current implementation of the Title 42 CDC order at the U.S. border that has fueled the expulsions of thousands of unaccompanied children and separated families in violation of the Trafficking Victims Protection Reauthorization Act (TVPRA) and with complete disregard for legal obligations, documentation, or children's safety.

The failure to provide migrants with access to protection screening during this operation places the U.S. government at risk of violating the principle of non-refoulement, an essential protection under international refugee law enshrined in the 1951 Refugee Convention that prohibits countries from returning someone to danger. It also places the U.S. government at risk of violating the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). It is shocking to consider that hundreds of potential asylum seekers from Honduras, including women and children, may have been returned to the persecution from which they fled without ever having been screened for protection. These asylum seekers join the thousands of others that the U.S. government has systematically denied access to protection to and forcibly returned to Mexico or to their home countries, in many cases without any trace or official paperwork.

The report's findings further raise the question of whether other operations of this nature may have been carried out by DHS in the region. Such operations not only endanger human lives but violate the sovereignty of these countries, harming the United States' relationship with them. DHS must be held accountable. We urge an immediate investigation into this operation and immediate attention to the following recommendations for the U.S. Congress, State Department, and Department of Homeland Security. This shameful episode underscores the need, as mentioned in the SFRC report, for the State Department to "reclaim its leadership for U.S. foreign policy." In the longer term, we urge a dramatic transformation to U.S. immigration and foreign policy towards the region that rescinds anti-asylum policies and restores access to

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<sup>2</sup> Factsheet: DHS Agreements with Guatemala, Honduras and El Salvador, Nov. 2019  
<https://www.dhs.gov/publication/fact-sheet-dhs-agreements-guatemala-honduras-and-el-salvador>

protection, and adopts a new vision towards Mexico and the northern countries of Central America.

## **Recommendations**

### **Members of Congress:**

- Call for an immediate investigation into this operation by the DHS and State Department inspectors general.
- Request information from DHS and the State Department on the mandate and scope of current and past DHS presence and operations in Mexico and Central America.
- Reform the Foreign Assistance Act to prevent the State Department's INCLE funding from being used for anti-immigration operations overseas.
- Prohibit future State Department support for the deployment of DHS agents to Mexico and Central America in State and Foreign Operations (SFOPs) INCLE appropriations. If it proves too late in the appropriations process to restrict FY21 funding, then ensure that the 2021 SFOPs appropriation includes strong reporting and oversight language covering INCLE funding of DHS agents' activities in Mexico and Central America.

### **State Department:**

- Issue a statement by the Secretary of State acknowledging the report and the need for further investigation.
- Ensure the OIG carries out an independent and exhaustive investigation.
- Reform interagency agreements with DHS to prevent future instances.

### **Department of Homeland Security:**

- Ensure the OIG carries out an independent and exhaustive investigation.
- Provide full transparency about the nature of past and current operations and on the presence of agents in Mexico and Central America.

## **Signatories**

### **United States**

Al Otro Lado

Alianza de Organizaciones Guatemaltecas Houston

American Friends Service Committee (AFSC)

Amnesty International

ARISE

Asylum Defense Project

Center for Gender & Refugee Studies

Center for Human Rights & International Justice, Boston College

Center for Justice and International Law (CEJIL)

Center for Victims of Torture

Committee in Solidarity with the People of El Salvador (CISPES)

Evangelical Lutheran Church in America

FIRN Inc

First Focus on Children  
Florence Immigrant & Refugee Rights Project  
Fordham Law School Feerick Center for Justice  
Freedom Network USA  
Friends Committee on National Legislation (FCNL)  
Global Health Partners  
Guatemala Partnership, Congregational Church of Needham  
Human Rights First  
Immigration Equality  
International Refugee Assistance Project  
International Rescue Committee  
International Tribunal of Conscience of Peoples in Movement  
John Elledge & Assoc PC  
Just Neighbors  
Kids in Need of Defense  
Kino Border Initiative  
Latin America Working Group  
La Unión del Pueblo Entero (LUPE)  
Legal Aid Justice Center  
Maryknoll Office for Global Concerns  
Mennonite Central Committee U.S. Washington Office  
Missionary Oblates  
National Justice for Our Neighbors  
National Network for Immigrant & Refugee Rights  
Network in Solidarity with The People of Guatemala  
Oxfam America  
Proyecto Azteca  
Refugees International  
RGV Equal Voice Network  
Save the Children Action Network  
SHARE Foundation  
Sister Parish  
Sisters of Mercy of the Americas Justice Team  
Southern Border Communities Coalition  
Southern Poverty Law Center  
Southwest Asylum & Migration Institute  
Unitarian Universalist Service Committee, UUSC  
Washington Office on Latin America (WOLA)  
Win Without War  
Witness at the Border  
Women's Refugee Commission, WRC  
Young Center for Immigrant Children's Rights

## **Guatemala**

ACCSS

Asamblea Contra la Corrupción y la Impunidad -ACCI-

Asociación COINCIDIR

Asociación La Alianza

Asociación Pop No'j

Centinelas por la dignificación del Estado

Fundación Guillermo Toriello

Otra guatemala Ya

Mesa Nacional para las Migraciones en Guatemala (MENAMIG)

Pastoral de Movilidad Humana

Plan Nacional de Contingencia contra la Pandemia y el Hambre

Red por la Paz y el Desarrollo de Guatemala -RPDG-

Unidad de Protección a Defensoras y Defensores de Derechos Humanos de Guatemala (UDEFEQUA)

## **Regional**

Red Jesuita con Migrantes LAC

## **Chile**

Clínica Jurídica de Migrantes y Refugiados de la Universidad Diego Portales

## **El Salvador**

Grupo de Monitoreo Independiente de El Salvador, GMIES

## **Honduras**

Comisión de Acción Social Menonita

Coordinadora de Instituciones Privadas Pro las niñas, niños, adolescentes, jóvenes y sus derechos COIPRODEN

Equipo de Reflexión, Investigación y Comunicación, ERIC

Foro Nacional para las Migraciones en Honduras

Organismo Cristiano de Desarrollo Integral de Honduras "OCDIH"

Oxfam in Honduras

## **Mexico**

Asylum Access Mexico (AAMX)

Centro de los Derechos Humanos Fray Matías de Córdova

Instituto para las Mujeres en Migración (IMUMI)

Servicio Jesuita a Refugiados JRS

Sin Fronteras IAP