

Coordinating Humanitarian Entry in the United States and Mexico

A Bilateral Approach to U.S. Legal Migration

BY CRISTOBAL RAMÓN AND DAVID J. BIER

Mexico and the United States have stated a joint interest in reducing illegal immigration through Mexico to the U.S.-Mexican border. Both countries are signatories of the Los Angeles Declaration on Migration and Protection, which pledges a coordinated multilateral approach to addressing migration, and Mexico has worked with the United States on its enforcement efforts, accepting returns from the United States. One untapped area of potential coordination is in each nation's authorization for migrants to temporarily enter their countries for humanitarian reasons.

In the United States, this authority is called "parole," while Mexico issues humanitarian migrants a special visitor's card. Both countries are using these authorities to manage migration and avoid large numbers of travelers traversing their territories illegally. Unfortunately, the lack

of coordination has meant that many migrants travel through Mexico and congregate in northern Mexico near the U.S.-Mexican border to try to obtain humanitarian entry into the United States. A better approach would be for Mexico to issue cards for visitors for humanitarian reasons at the Guatemalan-Mexican border, allowing migrants to travel to Mexico City, where they could apply for U.S. parole and fly directly to the United States legally.

This policy would create an alternative to illegal migration into and through Mexico, avoid congregation in northern Mexico, reduce the need to process migrants at U.S. land ports of entry, and create safe legal pathways for migration, which is the stated goal of the Los Angeles Declaration. This policy also would defund illicit smuggling efforts within Mexico that are essential for large-scale illegal immigration in Mexico and the United States.



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HUMANITARIAN ENTRY LAW IN MEXICO AND THE UNITED STATES

Mexico and the United States have granted agencies that oversee immigration policy with the authority to admit migrants on discretionary and temporary bases. U.S. immigration law grants the Department of Homeland Security the sole authority to provide parole status to noncitizens who may be inadmissible or otherwise ineligible for admission into the United States for “urgent humanitarian reasons or significant public benefit.”¹ This phrase is not clearly defined in statute or regulation. Parole status allows individuals to stay in the United States for a designated period and potentially receive work authorization. This authority, which has existed in U.S. immigration law since 1952, has allowed the United States to provide admission to large numbers of migrants, including Vietnamese refugees and Cubans.²

Similarly, Mexico’s Instituto Nacional de Migración (INM) may issue a Tarjeta de Visitante por Razones Humanitarias, or Visitor Card for Humanitarian Reasons (TVRH). The Mexican legislature created the TVRH in 2011 through a legislative reform of the Mexican immigration system.³ This program grants individuals a renewable one-year stay that allows them to work in the country. INM may issue these cards to specific categories of migrants, such as individuals seeking to remain in Mexico to seek asylum, or for specific humanitarian causes, including if

- an individual needs to remain in Mexico due to a specific risk to their life or health;
- an individual faces a vulnerable situation that makes their deportation difficult or impossible;
- violence or natural disaster present danger to an individual’s life; or
- the individual is a child or adolescent who is subject to proceedings for international child abduction and restitution.⁴

But like the Department of Homeland Security’s parole authority, INM also has the discretionary authority to grant these benefits when it is in the “public interest” to do so. Although Mexican immigration law does not provide a definition for “public interest,” regulations and guidelines implementing the 2011 reforms define this

phrase as cases where the country must admit an individual as an act of aid or rescue in situations of emergency or disaster in Mexico.⁵

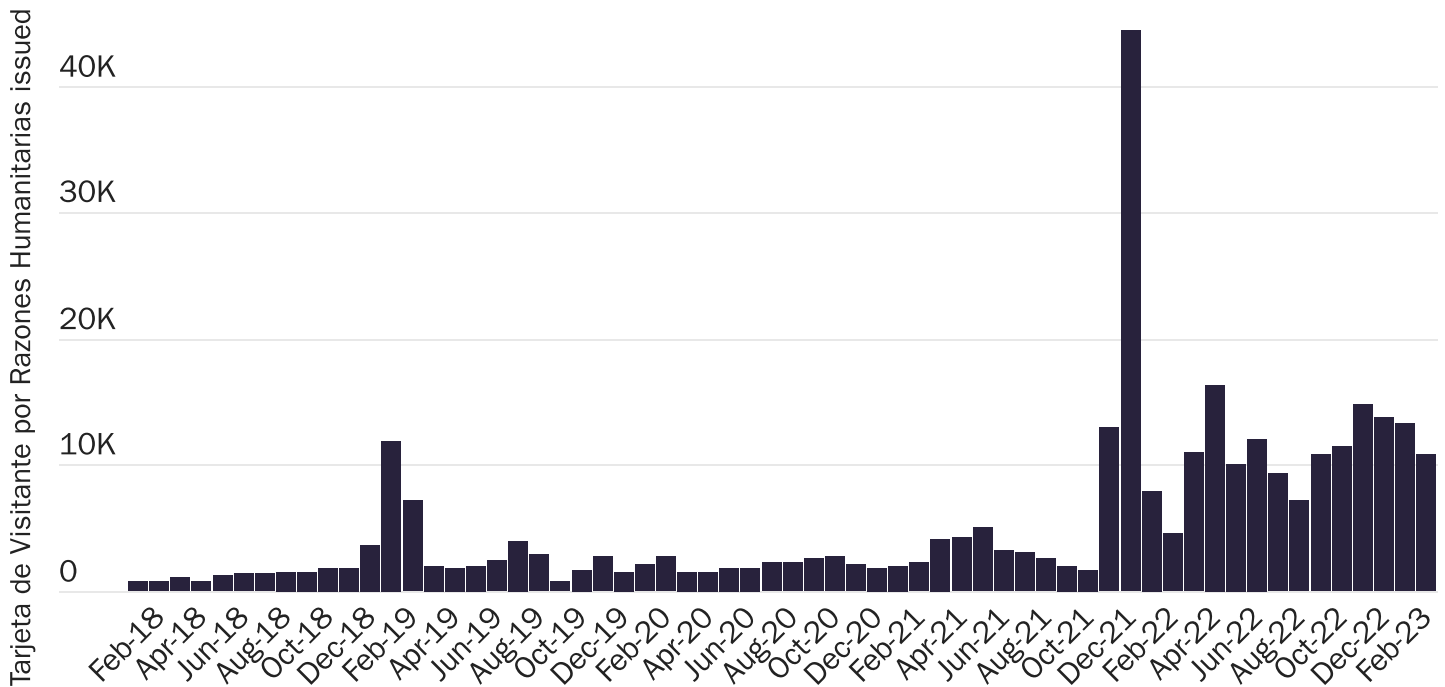
Recent Mexican and U.S. Efforts to Use Humanitarian Pathways to Manage Migration

Mexico and the United States have relied on these two pathways to manage migration, albeit in different ways. INM has issued an increasing number of TVRHs to allow migrants amassing in larger numbers in southern Mexico to travel to other parts of the country. The Mexican government’s first major use of the TVRH pathway in this manner occurred in January 2019 when INM issued 11,883 TVRHs to migrants arriving in southern Mexico as caravans headed for the United States (Figure 1).⁶ Mexico took this step because it wanted to move migrants out of southern Mexico, where they had congregated in large numbers because their irregular status prevented them from traveling northward and into other parts of the country with more job openings.⁷ The move also allowed the Mexican government to break up the caravan, separately processing migrants instead of allowing them to continue onward illegally as a large group to the United States.⁸

The Mexican government used TVRHs in a similar way in December 2021 when the agency issued 44,426 of these cards—the highest number on record—to manage the growing presence of Haitian immigrants in southern Mexico. In addition to fearing deportation for traveling to other parts of Mexico without authorization, Haitian migrants also remained in this region due to the prospects of facing expulsion from the United States under Title 42, which is part of the United States’ Public Health Service Act of 1944, if they traveled to the U.S.-Mexican border.⁹ The visas allowed these Haitians to travel to other parts of Mexico to seek work in less saturated labor markets or apply for asylum, a process that normally requires individuals to remain in the Mexican state where they filed their asylum application.¹⁰ Although the Mexican government issued fewer TVRHs since December 2021, these numbers have grown between January 2022 and 2023, with Cubans, Venezuelans, and Nicaraguans forming key groups that have received these cards.

Figure 1

Mexico issues a significant number of humanitarian visitor cards



Source: “Statistical Bulletins,” Statistics Department, Gobierno de México, January 2018–February 2023.

The United States has used parole to create alternate pathways for migrants arriving at the U.S.-Mexican border to enter the country. In 2021 and 2022, the Biden administration introduced a series of sponsorship programs for Ukrainians, Venezuelans, Cubans, Haitians, and Nicaraguans that granted parole status and work authorization to specific nationalities who secured a sponsor in the country and met eligibility requirements.¹¹ The programs provide 30,000 slots for Cubans, Haitians, Nicaraguans, and Venezuelans, while the Ukrainian program has no limit. Initial data show that as arrivals to the U.S.-Mexican border applied to these programs, the programs contributed to a reduction in illegal border crossings, suggesting that an expansion of these pathways would reinforce these dynamics more than relying on border removals to deter migrants’ arrival.¹²

Despite the use of the Mexican TVRH and U.S. parole, various problems have mitigated the effective management of migration between the Mexican-Guatemalan and U.S.-Mexican borders. First, both countries have largely used these authorities on an ad hoc basis that makes it difficult for migrants to assess whether viable legal pathways will exist.¹³ While the Mexican government has used TVRHs to allow migrants to move out of southern Mexico, the ad hoc nature of these efforts

means that more migrants continue to amass in Mexico as they wait for opportunities to enter the United States.¹⁴

Moreover, some migrants have used TVRHs and the Mexican asylum application process to reach the United States, showing that entry into the United States remains the end goal for many migrants.¹⁵ U.S. Customs and Border Protection (CBP) is granting entry to some migrants who schedule appointments at U.S. ports of entry on the CBP One phone application, but only if they have already left southern Mexico.¹⁶ This limitation means that Mexico is dealing with large numbers of migrants illegally traveling through its territory to request entry. Moreover, CBP has capped the number of appointments far below demand, so migrants are residing for extended periods in Mexican cities near the U.S. border until appointments are available.

Nonetheless, U.S. parole and the Mexican TVRH have several advantages over other ways to manage migration. In both countries, one agency controls the issuing of these benefits, which makes it easier to implement them without unnecessary bureaucracy. Both pathways may also include migrants not qualified for asylum protection in either country, making the pathways ideal for admitting individuals fleeing different forms of human insecurity while relieving pressure on both

countries' overwhelmed asylum systems.¹⁷ Finally, the use of these authorities—Mexico using TVRHs as a mechanism to move migrants through Mexico and the United States using parole to admit migrants—makes them ideal to facilitate regular movement to the United States and address the problems impacting southern and northern Mexico.

A Joint TVRH-Parole Program for Managing Irregular Immigration to Mexico and the United States

Mexico and the United States should coordinate their uses of TVRH and parole for third-country nationals arriving in Mexico. Mexican authorities should grant migrants TVRHs to travel to Mexico City where they can apply for parole with the CBP Attaché in the city. If a migrant receives parole from CBP officials, a TVRH would authorize the individual to travel legally in Mexico to a U.S. port of entry to enter the United States or to fly to a specific destination in the United States.

In more concrete terms, the process would involve

- Mexico granting an individual TVRH status at specific points at the Mexican-Guatemalan border that would allow them to enter the country and travel to Mexico City;
- Mexican authorities subsequently sending these individuals to Mexico City and passing to the CBP applicant information relevant to processing their parole applications through a shared private information platform;
- migrants arriving in Mexico City applying for parole status through CBP One on their phones or through an online portal with the desktop version of the application available at a specific physical location overseen by the CBP Attaché office with potential support from the United Nations High Commissioner for Refugees (UNHCR) or the International Organization for Migration;
- the CBP granting advance parole to applicants with no criminal history and providing them with information and documentation to enter the United States;
- individuals then traveling to a designated port of entry to enter the United States or flying to specific destinations in the country; and
- allowing migrants to work using their parole status as

proof of authorization without filing a separate application for employment authorization.

The flexibility that exists in the TVRH and parole programs allows Mexico and the United States to tailor this process to different circumstances. If either country felt unable to quickly process applications, the United States and Mexico could initially deploy these programs for specific populations, such as families with young children. If this approach were to prove legally and operationally viable, both countries could expand the process to other groups of migrants.

This approach could face some operational and political challenges in Mexico. Operationally, the potential increase in arrivals who would use these visas may place pressure on INM's resources, a problem that has political ramifications if Mexican policymakers view this measure as a waste of resources to assist the United States or see it as a "magnet" for additional migrants. From the migrants' perspective, the Mexican government's ability to dramatically change why it issues TVRHs and the perception that it uses the program to control their movement could make migrants wary about Mexican commitments to this type of program, even one with the potential to travel to the United States.¹⁸ Reports on the problems impacting CBP One to access appointments at the U.S.-Mexican border show the limitations of using legal pathways with fewer slots—and corresponding online appointments—to access them.¹⁹

These challenges are not insurmountable. In addition to ramping up the program in stages to address Mexico's resource constraints, the United States, UNHCR, or International Organization for Migration could fund INM's implementation of the policy. The UNHCR is already supporting Mexico's ability to process requests for permanent asylum in Mexico, showing precedent for this type of partnership between the Mexican government and international organizations.²⁰ An approach coordinated with and endorsed by the United States with assistance from international organizations could help reassure migrants of its viability to provide a safe and accessible route to enter the country, especially one that has more slots that allow individuals to make appointments reliably through applications like CBP One. The prospect of a desktop version of CBP One also means that the United States could deploy the application to physical locations with more reliable online access to the service.²¹

This program would also produce significant benefits that outweigh these near-term challenges in the long run. Creating an organized path for specific groups of migrants would ensure that fewer individuals remain along Mexico's northern and southern borders, which would help alleviate the fiscal impacts on localities and nongovernmental organizations that provide services to these groups. With fewer people traveling illegally, INM and the CBP would need fewer resources dedicated to interdiction and processing U.S.-bound asylum seekers.²² The most significant benefit would be the defunding of the multibillion dollar smuggling network throughout Mexico.²³ If this program could significantly reduce smuggling demand, it would reduce migration outside the initial targeted populations. With less demand for smugglers, smuggling prices would fall, and the quantity of smugglers would decrease, giving INM and the CBP a better chance to restore order to their respective borders.

CONCLUSION

Mexico and the United States understand the importance of legal pathways to reduce illegal migration, and the policy

proposed in this publication builds on their existing efforts. By better coordinating the use of temporary humanitarian entry authority, both countries would achieve their goals of stopping illegal migration through use of more orderly, safe, and legal migration. Current policy has created several difficulties for both countries. Mexico is authorizing legal travel by migrants intending to request humanitarian entry to the United States, leading to buildups in southern and northern Mexico of people who want to reach U.S. land ports of entry.

A better approach would have Mexico authorize migrants to travel to Mexico City to request U.S. parole there, enabling them to fly to the United States legally without burdening northern Mexico cities or the U.S. side of the border. Under a coordinated effort, migrants would be better protected, migration would be better organized, and criminal smuggling networks would shrink. Since migrants who receive parole can work legally, the policy would also reduce black markets in labor in the United States. Until these countries create lawful pathways to enter and travel within their territories, illegal immigration will remain a pressing concern. A new bilateral effort would be the best way to optimize the results of those pathways.

NOTES

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