

July 9, 2021

The Honorable Alejandro N. Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Avenue, NW
Washington, DC 20528

The Honorable Antony J. Blinken
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Re: Immediate Procedural Steps for Fair Treatment of Asylum Seekers Wrongfully Deported to Danger in Guatemala Under the “Asylum Cooperative Agreement” Program

Dear Secretary Mayorkas, Secretary Blinken, and Attorney General Garland:

The undersigned organizations urge this administration to take prompt and concrete action to address the harm caused by the previous administration’s “Asylum Cooperative Agreement” (ACA) program.¹

Under that program, between November 2019 and March 2020, approximately [945 Honduran and Salvadoran asylum seekers](#) were unlawfully deprived of their right to seek protection in the United States and instead summarily deported to Guatemala on the pretense that it is a “safe third country” where they could secure protection. In reality, [Guatemala is in no way safe for asylum seekers](#). The country generates thousands of refugees every year and continues to suffer high levels of gang violence, as well as widespread gender-based and anti-LGBTQ violence. Migrants are especially vulnerable to these dangers, and many face persecution by gangs active across Northern Central America. Moreover, Guatemala’s nascent and structurally

¹ This letter addresses the steps necessary to, at minimum, return asylum seekers wrongfully removed to Guatemala to the status quo before their removal under the ACA policies. By focusing on these immediate procedural steps that the administration can and must take to provide these individuals with an opportunity to seek asylum, the undersigned organizations do not signal that such changes are sufficient to fully remedy the harm to individuals. The administration should also provide lasting redress to this population of asylum seekers who were deported illegally to a dangerous situation without access to protection. The undersigned organizations have learned that a letter from impacted asylum seekers is forthcoming. We will provide a copy of that letter and contact information for the leaders of that effort when it is available.

flawed asylum system is wholly unable to provide protection to these refugees. Indeed, [not a single one of the 945 asylum seekers](#) the United States removed to Guatemala under the ACA program has actually received asylum there. In short, as Secretary Mayorkas has rightly acknowledged, “[there was nothing safe about](#)” this purported “safe third country” deportation program. We therefore applaud this administration’s prompt notice of termination of the ACAs with Guatemala, Honduras, and El Salvador.

Our organizations have also welcomed this administration’s initial efforts to undo other cruel and abusive Trump administration policies that have been challenged as illegal, such as the [Remain in Mexico or “Migration Protection Protocols” \(MPP\) program](#), which stranded thousands of asylum seekers in dangerous circumstances. The Department of Homeland Security’s (DHS) earlier pause and recent rescission of MPP have been important steps toward closing this shameful chapter in our nation’s treatment of refugees. As this administration has recognized with MPP, ending harmful policies cannot address the harm they have already inflicted. For that reason, DHS has permitted more than 11,000 asylum seekers forcibly returned to Mexico under MPP [to enter the United States to pursue claims for protection](#), and has now moved to expand that process. DHS has also announced “a process for accepting parole requests” from people subjected to the Trump administration’s devastating family separation policy and reportedly “[stands ready to process and receive \[those\] families as they request to enter the U.S.](#)”

As this administration moves ahead to address the plight of asylum seekers harmed by Trump-era policies, **we urge the administration to commit to initial procedural measures to allow the small number of families and individuals deported to danger in Guatemala under the ACA program to seek protection in the United States.** The stories of a few of those subjected to the ACA policy illustrate just a small measure of the suffering it inflicted:

- **Josué²** is a gay man who fled Honduras in 2019 because of homophobic persecution by police and others. Josué sought asylum at the U.S. border, but was removed to Guatemala even after he described to DHS officers the dangers he would face as a gay man. **Days after his removal to Guatemala, Josué narrowly escaped a homophobic attack. He had to flee to Mexico, where he was persecuted by Mexican law enforcement.** After that, he felt he had no choice but to enter the United States without inspection.
- **Isai**, also a gay man, fled El Salvador after being persecuted because of his sexuality. When he passed through Guatemala, people yelled homophobic slurs at him. He sought asylum at the U.S. border and told DHS officers that he would not be safe in Guatemala, but was still removed there. **Once in Guatemala, Isai tried applying for asylum but local officials told him the country is not safe for gay people. He was then escorted to the Guatemala-Mexico border and advised to live in Mexico. In Mexico, Isai suffered further abuse because of his sexuality.**

² These three individuals are identified by pseudonyms to protect their safety and privacy. Each of them is a client of at least one undersigned organization, and further information about them is available upon request.

- **Elena** and her young daughter (who is now just nine years old) fled Honduras to escape the gang who murdered her partner. Even though Elena told DHS officials that they would still be in danger if sent to Guatemala, they were removed under the ACA. **After her and her daughter’s deportation to Guatemala, Elena felt unsafe and, with no support network, they had no choice but to accept transportation back to Honduras, where they lived in hiding from her partner’s killers.**

The administration has thus far facilitated the return of just a few of the 945 people deported under the ACA program. It must now ensure that mechanisms are in place to permit the rest of this small number of wrongfully-deported asylum seekers to return to the United States and pursue their claims for asylum here.

We urge the administration to publicly announce and implement these concrete measures to avoid inflicting further harm on asylum seekers deported under the ACA program:

1. The administration should **allow affected asylum seekers to voluntarily register to request to return to the United States (if needed) and seek protection**, such as via the CONECTA registration portal or other existing channels.
2. The administration should **not reinstate ACA expedited removal orders**, and should instead **rescind all ACA removal orders**.
3. The administration should **not subject these individuals to expedited removal** upon their return and should permit them to access affirmative asylum procedures.
4. The administration should **not detain individuals previously subjected to ACA removal**, either upon their re-entry to the United States or subsequent to re-entry (whether or not they entered at a designated port of entry).
5. **Families should be allowed to enter together and be processed together.**

Further, to permit meaningful access to asylum in the United States for all people subjected to ACA removal—wherever they are now located—the administration should also announce and implement the following measures:

6. For people who have already re-entered the U.S. (whether or not at a port of entry):
 - Permit them to apply for parole-in-place along with expedited employment authorization processing;³
 - *For those not in removal proceedings*, allow them to apply affirmatively for asylum, rather than initiating removal proceedings;

³ See, e.g., Memorandum from Jeh C. Johnson, Sec’y of Homeland Sec., *Families of U.S. Armed Forces Members and Enlistees* (Nov. 20, 2014) (explaining that “the [parole] authority has long been interpreted to allow for designation of specific classes of [noncitizens] for whom parole should be favorably considered”; and that “parole authority can lawfully be extended to persons outside the United States as well as persons inside the United States who have not been lawfully admitted”).

- *For those already in removal proceedings*, subject to the individuals’ approval, move to dismiss those proceedings without prejudice to allow them to first apply for asylum affirmatively.
7. For people in Mexico seeking to re-enter the United States at land ports of entry:
- *While the (also harmful and illegal) Title 42 order remains in place*, parole these individuals into the United States via the existing Title 42 exemption processes and allow them to apply affirmatively for asylum;
 - *After termination of the Title 42 order*, allow these individuals access to port-of-entry processing without lengthy “metering” or other delays to entry, parole them into the United States, and allow them to apply affirmatively for asylum.
8. For others abroad who wish to return to the U.S. to seek protection:
- Conduct outreach in Northern Central America and Mexico, including through partnering with non-governmental and community-based organizations, to identify people removed to Guatemala under the ACA; advise those people of the below opportunities to return to the United States; and permit them to register via the CONECTA portal or a similar system in order to request to return;
 - *For individuals who apply for advance parole*, grant advance parole on an expedited basis; facilitate their return by air by coordinating with airlines to ensure that they are able to board commercial flights, as well as by arranging air travel for those unable to afford it; and permit them to apply affirmatively for asylum following their arrival;
 - *For all others*, provide access to interview procedures for the U.S. refugee admissions program and expedited resettlement in the United States for those who qualify as refugees, including through resettlement referrals by UNHC and through a potential Priority-2 designation of individuals removed to Guatemala under the ACA as a group of special concern.

We would welcome the opportunity to engage with the administration on these recommendations and the steps it can take to ensure the safety of asylum seekers removed to Guatemala under the ACA. We also urge the administration to address the demands for additional redress made by individuals who were illegally removed to Guatemala under the ACA and who suffered additional harm abroad because of their wrongful deportation.

Respectfully,

Adelante Pro Bono Project
 African Communities Together
 Alianza Americas
 American Civil Liberties Union Immigrants’ Rights Project
 American Gateways
 American Immigration Lawyers Association

America's Voice
Asylum Seeker Advocacy Project
AsylumWorks
Ayuda
Bellevue Program for Survivors of Torture
Catholic Charities of Southern New Mexico
Catholic Legal Immigration Network, Inc.
Center for Gender and Refugee Studies
Center for Victims of Torture
Church World Service
Coalition for Humane Immigrant Rights
Coalition on Human Needs
Community Asylum Seekers Project
Community EsTr(El/La)
Comunidad Maya Pixan Ixim
Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
Denver Justice and Peace Committee
Disciples Refugee & Immigration Ministries
Doctors for Camp Closure
The Episcopal Church
Faith in Public Life
Familia: Trans Queer Liberation Movement
Fellowship of Reconciliation
First Friends of New Jersey and New York
Florence Immigrant & Refugee Rights Project
Florida International Solidarity Collective
Guatemala Partnership Committee, Congregational Church of Needham, Massachusetts
Haitian Bridge Alliance
HIAS
Hispanic Federation
Human Rights First
Human Rights Watch
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Law Center of Minnesota
Immigrant Defenders Law Center
Immigrant Legal Advocacy Project
Immigrant Legal Defense
Immigration Equality
Interfaith Community for Detained Immigrants
InterReligious Task Force on Central America and Colombia
Jewish Activists for Immigration Justice of Western Massachusetts
Jobs with Justice National
Kickapoo - Guatemala Accompaniment Project
Kids in Need of Defense
Las Americas Immigrant Advocacy Center
Latin America Working Group

Legal Aid Justice Center
Louisiana Advocates for Immigrants in Detention
Maryland Against ICE Detention
Maryland Legislative Coalition
Mennonite Central Committee U.S.
Mississippi Center for Justice
National Advocacy Center of the Sisters of the Good Shepherd
National Immigrant Justice Center
National Immigration Law Center
National Immigration Litigation Alliance
Network in Solidarity with the People of Guatemala
NorCal Resist
Occupation Free DC
Oxfam America
PG Change Makers
Public Counsel
Quixote Center
The Refugee and Immigrant Center for Education and Legal Services
Refugees International
Rocky Mountain Immigrant Advocacy Network
Southern Poverty Law Center
Still Waters Anti-Trafficking Program
Tahirih Justice Center
Transformations CDC
Unitarian Universalist Service Committee
Unitarian Universalists for Social Justice
UNITED SIKHS
U.S. Committee for Refugees and Immigrants
U.S.-El Salvador Sister Cities
Washington Office on Latin America
Wind of the Spirit Immigrant Resource Center
Witness at the Border
Women's Refugee Commission