

## New US-Mexico migration agreement violates the right to asylum

- Central American families expelled from US to Mexico-Guatemala border
- The governments of the region must clarify terms of agreement

August 11, 2021  
Tapachula, Chiapas, México

On August 9th and 10th, the Human Rights Observation and Monitoring Collective of the Mexican Southeast documented the arrival in Tapachula, Chiapas of one flight per day from McAllen, Texas, United States, transporting Guatemalan, Honduran and Salvadoran people expelled under Title 42.

On both days, the people—mainly women and families with children—were transported from Tapachula to Talismán, on the border with Guatemala, in National Migration Institute (INM) buses (four on the first day and eight on the second) escorted by a motorcade of National Guard vehicles. In Talismán they were abandoned on the border with Guatemala, as previously occurred under the Migrants Protection Protocols policy. Up to now there has been no clarity regarding what administrative processes were followed in Mexico.

These were the first flights to arrive in Tapachula after the announcement by the Biden administration that they would accelerate expulsions under Title 42, a measure established by the Trump administration that allows the immediate expulsion of people under the pretext of the COVID-19 public health emergency, despite the complete lack of scientific evidence showing this measure to be effective. Last week, news outlets such as Reuters<sup>1</sup> reported the initiation of these flights as part of a strategy to deter border crossings and avoid the accumulation of people at the northern border of Mexico and in US detention centers.

August 10th, in addition to the flight from McAllen, Texas, we documented the arrival of do-

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<sup>1</sup> "EXCLUSIVE U.S. starts flying migrant families into Mexico far from border - source", publicado el 5 de agosto de 2021, disponible en : <https://www.reuters.com/world/us/exclusive-us-starts-flying-migrant-families-into-mexico-far-border-source-2021-08-06/>

mestic flight transporting people who had been deprived of their liberty in immigration detention centers in central and northern Mexico. According to the testimonies we collected, these people who were detained in the country were explicitly denied the possibility of requesting asylum in Mexico—and even insulted—by the INM.

Additionally, reports were received of two flights originating in Brownsville, Texas, that arrived at the airport in Villahermosa, Tabasco, Mexico. From this point, the Central American people on the flight were transported via bus by INM to El Ceibo at the border with Guatemala, following the same modus operandi as in Tapachula.

These expulsions from the United States and deportation transports from other Mexican states to the southern border of Mexico, coordinated by both governments, are linked to the situation unfolding on the US-Mexico border where for 17 months the border has been closed to crossings considered non-essential, among which are included people seeking asylum in the neighboring country. Expulsions of this nature put the lives of people in need of international protection at severe risk and represent mass violations of the right to request asylum.

On August 3, the Huisha Title 42 exception process ended and since then no more cases have been accepted under this process at US-Mexico border. This has created a widespread climate of fear and uncertainty among migrants due to a lack of clarity around administrative processes and abrupt changes in procedures. As a result, the only form of entry to the place where people consider their lives to be safe is by irregular means, exposing people to expulsions or deportations all the way to the Mexico-Guatemala border.

Expelling Central Americans in search of international protection and transporting them from the United States to the southern border of Mexico is a serious violation of the right to request asylum or to receive another type of international protection. It also exposes individuals to even more vulnerable situations. When faced with the impossibility of staying safely in their countries of origin, they are forced to again make a journey that exposes them and threatens their lives, dignity and physical integrity.

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<sup>2</sup> “Hundreds of migrants expelled from U.S. to Mexico have been pushed to a remote village in Guatemala” publicado el 10 de agosto de 2021, disponible en: <https://www.washingtonpost.com/world/2021/08/10/mexico-deport-guatemala/>

<sup>3</sup> El proceso Huisha surge a partir del caso *Huisha-Huisha v. Mayorkas* para restablecer derechos negados a partir de la ejecución del título 42. Más información en: <https://www.aclu.org/legal-document/huisha-huisha-v-mayorkas>. IMMIGRANTS’ RIGHTS ADVOCATES HEAD BACK TO COURT OVER TITLE 42 EXPULSIONS. Más información en: <https://www.aclu.org/press-releases/immigrants-rights-advocates-head-back-court-over-title-42-expulsions-0>

In this sense, the United Nations Human Rights Committee has indicated in its General Comment 36 the following:

*“30. The duty to respect and ensure the right to life requires States parties to refrain from deporting, extraditing or otherwise transferring individuals to countries in which there are substantial grounds for believing that a real risk exists that their right to life under Article 6 of the Covenant would be violated. Such a risk must be personal in nature and cannot derive merely from the general conditions in the receiving State.*

*31. The obligation not to extradite, deport or otherwise transfer pursuant to article 6 of the Covenant may be broader than the scope of the principle of non-refoulement under international refugee law, since it may also require the protection of aliens not entitled to refugee status. States parties must, however, allow all asylum seekers claiming a real risk of a violation of their right to life in the State of origin access to refugee or other individualized or group status determination procedures that could offer them protection against refoulement.”*

Likewise, in its General Observation #2 on the rights of irregular migrant workers and their families, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families has indicated the following:

*“50. The principle of non-refoulement, as contained in international and regional human rights and refugee law, is the prohibition on forcibly removing anyone, in any manner whatsoever, to a country or territory where they would be at real risk of persecution or serious human rights violations or abuses. [...] The Committee is of the view that migrants and members of their families should be protected in cases where expulsions would constitute arbitrary interference with the right to family and private life. Migrants and members of their families in an irregular situation with international protection needs should also be protected against expulsion.*

All this is being done in the context of US-Mexico government negotiations in which, once again, the Mexican government is carrying out US policies that violate human rights in order to depressurize the northern border, with no legal basis and an absolute lack of transparency and accountability. All of this, despite what Mexican government says, evades the State’s responsibility to provide protection, and places the entire burden of humanitarian aid and protection on the people of civil society.

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6 Comité de Derechos Humanos. Observación general núm. 36 sobre el artículo 6 del Pacto Internacional de Derechos Civiles y Políticos, relativo al derecho a la vida. [https://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6\\_SP.pdf](https://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_SP.pdf)

5 Observaciones generales aprobadas por el Comité de Protección de los Derechos de Todos los Trabajadores Migratorios y de sus Familiares. [https://conf-dts1.unog.ch/1%20SPA/Tradutek/Derechos\\_hum\\_Base/CMW/00\\_7\\_obs\\_grales\\_CMW.html](https://conf-dts1.unog.ch/1%20SPA/Tradutek/Derechos_hum_Base/CMW/00_7_obs_grales_CMW.html)

## **In light of all this, we demand the Mexican government:**

- 1. Publicly explain the operative nature of these actions** and the agreements under which it was determined they would be carried out.
- 2. Guarantee access for individuals, families, children and adolescents to clear and necessary information about their rights**, especially when dealing with families, individuals in need of international protection, and unaccompanied children and adolescents. In all cases, the greatest protection of minors must be sought, based on the principle of the best interests of the child.
- 3. Guarantee access to the asylum process to all who seek it, in the country they determine they are safe.** This includes access to information in the languages spoken by those in need of international protection.
- 4. Not limit relief or regularization in Mexico exclusively** to the category of asylum in cases where an individual has expressed intent to seek asylum in another country.
- 5. Guarantee the basic conditions necessary for civil society organizations** to carry out their work of human rights defense and observation without being harassed or criminalized.
- 6. Guarantee conditions of dignified treatment and respect for the human rights** of people in human mobility.

### **Colectivo de Observación y Monitoreo de Derechos Humanos en el Sureste Mexicano**

American Friends Service Committee (AFSC) - Oficina para América Latina y el Caribe, Apostólicas del Corazón de Jesús, Programa de Asuntos Migratorios - UIA, Centro de Derechos Humanos Digna Ochoa, Centro de Derechos Humanos Fray Matías de Córdova A. C., Centro de Derechos Humanos Tepeyac, Centro de Derechos de las Víctimas de la Violencia Minerva Bello, The Coalition for Humane Immigrant Rights (CHIRLA), Formación y Capacitación (FOCA), Iniciativas para el Desarrollo Humano A. C. (IDEHU), Kaltsilaltik, La 72 Hogar Refugio para Personas Migrantes, Médicos del Mundo – Francia (MdM), Misioneras Combonianas, Red Jesuita con Migrantes – Centroamérica y Norteamérica, Servicio Jesuita a Migrantes (SJM) – Comalapa, Servicio Jesuita a Refugiados - México (JRS), Tzome Ixuk, Mujeres Organizadas, Una Mano Amiga en la Lucha contra el SIDA, Voces Mesoamericanas Acción con Pueblos Migrantes.

### **Alianza Humanitaria Chaparral**

American Friends Service Committee (AFSC) - Oficina para América Latina y el Caribe, Border Angels, Border Line Crisis Center, Unified United States Deported Veterans, APALA-San Diego y Psicólogos Sin Fronteras.

### **Colectivo 1597 Tj**

Alma Migrante A.C., Casa de Oración del Migrante A.C., International Activist Youth, American Friends Service Committee (AFSC) - Oficina para América Latina y el Caribe y Pueblo Sin Fronteras.