

Improving Protections for Migrant Children in Mexico: Recommendations to the Mexican and U.S. governments

As one of the leading organizations advocating for the rights of unaccompanied migrant and refugee children in North America, KIND has a unique insight into the needs of migrant children in their home countries, in transit, and at their destination. In 2020, KIND expanded into Mexico and began work on protecting the rights of migrant children on both sides of the U.S.-Mexico border. Informed by our on-the-ground experience, domestically and abroad, KIND proposes the following policy recommendations to ensure migrant children are protected at every stage of their journey.

KIND Recommendations for U.S. and Mexican government collaboration

Stronger action is needed by the Mexican and U.S. governments to ensure comprehensive and effective protections for migrant children. Collaboration and commitment from these two governments is key to achieving durable solutions in the best interests of migrant children.

We call on the U.S. and Mexican governments to recognize each other as partners who must work together to increase regional protections for migrants, including unaccompanied children. Collaboration should prioritize the following areas:

- Shift immigration strategy from an enforcement and deterrence approach to one that prioritizes the protection of children's rights and best interests throughout their journey, their stay in Mexico, or their arrival to the U.S.
- Pursue binational solutions that ensure the safety and wellbeing of migrant children on both sides of the border. Create systems to allow for an open exchange of information on migrant children's needs, including quarterly meetings between U.S. and Mexican government agencies along the border to share information and best practices.
- Put in place permanent and effective spaces of dialogue involving both government and civil society actors to discuss binational mechanisms, actions, and policies to strengthen and effectively respond to children's best interests as a primary consideration and to address security risks, smuggling, human trafficking, and family separation.
- Develop and implement mechanisms for resettlement to the United States of children recognized as refugees by Mexico to reunify with family, as well as broader family reunification pathways in the U.S. and Mexico to guarantee the best interests of migrant children.
- Develop and expand bilateral coordination between Mexican and U.S. officials to ensure safe transfer to the United States of unaccompanied children following a best interests determination finding that seeking protection in the United States is in their best interests.
- Build permanent connections between U.S. and Mexican child protection institutions, increasing their communication and technical assistance exchange.
- Align repatriation policies and procedures with the best interests of the child, ensuring that returns only happen after a best interest determination and will not result in re foulment or violation of a child's rights.
- Guarantee all migrant children access to ports of entry and border crossings where they can seek protection.

KIND Recommendations for Mexican Government

Social and political actors have advanced efforts to promote the rights and wellbeing of migrant children in Mexico, including the right to asylum, appropriate shelter, and best interest determinations, through advocacy, legal reform, litigation and other measures. Despite this important progress, much work remains to guarantee the rights and safety of migrant children as they travel through, or seek permanency in, Mexico.

The Mexican government faces an important challenge: fully implementing Mexico's robust legislation to guarantee the rights and effective protection of migrant children, and to promote their best interests over any other consideration. Achieving this historical goal will require:

- Increase the budget of the child protection systems (*SIPINNA*), child welfare agencies (*DIF*) and child protection offices (*procuradurías de protección*) at the federal, local and municipal levels to allow them to effectively fulfill their mandate to ensure the protection and wellbeing of migrant children.
- Create and put in place the national database required by the Children's Law in Mexico (*Ley General de Derechos de Niñas, Niños y Adolescentes*) to gather information on unaccompanied children and improve the transparency of public information.
- Revise or modify existing migration protocols and processes to ensure that they are consistent with the prohibition of the detention of children based on migration status, that appropriate alternative care models are put in place, and that children's rights in the community—such as the right to education and health care—are guaranteed.
- Create mechanisms and of collaboration with civil society and governmental actors at national and local levels to design and implement alternative care models and increase the capacity of existing care options for migrant children.
- Implement the *Ruta de Protección Integral de Derechos de Niñas, Niños y Adolescentes Migrantes* approved by the National System on Child Protection (*SINAPINNA*) at the federal and local level to consistently protect children's rights and their best interest as a primary consideration throughout all of Mexican territory.
- Implement measures to guarantee that migrant children are properly informed of their rights and have the opportunity to participate and be heard in decision processes. Ensure that best interest assessments and determinations consider access to protection, including all forms of asylum and family protection, in Mexico, the United States or another third country.
- Build the necessary coordination mechanisms for implementing decisions regarding family reunification and/or protection in a third country, including the United States.
- Strengthen and increase the capacity of Mexico's child protection offices (*procuradurías de protección*) to provide high quality legal representation to unaccompanied children in their administrative and judicial immigration and asylum procedures.
- Collaborate with other government, civil society, and private sector actors to guarantee unaccompanied children's right to free legal counsel, assistance and representation of their choice, in accordance with their age and maturity level and participation rights.
- Create and implement mechanisms for the supervision, transparency and monitoring of legal services (public and private) to ensure their quality and efficiency.
- Monitor compliance by immigration officials with children's rights and provide a remedy for practices by immigration officials that violate the rights of the children, such as

blocking migrant children’s access to Mexican or U.S. territory—including blocking access to ports of entry—and accepting children unlawfully expelled from the United States.

KIND Recommendations for the U.S. Government

While Mexico should be seen as a valuable partner to the U.S. government, Mexico is also in need of assistance to enhance its ability to protect children and other migrants in transit, and strengthen its capacity to receive asylum seekers. The U.S. should support the Mexican government in these efforts through the following measures:

- U.S. diplomacy and foreign assistance should prioritize strengthening Mexico’s capacity to protect migrants and receive asylum seekers, with a particular focus on ensuring access to asylum for unaccompanied children and other vulnerable groups.
- End U.S. foreign assistance that supports immigration enforcement. U.S. assistance should not be used to deter or interdict asylum seekers, nor to prevent children from accessing the U.S.-Mexico border to ask for asylum, or otherwise deter migrants from seeking protection in Mexico or the United States.
- U.S. adjudicators deciding children’s claims for asylum or other immigration relief should take into consideration, determinations by Mexican child protection officials that seeking U.S. protection is in the best interests of a child.
- Increase funding to improve the long-term capacity of Mexico’s asylum agency (*COMAR*) by, for example, strengthening and expanding their capacity to conduct timely and child-friendly adjudications of asylum claims.
- Increase technical and financial assistance to Mexico’s child protection entities such as the National System on Child Protection (*SINAPINNA*), 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 interests determinations are carried out resulting in meaningful protection.
- Increase funding to help Mexico prevent and respond to gender-based violence, especially as it impacts the migrant community and unaccompanied children. Assistance should be targeted to migrant communities and provided to ensure access to justice, protection, and specialized support services for survivors, including shelter, medical, and mental health services for migrants who are victims of violence in Mexico.

For more detailed policy recommendations for the U.S. government, see KIND’s comprehensive administrative blueprint, [Concrete Steps to Protect Unaccompanied Children on the Move](#).