

July 25, 2019

Jimmy Morales  
Constitutional President  
Republic of Guatemala

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President of the Constitutional Court  
Republic of Guatemala

Álvaro Enrique Arzú Escobar  
President of Congress  
Republic of Guatemala

The signatory organizations and legal experts urge the Republic of Guatemala to reject a safe third country agreement or to participate in any strategy that could hinder or limit the right to seek protection in the United States of America.

These types of agreements violate the rights of refugees and both nations' legal frameworks. Moreover, they would undermine efforts to promote regional responsibility-sharing mechanisms in which all countries assume their duties towards refugees; to strengthen asylum systems throughout the region; and, most of all, to uphold the rights and dignity of people on the move. Consequently, we recognize the July 14 ruling of the Constitutional Court. This decision portrays the Court's commitment to the rule of law and human rights, as well as to checks and balances between the three branches of government.

As the Constitutional Court correctly assessed, Guatemala has made a great effort to build its asylum system. However, it still involves considerable limitations. Therefore, it has no ability to guarantee full and fair procedures for asylum seekers returned from the United States. Additionally, as noted by the Inter-American Commission on Human Rights, at the moment, security challenges force thousands of Guatemalans to flee their own country. This situation suggests that Guatemala cannot guarantee effective protection to people who face persecution. Thus, restricting the right to seek asylum in the US would increase the vulnerability of a considerable number of migrants.

Another red flag of the alleged safe third country agreement between Guatemala and the United States is that the Congress of Guatemala, specialized international organizations, and civil society were excluded from the discussions. These actors would have monitored its legality and advocated in favour of refugees' rights and wellbeing. Taking into account the disclosed details of the possible agreement and President Morales' statement on July 23<sup>rd</sup> about his negotiation with the United States upon a joint plan to promptly address irregular migration, we call on the Government of Guatemala to disclose the content of those conversations.

Although international law promotes that countries cooperate on issues related to asylum and refuge, this collaboration should be premised on solidarity towards refugees, the will of offering a humanitarian response to a transnational phenomenon, and the commitment to strengthen and multiply host communities; not in satisfying the desires of certain governments to elude their obligations. This is clearly the motivation

of President Trump, who on July 15<sup>th</sup> announced new regulations that limit access to asylum in his country. The Office of the United Nations High Commissioner for Refugees condemned this measure because it dramatically limits the basic rights and liberties of asylum seekers and undermines collective and coherent regional responses.

In addition, President Donald Trump has harmed efforts to address the root causes of migration by cutting foreign assistance programs for your country, El Salvador, and Honduras; and has turned cooperation into a political weapon. The most recent example of this strategy of intimidation was his threat to impose tariffs and remittances fees as a retaliation to Guatemala's decision not to sign a safe third country agreement. We are concerned that, as a response to this threat, several actors have tried to decry the Constitutional Court's ruling. We urge the Executive and Legislative branches to abide by the Court's decisions, as required by law.

We call on the Executive, Legislative, and Judicial powers in Guatemala to stand up to the pressure from the United States Government and to stand up to their commitment to human rights and the noblest goals of international cooperation. Guatemala must not help the US in overlooking its obligations towards refugees and in addressing regional challenges. Otherwise, it would be complicit with the Trump administration's xenophobic and anti-immigrant policies that have deeply hurt Guatemalan communities.

The complexities of the migration phenomenon require that all countries in the region cooperate following a comprehensive shared responsibility approach that addresses the root causes of migration; respects the international refugee regime; acknowledges the lack of regular and safe ways to seek asylum; and designs efficient reception and integration policies that respect due process. The signatory organizations and legal experts are willing to work with Guatemala to achieve this goal.

Sincerely,

Al Otro Lado

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