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Tom Lantos Human Rights Commission

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HUMAN RIGHTS, CORRUPTION AND ACCOUNTABILITY IN EL SALVADOR

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Recommendations for U.S. Engagement in the Northern Triangle of Central America - 2019

U.S. policies to address the root causes of displacement and forced migration from the Northern Triangle countries of Central America must be consistent with international human rights norms. U.S. policies and assistance should be focused on reducing poverty and violence and combating corruption and strengthening human rights and the rule of law in the region. Assistance must not go towards supporting human rights violators, increasing militarization, or exacerbating the existing push factors. The United States should help not only by providing well-targeted assistance programs, but also by using principled diplomacy and enforcing conditions on aid to spur improvements in protecting human rights and addressing corruption.

U.S. engagement should be guided by an understanding of the different conditions in each of the three countries. It should promote and model transparency and accountability, and actively involve and consult with a diverse group of civil society actors in the design and implementation of aid initiatives. The U.S. State Department, U.S. Agency for International Development, and the Inter-American Foundation are currently providing some positive assistance programs for sustainable rural development, violence prevention, institution-building, and strengthening justice systems in the region. However, these challenges require longer-term and sustainable approaches. Donor strategies in the region should build upon evidence-based models and bring

the most effective programming to scale. Decision-makers should avoid top-down and infrastructure-heavy approaches supported in the past, and all assistance should include clear metrics and specific indicators that can be used to evaluate whether progress is being made on rights-based citizen security, social inclusion, decent work, women and youth employment, poverty reduction, strengthening human rights protections, and combating corruption. In addition, aid strategies must be accompanied by consistent, principled diplomacy to protect human rights and combat corruption.

The following are civil society recommendations touching on core aspects of U.S. assistance, policy, and diplomacy to address Northern Triangle displacement and migration in the region. The recommendations were also reviewed by representatives of civil society organizations, practitioners, and academia from Mexico and Central America.¹

Address Factors that Compel Forced Migration from the Northern Triangle of Central America

Endemic violence compounded by a lack of opportunities and institutions too weak and corrupt to guarantee the fundamental rights of the citizenry are among the main factors driving Central Americans to leave their homes and communities. Until Central American governments, with the engagement of civil society organizations on the ground and support from international donors, address the needs of citizens to live in safe and sustainable communities, tackle corruption, and invest in strengthening public institutions, children and families will continue to flee their communities. International donors can help not only by providing well-targeted, long-term assistance programs, but also by encouraging governments to increase transparency and accountability over budgets and programs. Perhaps most importantly, donors should use strong diplomacy and enforce conditions on aid to spur improvements by Central American governments in protecting human rights and addressing corruption.

Support Effective Violence Reduction Strategies

Support community-based violence prevention strategies

- **Expand community-based programs to reduce youth crime and violence.**
Substantially increase support for evidenced-based, community-level violence prevention programs, particularly for efforts that build local, multi-stakeholder community councils; for training and support for civil society organizations involved in community-based

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prevention programs with at-risk and gang-involved youth; and to develop training programs, education projects and/or exchanges to improve expertise on violence prevention at the governmental and nongovernmental levels. Mechanisms should be put in place to ensure that U.S. assistance is coordinated with other donors to prevent duplication and maximize impact at the local, state and national levels.

- **Focus resources and technical assistance on the successful reinsertion of youth and children seeking to leave gangs allowing them** to successfully leave the influence of gangs and criminal groups, reconcile with their communities and families, confront the trauma they endured, and become productive and working members of society. Job and vocational training should be linked to economic sectors and activities with decent and sustainable employment opportunities. Establish and expand private sector reinsertion programs and tertiary prevention programs that prepare inmates for release and support newly released inmates to obtain employment and reintegrate into a productive life. Programs should recognize that “reinsertion” must overcome multiple problems faced by youth who have never been fully embraced and “inserted” in society in the first place. Reinsertion should occur within a community and familiar context for the individual, including with programs integrated into their neighborhoods. Ensure that U.S.-funded humanitarian agencies can implement programs to rehabilitate former gang members without running afoul of restrictions on contact with gangs placed on the terrorist list.
- **Encourage investments in comprehensive early childhood development** which has shown to yield significant benefits in the long-term for both healthy development and violence prevention. Family support programs in early childhood should help ensure that children grow up in violence-free homes and with proper care (health, education, psychosocial, etc.). Non-violence should be taught from the outset, and this requires support to parenting programs and family support through a functioning child protection system. Implement public education to de-normalize violence against women and girls and LGBTI persons, including as part of curriculum in primary and secondary schools, and through public and community-based campaigns.
- **Support well-trained, well-resourced, and accountable child protection systems.** Existing systems in all three countries to prevent and protect children against violence, abuse, exploitation, and neglect are inadequate and require greater funding and adequately trained staff. They must also be decentralized in order to have national reach and operational capacity. Resources should be dedicated to increasing the use of home-based placements such as family or foster care, rather than institutionalization, and ensuring that all shelters for children, whether government or privately run, meet safety and child welfare standards.
- **Support safe shelter for victims of internal displacement and ensure their rights to education, basic services, property, and livelihoods,** including specific resources and assistance for shelters for girls and women and LGBTI victims of violence and to access assets left behind. Legislative frameworks should exist to provide Internally displaced

persons (IDPs) with durable solutions including implementing integral, well-funded national systems that track and address the needs of those displaced and provide them with shelter. Governments should work with international organizations to reform existing policies, programs, and build the capacities of authorities to ensure efficient responses to IDPs as an important subgroup of victims of violence.

- **Encourage programs and criminal justice reforms that permit alternatives to prison for young offenders where possible.** The large-scale jailing for gang-related offenses that has taken place in El Salvador and Honduras, for example, has overcrowded prisons and tended to consolidate gang behaviors and structures rather than allow offenders to find a path to a more constructive life.
- **Do not oppose unconditionally and a priori any efforts of national or local governments to dialogue with gangs,** as these efforts may be necessary and when carried out with transparency and with input from victims of gang violence can have a role in reducing violence.

Address sexual and gender-based violence

- **Expand states' and localities' capacity to respond to violence against women and girls and impunity for sexual and gender-based violence.** Interfamilial violence and impunity for these crimes is a serious problem in the region. These high rates of impunity are the result of gender biases and discrimination within the justice system, combined with a lack of resources and training necessary to effectively investigate and prosecute cases. Violence prevention efforts must confront the widespread normalization and acceptance of violence against women and girls and LGBTI persons in the home, street, school, and workplace.
 - Expand public education and awareness-raising campaigns to de-normalize sexual and gender-based violence in primary and secondary schools and communities.
 - Dedicate additional resources to improve states' and localities' capacity to investigate and prosecute cases of intra-familial violence, sexual violence, and femicide, including the improvement of crime scene investigation and the development of forensic evidence capabilities. Resources must also be dedicated to the development of appropriate health and psychosocial assistance to survivors with a differentiated approach for lesbians and trans-women.
 - Improve official record keeping by governments to provide accurate statistics on the levels of sexual and gender-based crime, including crimes against LGBTI persons, and the resolution of cases.
 - Address the involvement and complicity of authorities, including police and military, in sexual and gender-based violence, including crimes against LGBTI persons, through violence prevention efforts, and the investigation and prosecution of those responsible.

- Train individuals within law enforcement, hospitals, and courts in non-discrimination practices and in appropriate procedures for handling sexual and gender-based violence cases, with a differentiated approach for lesbians and trans-women.
- **Increase resources and technical assistance for shelters for girls and women victims of gang violence.** Programming should focus on preventing sexual and gender-based violence by gangs. A lack of emergency shelters leaves women and girls fleeing sexual and gender-based violence with few options for seeking safety within their countries. The few shelters that do exist have limited capacity and lack the ability to offer protection to women and girls fleeing forced sexual encounters with gang members or sexual servitude to gangs, a swiftly expanding phenomenon. A network of shelters with both staff and facilities equipped to handle acute security needs of women and girls fleeing violence should be developed in partnership with civil society and international organizations in all three countries.
- **Address violence against LGBTI people.** LGBTI people face high rates of discrimination and violence in Guatemala, El Salvador, and Honduras, and thousands have left their countries fleeing persecution based on gender identity and/or sexual orientation. The United States should encourage efforts by the governments of the region to develop functional legal protections for LGBTI individuals and invest in prevention, investigation, and prosecution of crimes against LGBTI people. Governments should also address bias and discrimination against LGBTI individuals within the police, legal systems, and state institutions and undertake proactive efforts toward increasing awareness of and respect for the rights of LGBTI individuals through public education. The U.S. government should urge investigation and prosecution of violence and abuse of LGBTI individuals by police forces, a serious and widespread problem. USAID should continue to support LGBTI organizations defending their rights. Assistance should also be made available to LGBTI individuals fleeing violence related to gender identity and sexual orientation, including safe and appropriate shelter options.

Encourage an end to militarized public security & address abuses committed by security forces

Without significant reform of the police and public security forces in the region, U.S. support will not be effective in addressing and indeed can intensify the serious crises in citizen security. Therefore, the United States should:

- **Provide police reform training and assistance only where evidence shows governments are fully committed to implement a strategic plan to professionalize the police, raise human rights standards, and rapidly phase out any militarized policing.** Authorities must demonstrate that they are taking significant steps to investigate police corruption and remove and prosecute high-level officials implicated in gross human rights violations and/or criminal activities. In many cases a systematic purge of

personnel will be necessary. Where there is political will, support institutional reforms to improve civilian police capacity and capabilities to prevent violence and investigate crimes while enhancing community relations. Among the reforms would be setting appropriate standards for recruits and promotions. The United States should support efforts to bolster internal and external control mechanisms (internal affairs units, inspector generals, etc.) and effective vetting processes; support creation or expansion of systems to receive and process complaints against police officers; and support the strengthening of police investigation techniques while enhancing recruitment and training. Clear and appropriate indicators should be put in place to measure progress in enhancing police capacity and capabilities. Efforts should be oriented toward strengthening the civilian policing capacity overall and improving community relations, rather than targeting resources to specialized vetted units and other programs that have little impact on improving broader law enforcement institutions.

- **Provide no assistance for a military role in policing.** The three governments have invested in continuing or expanding the participation of the military in policing functions, which has led to human rights abuses and has diverted efforts from enhancing police capacity to investigate crimes and protect communities. The U.S. government should not fund military forces involved in policing or joint military-police law enforcement activities and should instead actively encourage the three governments to withdraw the military from policing. An important step to this end would be the naming of civilians to high-level positions leading government agencies on security such as ministries of defense, security and the national police.
- **Specifically address torture and extrajudicial executions allegedly committed by police, military, former security force officials and/or other actors** against suspected gang members or youth in gang-controlled areas. This includes not only urging investigations and prosecutions of suspected perpetrators but also discouraging the development of “green lights” for security forces to commit abuses, whether by statements by high-level public officials, incentives and promotions for abusive officers, or police directives or penal code provisions that shield officials from investigation.
- **Urge governments to end impunity for security force abuses against human rights defenders, journalists, trade unionists, and environmental activists, indigenous and Afro-descendant local leaders.** Such abuses are a particularly serious issue in Honduras, where security forces have used excessive and even lethal force against peaceful protesters with no accountability to date for those responsible, and in Guatemala, where communities resisting the imposition of large-scale development projects are subject to increasing militarization. Security forces and ex-security forces are playing a role as security for companies carrying out controversial mining, palm, dam and other projects in Central America and abuses against activists protecting their communities and the environment are growing.

- **Include and enforce conditions on investigating and prosecuting members of security forces**, protecting human rights defenders and on withdrawing the military from policing. Conditions such as the FY18 State, Foreign Operations appropriations law conditions on aid to the central governments of Honduras, Guatemala, and El Salvador are indeed helpful, but they must be more rigorously enforced. Fully enforce the Leahy Law regarding vetting of recipients of any U.S. security force training.
- **Encourage governments to pursue balanced citizen security strategies** that focus on violence prevention and strengthening the rule of law, rather than “mano dura” strategies.

Reframe Development and Poverty Reduction Strategies

The convergence of crises in the Northern Triangle show that a substantial re-think is essential to adjust past development approaches. In addition, continual monitoring and evaluation on the effectiveness of programming can help inform future investments. U.S. trade and investment policies should be reviewed to ensure that they do not undermine country initiatives intended to strengthen domestic markets, improve food security, and generate employment. The rights of communities in determining development plans must be a central pillar of assistance programs.

- **Support the expansion of small-scale farming and small and medium scale farmers’ access to markets.** Poverty is heavily concentrated in rural areas in the Northern Triangle, particularly among indigenous populations. Small-scale family farming is central to rural livelihoods and investing in sustainable agriculture is critical to reduce poverty and increase resilience to extreme climate events. It has also been shown to help reduce high levels of hunger and malnutrition, factors that also influence out-migration. Strengthening small- and medium-scale farmers’ as well as cooperatives’ access to markets, technologies and participation in value chains, and expansion of rural extension services, have also demonstrated impact for rural poverty reduction. Resilient rural communities, with strong domestic markets, are the basis for job growth and effective local institutions.
- **Support labor rights enforcement and freedom of association for agro-industrial workers.** Export-oriented agriculture continues as a mainstay economic generator. Where active, agricultural worker unions ensure compliance not only with basic labor rights, but with contractual benefits that allow workers to define what decent work looks like for themselves, and enforce it through bi and tripartite engagement with employers and governments. Yet due to their very successes, agricultural unions are among the most targeted for repression, harassment, refusals by employers or labor ministries to recognize their legal status, and violence. Global brands and the local employers who produce for them are not disappearing – but work on industrial plantations need not equal exploitation. Strong support from the U.S. for freedom of association and an insistence that counterpart governments enforce their own labor laws is critical to allowing

agricultural worker rights activists the space to improve their own working conditions, livelihoods, and communities.

- **Strengthen development strategies that address the specific needs of women and girls.** Poverty disproportionately impacts women, who often face discrimination and limited access to land or education and employment opportunities. In many cases, women's economic dependence limits their ability to leave situations of domestic violence or to protect their children from abuse within the home. Further, the employment opportunities most frequently open to women, including domestic work, factory work, and work within the informal sector, are low-paying, insecure, and leave them vulnerable to workplace abuses. In light of these specific vulnerabilities, there is a need for development strategies that prioritize women's economic independence and increase access to education, skills training programs, scholarships, access to credit, and well-paid and stable employment.
- **Improve access to health services and potable water for poor and isolated populations.** Health interventions at the household and community levels are crucial for increasing life expectancies and decreasing malnutrition. Particular emphasis should be paid on child and maternal health. Health facilities should be decentralized and accessible to all.
- **Prioritize employment and educational opportunities, particularly for youth.** Youth with few viable opportunities to study or work are particularly at-risk of gang recruitment and irregular migration. Greater, targeted resources are necessary to improve educational systems, improve the quality of government workforce development institutions, including their technologies, expand effective job training and employment opportunities programs for youth, and support development of small businesses, which are important for employment generation. In tandem with these programs, funding must be invested in providing youth and communities that have suffered high indices of violence with trauma-informed care and resources.
- **Respect and protect the right of indigenous communities to free, prior and informed consent, regular consultations, guarantee the mitigation of environmental impacts, and protect labor rights protection in implementation of projects.** These provisions should be embedded in direct project financing. The projects should include a dialogue with communities on local development models and priorities. The United States should guarantee policy coherence across all trade and investment policies with Central America to ensure strong labor protection provisions; mechanisms to verify compliance with international and national labor laws and standards; and swift and effective mechanisms to present and resolve grievances. Existing CAFTA and NAFTA complaints could, in the future, guide necessary reforms. The U.S. should maximize its leverage as a trade partner to insist in substantive, not merely cosmetic compliance with remediation roadmaps under these trade complaints. U.S. corporations benefiting from trade and investment policies should be required to comply with international and national labor rights laws

and standards, pay living wages to workers, and demonstrate responsible purchasing practices, including clear, sustainable contracts with local suppliers; fair, negotiated prices; and responsible retrenchment programs.

- **USAID should establish a regular process of consultation with Central American civil society organizations** to elicit recommendations and provide updates regarding its strategies and programming regarding rural development, violence prevention, and other issues, based on previous consultations. These consultations should not be limited to USAID grantees and should include a full range of civil society groups including human rights, indigenous, Afro-descendant, environmental, humanitarian, faith, women's, LGBTI rights organizations, and trade unions. USAID has taken some steps to increase transparency but should continue to make its Central America programming more transparent.

Address systematic impunity, corruption & weak institutions

- **Continue to provide financial and political support to international and national efforts to combat corruption and impunity in the region.** Curbing impunity and corruption is key to increasing economic growth and reducing poverty. **The International Commission against Impunity in Guatemala (CICIG)**, has been instrumental in the fight against corruption and organized crime in Guatemala—strengthening the investigative and prosecutorial capacity of the Public Prosecutor's Office, providing support for much-needed reforms, and equipping the country with modern crime-fighting techniques. The commission has helped launch numerous high-profile cases, prosecuting powerful criminal networks deeply embedded in the state. The Guatemalan President's decision to terminate its mandate is a blow to anti-corruption efforts in Guatemala and must be met with a strong response from the international community. **The Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH)**, though differently structured and with a distinct role than the CICIG, is also beginning to have some success in revealing widespread webs of corruption through breakthrough investigations alongside the Public Prosecutor's Office. Both the MACCIH and CICIG, as well as any potential future initiatives in El Salvador require ongoing U.S. and international financial aid and unwavering diplomatic support in order to withstand government attempts to obstruct and weaken their work and their mandate.
- **Promote fiscal policy and taxation reform to strengthen governments' financial solvency to address social needs and promote economic development.** The United States should encourage countries in the region to strengthen legislation in each of the countries increasing direct taxes on financial transactions, property, personal wealth and income, inheritance, and corporate and capital gains in order to reduce over-reliance on value added tax which disproportionately hurts the poor. Tax avoidance and evasion, which costs Latin American governments more than \$320 billion a year, approximately

6.3 percent of GDP, should be ended by closing loopholes and tax havens. The Central American governments should prioritize public investment in inclusive growth over tax incentives for foreign investors. They should also review all tax incentives using a cost-benefit analysis to determine the impact they have on government revenue and social spending and eliminate those that contribute to growing inequalities and/or reduce the ability of the government to generate sufficient revenue for necessary social programs. They should increase transparency and effectiveness of tax collection and spending through active citizen participation in tax reform processes and government spending oversight.

- **Support transparent and independent processes for the selection of prosecutors and judges.** The United States should encourage governments in the region to ensure that selection processes for key judicial positions are conducted in a transparent and objective manner, and in accordance with international standards. The election processes must require that candidates are impartially evaluated and selected based on merit, their strong legal and professional qualifications, and their commitment to the rule of law, not on proximity to politicians or government officials. At the same time, the processes should allow for the active participation of civil society.
- **Strengthen judicial independence, transparency, and accountability.** The United States should provide clear benchmarks for improvements tied to its funding for strengthening the justice sector, including support for criminal analysis units within the Public Prosecutors' offices in all three countries. Governments should strengthen investigative capacity of specialized prosecutors including those investigating homicides, extortion, organized crime, and sexual and gender-based violence, as well as providing support for improving access to justice. Courts should have improved case management systems. Adequate indicators should be put in place to measure progress in reducing violence and strengthening criminal justice institutions.
- **Provide support and assistance to crime victims and to witness protection systems.** Mechanisms for offering protection, safety, and shelter for crime victims, including providing for the personal security of witnesses to crimes committed by organized criminal enterprises and police, must be enhanced throughout the region. In some cases, victims and witnesses of violence by gangs and other organized criminal groups cannot remain safely within their countries, due to the power and reach of these groups. Long-term support should also be provided for the development of effective witness protection programs. These programs should have the capacity to protect the family members of victims and witnesses and provide protection beyond the conclusion of the legal process when necessary. It is important to eradicate the practice of using witnesses to prosecute reprisals or to pressure against political opponents. Investing in such mechanisms will allow witnesses and crime victims to participate in justice processes while staying in their countries of origin.

- **Support the Office of the High Commissioner for Human Rights (OHCHR) in Guatemala and Honduras with funding** to address broad human rights concerns, including reporting and analyzing abuses allegedly committed by public forces. Support the representation of this office in **El Salvador**. These offices are an important point of reference to strengthen the rule of law in both countries, including ending impunity in attacks on human rights defenders and community leaders.
- **Strengthen the protection of human rights defenders, journalists and social communicators, including indigenous, Afro-descendant, women, LGBTI, and environmental and union activists.** Strengthen the government protection mechanisms to protect human rights defenders by funding and encouraging governments to ensure their longer-term sustainability. However, these mechanisms are inadequate by themselves. Most importantly, the international community must encourage progress in investigating and prosecuting attacks and threats against human rights defenders, including the intellectual authors of such crimes. The U.S. government should press the governments to suspend, investigate, and prosecute state actors implicated in attacks or threats against human rights defenders and to end false prosecutions of human rights defenders. Strong diplomacy is needed to press the Honduran and Guatemalan governments in particular to ensure their actions and public statements do not place defenders in jeopardy. Partnerships with civil society should be expanded to ensure emergency evacuation and safe shelter for defenders in urgent need of protection.
- **Strengthen civil society oversight capacity.** Provide funding to enhance civil society organizations' capacity to effectively monitor, oversee, and hold public security and justice systems accountable.